

COMPLIANCE CONNECTION



AUGUST 2022



NEW Compliance Hotline:
MIDLAND HEALTH
855-662-SAFE (7233) • ID#: 6874433130
This ID# is required to submit a report.

This newsletter is prepared by the Midland Health Compliance Department and is intended to provide relevant compliance issues and hot topics.

IN THIS ISSUE

FEATURE ARTICLE

Two Individuals Convicted in \$1.4 Billion Health Care Fraud Scheme Involving Rural Hospitals in Florida, Georgia, and Missouri

Midland Health PolicyTech

(See entire newsletter page 2)

DID YOU KNOW...

FRAUD & ABUSE LAWS EXAMPLES

The five most important Federal Fraud and Abuse Laws that apply to physicians are:

- 1. False Claims Act (FCA):** A physician knowingly submits claims to Medicare for medical services not provided or for a higher level of medical services than actually provided.
- 2. Anti-Kickback Statute (AKS):** A provider receives cash or below-fair-market-value rent for medical office space in exchange for referrals.
- 3. Physician Self-Referral Law (Stark law):** A physician refers a beneficiary for a designated health service to a clinic where the physician has an investment interest.
- 4. Exclusion Authorities:** Several doctors and medical clinics conspire in a coordinated scheme to defraud the Medicare Program by submitting medically unnecessary claims for power wheelchairs.
- 5. Civil Monetary Penalties Law (CMPL):** Includes making false statements or misrepresentations on applications or contracts to participate in the Federal health care programs.

Resource:

<https://oig.hhs.gov/compliance/physician-education/fraud-abuse-laws/>

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MIDLAND HEALTH

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DEPARTMENT OF JUSTICE NEWS



Two Individuals Convicted in \$1.4 Billion Health Care Fraud Scheme Involving Rural Hospitals in Florida, Georgia, and Missouri

After a 24-day trial, a federal jury in the Middle District of Florida convicted two individuals for their roles in a conspiracy that fraudulently billed approximately \$1.4 billion for laboratory testing services in a sophisticated pass-through billing scheme involving rural hospitals.

According to court documents and evidence presented at trial, Jorge Perez, 62, and Ricardo Perez, 59, both of Miami, Florida, conspired with each other and others to unlawfully bill for approximately \$1.4 billion of laboratory testing services which were medically unnecessary, and that fraudulently used rural hospitals as billing shells to submit claims for services that mostly were performed at outside laboratories. Jorge Perez and Ricardo Perez also committed health care fraud on five specific occasions, and conspired to launder the proceeds of this fraudulent scheme.

"These defendants preyed on and exploited the vulnerable – vulnerable hospitals, vulnerable underserved communities, and vulnerable patients seeking treatment for addiction – to line their own pockets," said Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division. "We will continue to work tirelessly to hold accountable those who exploit the integrity of the health care industry for profit."

"The defendants in this case engaged in an elaborate scheme to prey upon distressed medical facilities across multiple states and defraud private insurers," said U.S. Attorney for the Middle District of Florida Roger Handberg. "Today's verdict clearly demonstrates our vigilance to prosecute those who violate our laws for profit."

"The defendants in today's case allegedly conspired to run an elaborate billing scheme which took advantage of vulnerable hospitals and the rural communities that relied on them," said Assistant Director Luis Quesada of the FBI's Criminal Investigative Division. "The FBI and our law enforcement partners are dedicated to protecting the health care system and shutting down fraudulent billing shells."

The evidence showed that the defendants targeted and obtained control of financially distressed rural hospitals through management agreements and purchases. The defendants sought to obtain control of these rural hospitals because of private insurance contracts that provided for higher reimbursement rates for laboratory testing — a common feature of rural hospital contracts designed to ensure that the hospitals can survive and provide rural communities with much needed care. The defendants promised to save these rural hospitals from closure by turning them into laboratory testing sites, but instead billed for fraudulent laboratory testing worth hundreds of millions of dollars in a sophisticated and years-long "pass-through" billing scheme. The scheme made it appear that the rural hospitals themselves did the laboratory testing when, in most cases, it was done by testing laboratories controlled by certain defendants.

Resource:

<https://www.justice.gov/opa/pr/two-individuals-convicted-14-billion-health-care-fraud-scheme-involving-rural-hospitals>

DID YOU KNOW...



U.S. Department of Health and Human Services (HHS)

The mission of the HHS is to enhance the health and well-being of all Americans, by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

Resource: <https://www.hhs.gov/about/index.html>





**HIPAA Section 6.23:
E-mail & Text Message Communications**

POLICY

MIDLAND MEMORIAL HOSPITAL and its workforce members may not communicate with patients and business associates via e-mail or text message outside of the MIDLAND MEMORIAL HOSPITAL e-mail system, if Protected Health Information (PHI) is included in that communication. Workforce members may communicate with other health care providers for treatment, payment, or health care operations purposes (as defined by HIPAA), if it is done in a secured manner as required by HIPAA and in accordance with MIDLAND MEMORIAL HOSPITAL policy (or, MIDLAND MEMORIAL HOSPITAL has written authorization from the patient for the release of the PHI). Permitted e-mail or text message communication shall be in accordance with the procedures set forth below and other safeguards implemented in this policy. MIDLAND MEMORIAL HOSPITAL workforce members with an e-mail account, access to approved text messaging application software, or access to a wireless device enabled with approved text messaging capabilities shall be familiar with this policy and shall follow these procedures when disclosing PHI via permitted e-mail or text message. Transmitting PHI via e-mail or text message other than as permitted herein is expressly prohibited, unless pre-approved by the Privacy Officer.

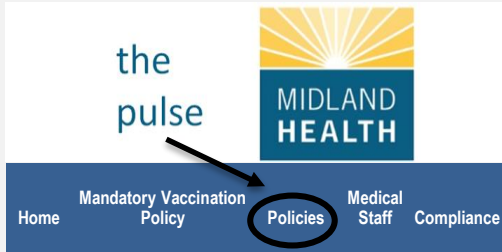
Section 1: Safeguards

MIDLAND MEMORIAL HOSPITAL workforce members and medical staff may communicate with patients via hospital e-mail or text message or, in certain situations, with third parties via e-mail or text message with patient authorization, as described in Section 2 below, if appropriate safeguards are in place to protect a patient's PHI. The Health Information System (HIS) Department shall be responsible for implementing technical safeguards to protect the security of e-mail and text message communication and training Users with respect to the use of such technical safeguards. MIDLAND MEMORIAL HOSPITAL shall also implement manual or administrative procedures, such as verifying e-mail addresses, requiring user account authentication prior to accessing text messaging applications and training workforce members on how to help safeguard PHI transmitted via e-mail or text message. MIDLAND MEMORIAL HOSPITAL workforce members shall be responsible for understanding and using required safeguards when they transmit PHI via hospital e-mail or text message.

Read entire Policy: [Midland Health PolicyTech #2915](#)
"HIPAA Section 6.23: E-mail and Text Message Communications"

Midland Health PolicyTech Instructions

Click this link located on the Midland Health intranet "Policies"
<https://midland.policytech.com/dotNet/noAuth/login.aspx?ReturnUrl=%2f>



IN OTHER COMPLIANCE NEWS

LINK 1

Kaiser Permanente Reports Email System Breach and Exposure of 70,000 Individuals' PHI

<https://www.hipaajournal.com/kaiser-permanente-reports-email-system-breach-and-exposure-of-70000-individuals-phi/>

LINK 3

San Diego Family Care Agrees to \$1 Million Settlement to Resolve Class Action Data Breach Lawsuit

<https://www.hipaajournal.com/san-diego-family-care-agrees-to-1-million-settlement-to-resolve-class-action-data-breach-lawsuit/>

LINK 2

OCR Issues Guidance on Audio-Only Telehealth for When the COVID Public Health Emergency Ends

<https://www.hipaajournal.com/ocr-issues-guidance-on-audio-only-telehealth-for-when-the-covid-public-health-emergency-ends/>

LINK 4

Central Florida Inpatient Medicine Security Incident Affects Almost 198,000 Patients

<https://www.hipaajournal.com/central-florida-inpatient-medicine-security-incident-affects-almost-198000-patients/>

EXAMPLE OF STARK LAW VIOLATIONS

WESTCHESTER MEDICAL CENTER – FULL SCALE FRAUD

Allegations

- Submitting costs reports to Medicare seeking reimbursement for charges WMC did not incur
 - Maintaining a financial relationship with Cardiology Consultants of Westchester, P.C. ("CCW"), a cardiology practice formerly operating on WMC's Valhalla campus
 - Advancing monies to CCW to open a practice for the express purpose of generating referrals to the hospital
 - Entering into retroactive, no-work consulting agreements under which it paid CCW tens of thousands of dollars
 - Permitting CCW to use WMC's fellows in CCW's private office free of charge, contrary to WMC's historic practice
 - Wrongly seeking and obtaining reimbursement for certain costs that WMC did not incur and that were not reimbursable under the relevant cost-reporting rules

Final payout: \$18,800,000.00

Resource: <https://www.99mgmt.com/blog/stark-law-violation-examples>

FALSE CLAIMS ACT (FCA)

RECENT KICKBACK CASES YIELD ALMOST \$20 MILLION IN SETTLEMENTS FOR THE UNITED STATES

**Collier Anesthesia Pain and Tampa Pain Relief Center
Agreed to Pay \$1,665,000 to Resolve Allegations**

On February 1, 2021, the United States Attorney's Office for the Middle District of Florida announced a settlement with Collier Anesthesia Pain, LLC (Collier) and Tampa Pain Relief Center, Inc. (Tampa Pain). Tampa Pain provides management, billing and accounts receivable services and employees for Collier. Pursuant to the settlement, Collier and Tampa Pain agreed to pay \$1,665,000 to resolve allegations that they violated the FCA and Anti-Kickback Statute. The primary allegations in the lawsuit were that Collier and Tampa Pain engaged in a kickback scheme whereby they caused ambulatory surgery centers (ASCs) to routinely waive the facility fee copayments for Medicare Advantage patients without an individual determination of financial need in order to induce these patients to select the ASCs (and the particular physician who owned Collier) for their pain injection procedures. The settlement agreement also resolves allegations that Collier and Tampa Pain submitted false claims to the Medicare program, TriCare program and Federal Employees Health Benefit program for evaluation and management and psychological testing services.

Read entire article:

<https://www.bricker.com/insights-resources/publications/recent-kickback-cases-yield-almost-20-million-in-settlements-for-the-united-states>

