

# COMPLIANCE CONNECTION



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

JANUARY 2024

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

## IN THIS ISSUE

### FEATURE ARTICLE

St. Joseph's Medical Center Pays \$80,000 HIPAA Fine for PHI Disclosure to a Reporter

### 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 Penalty 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/>

U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

## OFFICE FOR CIVIL RIGHTS

## St. Joseph's Medical Center Pays \$80,000 HIPAA Fine for PHI Disclosure to a Reporter

The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) has announced its 11th HIPAA penalty of 2023. St. Joseph's Medical Center, a non-profit academic medical center in New York, was investigated over the disclosure of patients' protected health information (PHI) to a reporter and has paid a \$80,000 financial penalty to resolve the alleged HIPAA violations.

The Privacy Rule of the Health Insurance Portability and Accountability Act permits disclosures of PHI for the purpose of treatment, payment, and healthcare operations but other disclosures of PHI are generally prohibited unless authorization is obtained from a patient. OCR launched an investigation of St. Joseph's Medical Center on April 20, 2020, pursuant to the publication of an article in the media by a reporter from the Associated Press (AP). Based on the information in the article it appeared that the reporter had been allowed to observe three patients who were being treated for COVID-19.

The article included information about the medical center's response to the COVID-19 public health emergency and photographs and information about the facility's patients. The images were distributed nationally, exposing PHI such as patients' COVID-19 diagnoses, current medical statuses and medical prognoses, vital signs, and treatment plans. OCR's investigation found evidence to suggest that St. Joseph's Medical Center had allowed the reporter access to the patients and their clinical information. St. Joseph's Medical Center had not obtained consent and valid HIPAA authorizations from the patients and the disclosure of PHI was not permitted by the HIPAA Privacy Rule.

St. Joseph's Medical Center chose to settle the alleged HIPAA violation with OCR with no admission of liability and agreed to adopt a corrective action plan (CAP). The CAP requires St. Joseph's Medical Center to review and, to the extent necessary, develop, maintain, and revise its written privacy policies and procedures to ensure they are compliant with the HIPAA Privacy Rule, provide those policies and procedures to OCR for review, distribute the updated policies and procedures to members of the workforce, and obtain a signed written or electronic compliance certification from all members of the workforce confirming they have read and understood the new policies and procedures. St. Joseph's Medical Center will also be monitored by OCR for compliance for 2 years.

Read entire article:

<https://www.hipajournal.com/st-josephs-medical-center-pays-80000-hipaa-fine-for-phi-disclosure-to-a-reporter/>



## COMPLIANCE TEAM

Michelle Pendergrass, MBA, CHC  
Chief Compliance Officer/Privacy Officer  
P: 432-221-1972

[Michelle.Pendergrass@midlandhealth.org](mailto:Michelle.Pendergrass@midlandhealth.org)

Regenia Blackmon, Compliance Auditor  
[Regenia.Blackmon@midlandhealth.org](mailto:Regenia.Blackmon@midlandhealth.org)

Melissa Sheley, Sr. Compliance Analyst  
[Melissa.Sheley@midlandhealth.org](mailto:Melissa.Sheley@midlandhealth.org)

## DID YOU KNOW...



### WHAT DOES THE HIPAA PRIVACY RULE DO?

The HIPAA Privacy Rule for the first time creates national standards to protect individuals' medical records and other personal health information. It holds violators accountable, with civil and criminal penalties that can be imposed if they violate patients' privacy rights.

Read entire article:

<https://www.hhs.gov/hipaa/for-individuals/faq/187/what-does-the-hipaa-privacy-rule-do/index.html#:~:text=The%20HIPAA%20Privacy%20Rule%20for.and%20release%20of%20health%20records.>





**HIPAA Section 13:  
Receiving and Resolving Complaints**

**POLICY**

MIDLAND MEMORIAL HOSPITAL shall have a process by which any person can make a complaint to MIDLAND MEMORIAL HOSPITAL or the Secretary of the Department of Health and Human Services ("Secretary") regarding MIDLAND MEMORIAL HOSPITAL's privacy policies, procedures, and/or practices, as well as MIDLAND MEMORIAL HOSPITAL's compliance with its privacy policies and procedures and the Privacy Standards. MIDLAND MEMORIAL HOSPITAL employees whose responsibilities include receiving and/or responding to complaints shall be familiar with this policy and shall follow these procedures.

**PROCEDURE**

**Designation of Contact Person.** All complaints will be forwarded to the Privacy Officer in accord with HIPAA Section 2: Privacy Officer. The Privacy Officer will be responsible for receiving complaints relating to: (a) privacy policies, procedures, and/or practices; (b) compliance with its policies and procedures; and (c) compliance with the Privacy Standards. The Privacy Officer's responsibilities also include investigating and resolving complaints, as well as providing information to persons who request additional information about matters addressed in the Notice of Privacy Practices ("Notice").

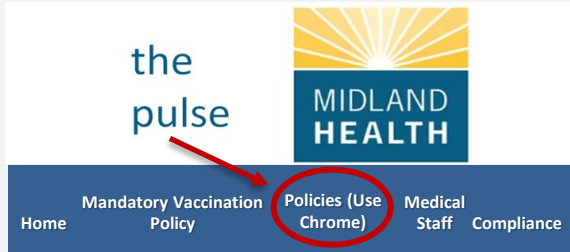
**Inform Persons of Their Right To Complain.** In accordance with HIPAA Section 4.1: Notice, the Notice shall inform persons that they may complain to MIDLAND MEMORIAL HOSPITAL and/or to the Secretary if they believe their privacy rights have been violated. The Notice shall identify the Privacy Officer or office for receiving complaints and give a brief description of how the person may file a complaint with MIDLAND MEMORIAL HOSPITAL. The Notice shall also contain a statement that the person will not be retaliated against for filing a complaint.

*Read entire Policy: Midland Health PolicyTech #2935  
"HIPAA Section 13: Receiving and Resolving Complaints"*

**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**

**Kroger Sued for Disclosing Pharmacy Patient Data via Meta Pixel Tool**

<https://www.hipaajournal.com/roger-class-action-pharmacy-patient-data-disclosures/>

**LINK 2**

**Ardent Health Services Ransomware Attack Affects Hospitals in Multiple States**

<https://www.hipaajournal.com/ardent-health-services-ransomware-attack/>

**LINK 3**

**Multiple Healthcare Providers Affected by Thanksgiving Ransomware Attack**

<https://www.hipaajournal.com/text-as-idaho-healthcare-providers-thanksgiving-day-cyberattacks/>

**LINK 4**

**Iowa Community HomeCare Sued over March 2023 Ransomware Attack**

<https://www.hipaajournal.com/iowa-community-homecare-ransomware-lawsuit/>

**Physician Sentenced for \$1.2M Pill Mill Scheme**

A Texas doctor was sentenced today to seven years in prison for operating a pill mill clinic that unlawfully prescribed over 600,000 opioid pills in exchange for cash

According to court documents and evidence presented at trial, Dr. Oscar Lightner, 73, and Andres Martinez Jr., 29, both of Laredo, operated Jomori Health and Wellness (Jomori), a purported Houston pain management clinic, as a pill mill. Lightner, who was the owner of and physician at Jomori, unlawfully prescribed dangerous combinations of controlled substances — including of hydrocodone, carisoprodol, and alprazolam — to his patients without a legitimate medical purpose in exchange for cash payments ranging from \$250 to \$500. Martinez, who was Jomori's office manager and Lightner's stepson, coordinated with crew leaders to bring multiple people, including individuals living in homeless shelters, into Jomori to pose as patients to obtain prescriptions for opioids and other controlled substances. Jomori received over \$1.2 million in cash over 14 months through its scheme that resulted in the unlawful distribution and dispensing of over 600,000 opioids and other controlled substances.

On April 11, Lightner and Martinez were convicted of unlawfully distributing and dispensing controlled substances and conspiracy. Martinez was scheduled to be sentenced on Dec. 12, 2023.

*Read entire article:  
<https://www.justice.gov/opa/pr/physician-sentenced-12m-pill-mill-scheme>*



**MEDICARE AND MEDICAID FRAUD SCHEME**

**Man Charged in \$148M Medicare and Medicaid Fraud Scheme**

A federal grand jury in Baton Rouge, Louisiana, returned an indictment today charging a Louisiana man for his role in a scheme to defraud Medicare and Medicaid of over \$148 million in medically unnecessary definitive urine drug testing services.

According to court documents, Brad Paul Schaeffer, 48, of Zachary, was a co-owner and chief executive officer of MedComp Sciences LLC (MedComp), a diagnostic laboratory located in Zachary. From approximately January 2013 through approximately August 2022, MedComp, at the direction of Schaeffer, allegedly billed Medicare and Medicaid for definitive testing of at least 15 substances in urine specimens it received, regardless of the patient's treatment plan and history, or the request of the referring provider. To perpetuate the fraud, Schaeffer, through MedComp, allegedly took several actions, among them, writing off patient co-pays, directing MedComp staff to fill out and submit order forms on providers' "behalf," concealing the true nature, permissibility, and extent of testing from providers, orchestrating a pass-through billing scheme using hospitals, and paying kickbacks to physicians disguised as laboratory ownership interests. Schaeffer then allegedly used the fraudulent proceeds for his own benefit, including spending thousands of dollars to renovate a pool and on a pool house in his backyard, and to restore a truck.

Schaeffer is charged with one count of conspiracy to commit health care fraud, five counts of health care fraud, and three counts of engaging in unlawful monetary transactions. If convicted, he faces a maximum penalty of 10 years in prison on each count.

*Read entire article:  
<https://www.justice.gov/opa/pr/man-charged-148m-medicare-and-medicaid-fraud-scheme>*



**Do you have a hot topic or interesting Compliance News to report?**

**If so, please email an article or news link to:**

**Regenia Blackmon  
Compliance Auditor**

[Regenia.Blackmon@midlandhealth.org](mailto:Regenia.Blackmon@midlandhealth.org)