

# COMPLIANCE CONNECTION



**MIDLAND HEALTH**  
Compliance HOTLINE  
**855-662-SAFE (7233)**  
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**SEPTEMBER 2023**

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

Missouri and Texas Physicians and Medical Practices Agree to Pay Over \$525,000 to Settle Kickback Allegations Involving Laboratory Testing

### 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/>



MIDLAND HEALTH

## COMPLIANCE TEAM

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## Office of Public Affairs

U.S. Department of Justice

### Missouri and Texas Physicians and Medical Practices Agree to Pay Over \$525,000 to Settle Kickback Allegations Involving Laboratory Testing

Imran Chishti, M.D. and his medical practice, C Care LLC, both of Chesterfield, Missouri; Shamim Justin Badiyan, M.D., of Frisco, Texas, and Psych Care Consultants LLC, of St. Louis, Missouri, have agreed to pay a total of \$525,610 to resolve False Claims Act allegations that they received illegal kickbacks in violation of the Anti-Kickback Statute in return for referring patients for laboratory testing. The parties have agreed to cooperate with the Department of Justice's investigations of, and litigation against, other participants in the alleged schemes.

"The prohibition against paying or receiving kickbacks is an important safeguard for ensuring the objectivity of medical decisions that affect federal health care beneficiaries," said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "We will continue to pursue those who knowingly violate the law and undermine the integrity of our federal health care system."

The Anti-Kickback Statute prohibits offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federally funded health care programs. The Anti-Kickback Statute is intended to ensure that medical providers' judgments are not compromised by improper financial incentives and are instead based on the best interests of their patients.

The settlement announced today resolves allegations that Dr. Chishti and his medical practice, Badiyan, and Psych Care Consultants received kickbacks in violation of the Anti-Kickback Statute in return for making referrals to laboratories in New Jersey, Texas, and Florida.

Read entire article:

<https://www.justice.gov/opa/pr/missouri-and-texas-physicians-and-medical-practices-agree-pay-over-525000-settle-kickback>

### 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 establishes appropriate safeguards that health care providers and others must achieve to protect the privacy of health information.

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.>



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**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.

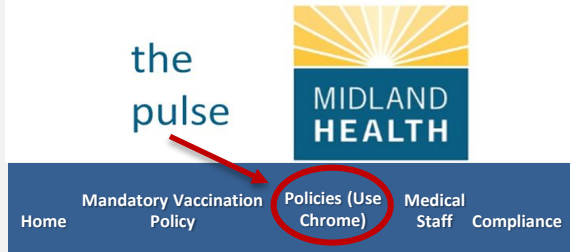
**Section 1: Safeguards**

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**

**VUMC Faces Lawsuit Over Disclosure of Medical Records of Transgender Patients to State AG**

<https://www.hipaajournal.com/vumc-faces-lawsuit-over-disclosure-of-medical-records-of-transgender-patients-to-state-ag/>

**LINK 2**

**First Lawsuit Filed Against HCA Healthcare Over 11 Million-Record Data Breach**

<https://www.hipaajournal.com/first-lawsuit-filed-against-hca-healthcare-over-11-million-record-data-breach/>

**LINK 3**

**HIPAA Business Associate Fined \$75,000 for Maintaining ePHI on an Unsecured Server**

<https://www.hipaajournal.com/the-alth-solutions-75000-hipaa-settlement/>

**LINK 4**

**95% of Patients are Worried About Medical Record Breaches**

<https://www.hipaajournal.com/95pc-patients-worried-medical-record-breaches/>



**Court Enters \$487 Million Judgment Against Precision Lens and Owner Paul Ehlen for Paying Kickbacks to Doctors in Violation of the False Claims Act**

ST. PAUL, Minn. – U.S. District Judge Wilhelmina M. Wright has entered a judgment against Defendants Cameron-Ehlen Group, Inc. dba Precision Lens and its owner Paul Ehlen in the amount of \$487,048,705.13.

On February 27, 2023, a federal civil jury concluded that the Defendants violated the False Claims Act and the Anti-Kickback Statute by paying kickbacks to ophthalmic surgeons to induce their use of the Defendants' products in cataract surgeries reimbursed by Medicare. The jury found that 64,575 false claims were submitted to Medicare due to the Defendants' conduct, which resulted in \$43,694,641.71 in damages to Medicare.

Under the False Claims Act (FCA), a person or entity found to have violated the FCA is liable to the United States Government for a minimum civil penalty of \$5,000 per false claim and three times the amount of damages sustained by the Government. In this matter, the amount included \$358,445,780 in statutory penalties and an additional \$131,083,925.13 in trebled damages, resulting in a total amount of \$489,529,705.13, less \$2,481,000 in proceeds from a previous settlement with Sightpath Medical.

As proven at trial, the Defendants provided kickbacks to physicians in various forms, including travel and entertainment. The United States identified multiple examples of trips, including high-end skiing, fishing, golfing, hunting, sporting, and entertainment vacations, often at exclusive destinations.

Read entire article:

<https://www.justice.gov/usao-mn/pr/court-enters-487-million-judgment-against-precision-lens-and-owner-paul-ehlen-paying>

**FALSE CLAIMS ACT**

**Clinical Laboratory and Its Owner Agree to Pay an Additional \$5.7 Million to Resolve Outstanding Judgement for Billing Medicare for Inflated Mileage-Based Lab Technician Travel Allowance Fees**



BestCare Laboratory Services LLC (BestCare), a now defunct Texas-based company that operated as a clinical laboratory, and its owner and founder, Karim A. Maghareh, have agreed to pay an additional \$5.7 million to settle an outstanding False Claims Act judgment against them. The judgment was entered in 2018 after a court found that BestCare knowingly submitted false claims to Medicare, as directed by Maghareh, by billing for travel allowance reimbursements that did not reflect the mileage that lab technicians had actually traveled when they collected specimens from nursing home residents in Texas.

The settlement announced today is designed to resolve BestCare and Maghareh's outstanding obligation under the 2018 judgment. The settlement provides for payments totaling \$5.7 million and the possibility of additional annual payments for five years based on Maghareh's future income. These payments are in addition to \$789,652 that the United States has already collected since 2018. The settlement amount is based on the Justice Department's ability-to-pay policy..

Read entire article:

<https://www.justice.gov/opa/pr/clinical-laboratory-and-its-owner-agree-pay-additional-57-million-resolve-outstanding>



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

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

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