

COMPLIANCE CONNECTION

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

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FRAUD & ABUSE LAWS

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

- 1. False Claims Act (FCA):** The civil FCA protects the Government from being overcharged or sold shoddy goods or services. It is illegal to submit claims for payment to Medicare or Medicaid that you know or should know are false or fraudulent.
- 2. Anti-Kickback Statute (AKS):** The AKS is a criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs (e.g., drugs, supplies, or health care services for Medicare or Medicaid patients).
- 3. Physician Self-Referral Law (Stark law):** The Physician Self-Referral Law, commonly referred to as the Stark law, prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.
- 4. Exclusion Statute:** OIG is legally required to exclude from participation in all Federal health care programs individuals and entities convicted of the following types of criminal offenses: (1) Medicare or Medicaid fraud; (2) patient abuse or neglect; (3) felony convictions for other health-care-related fraud, theft, or other financial misconduct; and (4) felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances.
- 5. Civil Monetary Penalties Law (CMPL):** OIG may seek civil monetary penalties and sometimes exclusion for a wide variety of conduct and is authorized to seek different amounts of penalties and assessments based on the type of violation at issue. Penalties range from \$10,000 to \$50,000 per violation.

Resource:

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



Florida Businessman Daniel Hurt to Pay Over \$27 Million for Medicare Fraud in Connection with Cancer Genomic Tests

Daniel Hurt, who owned and/or operated Fountain Health Services LLC, Verify Health, Landmark Diagnostics LLC, First Choice Laboratory LLC and Sonoran Desert Pathology Associates LLC, has agreed to pay over \$27 million to resolve allegations that he and his companies conspired with others to violate the False Claims Act (FCA) by submitting false claims to, and receiving payments from, Medicare for cancer genomic (CGx) tests that were not medically necessary and were procured through illegal kickbacks. Hurt, Fountain Health, Verify Health, Landmark Diagnostics, First Choice and Sonoran Desert Pathology also agreed to be excluded by the Department of the Health and Human Services Office of Inspector General (HHS-OIG) from Medicare, Medicaid and all other Federal health care programs. Hurt previously plead guilty to criminal healthcare fraud for these offenses. The civil settlement is based on Hurt's ability to pay.

The United States alleged that Hurt, his companies and others conspired to knowingly submit false claims for CGx tests that were not medically necessary to treat or diagnose a condition, and that Hurt received and paid kickbacks in exchange for Medicare referrals, in violation of the Anti-Kickback Statute (AKS). In particular, the United States alleged that, from January 2019 to November 2021, Hurt conspired with telemarketing agents to solicit Medicare beneficiaries for "free" CGx tests; with telemedicine providers to "prescribe" CGx tests that were not medically necessary; with reference laboratories to conduct the CGx tests and with billing laboratories and a hospital to submit claims for payment to the Centers for Medicare and Medicaid Services.

"We will not tolerate those who prey on older Americans to defraud Medicare," said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "As this settlement reflects, we will use our available resources to protect federal health care programs and the beneficiaries they serve."

"Unnecessary medical services and false claims for medical services threaten patients and our public health programs," said U.S. Attorney Roger B. Handberg for the Middle District of Florida. "This civil settlement demonstrates our commitment to protecting patients from unnecessary testing and our healthcare institutions from fraudulent billing."

Read entire article:

<https://www.justice.gov/opa/pr/florida-businessman-daniel-hurt-pay-over-27-million-medicare-fraud-connection-cancer-genomic>



MIDLAND HEALTH

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MIDLAND HEALTH Compliance HOTLINE

855-662-SAFE (7233)

ID#: 6874433130

ID# is required to submit a report.

You can make your report or concern **ANONYMOUSLY**.



MIDLAND HEALTH



HIPAA Section 14: Progressive Discipline Policy

Purpose: To provide research and guidelines for addressing the appropriate sanction/corrective action for violation of patient privacy and security by a workforce member.

Related Policies and Procedures:

- HR-522: Sanctions Policy
- Confidentiality of Protected Health Information Policy
- Workforce Member Protected Health Information Agreement

Definitions:

Privacy/Security Violation: Any inappropriate access, use, disclosure, destruction or other misuse of PHI, failure to comply with MIDLAND MEMORIAL HOSPITAL privacy and security policies, or any violation of federal or state privacy and security regulations. A violation may involve, but is not necessarily limited to, verbal communications, paper medical records, electronic health records, or any other medium used to create, maintain, or transmit PHI. A violation of patient privacy through access to electronic patient health information applications and systems is both a Privacy and Security violation.

Protected Health Information (PHI): Individually identifiable health information that is created by or received by MIDLAND MEMORIAL HOSPITAL, including demographic information that identifies an individual, or provides a reasonable basis to believe the information can be used to identify an individual, and relates to:

- Past, present or future physical or mental health or condition of an individual.
- The provision of health care to an individual.
- The past, present, or future payment for the provision of health care to an individual.

Workforce: Under HIPAA, the workforce is defined to include employees, medical staff members, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

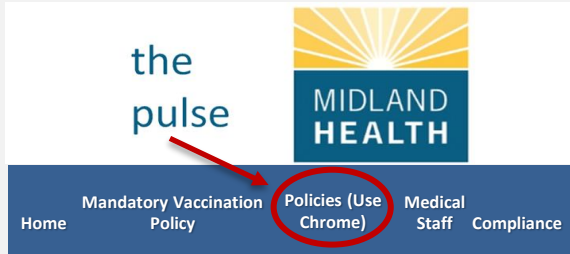
Read entire Policy:

[Midland Health PolicyTech #2648 – “HIPAA Section 14: Progressive Discipline Policy”](#)

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

Settlement Resolves Adventist Health’s Alleged Unlawful Disclosures of PHI to Law Enforcement

<https://www.hipaajournal.com/adventist-health-hipaa-settlement-california/>

LINK 2

DOJ Unseals Criminal HIPAA Charges Against Surgeon Who Exposed Transgender Care at Texas Children’s

<https://www.hipaajournal.com/doj-unseals-criminal-hipaa-charges-eithan-haim/>

LINK 3

Cyberattack on Minnesota Radiology Practice Affects 512,000 Patients

<https://www.hipaajournal.com/consulting-radiologists-data-breach/>

LINK 4

Almost 20,000 Aptihealth Patients Affected by Business Associate Data Breach

<https://www.hipaajournal.com/aptihealth-business-associate-data-breach/>

Five Individuals Arrested for Defrauding Medicare of Over \$15M Through Sham Hospices and Money Laundering

Five individuals were arrested in Los Angeles on criminal charges related to their roles in a years-long scheme to defraud Medicare of more than \$15 million through sham hospice companies and then to launder the fraud proceeds.

According to an indictment unsealed yesterday, three of the defendants— Petros Fichidzhyan, 43, of Granada Hills, California, Juan Carlos Esparza, 32, of Valley Village, California, and Karpis Srapyan, 34, of Van Nuys, California— allegedly operated a series of sham hospice companies that were purportedly owned by foreign nationals but were in fact owned by the three defendants. The defendants allegedly used the foreign nationals’ identifying information to open bank accounts, to sign property leases, and, by Fichidzhyan, to make phone calls to Medicare, and submitted false and fraudulent claims to Medicare for hospice services. In submitting the false claims, the defendants misappropriated the identifying information of doctors, claiming to Medicare that the doctors had determined hospice services were necessary, when in fact the purported recipients of these hospice services were not terminally ill and had never requested nor received care from the sham hospices. In some instances, the defendants falsely claimed that the same beneficiary received services from multiple sham hospices.

Read entire article:

<https://www.justice.gov/opa/pr/five-individuals-arrested-defrauding-medicare-over-15m-through-sham-hospices-and-money>

HEALTHCARE FRAUD SCHEME

Founder/CEO and Clinical President of Digital Health Company Arrested for \$100M Adderall Distribution and Health Care Fraud Scheme

Justice Department’s First Criminal Drug Distribution Prosecutions Related to a Digital Health Company That Distributed Controlled Substances Via Telemedicine

The founder and CEO of a California-based digital health company and its clinical president were arrested today in connection with their alleged participation in a scheme to distribute Adderall over the internet, conspire to commit health care fraud in connection with the submission of false and fraudulent claims for reimbursement for Adderall and other stimulants, and obstruct justice.

Ruthia He, the founder and CEO of Done Global Inc., was arrested in Los Angeles and will make her initial appearance at 1:30 p.m. PDT/4:30 p.m. EDT in Los Angeles. David Brody, the clinical president of Done Health P.C. (collectively, Done), was arrested in San Rafael, California, and will make his initial appearance at 10:30 a.m. PDT/1:30 p.m. EDT in San Francisco, California.

“As alleged, these defendants exploited the COVID-19 pandemic to develop and carry out a \$100 million scheme to defraud taxpayers and provide easy access to Adderall and other stimulants for no legitimate medical purpose,” said Attorney General Merrick B. Garland. “Those seeking to profit from addiction by illegally distributing controlled substances over the internet should know that they cannot hide their crimes and that the Justice Department will hold them accountable.”

Read entire article:

<https://www.justice.gov/opa/pr/founderceo-and-clinical-president-digital-health-company-arrested-100m-adderall-distribution>



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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