



COMPLIANCE CONNECTION

FEBRUARY 2025



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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New Jersey Pharmacy Agrees to Resolve False Claims Act Allegations for Billing for Drugs Not Dispensed

Midland Health PolicyTech: Policy #79 Conflict of Interest (See Page 2)

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/>



MIDLAND HEALTH

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False Claims Act Allegations



New Jersey Pharmacy Agrees to Resolve False Claims Act Allegations for Billing for Drugs Not Dispensed

Medsinbox Pharmacy LTC LLC, doing business as Farmacia San Antonio (Medsinbox), a pharmacy located in Camden, New Jersey, has agreed to pay \$625,000.00 to resolve allegations that it violated the False Claims Act by knowingly billing federal health care programs for medications that it never dispensed.

The United States alleged that, from Jan. 1, 2019, through Jan. 24, 2022, Medsinbox caused the submission of claims for reimbursement to the Medicare Part D Program and the New Jersey Medicaid Program for drugs that were never dispensed to beneficiaries. The government contends that inventory records showed that Medsinbox did not purchase enough of these medications from wholesalers to fill all of the prescriptions billed to these federal health care programs.

"Health care providers defraud federal health care programs when they bill for goods or services that they did not provide," said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "We will hold accountable those who improperly seek to profit from taxpayer funded programs."

Read entire article:

<https://www.justice.gov/opa/pr/new-jersey-pharmacy-agrees-resolve-false-claims-act-allegations-billing-drugs-not-dispensed>

California Hospital to Pay \$10.25M to Resolve False Claims Allegations

Oroville Hospital, located in Oroville, California, has agreed to pay \$10,250,000, to the United States and the State of California to resolve allegations that it knowingly submitted false claims to Medicare and Medicaid arising from medically unnecessary inpatient hospital admissions, a kickback and physician self-referral scheme and the use of erroneous diagnosis codes. Oroville Hospital will pay \$9,518,954 to the federal government and \$731,046 to the State of California.

The United States alleged that Oroville Hospital admitted patients and billed Medicare and Medicaid for more expensive inpatient hospital stays when inpatient care was not medically necessary and observation status or outpatient care was appropriate. The United States also alleged that Oroville Hospital illegally incentivized inpatient admissions by paying financial bonuses to doctors who worked full time at the hospital and were in a position to influence whether or not patients were admitted to the hospital.

Read entire article:

<https://www.justice.gov/opa/pr/california-hospital-pay-1025m-resolve-false-claims-allegations>



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



MIDLAND HEALTH CONFLICT OF INTEREST

Purpose: This policy is designed to implement a procedure requiring disclosure of actual and potential conflicts of interest by members of Midland County Hospital District d/b/a Midland Memorial Hospital's (the "Hospital") medical staff ("Medical Staff") serving in leadership positions, other employees serving in leadership positions, and governing board members (collectively "Hospital Representatives").

As stewards of the Hospital's purposes, Hospital Representatives have an ethical duty to exercise their responsibilities with the utmost good faith, due care and loyalty to the welfare and financial interests of the Hospital. Therefore, in pursuit of the same, the Hospital enacts this Conflict of Interest policy to help ensure Hospital Representatives' continuing commitment to these standards in any and all leadership and/or financial activities and transactions while working or volunteering for the Hospital. This policy is intended to supplement, but not replace, any Hospital policies or state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

This Policy does not supersede or relieve a Hospital Representative from any restrictive covenants contained in their employee agreements.

Policy: Hospital Representatives are required to disclose actual or potential conflicts of interest as set forth herein and shall not in any way use their position, or knowledge gained therefrom, to enhance their personal financial position or interests, or the financial position or interests of any immediate family member, or in any manner which is contrary to the best interests of the Hospital.

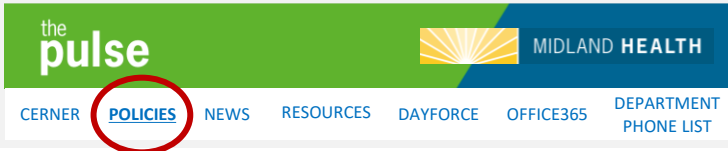
PRINCIPLES AND DEFINITIONS:

- Conflicts of interest are interests, relationships or situations that a reasonable person would believe may have the potential to improperly influence, affect or conflict with the interests of the Hospital. Conflicts of interest include outside interests or relationships that could:
 - Affect or conflict with the interest of the Hospital;
 - Impair one's ability to remain objective in his/her relationship with the Hospital;

*Read entire Policy:
Midland Health PolicyTech #79 – "Conflict of Interest"*

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
Is Saying Someone Died a HIPAA Violation?
<https://www.hipaajournal.com/aying-someone-died-hipaa-violation/>

LINK 2
OCR Settles Ransomware Attack Investigation with Virtual Private Network Solutions for \$90,000
<https://www.hipaajournal.com/ocr-settlement-ransomware-risk-analysis-virtual-private-network-solutions/>

LINK 3
HIPAA for Therapists
<https://www.hipaajournal.com/hipaa-for-therapists/>

LINK 4
What is the Purpose of HIPAA?
<https://www.hipaajournal.com/purpose-of-hipaa/>

HIPAA PHOTOGRAPHY RULES

What are the HIPAA Photography Rules?

Photos are only mentioned twice in HIPAA – once in the Safe Harbor method of de-identifying PHI, and once in the list of individually identifiable health information that has to be removed from a designated record set to make it a limited data set. Because these are the only mentions of photographs in HIPAA, many covered entities assume that every photograph should be classified as Protected Health Information (PHI) and subject to HIPAA Privacy and Security Rule standards. But this is not the case.

Individually identifiable information such as photos and videos only become individually identifiable health information when they are created or received by a covered entity and relate to "the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual" or are maintained in the same designated record set as individually identifiable health information.

What HIPAA Photography Rules Apply to Health Information? When photos and videos are created or received by a covered entity and relate to a patient's healthcare or are maintained in the same record set as the patient's healthcare information, they are subject to the General Principles for Uses and Disclosures; and – when maintained or transmitted electronically – to the Administrative, Physical, and Technical Safeguards of the HIPAA Security Rule. Business associates are also required to comply with the HIPAA Security Rule safeguards when providing a service to, or performing a function on behalf of, a covered entity.

It is important for covered entities and business associates to be aware that photos which do fulfil the criteria for health information not only include full-face photographs, but also photos of distinctive injuries, jewelry, tattoos, and other identifying features.

*Read entire article:
<https://www.hipaajournal.com/hipaa-photography-rules/>*

PATIENT INFORMATION

Can Doctors Share Patient Information with Other Doctors?

When asked the question can doctors share patient information with other doctors, many sources refer to § 164.506 of the HIPAA Privacy Rule – "Uses or disclosures to carry out treatment, payment, or health care operations". The section states doctors can share patient information with other doctors for treatment purposes, even if the two doctors are – or work for – different covered entities.

If patient information is shared for any other purpose (i.e., health care operations), the two doctors either have to be working for the same covered entity or there must a relationship between the two covered entities relating to the individual who is the subject of the information being shared. In such circumstances, the sharing of patient information is subject to the minimum necessary standard.

However, as much as this looks like an answer to the question can doctors share patient information with other doctors, exceptions exist elsewhere in the HIPAA Privacy Rule. For example, what happens if one of the doctors is not – or does not work for – a covered entity, if the patient has requested that their information is not shared, or the nature of the information being shared requires an authorization?

*Read entire article:
<https://www.hipaajournal.com/can-doctors-share-patient-information-with-other-doctors/>*



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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