



COMPLIANCE CONNECTION

JANUARY 2025



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:
HIPAA Updates and HIPAA Changes in 2024

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

COMPLIANCE TEAM

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

Michelle.Pendergrass@midlandhealth.org

Regenia Blackmon, Compliance Auditor
Regenia.Blackmon@midlandhealth.org

Melissa Sheley, Senior Compliance Analyst
Melissa.Sheley@midlandhealth.org



HIPAA Updates and HIPAA Changes in 2024

HIPAA updates and HIPAA changes happen more frequently than many people are aware of because of the nature of the update or because of their minor impact on HIPAA compliance. A major update to HIPAA is long overdue, and steps were taken in December 2020 to address the need for HIPAA changes and HIPAA updates when the HHS' Office for Civil Rights (OCR) issued a Notice of Proposed Rulemaking (NPRM) to make multiple changes to the HIPAA Privacy Rule.

In addition, there has also been an update to align 42 CFR Part 2 – the Confidentiality of Substance Use Disorder Patient Records regulations – more closely with HIPAA, and an update to change the conditions under which PHI relating to reproductive healthcare can be used or disclosed. The Part 2 and reproductive health changes were finalized in 2024, a Final Rule implementing the proposed changes to the HIPAA Privacy Rule is due although it will likely be the new administration that implements that HIPAA change in 2025, and the HHS is set to propose an update to the HIPAA Security Rule that will add new cybersecurity standards. OCR Director Melanie Fontes Rainer said the NPRM for the HIPAA Security Rule is expected to be added to the Federal Register before the end of the year. The most commonly updated section of HIPAA is Part 162 of the Administrative Simplification Regulations, which relate to transaction code sets and identifiers.

HIPAA Changes in 2024

OCR asked 54 different questions in its RFI. Some of the main aspects that were under consideration were:

- Patients' right to access and obtain copies of their protected health information and the time frame for responding to those requests (*Currently 30 days*)
- Removing the requirement to obtain written confirmation of receipt of an organization's notice of privacy practices
- Promotion of parent and caregiver roles in care
- Easing of restrictions on disclosures of PHI without authorization
- Possible exceptions to the minimum necessary standard for disclosures of PHI
- Changes to HITECH Act requirements for the accounting of disclosures of PHI for treatment, payment, and healthcare operations
- Encouragement of information sharing for treatment and care coordination
- Changing the Privacy Rule to make sharing PHI with other providers mandatory rather than permissible
- Expansion of healthcare clearinghouses' access to PHI
- Addressing the opioid crisis and serious mental illness

Read entire article:

<https://www.hipaajournal.com/hipaa-updates-hipaa-changes/#:~:text=The%20return%20to%20a%20Trump,or%20photographs%20of%20their%20PHI.>



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.

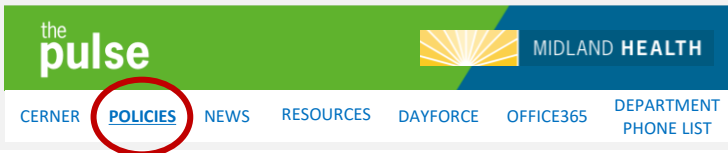
PRINCIPLES AND DEFINITIONS:

- 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
What are the HIPAA Photography Rules?
<https://www.hipaajournal.com/hipaa-photography-rules/>

LINK 2
OCR Settles Alleged Impermissible Disclosure of Reproductive Health Information
<https://www.hipaajournal.com/ocr-settles-alleged-impermissible-disclosure-of-reproductive-health-information/>

LINK 3
The 10 Most Common HIPAA Violations You Should Avoid
<https://www.hipaajournal.com/common-hipaa-violations/>

LINK 4
HHS-OIG Recommends OCR Enhance its HIPAA Audit Program
<https://www.hipaajournal.com/hhs-oig-ocr-enhance-hipaa-audit-program/>

HIPAA VIOLATION

OCR Phishing Investigation Uncovers HIPAA Training Failure; Colorado Children's Hospital Fined \$548,265

The HHS' Office for Civil Rights (OCR) has announced another civil monetary penalty for a HIPAA-regulated entity to address non-compliance with the HIPAA Rules, its 7th of the year and the 15th enforcement action of 2024 to result in a financial penalty.

The latest fine was imposed on Children's Hospital Colorado Health System, a not-for-profit provider of healthcare services for children and young individuals at its main healthcare facility in Aurora, CO, and 22 other facilities in the Anschutz Medical Campus and throughout the State of Colorado. Children's Hospital Colorado also has agreements with nursing schools and provides clinical opportunities for nursing students.

On July 11, 2017, an unauthorized individual accessed a physician's email account following a response to a phishing email. The email account contained the electronic protected health information (ePHI) of 3,370 patients. The email account was previously protected with 2-factor authentication; however, it was deactivated by the IT help desk and was not reactivated. The breach was reported to OCR, and an investigation was launched to assess compliance with the HIPAA Rules, but no action was taken against Children's Hospital Colorado at that time.

Read entire article:
<https://www.hipaajournal.com/ocr-phishing-investigation-hipaa-training-failure-colorado-childrens-hospital/>

HIPAA VIOLATION

Californian Mental Health Center Fined \$100,000 for HIPAA Violation

The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) has imposed a \$100,000 civil monetary penalty on a Californian mental health center for failing to provide a patient with timely access to her medical records.

On March 18, 2020, a patient of Rio Hondo Community Mental Health Center, a directly operated Outpatient Program of the County of Los Angeles Department of Mental Health, visited the clinic and completed a medical record request form. The patient should have been provided with a copy of the requested records within 30 days, but the requested records were not provided until 7 months after the initial request was made.

There was an initial delay of 2 months as California Governor Gavin Newsom issued a stay-at-home order on March 19, 2020, the day after the request was made. All County buildings were closed to the public and there was little to no staff working at the clinics at that time. Staff started to return to the clinic in May 2020, and on May 22, 2020, the patient was informed in a phone call that she could collect her records on May 27, 2020.

When the patient turned up at Rio Hondo on May 27, she waited 20 minutes but was not seen, then left her contact information and asked to be contacted when her records were ready to be collected. The records had still not been provided by July 17, 2020, so the patient called Rio Hondo several times that day and was transferred to the medical record department but the calls were not answered.

Read entire article:
<https://www.hipaajournal.com/rio-hondo-community-mental-health-center-hipaa-penalty/>



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