

COMPLIANCE CONNECTION

NOVEMBER 2024

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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**Corporate Compliance & Ethics Week:
November 3-9, 2024**

**Midland Health PolicyTech: Policy #3755
Code of Conduct** (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/>

CORPORATE COMPLIANCE & ETHICS WEEK

November 3-9, 2024



Corporate Compliance & Ethics Week® began in 2005 to shine a spotlight on the importance of compliance and ethics. The core principles of the week are awareness, recognition, and reinforcement. The "official" Corporate Compliance & Ethics Week was first observed in 2005 as an event that could assist members of the Society of Corporate Compliance and Ethics (SCCE) and the Health Care Compliance Association (HCCA) with the need to educate staff on the importance of compliance and ethics. But the event's roots actually go back to 2002, when two HCCA members, Gene DeLaddy and Cheryl Atkinson, wrote an article for Compliance Today telling others about an awareness program at their facility. That event was called Compliance Awareness Week, and it was celebrated at the Carolinas HealthCare System in Charlotte, North Carolina. The first National Corporate Compliance and Ethics Week was launched May 22-28, 2005. SCCE and HCCA have always co-sponsored the event.

Corporate Compliance & Ethics Week offers a great opportunity to shine a spotlight on the importance of compliance and ethics at your organization. By having a designated week, you and your compliance staff can build awareness in ways that reinforce not just specific rules and regulations, but an overall culture of compliance. Using the "hook" of Corporate Compliance & Ethics Week, you can emphasize your overall message in several different ways.

The importance of employee education is emphasized by the U.S. Federal Sentencing Guidelines' seven elements of an effective compliance and ethics program. The education element requires that steps be taken so all employees know and understand the compliance and ethics standards that they are expected to meet. With a week-long celebration of compliance and ethics, you have a great opportunity to introduce and reinforce your chosen themes. Your plans will rely in part on your organization's specific needs, but some basic goals may include:

- **Awareness:** of the Code of Conduct, relevant laws/regulations, hotlines and other reporting methods, the organization's compliance and ethics staff, etc.
- **Recognition:** of training completion, compliance and ethics successes, etc.
- **Reinforcement:** of the culture of compliance for which the organization strives.

Resource:

<https://www.corporatecompliance.org/about-scce/corporate-compliance-ethics-week>



MIDLAND HEALTH

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SCCE®
Society of Corporate
Compliance and Ethics



HCCA®
Health Care Compliance
Association



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 CODE OF CONDUCT

Purpose: Midland Memorial Hospital (“MMH”) is committed to conducting business in an ethical and honest manner and within the bounds of the law. This Code of Conduct provides governing board members, medical and allied health staff, employees, agency staff, independent contractors, vendors, volunteers and students of Midland Memorial Hospital (“MMH Representatives”) with guidelines for conducting business and operations in a manner which fulfills this commitment. This Code of Conduct further provides the foundation principals for implementing the MMH Compliance Program, which serves to prevent the occurrence of illegal or unethical behavior, and is supplementary to the mission, vision, and values of MMH, its policies and procedures, as well as pertinent state and federal law.

This Code of Conduct has been distributed to all MMH Representatives and sets forth general standards applicable to all MMH business and operations. In addition to this Code of Conduct, there are a number of more detailed and specific MMH policies and procedures covering the particular issues described herein.

Policy

- MMH’s Commitment to Legal and Ethical Behavior
- Complying with the Law
- Providing for Excellent Patient Care
- Protecting Confidential Information
- Adhering to Anti Kickback and Healthcare Fraud and Abuse Legislation
- Declining Inappropriate Gifts or Gratuities
- Policy Pertaining to Business Courtesies Received from Vendors
- Not Providing Inappropriate Gifts to Patients and Visitors
- Avoiding Conflicts of Interest

Read entire Policy:
[Midland Health PolicyTech #3755 – “Code of Conduct”](#)

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

Texas Sues HHS to Overturn HIPAA Privacy and Reproductive Healthcare Privacy Final Rules

<https://www.hipaajournal.com/texas-ag-sues-hhs-reproductive-healthcare-privacy-final-rule/>

LINK 2

Enzo Biochem Settles HIPAA Violations with State Attorneys General for \$4.5 Million

<https://www.hipaajournal.com/enzo-biochem-hipaa-settlement-ny-nj-cty/>

LINK 3

Organ Transplant Coordinator Convicted of Illegally Accessing Health Records of Supreme Court Judge

<https://www.hipaajournal.com/rgan-transplant-coordinator-guilty-medical-record-access-ginsburg/>

LINK 4

OCR Announces 50th HIPAA Right of Access Penalty

<https://www.hipaajournal.com/ocr-50th-hipaa-right-of-access-penalty/>

HIPAA VIOLATION

Cascade Eye and Skin Centers Settles Alleged HIPAA Violations for \$250,000

The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) has settled alleged HIPAA violations with the Washington healthcare provider Cascade Eye and Skin Centers, P.C. for \$250,000. OCR launched an investigation of the privately-owned Washington healthcare provider after learning on May 26, 2017, that patient data had been exposed in a March 2017 ransomware attack. According to OCR, the ransomware group had access to a network server where 291,000 files containing patients’ protected health information were stored.

The investigation uncovered one of the most common HIPAA compliance failures – the lack of a comprehensive, accurate, organization-wide risk analysis to identify potential risks and vulnerabilities to electronic protected health information (ePHI), as required by 45 C.F.R. § 164.308(a)(1)(ii)(A). OCR also determined there were insufficient reviews of activity in information systems that contained ePHI., as required by 45 C.F.R. § 164.308(a)(1)(ii)(D).

Cascade Eye and Skin Centers was given the opportunity to settle the alleged HIPAA violations and chose to pay the financial penalty and adopt a corrective action plan, with no admission of wrongdoing or liability. The settlement agreement also includes a comprehensive corrective action plan, compliance with which will be monitored by OCR for 2 years.

Read entire article:
<https://www.hipaajournal.com/cascade-eye-and-skin-centers-hipaa-settlement/>

FALSE CLAIMS ACT

Pharmaceutical Company Pays \$25M to Resolve Alleged False Claims Act Liability for Price-Fixing of Generic Drug

A generic pharmaceutical manufacturer, Glenmark Pharmaceuticals Inc. USA (Glenmark), located in Mahwah, New Jersey, has agreed to pay \$25 million, based on its ability to pay, to resolve its alleged liability under the False Claims Act for conspiring to fix the price of a generic drug. The government alleged that, between 2013 and 2015, Glenmark paid and received compensation prohibited by the Anti-Kickback Statute through arrangements on price, supply and allocation of customers with other pharmaceutical manufacturers for a generic drug manufactured by Glenmark, pravastatin, which is widely used to treat high cholesterol and triglyceride levels.

“Illegal collaboration on the price or supply of drugs increases costs both to federal health care programs and beneficiaries,” said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department’s Civil Division. “The department will use every tool at its disposal to prevent such conduct and to protect these taxpayer-funded programs from abuse.”

“At a time when excessive drug costs are already imposing unprecedented burdens on our country’s vulnerable citizens, an illegal conspiracy to fix the prices of generic drugs is alarming,” said U.S. Attorney Jacqueline C. Romero for the Eastern District of Pennsylvania. “My office is proud to work with the rest of the department and our investigative partners to hold companies accountable when they illegally inflate prices on drugs used for the health and well-being of our citizens.” “Conspiring to raise prices on generic medications is illegal and could prevent patients from being able to afford their needed prescription drugs. Americans have the right to purchase generic drugs set by fair and open competition, not collusion,” said Special Agent in Charge Maureen R. Dixon of the Department of Health and Human Services Office of the Inspector General (HHS-OIG), Philadelphia Regional Office. “HHS-OIG will continue to work with our law enforcement partners to investigate allegations of health care fraud that put the public and the Medicare program at risk.”

Read entire article:
<https://www.justice.gov/opa/pr/pharmaceutical-company-pays-25m-resolve-alleged-false-claims-act-liability-price-fixing>



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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