

COMPLIANCE CONNECTION



MAY 2023



Compliance HOTLINE:
MIDLAND HEALTH
855-662-SAFE (7233) • ID#: 6874433130
This ID# is required to submit a report.

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

IN THIS ISSUE

FEATURE ARTICLE

Podiatrist and Patient Recruiter Convicted for \$8.5M Compounding Fraud Scheme

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/>

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MIDLAND HEALTH

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THE UNITED STATES
DEPARTMENT of JUSTICE

Office of Public Affairs

Podiatrist and Patient Recruiter Convicted for \$8.5M Compounding Fraud Scheme

A federal jury convicted two Texas men today for their role in a scheme to fraudulently bill TRICARE – the health care program for U.S. service members and their families – for compounded creams that were medically unnecessary and procured through kickbacks and bribes.

According to court documents and evidence presented at trial, Brian Carpenter, 56, of Bridgeport, was a podiatrist who signed prescriptions for compounded pain and scar creams for TRICARE beneficiaries to whom he never spoke and whom he never examined or treated. Jerry Lee Hawrylak, 69, of Lake Worth, recruited Carpenter to sign the prescriptions and recruited TRICARE beneficiaries to accept the medically unnecessary creams. From November 2014 to January 2017, Carpenter and Hawrylak caused the Fort Worth-based pharmacy involved in the conspiracy to fraudulently bill TRICARE approximately \$8.5 million for these creams.

Carpenter and Hawrylak were convicted of one count of conspiracy to commit health care fraud and six counts of health care fraud. They are scheduled to be sentenced on Aug. 23 and face a maximum penalty of 10 years in prison on each count. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division, U.S. Attorney Leigha Simonton for the Northern District of Texas, Special Agent in Charge Michael Mentavlos of the Defense Criminal Investigative Service (DCIS), Special Agent in Charge Jason Meadows of the Department of Health and Human Services Office of Inspector General (HHS-OIG) Dallas Regional Office, Special Agent in Charge Chad B. Yarbrough of the FBI Dallas Regional Office, Special Agent in Charge Steven Grell of the Department of Labor Office of Inspector General (DOL-OIG) Central Regional Office, and Special Agent in Charge Kris Raper of the Veterans Affairs Office of Inspector General (VA-OIG) South Central Field Office made the announcement.

Read entire article:

<https://www.justice.gov/opa/pr/podiatrist-and-patient-recruiter-convicted-85m-compounding-fraud-scheme>

DID YOU KNOW...



TYPES OF CIVIL MONETARY PENALTIES AND AFFIRMATIVE EXCLUSIONS

Grants, Contracts, and Other Agreements: The OIG may impose CMPs, assessments, and exclusions against individuals and entities that engage in fraud and other improper conduct related to HHS grants, contracts, and other agreements. The OIG may impose sanctions for, among other things, knowingly presenting a specified claim under a grant, contract, or other agreement that is false or fraudulent, or knowingly making or using any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, or other document submitted to HHS in order to receive funds under an HHS grant, contract, or other agreement.

Resource: <https://oig.hhs.gov/fraud/enforcement/types-of-civil-monetary-penalties-and-affirmative-exclusions/>



MIDLAND
HEALTH



HIPAA Section 10.1: Administrative Safeguards

POLICY

It is the policy of MIDLAND HEALTH to employ administrative safeguards to maintain the privacy of PHI in compliance with the standards, implementation guidelines or other requirements of the HIPAA Privacy Rules. The Privacy Officer and the Information Security Officer shall determine which MIDLAND HEALTH workforce members shall be required to be familiar with this policy and who shall follow these procedures.

ADMINISTRATIVE SAFEGUARDS

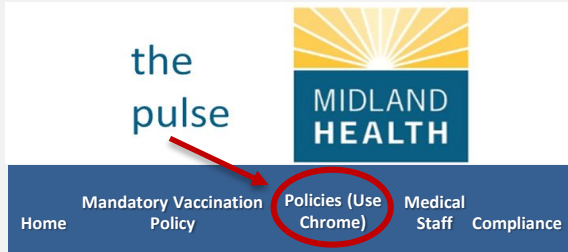
1. Assigned Security Responsibility 164.308(a)(2): Identify security officer responsible for development and implementation. JD - Officer Information Security (ISO)
2. Workforce Security 164.308(a)(3): Ensure that workforce has appropriate level of electronic access to PHI; terminate access when appropriate.
 - (a) Authorization and/or Supervision Workforce Clearance and Authorization
 - (b) Workforce Clearance Procedure Workforce Clearance and Authorization
 - (c) Termination Procedures Terminating Access
3. Information Access Management 164.308(a)(4): Have appropriate policies and procedures for accessing ePHI and modification of access rights. Workforce Clearance and Authorization
4. Security Awareness and Training 164.308(a)(5): Implement training and awareness programs procedures for workforce and management. Security Awareness Training
5. Security Incident Procedures 164.308(a)(6): Address security incidents (with supporting procedures and policies to respond to and report incidents). Information Security Incident Response Plan
 - (a) Response and Reporting through the Global Compliance Hotline or email to Incident Response@midland-memorial.com, also see Information Security Incident Management.
6. Contingency Plan 164.308(a)(7)
 - (a) Data Backup Plan
 - (b) Applications and Data Criticality Analysis System Impact Analysis
8. Evaluation 164.308(a)(8): Periodically evaluate all aspects of plans/systems/procedures regarding integrity and security of ePHI.

Read entire Policy: Midland Health PolicyTech #10031
<https://midland.policytech.com/dotNet/documents/?docid=36713>

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

Pixel Use Results in Impermissible Disclosure of the PHI 3.1 Million Cerebral Platform Users

<https://www.hipaajournal.com/cerebral-impermissible-disclosure-pixel-3170000/>

LINK 2

Ransomware Gang Ups the Ante by Publishing Naked Images of Patients

<https://www.hipaajournal.com/ransomware-gang-ups-the-ante-by-publishing-naked-images-of-patients/>

LINK 3

Community Health Systems to Notify Up to 1 Million Individuals About GoAnywhere Data Breach

<https://www.hipaajournal.com/community-health-systems-goanywhere-data-breach/>

LINK 4

ZOLL Medical Says 1 Million Patients Affected by January Cyberattack and Data Breach

<https://www.hipaajournal.com/zoll-medical-jan-2023-data-breach-1-million/>

Pharmacist Pleads Guilty to Medicare Fraud Scheme

A California man pleaded guilty today to submitting fraudulent claims to Medicare for prescription drugs that were never dispensed to patients.

According to court documents, Paul Mansour, 55, of Sierra Madre, was a pharmacist at a Sierra Madre-based pharmacy, Mansour Partners Inc., doing business as Best Buy Drugs, which he also co-owned. Mansour created fake patient profiles in the pharmacy's digital filing system and added fraudulent prescription medication entries to these fictitious patient files that duplicated prescriptions for medications provided to real patients of the pharmacy. Mansour then submitted false and fraudulent claims for the drugs added in the fictitious patient files that had never been dispensed, billing Medicare for the fraudulent prescriptions in the names of real patients of the pharmacy. Between January 2017 and June 2022, Mansour caused Medicare to pay the pharmacy between approximately \$600,000 and over \$1 million as a result of the submission of false and fraudulent claims.

Mansour pleaded guilty to one count of health care fraud. He is scheduled to be sentenced on June 28 and faces a maximum penalty of 10 years in prison. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

Read entire article:

<https://www.justice.gov/opa/pr/pharmacist-pleads-guilty-medicare-fraud-scheme>

ILLEGAL DISTRIBUTION OF OPIOIDS

Doctor Charged for Unlawfully Distributing Opioids

A doctor made his initial appearance today in the U.S. District Court for the District of Columbia to face illegal distribution of opioids charges.

According to court documents, Dr. Ndubuisi Joseph Okafor, 63, of Upper Marlboro, Maryland, allegedly distributed oxycodone to individuals outside the usual course of professional practice and without a legitimate medical purpose from his medical practice in Washington. Okafor allegedly performed only cursory evaluations of individuals, and further solicited and received cash inside the examination rooms of his clinic in exchange for opioid prescriptions.

Okafor is charged with 16 counts of illegal distribution of opioids. If convicted, he faces a maximum penalty of 20 years in prison on each count.

Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division, U.S. Attorney Matthew M. Graves for the District of Columbia, Assistant Director Luis Quesada of the FBI's Criminal Investigative Division, Assistant Director in Charge David Sundberg of the FBI Washington Field Office, and Deputy Inspector General for Investigations Christian J. Schrank of the Department of Health and Human Services Office of the Inspector General (HHS-OIG) made the announcement.

The FBI and HHS-OIG are investigating the case, with assistance from the District of Columbia Office of the Inspector General's Medicaid Fraud Control Unit and DEA.

Principal Assistant Deputy Chief Kilby Macfadden of the Criminal Division's Fraud Section and Assistant U.S. Attorney Meredith Mayer-Dempsey for the District of Columbia are prosecuting the case.

Read entire article:

<https://www.justice.gov/opa/pr/doctor-charged-unlawfully-distributing-opioids>

