

Compliance Programs and Student Health Centers

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Presented by

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Disclaimer: Nothing in this presentation should be construed as legal advice nor relied upon as legal expertise.

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Polling Question #1

How would you rate the level of overall university compliance risk posed by student health centers?

- a. No risk
- b. Low
- c. Moderate
- d. High
- e. Extremely high

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HIPAA and FERPA

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FIGURE 2. Comparing HIPAA and FERPA

HIPAA	FERPA
<ul style="list-style-type: none"> • Allows release of PHI for treatment, payment, and operations (TPO) • Allows release to HHS/OCR • Used in college health services that engage in one or more of the HIPAA electronic transactions AND provide services to non-students. 	<ul style="list-style-type: none"> • Does not allow release for TPO • Does not allow release to these agencies • Used in college health services for student medical records that have been released or have not been maintained by the health care provider (State laws governs any student record maintained solely by the health care provider)

Kiel, Joan M., and Laura M. Knoblauch. "HIPAA and FERPA: competing or collaborating?." *Journal of allied health* 39.4 (2010): 161E-165E.

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U.S. Department of Health
and Human Services



U.S. Department of Education

**Joint Guidance on the Application of the
Family Educational Rights and Privacy Act (FERPA)
And the *Health Insurance Portability and
Accountability Act of 1996 (HIPAA)*
To Student Health Records**

<http://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf>

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TUESDAY, MAR 10, 2015 08:22 AM MDT

University of Oregon uses rape survivor's medical records against her in lawsuit

The case reveals a dangerous loophole in students' privacy rights

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The Ticker

Breaking news from all corners of academe.

TRENDING For-Profit Colleges Students Legal Leadership The Profession

August 4, 2015 by Andy Thomason

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Woman Who Alleged Rape by 3 Oregon Athletes Will Get \$800,000 Settlement

A civil lawsuit filed against the University of Oregon by a student who said she had been raped by three basketball players has been settled, the university announced on Tuesday.

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ARTICLE

When Students Become Patients, Privacy Suffers

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By Charles Ornstein (ProPublica) | OCTOBER 22, 2015

During her senior year at Yale University, Andrea faced spiraling depression and anxiety. She sought treatment at the campus health center, where she received medication and therapy.

By the final week of classes, though, her struggles had grown more intense. Andrea was drinking heavily and contemplating suicide. She was hospitalized against her will for a week.

Andrea, who asked that only her first name be used to protect her privacy, was 21 years old,

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UNITED STATES DEPARTMENT OF EDUCATION

August 18, 2015

Dear Colleague Letter to School Officials at Institutions of Higher Education

Dear Colleague:

The U.S. Department of Education (the "Department") recognizes that many institutions of higher education ("institutions") offer their students on-campus access to medical services, including mental health services. These services can help comprehensively promote campus safety and health; improve academic achievement; and assist those who experience sexual violence, other violence, or harassment. These benefits cannot be fully realized in an environment where trust between students and the institution is undermined. Students should not be hesitant to use the institution's medical services out of fear that information they share with a medical professional will be inappropriately disclosed to others.

The Department is sending this Dear Colleague Letter to school officials at institutions to remind them of their obligations under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and the regulations in 34 C.F.R. Part 99, to protect students' education records from disclosure without consent, and to provide guidance more specifically on the disclosure of student medical records. This guidance does not create or confer any rights for or

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Information Security

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Polling Question #2

How would you described the change in the level of compliance focus on student health centers' information security over the last few years?

- a. No change
- b. Low level of change
- c. Moderate level of change
- d. High level of change
- e. Extremely high level of change

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Thielen Student Health Center accidentally leaks patient names, appointment dates

By Kaitlyn Hood, kaitlyn.hood@iowastatedaily.com Dec 5, 2018  2



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Thielen Student Health Center (Iowa State)

- A breach in their system when a coding error occurred as they put student information into a system to be sent out as patient satisfaction survey
- The error enabled some 600 patients to see “the name of another patient, the date of their appointment and the provider they would have seen.”
- The breach was seen within an hour and TSHC “shut down the patient satisfaction survey and [they] were able to recall a large number of the satisfaction surveys so that information was not shared.”
- TSHC is going to change the survey process so there will be a different sorting process for patient data. “When it is put into the survey software... [they] will take off personally identifiable information.”

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The screenshot shows the University of Texas at Arlington website's News Center. The header includes the university's name and logo, with navigation links for About Us, Admissions, Academics, Research, Student Life, and Giving. The breadcrumb trail indicates the page is in the News Center, specifically under News Releases Yearly Archive, News Releases 2010, and Information on Potential Data Server Breach at UTA Health Center. The main heading is 'NEWS CENTER', followed by the article title 'INFORMATION ON POTENTIAL DATA SERVER BREACH AT UTA HEALTH CENTER, JUNE 21, 2010'. The article is dated Friday, July 23, 2010, and lists Kristin Sullivan as the media contact. The text of the article states that the University of Texas at Arlington has notified about 27,000 individuals of a potential data compromise involving prescription records maintained by the Student Health Center since 2000. It further explains that one of the university's file servers was compromised, potentially exposing records of students, faculty, and staff who received or filled a prescription through the Health Center between 2000 and June 21, 2010. The university notes it is not aware of any fraudulent use of the information and lists the types of data that may have been exposed, including names, addresses, prescription names, amounts spent, and diagnostic codes, as well as Social Security numbers for 2,048 of the affected individuals. It concludes by stating that none of the records included credit card information or any other medical records.

UNIVERSITY OF TEXAS ARLINGTON

ABOUT US ADMISSIONS ACADEMICS RESEARCH STUDENT LIFE GIVING

News Center » News Releases Yearly Archive » News Releases 2010 » Information on Potential Data Server Breach at UTA Health Center

NEWS CENTER

INFORMATION ON POTENTIAL DATA SERVER BREACH AT UTA HEALTH CENTER, JUNE 21, 2010

Friday, July 23, 2010

Media Contact: [Kristin Sullivan](mailto:kristinsul@uta.edu), Office: 817-272-5364, Cell: 817-706-9811, kristinsul@uta.edu

ARLINGTON - The University of Texas at Arlington has notified about 27,000 individuals of a potential data compromise involving prescription records maintained by the Student Health Center since 2000.

UT Arlington recently learned that one of its file servers had been compromised, potentially exposing the records of students, faculty and staff who received a prescription or filled a prescription through the Health Center between 2000 and June 21, 2010.

The University is not aware of any fraudulent use of the information.

The information that may have been exposed included names, addresses, prescription names, amounts spent and diagnostic codes. In addition, records for 2,048 of the 27,000 affected individuals included Social Security numbers. None of the records included credit card information or any other medical records.

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UT Arlington

- One of its file servers had been compromised, which potentially exposed the prescription records of approximately 27,000 individuals who received a prescription or filled a prescription at the Student Health Center.
- The information that may have been exposed included Social Security numbers, names, addresses, prescription names, amount spent, and diagnostic codes.
- The file server in question was immediately taken offline and secured. The compromise was determined to be limited to that single file server. No other servers at the University were affected.

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UT System Model Policy

- UTS 165 Information Resources Use and Security Policy
<https://www.utsystem.edu/sites/policy-library/policies/uts-165-information-resources-use-and-security-policy>
1.3 Chief Administrative Officers. The Chief Administrative Officer at each Institution shall:
 - (a) ensure the Institution's compliance with this Policy and associated Standards;
 - (b) designate an individual to serve as the Institutional Information Security Officer (ISO) who shall: serve in the capacity as required by Texas Administrative Code 202.71 (b) with authority for that entire Institution;
report to the President or to a senior executive, other than the Chief Information Officer or Information Resources Manager, who reports to the President; and
have a dotted line reporting relationship to the Institution's Compliance Officer and the U. T. System Chief Information Security Officer;

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University of California, Irvine
Student Health Center
C/O ID Experts
PO Box 6336
Portland, OR 97228-6336

<<First Name>><<Last Name>>
<<Street Address>>
<<City, STATE, Zip code>>

<<DATE>>

Dear <<First Name>> <<Last Name>>,

We are writing to let you know that we have reason to believe that some of your information may have been acquired by an unauthorized person.

On March 26, 2014, the California Information Security Office (<http://www.cio.ca.gov/ois/>) notified us that one of the computers in the UC Irvine Student Health Center had been infected with a virus. We have since confirmed that information and verified that two other computers also were infected. The three computers were infected with a keystroke logger that captured data as it was entered onto them and transmitted that data to unauthorized servers. This occurred between February 14 and March 27, 2014.

We believe that your information, including your name, unencrypted medical information (potentially including

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Wed Apr 23, 2014 3:15pm EDT

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Exclusive: FBI warns healthcare sector vulnerable to cyber attacks

BOSTON | BY JIM FINKLE

The FBI has warned healthcare providers their cybersecurity systems are lax compared to other sectors, making them vulnerable to attacks by hackers searching for Americans' personal medical records and health insurance data.

Health data is far more valuable to hackers on the black market than credit card numbers because it tends to contain details that can be used to access bank accounts or obtain prescriptions for controlled substances.

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Pharmacy Services

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Polling Question #3

How would you rate the level of effectiveness demonstrated by the average student health center in managing drug diversion and/or drug theft?

- a. No effectiveness whatsoever
- b. Low level of effectiveness
- c. Moderate level of effectiveness
- d. High level of effectiveness
- e. Extremely high level of effectiveness

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Forged Prescriptions Discovered at USC Student Health Center's Pharmacy

By Eric Leonard

Published Jun 6, 2018 at 6:00 PM | Updated at 11:44 AM PDT on Mar 25, 2019

- Blank prescription forms stolen from the USC student health center were forged and used to illicitly obtain several doses of controlled drugs.
- Five forgeries that were filled by USC's on-campus pharmacy in 2018.
- Four of the forged prescriptions were used to obtain "controlled narcotics," and the fifth was filled with a non-narcotic medication.
- The pads, that list the name of a USC physician who used to work at the Engemann Student Health Center, may have been stolen by a former employee in mid-2016, but the theft wasn't discovered or reported to police until March 2018

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HOME

NEWS

SPORTS

The Daily Campus

LIFE

OPINION

JOIN

April 25, 2016

Student Health Services pharmacist arrested for fraudulent prescriptions

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Former supervisor at UConn's Student Health Services

- In January 2017, Michael Olzinski, 46, pleaded guilty to first-degree larceny and illegal distribution of narcotics.
- He was arrested after an investigation that was prompted by UConn's auditors.
- Olzinski ordered items through the pharmacy for personal and family use, stole cash from the cash register, and ordered thousands of oxycodone pills that were diverted to a person not entitled to receive them.

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Former supervisor at UConn's Student Health Services

UConn's auditors found that over a three year period:

- Olzinski ordered \$4,832 worth of personal care items for his family, including diapers, shampoo and over the counter medications from the student infirmary's vendor and never paid for them;
- He stole \$3,410 in cash from the cash register;
- He diverted oxycodone and other opioids to a third party

Olzinski was sentenced to eight years in prison, suspended after he serves 20 months, and three years of probation. He must also pay \$37,954 in restitution to UConn.

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Univ. of North Carolina (UNC) Student Health Center

- June 2010, a female pharmacist working at the University of North Carolina (UNC) Student Health Center was arrested on two counts of felony embezzlement for stealing \$4,000 worth of drugs and other items
- Drugs included blood pressure medicines, bone loss medication, a pulmonary drug, anti-aging cream, flaxseed oil, grape seed extract, and deodorant.
- She had been employed by UNC since 1999
- An anonymous tip was called into the UNC police department on April 23, 2010.

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Attempted Pharmacy Robbery at UCR Student Health Center Ends in Arrests

UC Riverside Police arrested two males – one of them a student -- Tuesday morning in connection with an attempted robbery at the pharmacy of the UCR Student Health Center.

The suspects were booked on charges that include attempted robbery, conspiracy and possession of a controlled substance for sale. UCR Vice Chancellor Jim Sandoval said the university's usual practice is to begin student conduct proceedings immediately in cases such as this.

During the incident, which occurred at about 8 a.m. Tuesday, the suspects attempted to take cough syrup containing codeine from the pharmacy. According to witnesses and victims, the UCR student acted as a distraction, while an accomplice headed for the pharmacy. Health center employees were able to stop the suspect and hold him until police arrived.

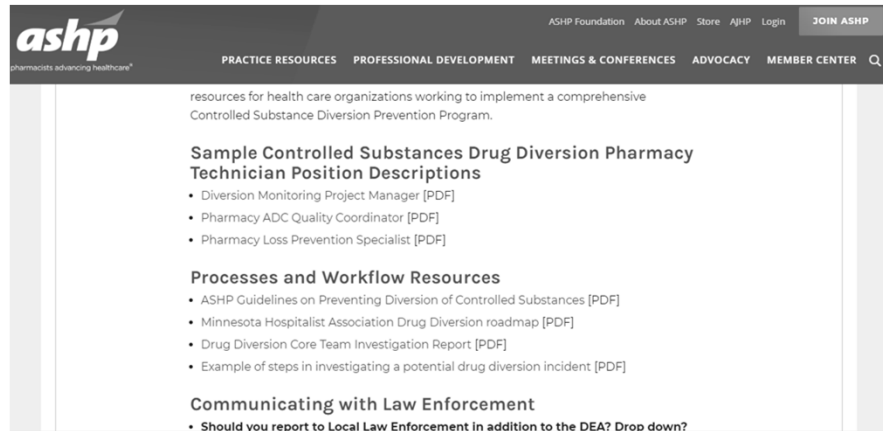
Two staff members suffered minor injuries and were examined at the scene by paramedics. One suspect, unaffiliated with UCR, was taken for a hospital exam as part of the arrest process. No weapons were brandished, according to police, but one suspect had a knife in his pocket.

"This was a traumatic experience for the staff members involved and for the students who witnessed the scuffle near the pharmacy," said Sandoval. "We will be following up with our employees to provide whatever resources they need." He thanked the quick action of the UCR police officers for the two arrests.

Students who need pharmacy services will be referred to an outside agency temporarily while pharmacy employees are out of the office. If anyone has any information related to this incident, please contact the UC Riverside police at 951-827-5222.

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Drug Diversion Tools



<https://www.ashp.org/Pharmacy-Technician/About-Pharmacy-Technicians/Advanced-Pharmacy-Technician-Roles-Toolkits/Controlled-Substances-Drug-Diversion-Pharmacy-Technician-Toolkit>

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Chaperones for Patient Exams

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Polling Question #4

Does your university's student health center have a chaperone policy that gives students/patients a choice to have a chaperone present during examinations?

- a. Yes
- b. No
- c. N/A

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Chaperones as Potential Prevention?

- USC's \$215 million settlement associated with Dr. George, gynecologist at USC's student health center for women's health issues.
- Michigan State Univ.'s \$500 million associated with Larry Nassar settlements

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More Allegations (Feb 2019)

- A half-dozen gay and bisexual men are suing USC and a physician, alleging he discriminated against and battered them while serving as the only full-time men's sexual health doctor at the Student Health Center.
- The plaintiffs are former USC students who filed a complaint in the Los Angeles Superior Court against the university and Dr. Dennis A. Kelly. The suit's allegations include sexual battery, gender violence, sexual harassment, negligence and fraud.

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Law Firm Ad

The screenshot shows a website for the law firm Hagens Berman. The header includes the firm's name and a navigation menu with links: ATTORNEYS, CASES, NEWS & INSIGHT, ABOUT, PRACTICES, SUCCESS, BLOG, OFFICES, and CONTACT. The main content area features a large image of a Boston University building. Below the image, the text reads: "Boston University Sexual Abuse". A prominent question asks: "Were you sexually assaulted while a patient at Boston University Student Health Services?". Below this, a call to action says: "You deserve to be heard. Find out your rights »" with a button labeled "LET US HELP ». The text continues: "Our firm has worked tirelessly for students and former students to protect them from on-campus sexual assault, rape and harassment and to strengthen university protocols and procedures to ensure acts of sexual abuse are brought to an end." It then states: "If you experienced inappropriate touching, harassment, lewd or unwanted comments, assault or any other unwanted or threatening behavior from a doctor during your visit to BU's Student Health Center, you may have rights against the university and its staff." The section is titled "SEXUAL HARASSMENT LITIGATION" and mentions: "Hagens Berman's attorneys are experienced in representing victims of sexual harassment and assault. When news broke concerning the string of decades of abuse committed by USC's former gynecologist, Dr. George Tyndall, Hagens Berman quickly joined the fight. We represent more than" a list of names. On the right side, there is a "Contact Us:" form with fields for First Name, Last Name, Email Address, Phone Number, and Home Address. It also includes two yes/no questions: "Were you harassed, threatened or assaulted while a patient at Boston University Student Health Services?" and "Have you reported the incident to anyone?". There is a date field for "What is your birthday?" and a text area for "Please describe your experience". At the bottom of the form, there is an "Additional Information" section with an "Optional" label.

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Chaperone

You will be asked to accept or decline a chaperone by intake staff. A chaperone is another medically trained Student Life Student Health Services employee who can provide you with comfort and reassurance during an exam and/or assist either you or the provider if needed.

From the Ohio State Univ. Student Health Services Website

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Sample Policies

- Oregon State Univ. <https://studenthealth.oregonstate.edu/policies-and-guidelines/medical-chaperone-policy>
- Univ. of Michigan <https://www.uofmhealth.org/patient-visitor-guide/patients/use-chaperones-during-sensitive-examinations-and-procedures>
- Univ. of Tennessee <https://studenthealth.utk.edu/wp-content/uploads/sites/43/2018/10/Policy-1-200-Use-of-Chaperones-2-18.pdf>

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Considerations

- Mandatory/voluntary
- Patient right to refuse
- Clinician right to refuse
- Sex and Gender
- Type of examinations
- Cultural or religious considerations
- Psychological considerations
- Training and/or qualifications of the chaperone (confidentiality)

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Mental Health

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Scope

The Association for University and College Counseling Center Directors
Annual Survey (2017)
<https://www.aucccd.org/assets/documents/Governance/2017%20aucccd%20survey-public-apr26.pdf>

*One in three students has at least one
mental-health disorder*

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Acad Psychiatry (2015) 39:533–540
DOI 10.1007/s40596-015-0318-9

COLUMN: EDUCATIONAL RESOURCE

A Primer for Working in Campus Mental Health: A System of Care

Vivien Chan • Sonya Rasminsky • John O. Viesselman

Received: 29 August 2014 / Accepted: 27 February 2015 / Published online: 9 April 2015
© Academic Psychiatry 2015

This article provides a framework for residents and staff psychiatrists new to student mental health, outlining the issues particular to practicing on a college campus. Treating students on campus often entails more case management than standard community treatment, and it demands that the psychiatrist think beyond the individual patient and diagnosis to under-


standing that primary and secondary school students' needs are adequately met to allow successful school completion [3, 4]. The same approach can also help students in higher education. A campus setting naturally exemplifies a system of care by offering a wide array of services of individualized care, with stakeholders including "policy makers, service providers,

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Extreme, but possible...

- Tarasoff v. Regents of the University of California
- Shin v. MIT
- Virginia Tech massacre
- Isla Vista Killings

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OGC Op. No. 09-06-01

The Office of General Counsel issued the following opinion on June 3, 2009, representing the position of the New York State Insurance Department.

RE: Waiver of Psychiatric Office Visit Fees

Question Presented:

Would a university commit insurance fraud if it were to waive psychiatric office visit fees of more than twenty dollars for which its students are personally responsible, and notify its students' insurers of the waivers?

<http://www.dfs.ny.gov/insurance/ogco2009/rg090601.htm>

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Student Health Insurance

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The screenshot shows the University of California website's Press Room. The header includes the University of California logo and navigation links for Admissions, NEWS, PRIORITIES, UC SYSTEM, and SUI. The breadcrumb trail reads: News > Press Room > UC moves to shut down alleged fraud targeting students. The main heading is "Press Room". On the left, a "CATEGORIES" sidebar lists: All News, Research, Health, Arts & Humanities, Students & Alumni, Faculty & Staff, Administration, Video, UC in the News, and Press Room (which is highlighted). The main content area features the article title "UC moves to shut down alleged fraud targeting students" by the "UC Office of the President" dated Thursday, April 20, 2017. The article text states: "The University of California today (April 20) announced it has uncovered a massive scheme targeting students through its student health plan that fraudulently obtained student information and then stole almost \$12 million from UC by writing phony medical prescriptions in the students' names." It continues: "The university plans to file a motion for a temporary restraining order early Friday in Los Angeles County Superior Court to immediately shut down the scheme, which involved enrolling UC students in sham 'clinical trials' and 'recruiting' them at campus job fairs. UC believes both tactics were plans to gain access to the students' health insurance information and then write..."

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UC Student Health Insurance Plan (SHIP)

- In April 2017, UC filed suit in Los Angeles County Superior Court to stop what appeared to be a fraud resulting in improper payments of nearly \$12 million
- Involved contacting UC students — sometimes with offers of employment or offers of cash to participate in sham “clinical trials” — to obtain their insurance information. Students were then prescribed unnecessary medications that were charged to the health plan.

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UC Student Health Insurance Plan (SHIP)

- Defendants set up a company called California Clinical Trials, LLC, or CCT.
- Defendants began posting ads on Facebook inviting young people who receive their health benefits through UC’s Student Health Insurance Plan, known as UCSHIP, to earn easy money by participating in a study operated by CCT.
- Defendants also exhibited at job fairs on campus, holding out the prospect of marketing jobs at a pharmaceutical company to students who disclosed their health insurance and medical information and agreed to try out the medications.
- The vast majority of the prescriptions were filled at pharmacies in the southern California cities of Studio City and Chino, even though students were enrolled at UCLA, UC Riverside, UC San Diego, and as far away as UC Santa Cruz and UC Davis.

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Attorney General Eric T. Schneiderman

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A.G. Schneiderman And DFS Superintendent Lawsky Announce \$3.75m Settlement With Insurer For Overcharging On Student Health Plans

*Markel Insurance Company To Refund \$2.75 M To More Than 22,000 Students And 34
Colleges In New York; Pay A Nearly \$1M Penalty*

NEW YORK - Attorney General Eric T. Schneiderman and Department of Financial Services Superintendent Benjamin M. Lawsky today announced a settlement with Markel Insurance Company, resolving an investigation into Markel's practice of overcharging college students on their health plans. A joint investigation by the Attorney General's Office and the New York State Department of Financial Services (DFS) revealed that Markel's student health insurance plans

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Vermont woman admits \$10M Rutgers health insurance payment fraud



The former owner of an insurance brokerage company faces decades in prison for stealing more than \$10 million in student insurance payments that were supposed to be directed from Rutgers University to Aetna. (Tony Kurdzuk/The Star-Ledger)



By Jeff Goldman | NJ Advance Media for NJ.com

Email the author | Follow on Twitter

on June 03, 2015 at 8:28 AM, updated June 03, 2015 at 9:11 AM



HARTFORD, Conn. — The former owner of an insurance brokerage agency admitted she pocketed more than \$10 million in premiums paid by Rutgers University that were to be forwarded to Aetna.



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Track to Resolution



"A compliance program's system for meaningful and open communication can include the following...the development of a simple and readily accessible procedure to process reports of erroneous or fraudulent conduct."

-OIG Compliance Program Guidance
Federal Register, Vol. 65, No. 194, page 59444

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Manage the Compliance Program



- Utilize available compliance program management tools
- Leverage the experts
- Document a pattern of thoughtful compliance

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Questions?

cj.wolf@healthcity.com