



# **Business Partners and Health Care Providers Code of Conduct**



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## Introduction

Fallon Health is committed to complying with all laws and regulations that apply to health care delivery and operating in a manner consistent with the highest professional and ethical standards. As a business partner or health care provider to one or more of Fallon Health's government programs, you play an integral role in helping achieve these goals. Fallon Health maintains this Business Partners and Health Care Providers Code of Conduct ("Code") to communicate the standards by which all Fallon Health business partners and health care providers are expected to conduct themselves when providing goods or services to Fallon Health's system.

As a Fallon Health business partner or health care provider, you are responsible for understanding and complying with the pertinent laws and regulations to perform your obligations and recognize potential non-compliance. Each health care provider and business partner has the responsibility to read and understand the contents of the Code, as well as implement the standards, policies and procedures necessary to achieve ongoing compliance.

Fallon Health and our business partners and health care providers are responsible for ensuring participation in compliance and fraud, waste and abuse (FWA) prevention trainings. This includes reviewing and distributing applicable communications from Fallon Health, such as notifications related to compliance, FWA, privacy and security. As a business partner or health care provider, you are strongly encouraged share this Code with any individual engaged in conducting business activities with or on behalf of Fallon Health.

## Definitions

**Abuse** – Includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare and/or Medicaid program(s), improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud, because the distinction between “fraud” and “abuse” depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors. (See CMS Medicare Managed Care Manual, Chapter 21; CMS Prescription Drug Manual, Chapter 9 and 42 CFR §455.2).

**Accountable Care Organizations (ACOs)** – certain entities, contracted with EOHHS as accountable care organizations, that enter into population-based payment models with payers, wherein the entities are held financially accountable for the cost and quality of care for an attributed member population. Entities that enter into contracts with EOHHS pursuant to the RFR are ACOs.

**Business Associate** – A person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information (PHI). A “business associate” also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.

**Business Partners and Health Care Providers** – Any non-employee contracted, directly or indirectly, to perform a business function or provide goods or a service for or on Fallon Health’s behalf. Examples are delegated and non-delegated health care providers, delegated entities, pharmacies, sales agents, sales agencies, vendors, and suppliers of administrative goods and/or services, contractors and delegates. Providers, vendors and suppliers are considered Business Partners and may also be identified as an FDR, Material Subcontractor, or PACE Contractor.

**Conflict of Interest** – For purposes of this Code, a conflict of interest is defined as an improper personal or professional gain by a health care provider or business partner representative or that of a representative’s immediate family (spouse, parent, child, or sibling) that could affect the representative’s judgment or decisions the representative makes related to the contract with Fallon Health or another contract that Fallon Health has, including with any state or federal agency. It is a situation or relationship that could interfere with a representative’s ability to make fair, arm’s length decisions relating to a health care provider’s or business partner’s agreement with Fallon Health.

**Downstream entity** – Any party that enters into a written arrangement with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between Fallon Health and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (See 42 CFR §§422.2 and 423.501).

**FDR** – A first tier, downstream or related entity of Fallon Health that is a contracted party that performs business functions that Fallon Health is otherwise responsible for performing to support our products and services.

**First tier entity** – Any party that enters into an acceptable written arrangement with Fallon Health to provide administrative or health care services to a Medicare-eligible individual under a Fallon Health-administered Medicare program. (See 42 CFR §§422.2 and 423.501).

**Fraud** – Knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program (See 18 U.S.C. §1347 and 42 CFR §455.2).

**Governing Body** – The group of individuals at the highest level of governance of Fallon Health or an FDR, such as the Board of Directors or the Board of Trustees, who formulate policy and direct and control the sponsor in the best interest of the organization and its enrollees.

**Material Subcontractor (SCO/ACO)** – any entity from which the Contractor procures, re-procures, or proposes to subcontract with, for the provision of all, or part, of its administrative services for any program area or function that relates to the delivery or payment of Covered Services including, but not limited to, behavioral health, claims processing, Care Management, Utilization Management or pharmacy benefits, including specialty pharmacy providers.

**Related entity** – Any entity that is related to Fallon Health by common ownership or control and meets one of the following criteria: performs some of Fallon Health's management functions under contract or delegation; or furnishes services to enrollees under an oral or written agreement; or Leases real property or sells materials to Fallon Health at a cost of more than \$2,500 during a contract period. (See 42 CFR §§422.2 and 423.501).

**Senior Care Options Program (SCO)** – a program implemented by EOHHS in collaboration with CMS for the purpose of delivering and coordinating all Medicare- and Medicaid-covered benefits for eligible Massachusetts seniors managed by a SCO using a Geriatric Model of Care.

**Special Investigations Unit (SIU)** – An internal investigation unit responsible for conducting investigations of potential FWA.

**Waste** – The overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. (See CMS Medicare Managed Care Manual, Chapter 21; CMS Prescription Drug Manual, Chapter 9 and 42 CFR §455.2).

## Guiding principles and expectations

### Antitrust

Business partners and health care providers are prohibited from entering into agreements to fix prices or to reduce competition or that might otherwise harm current and potential consumers of Fallon Health's services, as well as Fallon Health's subsidiaries and affiliates.

### Compliance with laws and regulations

Business partners and health care providers are expected to conduct their business activities in compliance with all applicable laws and regulations, including laws that are applicable to individuals and entities receiving Medicare, Medicaid and other federal funds. Health care providers and business partners are also expected to take an appropriate level of action against employees found to have violated laws and regulations or their own internal policies.

### Conflicts of interest

Business partners and health care providers are expected to avoid conflicts of interest or even the appearance of a conflict of interest in its business dealings with or on behalf of Fallon Health. Additionally, business partners and health care providers are expected to:

- Have a policy to internally disclose any conflicts of interest annually and as needed communicate your organization's conflicts of interest policy to your employees and downstream entities.
- Review potential conflicts of interest and take appropriate actions as needed.
- Comply with requests from Fallon Health such as, providing your organization's conflicts of interest policy, proof of an internal monitoring process and elimination of conflicts, up to removal of a person or entity that was performing any Fallon Health business supporting function(s).

Fallon Health recognizes that giving and receiving gifts is a normal part of business and relationship-building. However, Fallon Health discourages providing and accepting gifts, meals, entertainment, or other business courtesies to and from employees or contractors working for Fallon Health. A gift is anything of value and may include gift certificates, gift cards, tickets to sporting events or other entertainment and/or payment for leisure activities (such as greens fees). A conflict of interest may exist if receipt of or giving of a gift is for the purpose of, or appears to be for the purpose of, improperly influencing decisions. A conflict of interest may also exist if the giving or receiving of a gift compromises, or appears to compromise one's ability to make even-handed and fair decisions.

### Eligibility and exclusion of participating in state and federal health care programs

Fallon Health will not conduct business with any business partner or health care provider that has been excluded, debarred, or is otherwise ineligible to participate in federal or state health care programs such as Medicare and Medicaid, or whose governing body, officers, managers, employees or contractors are excluded from participating in federal or state health care programs.

Business partner and health care providers are responsible for taking all necessary steps, including but not limited to required monthly exclusion checks, to ensure their governing body, officers, managers, employees or contractors involved in providing goods and services to Fallon Health, directly or indirectly, remain eligible to participate in federal and state health care programs.

### Fallon Health's Chief Compliance Officer

Our Chief Compliance Officer oversees the Corporate Compliance Program and serves as a contact for Fallon Health's health care providers and business partners to report potential

violations of laws, regulations or this Code. Our Chief Compliance Officer, or selected designee, investigates reports of non-compliance and takes appropriate action against health care providers and business partners who violate laws, regulations, and the policies that apply to Fallon Health's business.

Business partners and health care providers must designate an individual(s) whose activities include performing the duties of all required compliance functions.

### **Fraud, waste and abuse (FWA) and False Claims Act**

Fallon Health and our business partners and health care providers are expected to take steps to prevent and detect FWA on an ongoing basis. Health care providers and business partners must take steps to identify and investigate any reports of alleged violations of law, regulations or Fallon Health policies involving a Fallon Health business, including allegations of FWA involving federal or state health care programs. Business partners and health care providers are expected to fully cooperate in such investigations and, where appropriate, resolve and implement corrective actions in response to confirmed violations.

Additionally, Fallon Health and our business partners and health care providers are required to comply with both federal and state false claims acts. These acts prohibit knowingly and willfully submitting false claims for payment to state or federal governments. False claims can occur in a number of ways, including billing for services never provided, billing twice for something that was provided once, and billing for a covered procedure when a non-covered procedure was actually provided.

The Federal False Claims Act and similar state laws make it a crime to present a false claim to the government for payment. These laws also protect the people ("whistleblowers") who report non-compliance or fraud, or who assist in investigations, from retaliation. Fallon Health's policy prohibits retaliation of any kind against individuals exercising their rights under the Federal False Claims Act or similar state or federal laws.

Examples of the types of actions that are FWA or that could result in inaccurate claims and violate federal false billing laws include:

- Billing for services not rendered.
- Billing for services that are more complex than what was actually rendered (up coding).
- Performing (and billing for) services that are not medically necessary to obtain an insurance payment. Including, submitting claims for services not medically necessary to the extent rendered (for instance a panel of tests is ordered when based upon the patient's diagnosis only a few of the tests, if any at all, within the panel were actually necessary).
- Changing the rendering physician and/or services to get the claim paid after the claim was denied.
- Falsifying a diagnosis to support testing or services not otherwise necessary/covered.
- Soliciting, offering, or receiving referral fees or waiving member's deductibles, coinsurance, or copayments (i.e., kickbacks).
- Charging excessively for services, procedures, or supplies.

Anyone who believes or suspects FWA related to Fallon Health business or false claims are being submitted to or on behalf of Fallon Health has an obligation to report. Reports can be made at any time to [InternalAudit-FWAInquiries@fallonhealth.org](mailto:InternalAudit-FWAInquiries@fallonhealth.org), [Compliance@fallonhealth.org](mailto:Compliance@fallonhealth.org) or the **Compliance Hotline at 1-888-203-5295**.

### **Privacy and security**

Federal and state laws require our business partners and health care providers to maintain the privacy and security of Fallon Health's members' personal information (PI) and protected health information (PHI). Health care providers and business partners are responsible for ensuring that



all individuals and entities who provide services to Fallon Health's members are aware of, familiar and are compliant with the requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), and, where applicable, those state and federal laws that provide more stringent protection of PI and/ or PHI.

If your organization's arrangement with Fallon Health requires the creation, receiving, maintaining, or transmitting of PHI in any format, including electronically, on behalf of Fallon Health, a Business Associate Agreement may be required to ensure PHI is appropriately safeguarded. [Business Associates have direct liability for certain regulations under HIPAA.](#)

### Publicity

Business partners and health care providers are not permitted to distribute advertising, press releases, or any other general public announcement regarding its product or services at Fallon Health facilities without obtaining prior written permission from authorized Fallon Health management staff.

### Record retention

Business partners and health care providers are required to retain and make available records related to business with Fallon Health in accordance with applicable law, regulation, and contract requirements. The retention requirement is ten years for Medicare programs.

### Reporting and non-retaliation

Suspected or detected non-compliance and potential FWA relating to Fallon Health's business must be reported to Fallon Health's Compliance Department as soon as possible but within two days of identifying the suspected or detected noncompliance or FWA (numbers are included at the end of this document). Reports may also be made anonymously by calling Fallon Health's **Compliance Hotline at 1-888-203-5295**. This number is managed by an external entity and staffed 24 hours a day and seven days a week. Callers are not required to provide their name when making a report. All reports must contain sufficient detailed information for Fallon Health to investigate the raised concerns.

Fallon Health has a non-retaliation policy and will not tolerate retaliation against anyone, including health care providers and business partners, for raising a compliance concern or question. Your organization must implement reporting mechanisms and enforce a zero-tolerance policy for retaliation or intimidation against anyone who reports suspected misconduct.

Nothing in this Code precludes a health care provider, business partner or their employees and downstream entities from reporting a violation of law to a government agency, or from cooperating in any government investigation. If you have any questions about government investigations, please contact your organization's Legal or Compliance department.

### Supplier diversity program

Fallon Health has a long tradition of support for programs that foster diversity in the organization, and in the communities it serves. Where applicable, Fallon Health expects its business partners and health care providers to mirror Fallon Health's commitment, through subcontracting opportunities with diverse businesses and providing information to Fallon Health on subcontractor diversity when requested.

### Visitation

When visiting Fallon Health facilities, business partners and health care providers must comply with Fallon Health's visitation policy, which is available at facilities upon request. Health care providers and business partners are required to schedule appointments and must sign-in when visiting a Fallon Health facility. Representatives will be required to state the area to be visited,

and visits must be restricted to that area only. Visitor badges provided by the facility must be worn at all times.

## Fallon Health Resources and Contacts

To report a compliance and privacy a concern, please call our anonymous **Compliance Hotline at 1-888-203-5295** 24 hours a day, seven days a week, or send an email to: [Compliance@fallonhealth.org](mailto:Compliance@fallonhealth.org).

To report a potential FWA concern, please send an email to: [InternalAudit-FWAInquiries@fallonhealth.org](mailto:InternalAudit-FWAInquiries@fallonhealth.org).

For all other compliance and privacy questions, please contact the Fallon Health Compliance Team at the phone numbers below (you can also report a concern directly to the team as well).

<b>Chief Compliance Officer</b>	Jim Gentile, 508-368-9384
<b>Medicare Compliance Officer</b>	Lisa Lashbrook, 508-368-9539
<b>Privacy Officer</b>	Kate Sanford, 508-368-9838
<b>Director, Internal Audit and Special Investigation Unit</b>	Velinda Brown, 508-368-9016
<b>Security Officer</b>	Tony Petisce, 508-368-9300
<b>Director, Regulatory Affairs and Compliance</b>	Anna Szymczak, 508-368-9211

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