



Health Care

Negotiating unprecedented change, focusing on patient care.

From large health systems and hospitals to specialty providers and solo physician practices, we understand the issues that providers face with ongoing changes in access, Medicare and Medicaid reimbursements, health information technology, and government fraud investigations. We help entities navigate change, while protecting their ability to focus on what matters most: providing quality patient care.

Overview

Navigating complex regulations, developing a path to improved health outcomes

Our attorneys bring decades of experience in the health care industry to the table for hospitals and other health care facilities, clinical laboratories and imaging centers, physician organizations, hospices and home health agencies, health plans and managed care organizations, pharmacies and pharmacy benefit managers, health care technology and administrative service companies, and accountable care and value-based organizations. Our health care team holds advanced degrees in health care and business administration and maintains certifications in health information management and medical coding. We have attorneys who have worked as front line nurses, practice managers, assistant U.S. attorneys, and in-house counsel for health systems, dialysis centers, mail-order pharmacies, and accounting firms. When representing health care organizations, we bring experience with the full range of legal challenges at the state and federal level, including:

- Fraud and Abuse – Stark, Anti-Kickback, False Claims Act
- Health Care Reimbursement – Medicare, Medicaid, ACA, ERISA
- Privacy and Security – HIPAA, HITECH, GLBA, GDPR, and State Laws
- Licensure, Certification, and Certificate of Need
- Human Resources and Employee Benefits
- Nonprofit and Tax Matters

Whether developing a strategy for risk mitigation and growth, responding to litigation or a regulatory investigation, or navigating the sale or wind-down of a health care business, we collaborate with organizational leaders to chart the most efficient course to a successful outcome. Our attorneys frequently serve as outside general counsel to health care organizations, supporting the governing board, developing and reviewing contracts, and reinforcing ongoing compliance operations. As health care organizations continue to partner and reorganize, our attorneys bring a solid understanding of the corporate, tax, regulatory, reimbursement, and benefit requirements to develop a structure and negotiate a transaction for our clients to succeed. When things go wrong and the client is faced with a regulatory investigation, breach, audit, or litigation, our health care focused litigation team will bring the calm to weather the storm.

Experience

Contracts

- Hospital / physician contracts
 - Physician and other health care provider employment contracts and independent contractor arrangements
 - Physician recruitment contracts
- Vendor agreements
- Electronic health record and information systems
- Supply chain
- Services
- Practice acquisition contracts
- Managed care and third-party payor contracts
- Employment agreements for executives and staff

Corporate Governance, Transactions, and Compliance

- Counseling and advisement of governance boards
- Compliance
 - Corporate compliance plans
 - Statutory and regulatory compliance policies and audits
 - HIPAA (Health Insurance Portability and Accountability Act) compliance policies, training, and breach management
 - Stark
 - Anti-kickback
 - EMTALA (Emergency Medical Treatment and Active Labor Act)
- Mergers, acquisitions, and joint ventures involving physicians, hospitals, and other entities in the health care industry, and compliance with relevant laws, e.g., Stark (physician self-referral), Anti-kickback, and antitrust
- Physician integration models
- Corporate / governance bylaws
- Entity selection and restructuring
- Finance
- Internal investigations

Licensure and Accreditation

- Facility licensure
- Professional licensure
- State, Joint Commission on Accreditation of Healthcare Organizations, and Healthcare Facilities Accreditation Program accreditation issues

Medical Staff

- Bylaws and regulations
- Credentialing policies and procedures
- Peer review including fair hearing plans, investigations, and hearings
- Restructuring of Medical Staff to address increased emphasis on quality and utilization

Reimbursement

- Medicare and Medicaid denials and appeals

- Recovery Audit Contractor (RAC)
- Medicare Administrative Contractor (MAC)
- Medicaid Integrity Contractor (MIC)
- Quality Improvement Organization (QIO)
- Third-party payor and managed care denials and appeals

Areas of Focus

Health Care Compliance and Reimbursement

Providing practical guidance on compliance and reimbursement best practices. We understand the operational challenges our clients face, and we help clients navigate the complex federal laws and other requirements that govern compliance and reimbursement.

Spencer Fane Health Care Law attorneys:

- **Analyze operations**, including existing policies and procedures, training, risk analysis, records, and agreements.
- **Assess compliance** with state and federal requirements including the Stark Law, Anti-Kickback Statute, EMTALA, Travel Act, False Claims Act, and HIPAA, along with their state-law counterparts.
- **Identify risks and opportunities** and provide guidance on how to strengthen programs. When needed, we conduct internal investigations.
- **Help providers maximize their reimbursement**, while minimizing the risk of audits and allegations of non-compliance.
- **Represent clients in compliance audits and disputes**, including audit processes or reimbursement disputes related to overpayment fraud.
- **Educate clients on best practices compliance with Medicare and Medicaid reimbursement requirements**, including conditions of payment, coverage, physician supervision, and documentation policies of third-party payers, and pre- or post-payment review, denial, and appeal.
- **Handle overpayment issues** by developing a response and resolution strategy.

Health Care Corporate Governance and Transactions

Looking at the big picture – to achieve both patient care and business goals. We engage with senior executives and boards of health care institutions to understand their market and strategy and to guide them toward better business and health care outcomes. This includes examining ways to improve service levels earlier in the disease process – improving the health of their patient population – while simultaneously being conscious of the need to manage revenue cycles.

Focusing on how all aspects of the health care operation can support the client's mission, we advise on:

- **Regulatory and compliance matters**
- **Mergers, acquisitions, and joint ventures**
- **Medical staff**, including physician integration models, peer review, and restructuring of staff to address quality and utilization.
- **Corporate governance structures and bylaws**
- **Restructuring**

- **Finance**
- **Internal investigations**

Our advice in these areas supports hospitals becoming partners in their community's health, shifting – with the health care industry as a whole – from a pay-for-volume to pay-for-value business model.

Health Care Litigation

We understand how health care businesses work – and how best to defend them in litigation. With extensive experience in the health care industry, our attorneys understand exactly how litigation can disrupt a health care entity's operations.

We focus on minimizing the risk of litigation, but when it's unavoidable, we have the operational knowledge to provide effective defenses.

The Spencer Fane Health Care Litigation team:

- **Represents health care entities of all types**, including hospitals, care facilities, physicians, and physician groups.
- **Handles disputes touching on every part of the industry**, including medical malpractice defense litigation, False Claims Act litigation, peer review and licensure actions, and contractual disputes.
- **Cuts through regulatory complexities to provide practical business advice** to health care leaders, to help them move forward when faced with potentially damaging litigation.
- **Knows health care litigation matters don't follow a 9-to-5 schedule.** Our most experienced litigators are on-call for our clients 24/7/365 to manage both legal and reputational risk.
- **Has a vast roster of distinguished medical experts available when needed** – an essential resource for defending clients in malpractice and other litigation.

Licensure and Accreditation

We understand the urgency facilities and practitioners face in situations involving licensure or accreditation issues.

Spencer Fane Health Care Law attorneys guide hospital systems, licensed medical facilities, and medical professionals through processes of licensure and accreditation, enabling providers to avoid unnecessary delays and focus on providing top-notch care.

Members of our team:

- **Advise on all types of licensure and accreditation**, including licensure of both facilities and health care professionals as well as state, Joint Commission on Accreditation of Healthcare Organizations, and Healthcare Facilities Accreditation Program accreditation issues.
- **Prepare clients for surveys assessing compliance** with state and federal standards, respond to findings of non-compliance or deficiencies, and draft correction plans that address the issues.
- **Act as a liaison between health care organizations and regulatory agencies** in licensure situations, particularly in representing buyers during a change of ownership.
- **Understand the different applications needed depending on the type of facility** and provide the supporting documentation.
- **Help clients opening new facilities**, including those expanding operations into other states.
- **Handle complaints reported to a state board**, including crafting a response on behalf of the organization or the individual.
- **Help senior executives determine what needs to be reported to the board** and counsel them on how to effectively answer questions about whether existing processes meet accreditation standards.

Rural Health

Focusing on the unique needs of rural health care providers. We understand that rural health care providers face the same challenges as other providers; they just do so with fewer patients, higher costs, lower reimbursement, greater logistical challenges, and fewer resources.

Spencer Fane attorneys have represented rural health care providers of all sizes for over 40 years. Through this work, we have learned to “right size” our solutions to the client’s circumstance, both operationally and financially. Our team deploys creative solutions to solve new problems. We have also built and worked through rural health networks in order to create usable solutions for multiple clients at lower overall cost. With this significant experience, we have successfully deployed this approach to help rural health care providers address issues involving:

- Governance
- Licensure and accreditation
- Reimbursement
- Compliance
- Peer review and risk management
- Data privacy and security
- Supply chain contracting
- Network development
- Organizational affiliation
- Open meetings