



# ACCOUNTABLE CARE ORGANIZATIONS: Policy, Business, and Law

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# Agenda

- **Defining an “ACO”**
- **Key Considerations**
  - **Public Policy**
  - **Business**
  - **Law**
- **Next Steps for the DMHC**



# Defining an “ACO”

***“...a flexible concept intended to further the goal of increasing quality and reducing health care costs...designed to make physicians and providers (not insurance companies or administrators) accountable for the quality and utilization (efficiency and cost) of health care through integration and coordination of care.”***

***“...a set of physicians and hospitals accept[ing] joint responsibility for the quality of care and the cost of care received by the ACO’s panel of patients.”***

***“Group of primary care providers, specialists and/or hospital or other health professionals who manage the full continuum of care and are accountable for the total costs and quality of care for a defined population.”***



# Defining an “ACO”

***“ACOs are comprised of providers within a community that can effectively provide or manage the full continuum of care for their assigned patients.”***

***“ACOs are groups of health care providers that work together to accept accountability for a defined population’s care.”***

***“ACOs are organizations that connect groups of providers that are willing and able to take responsibility for improving health status, efficiency and experience of care for a defined patient population.”***

***“...provider/payer partnerships and reimbursement models that promote improved outcomes, rewarding value over volume”***



# Defining an “ACO”

## *2010 Federal Health Care Reform (PPACA)*

- **Medicare Demonstration Project**
  - Shared Savings Program
  - Bundled Payments National Pilot
  - Global Payments
- **Pediatric ACOs**



# Defining an “ACO”

**Common characteristics are clear but there is no standard or uniform definition of an ACO for the commercial market, yet.**



# Public Policy

***ACOs are structured to***

- **Improve health care outcomes**
- **Build patient satisfaction**
- **Produce cost efficiencies**





# Public Policy

*But the success of ACOs seems tied to forces beyond the soundness of the individual entity's structure*

- Does the ACO need to be financially integrated with both commercial and public payers?
- Must all payers participate so that a high percentage of patients in a provider's practice are eligible for shared savings, under that model?
- Is the uncertainty of the savings projected from ACOs too great to outlast the time it will take for change to be realized?





# Business

- **In California ACOs have prototypes: multispecialty group practices, and Independent Practice Associations (IPAs)**
- **ACOs shift focus from patient volume and market share toward capacity to manage and analyze the care for which the ACO will be held accountable.**
- **That shift includes new financial and integration challenges for the ACO partners**



# Law

- **Organization and governance**
- **Antitrust**
- **Privacy and patient data**
- **Physician payments (Anti-Kickback, Stark, Civil Monetary Penalty)**
- **State-specific medical and managed care requirements**
  - **Corporate practice of medicine**
  - **Health plan licensure**
  - **Risk sharing**



# Law

## ***Corporate Practice of Medicine***

- **Business or “lay” entities are prohibited from practicing medicine (Business & Professions Code)**

## ***Health Plan Licensure***

- **The Knox-Keene Act applies to any public or private entity unless exempt**
- **Health care providers are exempt from licensure with respect to services provided to health plan enrollees.**



# Law

## *Risk Sharing*

- **Applicable rules differ based on the form of the risk-sharing arrangement**
  - **Risk-bearing organizations**
  - **Extent of risk (global, partial, other)**
  - **Other forms: shared savings, bundling**



# Next Steps for the DMHC

***Wrap all of the policy, business, and legal issues relating to ACOs together to find the right regulatory response***



# Next Steps for the DMHC

- **Recognize the need for flexibility, evaluation, and feedback as reforms evolve**
- **Focus review and oversight on the Department's core function of promoting the delivery and quality of health care**