

## Policy

- A. It is the policy of the ACO to maintain an identifiable Governing Body with authority to execute the functions of the ACO, as defined under 42 CFR §425.106. Governance will be consistent with all applicable federal and state laws, regulations, rules, and guidelines.

## Applicability

This policy applies to the ACO's Governing Body, Committees, and Subcommittees, as applicable.

## Procedure

### A. General

1. The Governing Body of the ACO has ultimate authority to execute the functions of the ACO and is responsible for the oversight and strategic direction of the ACO, as well as holding ACO management accountable for the ACO's activities.
2. The Governing Body serves as the mechanism through which the ACO ensures shared governance among the Participants or combinations of Participants that formed the ACO, and provides for meaningful participation in the composition and control of the ACO's governing body for Participants or their designated representatives.
3. The Governing Body of the ACO must be the same as the governing body of the legal entity of the ACO.
4. The Governing Body promotes and ensures a transparent governing process.
5. The members of the Governing Body have a fiduciary duty to the ACO, including the duty of loyalty, and their actions must be consistent with that fiduciary duty.
6. The Governing Body is separate and unique to the ACO (i.e., it may not consist entirely of the governing body of a single Participant).
7. Participants or their designated representatives will, at all times, collectively control at least seventy-five percent (75%) of the voting interest of the Governing Body.
8. The Governing Body includes, at all times, at least one (1) Medicare Beneficiary Representative who is: (1) not a Provider/Supplier; (2) served or has the capacity to be served by the ACO; (3) does not have a conflict of interest with the ACO; and, (4) has no immediate family member with a conflict of interest with the ACO.
9. Should the ACO Governing Body fail to meet the requirements set forth above, the ACO will notify CMS in writing and will describe why it seeks to differ from the requirements and how the ACO will involve Participants in innovative ways in ACO governance.

### B. Nominating Committee

## Governance Structure

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1. The Nominating Committee's core function is to nominate and appoint the members of the Governing Body. It will meet on an as needed basis.
2. If a member of the Governing Body is removed or resigns, the Nominating Committee is charged with filling the vacancy.
3. The Nominating Committee appoints the Chairperson of the Governing Body.
4. The Nominating Committee is comprised of two (2) members:
  - a. One (1) member who is a representative of a Participant or the organization partnered with Collaborative Health Systems (CHS) under the ACO; and,
  - b. One (1) member who is a representative from CHS.
5. The Nominating Committee vote must be unanimous.

### C. Governing Body

1. The Governing Body is created and defined within the Operating Agreement.
2. Responsibilities of the Governing Body include the following:
  - a. Fiduciary Duty to the ACO and determining strategic direction and goals of the ACO;
  - b. Adopting, monitoring, and reviewing the ACO's mission to ensure it reflects the tenants of the three part aim of the Medicare Shared Savings Program in setting and planning clear goals and directions for the future;
  - c. Selecting and appointing a Chief Executive Officer (CEO) or President and any officers to serve on behalf of the ACO and to manage its affairs.
  - d. Delegating authority to appointed officers, reviewing and monitoring their performance, and removing such officers when necessary;
  - e. Delegation and oversight of day-to-day functions to the officers;
  - f. Promulgation of ACO rules and guidelines, including adopting all ACO Policies and Procedures (P&P), charters Subcommittee recommendations, etc.;
  - g. Defining the Committees and appointing the members; and,
  - h. Defining the criteria and approving the distribution of shared savings.
3. The Governing Body is comprised of three (3) classes of members:
  - a. Class One: ACO Participants – 75% of the voting entitlement
  - b. Class Two: Medicare Beneficiary – 2% of the voting entitlement
  - c. Class Three: CHS Representative– 23% of the voting entitlement
4. When a voting member is not present, that member's voting entitlement reduces the total 100% entitlement for that meeting.

### D. Subcommittees

1. The various Subcommittees under the Governing Body carry out the administrative, clinical, and compliance activities of the ACO. Each Subcommittee serves specific functions that are required of the ACO.
2. The number, structure, and responsibilities of the Subcommittees are largely at the discretion of the ACO Governing Body. Organizational structures and functions and Subcommittee members will be documented in a consistent format for ease of review.
3. The Subcommittees are initially created by the Governing Body and meet at least quarterly. Subcommittees may be combined by vote of the Governing Body.
4. The Subcommittees are solely a recommending body. Suggestions proposed by a Subcommittee must be ratified by the Governing Body. Each Subcommittee must include at least one (1) ACO Participant.
5. Each Subcommittee will adopt a Subcommittee Charter that defines specifics including, but not limited to, the scope of the Subcommittee, qualifications for membership, Subcommittee objectives, and meeting times and locations. The Charter will serve as the governing document for the Subcommittee.>

#### **E. Voting Requirements**

1. For a Committee to hold an official vote, quorum must be met. In order for quorum to be met at least a majority of the active serving Committee members must be present. If quorum is not met, then a meeting cannot occur and must be rescheduled.
2. A voting member must be present (in person or telephonic) to vote.
3. Votes are by Class and by individual. One (1) individual in a Class gets one (1) vote. That one (1) vote is equal to a pre-designated percentage of the overall 100% voting entitlement. Voting entitlement is defined in the Operating Agreement.
  - a. The total voting entitlement equals 100% and is designated as follows:
    - i. 75% goes to Class 1 – ACO Participants
    - ii. 2% goes to Class 2 – Medicare Beneficiary
    - iii. 23% goes to Class 3 – CHS Representative
4. Voting proxy can be given by a voting member to an individual. The individual to whom proxy is given can only vote for items that the voting member would have been entitled to vote upon were s/he present and the Proxy must vote as the voting member would have voted. The Proxy cannot vote on new matters which arise during the course of the meeting. A voting member's Proxy does not count towards a meeting's quorum.

#### **F. Miscellaneous**

1. A non-cooperative member of a Subcommittee can be removed by the Governing Body.
2. Governing Body members may be removed by a majority vote of the other Governing Body members.

# Governance Structure

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3. The Secretary or an ad hoc secretary will be assigned to record the minutes of all Committee and Subcommittee meetings.
4. The previous meeting's minutes must be distributed prior to the next meeting. Then, the minutes must be reviewed and ratified by the Committee. Any changes to the draft minutes must also be ratified by the Committee.

## Reporting

- A. N/A

## Related Documentation

- A. 42 CFR §425.106, §425.108
- B. ACO Terms & Definitions Policy
- C. Governance Training Handbook
- D. Governing Body & Subcommittee Meeting Minutes Policy
- E. Operating Agreement and Amendments
- F. Subcommittee Charters