

Subject:	ACO Communications
Policy/Procedure:	Governance & Public Reporting Requirements
Number:	COM-002
Version/Date:	Version 1 ([Insert Change/Adoption Date])

- I. **Purpose.** The purpose of the COM-002 is to outline and define the ACO's Governance and Public Reporting Requirements as defined by the ACO REACH PA.
- II. **Policy.** It is the policy of the ACO to promote transparency within the ACO REACH Model by ensuring compliance with all Governance and Public Reporting requirements put in place by CMS.

III. **Procedures.**

1. The ACO shall, at all times, be a legal entity identified by a Tax Identification Number (TIN) formed under applicable law and separate from the legal entity of any of its Participants or Preferred Providers.
 1. The ACO shall, at all times, maintain compliance with applicable state licensure requirements in each state in which it operates regarding risk-bearing entities.

Practical Note: If the ACO was formed by a Single Participant Provider, the ACO's legal entity and governing body may be the same as that of the Participant Provider if that entity satisfies the requirements of Section 3.02 of the ACO REACH PA.

- B. The ACO shall maintain an identifiable governing body with the ultimate authority to execute the functions of the ACO and make final decisions on behalf of the ACO. This governing body shall have responsibility for oversight and strategic direction of the ACO and is responsible for holding ACO management accountable for the ACO's activities. This governing body must:
 1. Ensure at least 75 percent control of the ACO's Governing Board is held by ACO Participants, or their Designated Representatives
 - a. Designated Representatives are defined as individuals employed by or under contract with the Participant Provider entity that designates the representative.
 2. Include a Medicare Beneficiary served by the ACO, who meets the requirements of §3.02.B.1 of the Model Participation Agreement, is

not the same as the individual identified to serve as the Consumer Advocate and has voting authority.

3. Include an individual with experience or training as a Consumer Advocate, who meets the requirements of §3.02.B.1 of the Model Participation Agreement, is not the same individual identified to serve as the Medicare Beneficiary and has voting authority on the Governing Board.
 4. Be responsible for the oversight and strategic direction of the ACO and for holding the ACO management accountable for the ACO's activities. Including appointment and removal of the ACO executive responsible for ACO operations and whose leadership team has demonstrated the ability to influence or direct clinical practice to improve the efficiency or processes and outcomes.
 5. Have a transparent governing process. All members of the Governing Body will be listed on the ACO webpage as detailed in Paragraph F, below. The ACO also maintains records of meetings, and decisions in accordance with CO 16: Record Retention which are available to all ACO Related Individuals upon request to the ACO Executive or ACO Compliance Officer.
 - a. At a minimum, this includes keeping minutes for all meetings of the Governing Board and any subcommittee thereof.
 6. Ensure that, when acting as a member of the Governing Board, each member of the Governing Board has a fiduciary duty to the ACO and acts consistent with that duty.
 7. Not include a Prohibited Participant, or an owner, employee, or agent of a Prohibited Participant.
- C. Any proposed changes to the ACO Governing Body will be submitted to the ACO Compliance Officer to ensure those changes do not conflict with the requirements of 42 CFR § 425.106. Once approved by the Governing Body, an ACO REACH Governing Body Change Template will be submitted to CMS via 4i, as required.
- D. Each member of the governing body is given a copy of the ACO REACH PA signed by the ACO, and any amendments thereto, within <60 days> of signature or onboarding.

Practical Note: There is no specific time frame required by the ACO REACH PA for completion of this training. The ACO should pick a timeframe that allows for 100% compliance.

- E. The Governing Body shall maintain a transparent governing process and, at all times, include:
1. At least one Beneficiary served by the ACO and at least one person with training or professional experience in advocating for the rights of consumers (“Consumer Advocate”) who may be the same person as the Beneficiary. These roles must be filled by an individual who: (i) Does not have a conflict of interest with the ACO; (ii) Has no immediate family member with a conflict of interest with the ACO; (iii) Is not Participant, or a Preferred Provider, except that such person may be reasonably compensated by the ACO for his or her duties as a member of the governing body of the ACO.
 2. Representation sufficient to ensure that 25% control of the ACO’s governing body is held by Participants or their designated representatives.
- F. The ACO will maintain a publicly accessible website. The website will be reviewed and updated as necessary to ensure all information posted on the website is current. The website will include reporting of, at a minimum, the following:
1. Organizational information, including: (i) Name and location of the ACO, (ii) Primary contact information for the ACO, (iii) Identification of all Participants and Preferred Providers, (iv) Identification of all joint ventures between or among the ACO and any of its Participants and Preferred Providers, (v) Identification of the ACO’s key clinical and administrative leaders and the name of any company by which they are employed; and (vi) Identification of members of the ACO’s **<Governing Body>**, and the name of any entity by which they are employed.
 2. Shared Savings and Shared Losses information, including: (i) The amount of any Shared Savings or Shared Losses for any Performance Year; (ii) The proportion of Shared Savings invested in infrastructure, redesigned care processes, and other resources necessary to improve outcomes and reduce Medicare costs of Beneficiaries; and (iii) The proportion of Shared Savings distributed to Participant Providers and Preferred Providers.
 3. The ACO’s performance on the quality measures described in Section 9.02 of the ACO REACH PA.
- G. The ACO’s website will be considered a Marketing Material. All changes must be submitted to Compliance for review and approval prior to use on the website in accordance with **COM-001**, except

1. **<Responsible Individual or Department>** may update the list of Participants or Preferred Providers as needed without submitting those changes for approval.
- H. All updates to required public reporting shall be made within 30 days of the effective date of the change. For purposes of
1. adding a Participant or Preferred Provider, the effective date will be the date the notice is received from CMS;
 2. removing a Participant, the effective date will be the date when the individual's or entity's agreement with the ACO to participate in the ACO REACH Model terminates.
- I. Participants are responsible for ensuring that CMS is notified when an individual is no longer billing under the Practice TIN, or when a new individual is added to the practice. Such notification shall be submitted to CMS within 30 days of the effective date by updating the provider's billing information listed in the Provider Enrollment, Chain and Ownership System (PECOS).

History

Version No.	Approved By	Date	Action Taken (revision, retirement, etc.)