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Balancing of Better Care and Privacy in ACOs

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Brief ACO Overview

Uses and Exchange of Health Information in ACOs

Certain Key ACO Privacy Issues

ACO Overview



ACO Basics

ACOs are groups of providers that are jointly held accountable for improving quality and reducing cost of care.

ACOs can take many forms, but every ACO will share the following features:

- 1 Be a provider-led organization that is collectively accountable for quality and costs of inpatient and outpatient care for a specific population.
- 2 Receive payments linked to quality improvements and cost reductions.



Source: Mark McClellan, et al., “A National Strategy to Put Accountable Care into Practice,” *Health Affairs* 29, no. 5 (2010): 982-990.

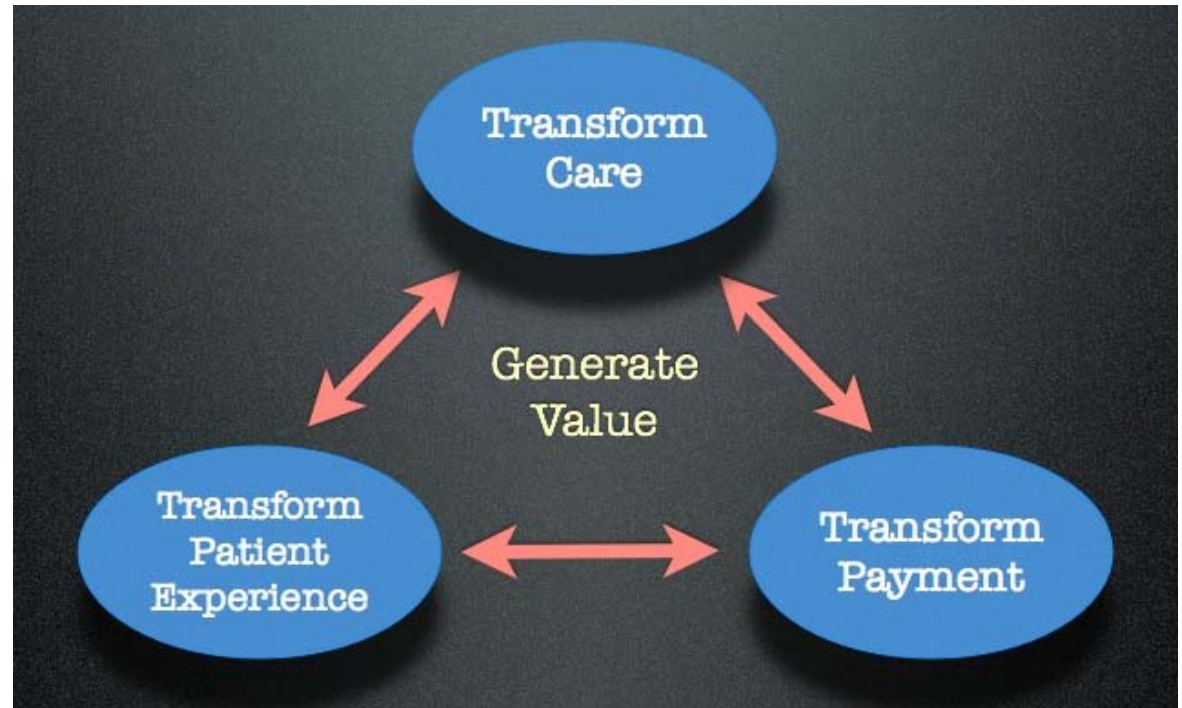
ACO Overview : Goals of an ACO

A clinically integrated network of providers that adheres to patient-centered health care principles: provider-patient partnership, improved health outcomes and lower costs.

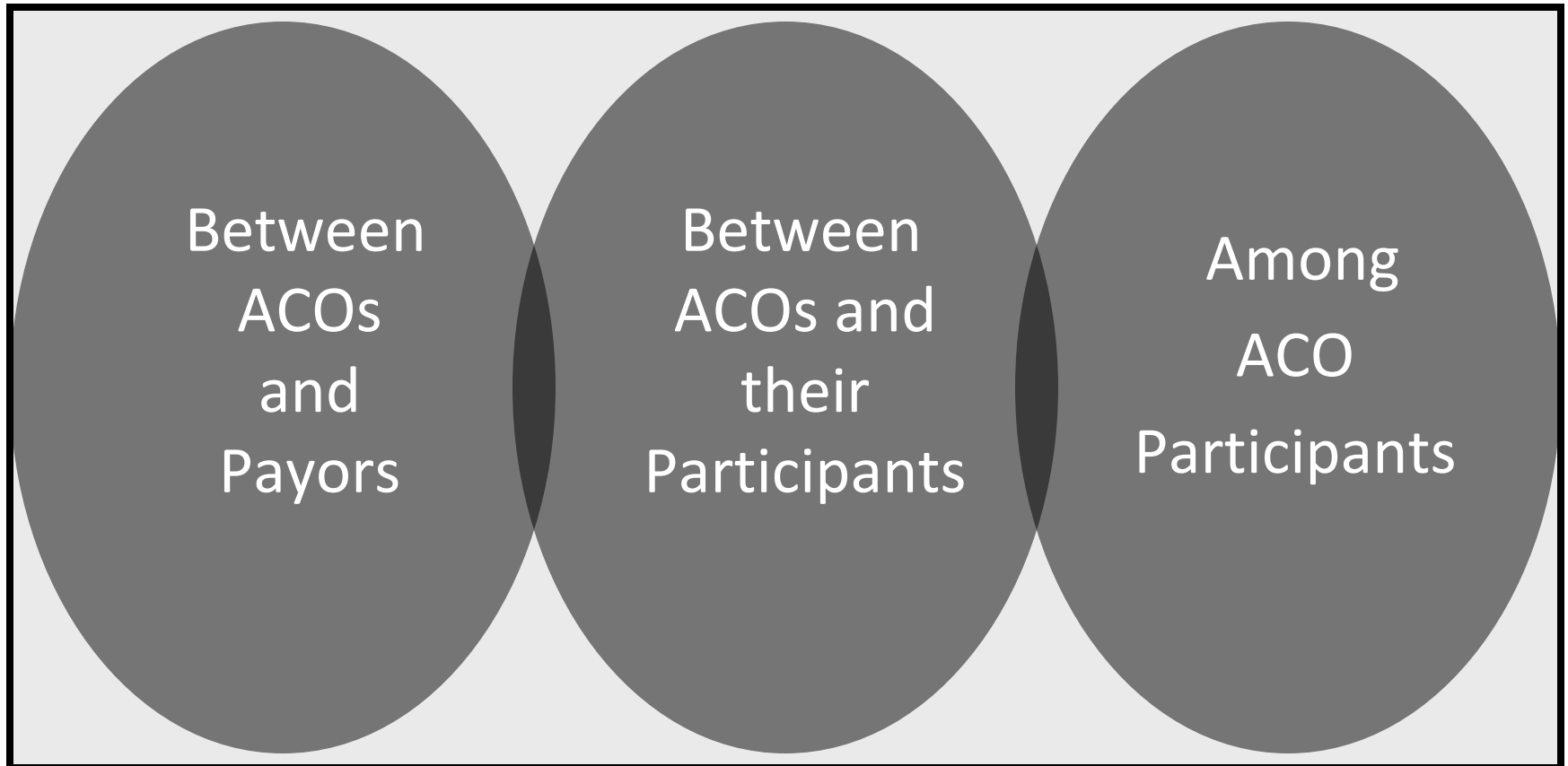
Transform Care: Improve Quality & Outcomes

Transform Payment:
Transition from volume-driven, transaction-focused business to care management, efficiency value proposition.

Transform Patient Experience:
Quality, access, reliability, patient engagement



Exchange of Health Information Critical to ACO Success



Examples of Health Information Use and Exchange in the ACO Context

- Sharing of clinical information across ACO participants
- Linking patient data from different ACO participants to create a comprehensive view of a patient's medical history
- Tools to support risk profiling and risk management
- Care management and clinical decision support
 - Registries
 - Chronic disease management tools
- Patient engagement through personal health records and/or patient portals
- Others

Medicare ACO Shared Savings Program

- Pursuant to Proposed Rule, Medicare Proposes to Share:
 - De-identified, aggregated data on beneficiary use of health care services
 - Select identifiers for patients in an ACO's historical beneficiary population
 - Patient-identifiable claims data
- What About Other Types of Information Exchange in the ACO Context?

Framework for Assessing and Understanding Privacy Issues in the ACO Context

- Understanding proposed uses of patient information
 - By whom?
 - For what purpose?
 - What type of information?
 - From what sources?
- Understanding the roles and responsibilities of the organizations providing the information
 - Payor systems
 - Provider systems
 - Community health information exchanges
 - Private health information exchanges
- Understanding requirements of applicable state and federal laws
 - HIPAA
 - Federal regulations governing substance abuse information
 - Other relevant federal and state laws, including state laws protecting sensitive health information

Some Key Privacy Issues for ACOs to Consider:

- Need for Patient Consent
- Meeting HIPAA's Minimum Necessary Standard
- Exchange of Sensitive Health Information
- Minor Consent Services
- Who Establishes an ACO's Privacy Policies?

Need for Patient Consent

- HIPAA permits health care providers and health plans to use and disclose PHI without patient consent for treatment, payment and healthcare operations
- This exception would likely cover most exchanges of information among ACOs and their participants
- However:
 - State laws may impose more stringent patient consent requirements even on disclosure of general medical information
 - Federal regulations impose more stringent requirements for disclosure of records of federally assisted alcohol and drug treatment programs
- ACOs must ensure that exchange of information complies with these requirements

Exchange of Sensitive Health Information

- In addition to federal regulations imposing more stringent requirements for disclosure of federally assisted alcohol and drug treatment program records, many states impose additional requirement for disclosures of sensitive health information, such as:
 - Mental Health Information
 - HIV/AIDS
 - Reproductive health
 - Genetic testing
- ACOs must ensure that exchange of information complies with state law requirements governing disclosure of sensitive health information

Minimum Necessary

- Except in the case of disclosures for treatment, HIPAA requires covered entities to use and disclose only the minimum necessary PHI for an authorized purpose
- If PHI is exchanged between an ACO and its participants or between an ACO and its payors for payment or health care operations, the minimum necessary rule is applicable
- ACOs must ensure that exchange of information complies with these requirements
- State laws may also include minimum necessary requirements

Minor Consent Services

- Many states permit minors to consent to certain health care services without the consent of a parent or guardian
- If parent or guardian consents to having child's information exchanged within an ACO, that consent may not apply to services the minor has consented to on his or her own
- ACOs must ensure that policies are in place so that minor consent information isn't disclosed based on parental consent

Who Sets Privacy Policies?

- Uniform privacy policies are critical to ensure that ACOs and their participants comply with applicable laws
- How privacy policies are set will depend on the type of ACO model

Key ACO Privacy Issues

Various ACO models exist, such as:

Fully Integrated	Clinical Models	Federated
<p>Overview: Integrated delivery systems involve a common ownership of hospitals, physician practices, and—in some cases—an insurance plan. These systems typically have aligned financial incentives, electronic health records, team-based care, and resources to support cost-effective care.</p>	<p>Overview: Multispecialty group practices usually own or have a strong affiliation with a hospital. They usually have contracts with multiple health plans in their areas. Most have a long history of physician leadership and highly developed mechanisms for coordinating clinical care.</p>	<p>Overview: Collaboration of affiliated and/or non-affiliated hospitals, provider groups and other care delivery entities that form a non-profit governance structure to jointly manage care delivery reform efforts across multiple sites focused on clinical integration and operational efficiencies.</p>
<p>Examples: Kaiser Permanente, Group Health Cooperative of Puget Sound, Geisinger Health</p>	<p>Examples: Mayo Clinic, Cleveland Clinic, Carilion Clinic</p>	<p>Examples: Fairview Health System, Advocate Health System, ACO of Pittsburgh, ACO of New Hampshire</p>

How privacy policies are set and what privacy policies cover will depend in large part on the type of ACO model employed

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Questions?

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