

ACCOUNTABLE CARE ORGANIZATION APPLICATION

SECTION I - INSTRUCTIONS

A. General Instructions

This is an application pursuant to Article 29-E of the Public Health Law (“PHL”) and 10 NYCRR Part 1003 for a Certificate of Authority for an Accountable Care Organization (“ACO”). A Certificate of Authority issued by the Department of Health entitles the ACO to certain legal protections, subject to satisfaction of the criteria and responsibilities set forth in the regulations.

The aforementioned regulations are available on the Department’s website.

B. Definitions

For purposes of this application, the definitions set forth in 10 NYCRR Part 1003 apply, except that the term “ACO” in this application shall be used to refer to the applicant seeking a certificate of authority rather than one that has already received such certificate, as set forth in 10 NYCRR § 1003.2(a).

In addition, the following definitions apply:

1. “Controlling person” means a person which either directly or indirectly, or through one or more intermediaries, possesses the ability to direct or cause the direction of the actions, management or policies of a person, whether through the ownership of voting securities or voting rights, by contract (except a commercial contract for goods or non-management services) or otherwise; but no person shall be deemed to control another person solely by reason of his being a corporate officer or director of such other person (providing such officer or director is not acting in concert with others to represent another corporation). Control shall be presumed to exist if any person directly or indirectly owns, controls or holds with the power to vote 10 percent or more of the voting securities or voting rights of any other person or is a member of a not-for-profit corporation.
2. “Parent corporation” means a corporation which directly or indirectly, or through one or more intermediaries, possesses or will possess the ability to direct or cause the direction of the actions, management or policies of any partnership or corporation, any of the members of which are not natural persons, or any corporation, any of the stock of which is owned by another corporation.

3. "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.
4. "Primary service area" means the lowest number of postal zip codes from which the ACO draws at least 75 percent of its patients for each health care service or group of health care services provided.
5. "Principal stockholder" means any person or organization that owns, holds or has the power to vote 10 percent or more of the issued and outstanding voting shares of stock of a corporation.

C. Attachments

In completing this application, please ensure that attachments are numbered and that the numbers are listed in the corresponding place on the application.

Unless otherwise specifically indicated, the required paper copies of legal documentation submitted should be photocopies of fully executed original documents and not the originals themselves. The electronic copies of legal documents should be legible scanned images in PDF format of fully executed original documents.

Whenever a requested legal document has been amended, modified, or restated, all amendment(s), modification(s) and/or restatement(s) should also be submitted.

D. Page Limitations

Please note the page limitations for narrative responses set forth in the header of each Part within Sections V and VI of this application. Notwithstanding such page limitations, the Department may request applicants to provide additional information or documentation in addition to the information submitted in response to such Parts.

E. Freedom of Information Law

If the applicant believes this submission contains information which may be exempted from disclosure pursuant to a Freedom of Information Law ("FOIL") request, the applicant may so indicate to the Department and in such case must identify those sections of the submission. The Department will review the claim and make a determination in the event a FOIL request is received.

SECTION II – GENERAL INFORMATION

A. Delivery System Reform Incentive Payment (DSRIP) Program

Please check the box to the right if this application for an ACO Certificate of Authority is being submitted in connection with a Project Plan Application submitted under the DSRIP Program.

B. Medicare-Only ACOs

Please check the box to the right if this application for an ACO Certificate of Authority is sought for a Medicare-only ACO solely related to Medicare activities. For Medicare-only ACOs, an expedited application process is available, and such applicants may complete Parts I and II of this application to facilitate such process.

C. State Action Immunity

Please check the box to the right if this application for an ACO Certificate of Authority includes a request for state action immunity. In such case, Section V of this application must be completed.

D. Applicant Information

1. Provide the legal name of the applicant ACO applying for a Certificate of Authority and any d/b/a:

2. Provide the street address of the applicant's main office:

3. Provide the following information about the lead contact for the application. This individual will be the primary point of contact between the Department and the applicant. This person should be an executive

employed by the ACO or a consultant retained by one or more of the parties, who will have primary responsibility for responding to Department inquiries. For ACO requests sought as part of DSRIP applications, it will be sufficient to enter “PPS Lead Applicant” in response to this question.

Name: _____

Title: _____

Street address:

Telephone:

Email address:

4. Identify the ACO’s medical director, if already retained.

SECTION III – MEDICARE-ONLY ACOs

As set forth in 10 NYCRR § 1003.1(b) and (c), no application is required for “Medicare-only ACOs,” as that term is used in such sections, to obtain certificates of authority and such entities and an expedited process is available for such purpose. Sections II and III of this application are not required but may be used to facilitate the provision of information to the Department. If the Medicare-ACO desires to forego use of this application, it should provide this information sought in this section to the Department by email at acobl@health.ny.gov.

As set forth in the referenced regulation, a certificate of authority received through this expedited process shall only apply to the Medicare-only ACO’s

actions related to Medicare beneficiaries under its authorization from CMS. An ACO that constitutes a Medicare-only CMS but desires a certificate of authority for actions beyond the CMS authorization must complete the entire application.

A. Identification of Medicare-Only ACOs

1. Is the applicant a Medicare-only ACO as defined in 10 NYCRR § 1003.1(b)?

Yes: _____

No: _____

2. Is the applicant a Medicare-only ACO as defined in 10 NYCRR § 1003.1(c)?

Yes: _____

No: _____

B. Submission of Information

To receive a certificate of authority as a Medicare-only ACO, submit copies of the following in PDF format to the email address below:

1. Proof of CMS approval, i.e., a letter from CMS authorizing the ACO to be an ACO for Medicare beneficiaries.
2. Legal documentation of the ACO's formation.
3. For Medicare-only ACOs as defined in 10 NYCRR § 1003.1(b):
 - a. the application submitted to CMS for the Medicare Shared Savings Program; and
 - b. the fully executed Medicare Shared Savings Program Accountable Care Organization Participation Agreement.
4. For Medicare-only ACOs defined in 10 NYCRR § 1003.1(c), submit the information set forth in 10 NYCRR § 1003.5.

SECTION IV – ACO PRINCIPALS, PARTICIPANTS, PROVIDERS AND SUPPLIERS

A. ACO Principals

1. Identification of ACO Principals

Identify all controlling persons, principal stockholder, health-related subsidiary, and parent corporations of the ACO. Attach additional sheets as necessary. Attachment #_____.

B. ACO Participants

1. Please provide the following information for each ACO participant, as that term is defined by 10 NYCRR Part 1003. Attach additional sheets as necessary. Attachment #_____.

a. Participant: _____

Participant's street address:

Name of chief executive or equivalent official:

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ACO Certificate of Authority Application

Title of chief executive or equivalent official:

Name of contact person, if different from official named above:

Contact's telephone:

Contact's email address:

- b. Identify all controlling persons, principal stockholder, health-related subsidiary, and parent corporations of the participant. Attach additional sheets as necessary. Attachment #_____.

2. Describe the services to be provided by the participant:

C. ACO Providers/Suppliers

1. Please provide the following information for each ACO provider/supplier, as those terms are defined by 10 NYCRR Part 1003. Attach additional sheets as necessary. Attachment #_____.

- a. Provider/Supplier:

Provider/Supplier street address:

Name of chief executive or equivalent official:

Title of chief executive or equivalent official:

Name of contact person, if different from official named above:

Contact's telephone:

Contact's email address:

- b. Identify all controlling persons, principal stockholder, health-related subsidiary, and parent corporations of the participant. Attach additional sheets as necessary. Attachment #_____.

2. Describe the services to be provided by the provider/supplier:

SECTION V – ACO ARRANGEMENTS AND ACTIVITIES

Please complete each of the following, as specified below (please cite data sources).

A. Organizational Structure (1 narrative page, exclusive of attachments)

1. Provide a chart demonstrating or otherwise describe the organizational structure of the ACO in narrative form (not to exceed one page). Attachment #_____.

2. Submit a copy of the ACO's articles of organization. See 10 NYCRR § 1003.4(b). Attachment #_____.
3. Submit a copy of the ACO's certificate of incorporation, if such certificate exists. See 10 NYCRR § 1003.4(b). Attachment #_____.
4. Submit a copy of the ACO's bylaws. See 10 NYCRR § 1003.4(b). Attachment #_____.
5. Submit a copy of the ACO's operating agreement or partnership agreement, as applicable. See 10 NYCRR § 1003.4(b). Attachment #_____.
6. Provide a list of members of the ACO's governing body. See 10 NYCRR § 1003.4(b). Attachment #_____.

B. ACO Participants and Providers/Suppliers (4 narrative pages)

1. Describe the criteria the ACO will use for accepting ACO participants to participate in the ACO. See 10 NYCRR § 1003.4(a)(3).
2. Set forth a plan detailing how the ACO will use best efforts to include among its participants federally qualified health center(s) (FQHCs) that are willing to be a participant and that serve the area and population served by the ACO. See 10 NYCRR § 1003.4(a)(4).
3. Describe how shared savings will be distributed among ACO participants. See 10 NYCRR § 1003.14(b).
4. Describe the criteria the ACO will use for entering into arrangements with ACO providers/suppliers.
5. Describe the ACO participants' and providers'/suppliers' rights and obligations in and representation by the ACO. See 10 NYCRR § 1003.4(e).
6. State whether the proposed ACO, its ACO participants, or its providers/suppliers has participated in the federal Medicare Shared Savings Program under the same or different name. If a different name was used, provide such name. See 10 NYCRR § 1003.4(d)(2).
7. State whether there is any affiliation with another ACO participating in the federal Medicare Shared Savings Program and whether the agreement is currently active or has been limited, suspended or terminated. If such agreement has been limited, suspended or terminated, an explanation of

the circumstances including whether the action was voluntary or involuntary. See 10 NYCRR § 1003.4(d)(2)(i) and (ii).

C. Population and Services (8 narrative pages)

1. Describe the population to be served by the ACO, which may include reference to the geographic area and, if applicable, shall include patient characteristics to be served. Include a discussion of the impact of the establishment and operation of the ACO on access to health care for the population to be served in the defined area. See 10 NYCRR § 1003.4(f).
2. Describe the ACO's plan for care coordination to assure that all medically necessary health care services are available to and effectively used by the patient. Care coordination shall include but not be limited to, referral, service acquisition follow-up and monitoring. Include a description of how the ACO will act in a timely manner consistent with patient autonomy, including not requiring patients to obtain prior authorization or a referral to receive a health care service. See 10 NYCRR § 1003.4(h).
3. Describe how the proposed ACO will use evidence-based health care, patient engagement, coordination of care, electronic health records including participation in Qualified Health Information Technology Entities and other enabling technologies and services that promote integrated, efficient and effective health care services. See 10 NYCRR § 1003.4(i).
4. Describe the means that will be used by the ACO to assure that it will not limit or restrict beneficiaries to providers contracted or affiliated with the ACO, including not requiring patients to obtain prior approval from a primary care gatekeeper or otherwise before utilizing the services of other providers. See 10 NYCRR § 1003.4(n).
5. Describe any arrangements the ACO has or plans to enter into with one or more third party health care payers to establish payment methodologies for health care services provided to the third party health care payer's enrollees provided by the ACO or for which the ACO is responsible. See 10 NYCRR § 1003.11(a).

D. Governance and Patient Protections (3 narrative pages, exclusive of attachments)

1. Describe the governing process that will be used by the ACO's governing body. See 10 NYCRR § 1003.7(b).

2. Describe the conflict of interest policy that the ACO has or will adopt for its governing body. Attach a copy of such policy if already developed. See 10 NYCRR § 1003.7(e). Attachment # _____.
3. Describe the notification that the ACO and its participants will use to notify patients that the ACO participants are participating in an ACO pursuant to a certificate of authority issued by the Department, including the use of signs and standardized written notices. See 10 NYCRR § 1003.6(c).
4. Describe how the ACO will prohibit the provision of gifts or other remuneration to patients as inducements for receiving items or services from or remaining in an ACO or with ACO participants. See 10 NYCRR § 1003.6(c)(4).
5. Describe the marketing materials that the ACO will use and assure that they will not be used in a discriminatory manner or for discriminatory purposes. Attach a copy of such materials if already developed. See 10 NYCRR § 1003.6(c)(5). Attachment # _____.
6. Describe the means by which the ACO will assure that it will not, by incentives or otherwise, discourage a health care provider from providing, or an enrollee or patient from seeking, appropriate health care services. See 10 NYCRR § 1003.4(l).
7. Describe the means that will be used by the ACO to assure that it will not discriminate against or disadvantage a patient or patient's representative for the exercise of patient autonomy. See 10 NYCRR § 1003.4(m).

E. Quality Assurance and Accountability (6 narrative pages, exclusive of attachments)

1. Describe the compliance plan that will be implemented by the ACO upon issuance of a certificate of authority. Attach a copy of such plan if already developed. See 10 NYCRR § 1003.4(f). Attachment # _____.
2. Describe the quality assurance and improvement procedures that will be used by the ACO, including how performance standards and measures will be utilized to assess and improve quality and utilization of care. See 10 NYCRR § 1003.4(j).
3. Describe how the ACO will assure that ACO participants and providers/suppliers to adhere to the quality assurance and improvement program and clinical guidelines. Attach documentation that supports such assurances, such as participation agreements, employment contracts, and operating policies. See 10 NYCRR § 1003.4(e). Attachment # _____.

4. Describe the ACO's policies and procedures for reviewing and responding to complaints from patients and providers. See 10 NYCRR § 1003.4(k).
5. Describe the ACO's process for peer review to monitor provider performance. See 10 NYCRR § 1003.9(d).
6. Describe the ACO's process for ensuring licensed, certified and/or registered health care professionals meet and maintain standards for the practice of their profession. See 10 NYCRR § 1003.9(d).

F. Two-Sided Model (3 narrative pages)

For ACOs seeking to enter into any “two-sided model” contract arrangements, provide the following information.

1. Describe the type of arrangement (e.g., fee-for-service with a shared savings and loss payment tabulated and transferred at year end or a full or partial capitated arrangement) into which the ACO proposes to enter. See 10 NYCRR § 1003.4(p)(1).
2. Identify the baseline benchmark from which any savings or losses will be calculated. See 10 NYCRR § 1003.4(p)(2).
3. Identify the percentage of the potential savings or losses to be split between the ACO and third party health care payer. See 10 NYCRR § 1003.4(p)(3).
4. Describe any reserve requirements imposed on the ACO by the third party health care payer. See 10 NYCRR § 1003.4(p)(4).

SECTION VI – STATE ACTION IMMUNITY

For ACOs interested in requesting state action immunity, please complete each of the following, as specified below (please cite data sources).

Part One: Community Health Needs (please limit response to 3 pages)
1A. Identify and describe the primary service area for the ACO, including the zip codes included in such primary service area and the available health care services. Generalized designations such as “neighborhood” and “market area” should be avoided.
1B. Describe the current population of the primary service area with special reference to age, gender, race, ethnicity, and language access, as well as

<p>economic conditions such as poverty, uninsured/underinsured residents, and unique features.</p>
<p>1C. Describe the current health status and future health care needs over the next 5 years of the populations to be served, including, as applicable, the prevalence of chronic disease, behavioral risk factors, and other issues affecting the health of the community; also include information specific to low-income, minority, and medically-underserved populations in the proposed primary service area. This should be based on documented information, such as Prevention Quality Indicators (“PQIs”), Census information, insurance status of the populations, and data on service volume, occupancy and discharges by existing health care providers. Data should be based on the primary service area as identified in 1A above.</p>
<p>1D. Identify health care service gaps in general and with special reference to the low income, minority, and medically underserved populations in the primary service area.</p>
<p>1E. Identify stakeholders and describe how they were engaged in conducting the assessment of community health needs.</p>

<p>Part Two: Impact on the Health Care Primary Service Area (please limit response to 7 pages)</p>
<p>2A. Describe the benefits and disadvantages expected to result from the ACO’s activities and discuss how the likely benefits resulting from the ACO’s activities outweigh any disadvantages, including, but not limited to, any negative impact on competition.</p>
<p>2B. Explain the ACO’s projected impact on health care utilization, spending, and the costs and prices of health care services in the relevant primary service area.</p>
<p><i>Impact on Health Care Utilization</i></p>
<p>(i) Identify all health care providers in the primary service area that compete with the ACO with respect to each health care service or relevant group of health care services to be provided by the ACO.</p>
<p>(ii) Describe the impact of the ACO’s activities on the utilization of health care services in the primary service area, including reducing PQI admissions, hospital admissions and readmissions and preventable Emergency Department visits.</p>

(iii)	Describe how the ACO's activities will improve the utilization of health care provider resources and equipment.
(iv)	Describe the impact of the ACO's activities on the efficiency in the delivery of health care services (e.g., reducing unnecessary or preventable utilization; level of quality, availability and efficiency of health care services; etc.).
<i>Impact on Spending, and the Costs and Prices of Health Care Services</i>	
(v)	Describe the anticipated impact of the ACO's activities on reimbursement rates and service arrangements.
(vi)	Describe how the ACO's activities will lower aggregate costs and improve efficiency in the delivery of health care services (e.g., reducing unnecessary administrative or capital costs, etc.).
(vii)	Describe the implementation of any payment methodologies that will be used to control excess utilization and costs and improve outcomes.
(viii)	Describe any increased aggregate costs of health care in the community or region which may result from the ACO's activities.
(ix)	Provide the share of services for each health care service or relevant group of health care services in the primary service area that will be provided by the ACO; provide the underlying data. To calculate the share of services within the primary service area, use the method set forth in the Appendix to the Federal Trade Commission and Department of Justice Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program (http://www.justice.gov/atr/public/health_care/276458.pdf)
(x)	Identify any health care services in which the ACO will have a 31 percent or greater share of services within the primary service area as calculated in response to 2B(ix) above.
2C. Describe how the ACO's activities will improve the nature or distribution of health care services in the primary service area.	
(i)	Describe the extent to which the ACO will preserve or expand health care services in the primary service area (as described in 2A above) that would be at risk of elimination in the absence of the ACO's activities?

(ii)	How will the ACO's activities expand access to care for low-income, minority, and medically-underserved populations?
(iii)	Describe the extent to which the ACO's activities will eliminate unnecessary or unnecessary duplication of health care services.
(iv)	Describe how the ACO's activities is intended to enhance the quality of care provided by its participants.
(v)	Describe any benefits and/or efficiencies that will be created through the ACO's activities.
2D. Describe the impact of the ACO's activities on physicians, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, other health care providers and the potential for adverse health system quality, accessibility and cost consequences.	
2E. Describe the dynamics of the primary service area, including the availability of suitable and accessible health care services and the level of competition in the primary service area, the likelihood that other health care providers will enter or exit the primary service area, the health care workforce and the existence of unique challenges such as difficulties in recruitment and retention of health care professionals, all with special reference to primary care providers.	
2F. Describe the availability of other arrangements, if any, that would have a less restrictive impact on competition in the primary service area and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition. Also, please explain why those arrangements were not pursued.	
2G. Explain how the number of alternatives available to consumers may be diminished as a result of the certificate of authority and explain any countervailing benefits that are projected to be accomplished by the ACO despite reduced choices to consumers among providers or health plans.	
2H. Describe other benefits or disadvantages pertaining to quality, access and cost identified in the course of review.	

Part Three: Business Plan (please limit narrative response to 5 pages)
3A. Provide projected cost savings to the ACO and its participants and efficiencies over a 5 year period and describe how they will be achieved;

include reductions in administrative and capital costs and improvements in the utilization of health care provider resources and equipment.
3B. Provide pro forma financial statements for the first day of operation of the ACO, if applicable. Attachment #_____.
3C. Attach a projected 5 year budget and cash flow analysis for the ACO and describe its proposed activities. Attachment #_____.
3D. Describe the financial arrangements among the ACO and its participants, including but not limited to asset purchases, loans, donations, compensation under management or service agreements, joint purchasing agreements, shared risk or shared savings arrangements, obligated group financing programs, etc.

Part Four: Proposed Monitoring and Supervision (please limit response to 3 pages)
4A. Describe how progress related to the Cooperative Agreement or planning process will be measured. What variables will be monitored?
4B. Describe any reporting requirements for reviewing progress towards program goals.
4C. Describe any conditions that may be included within the Cooperative Agreement or planning process to ensure that benefits continue to outweigh any disadvantages, including, but not limited to, any negative impact on competition, and to ensure that program goals are met.
4D. Propose targets for reducing aggregate health care costs and achieving savings.
4E. Propose targets for reducing PQI admissions, readmissions, and sub-optimal emergency department use and activities to achieve targets.
4F. Propose targets for expansion of primary care and recruitment and retention of needed health care professionals, especially in primary care.
4G. Describe how the ACO will implement an internal monitoring plan to ensure that competitive benefits continue to outweigh any disadvantages and any negative impact on competition, to ensure that program goals are met. Include information related to how the ACO will measure and monitor proposed targets identified in 4D, 4E and 4F above. Also, include identification of barriers and strategies to resolve issues, and how such monitoring plan will be

used to help generate the information needed for purposes of providing periodic reports to the Department pursuant to 10 NYCRR § 1003.14(a)(2)

4H. Describe how conditions imposed and/or monitoring by the Department could mitigate the potential disadvantages of the ACO's activities.

SECTION VII - CERTIFICATION

Each ACO applicant must execute the *Accountable Care Organization: Certification Form* annexed to the application, include the *Acknowledgment and Attestation* annexed thereto. The form must be signed by the chief executive officer, president, chairman of the board, or other authorized representative of the applicant.

**CERTIFICATE OF PUBLIC ADVANTAGE APPLICATION:
CERTIFICATION FORM**

The undersigned hereby assures and certifies that:

- the ACO and its ACO participants have agreed to become accountable for the quality, cost, and overall care of the individuals attributed to the ACO, and
- the applicant has used best efforts to ascertain that none of its participants, principals or contractors and no individuals who are employees, principals or contractors of such entities are on any federal or state excluded list;
- the information included in this application and all attachments are correct to the best of the undersigned's knowledge and belief.

Applicant: _____

Name of Responsible Officer: _____

Title of Officer: _____

Address, including County:

** If additional applicants, please attach additional sheets to this application, including notarized Acknowledgment and Attestation.

Acknowledgement and Attestation

I hereby certify, under penalty of perjury, that I am duly authorized to subscribe and submit this application on behalf of the applicant:

_____.

I further certify that the information contained in this application and its accompanying schedule and attachments are accurate, true and complete in all material respects. I acknowledge and agree that this application will be processed in accordance with Article 29-E of the Public Health Law and implementing regulations, 10 NYCRR Part 1003.

Signature of Officer:	
Date:	

New York, _____ County

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the ____ day of _____, 20__.

Notary Public:
My Commission Expires: