



*Trinity Health ACO Policy No. 01*

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**EFFECTIVE DATE:** *January 1, 2016*

**POLICY TITLE:**

***Conflicts of Interest***

**REVIEW BY:** *January 1, 2019*

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## **POLICY**

To protect the interests of Trinity Health ACO when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of Trinity Health ACO. This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest. Officers and directors have fiduciary duties of loyalty and honest and fair dealing. They also have the responsibility to use their positions in good faith for the benefit of the Trinity Health ACO.

## **PROCEDURE**

1. **Duty to Disclose** - In connection with any actual or possible Conflict of Interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Trinity Health ACO governing board or committees with board delegated powers considering the proposed transaction or arrangement.
2. **Determining Whether a Conflict of Interest Exists** - After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he/she shall leave the board or committee meeting while the determination as to whether a Conflict of Interest exists is discussed and voted upon. The remaining board or committee members shall decide if a Conflict of Interest exists.
3. **Medicare Beneficiaries** – The participation in the Trinity Health ACO by a Medicare beneficiary as a Medicare enrollee shall not be deemed a Conflict of Interest.
4. **Procedures for Addressing Conflicts of Interest**
  - a. An Interested Person may discuss with or present information to the governing board or committee meeting concerning the possible Conflict of Interest, but after such discussion or presentation, he/she shall leave the meeting prior to a final discussion and vote on the

transaction or arrangement involving the possible Conflict of Interest by the remaining board or committee members.

- b. After exercising due diligence, the board or committee shall determine whether the proposed transaction is in Trinity Health ACO's best interest, for its own benefit, and fair and reasonable.
- c. The governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in Trinity Health ACO's best interest, for its own benefit, and whether it is fair and reasonable.
- d. If the board or committee determines that continuing the transaction would not be in the best interest of Trinity Health ACO due to the potential conflict, then the chairperson of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement that would address any Conflict of Interest.

#### **5. Violations of the Conflicts of Interest Policy**

- a. If the board or committee has reasonable cause to believe a member has failed to disclose actual or possible Conflicts of Interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### **6. Records of Proceedings**

- a. The minutes of the Trinity Health ACO board and all committees with board delegated powers shall contain:
  - i. The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest was present, and the governing board or committee's decision as to whether a Conflict of Interest in fact existed.
  - ii. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to

the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

## **7. Compensation Matters**

- a. A voting member of the board who receives compensation, directly or indirectly, from Trinity Health ACO for services, other than compensation paid in accordance with board approved shared savings distribution models or formulas that apply to Trinity Health ACO classes of Participants, or compensation for serving as a member of the Trinity Health ACO board or board committee, is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Trinity Health ACO for services, other than compensation paid in accordance with board approved shared savings distribution models or formulas that apply to Trinity Health ACO classes of Participants, or compensation for serving as a member of the Trinity Health ACO board or board committee, is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Trinity Health ACO, either individually or collectively, other than compensation paid in accordance with board approved shared savings distribution models or formulas that apply to Trinity Health ACO classes of Participants, or compensation for serving as a member of the Trinity Health ACO board or board committee, is prohibited from providing information to any committee regarding compensation.

## **8. Annual Statements**

- a. Each Trinity Health ACO director, principal officer and member of a committee with board delegated powers shall annually sign a statement which affirms such person:
  - i. Has received a copy of the Conflicts of Interest policy;
  - ii. Has read and understands the policy;
  - iii. Has agreed to comply with the policy.

## **9. Periodic Reviews**

- a. To ensure Trinity Health ACO operates in a manner consistent with its purposes and does not engage in inappropriate activities, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following:

- i. Whether Trinity Health ACO's compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
  - ii. Whether partnerships, joint ventures, and arrangements with management organizations conform to Trinity Health ACO's written policies, are properly recorded, reflect reasonable investment or payments for goods and services.
- b. When conducting the periodic reviews, Trinity Health ACO may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

## DEFINITIONS

**Accountable Care Organization ("ACO")** means a legal entity that is recognized and authorized under applicable State, Federal, or Tribal law, is identified by a Taxpayer Identification Number (TIN), and is formed by one or more ACO participants.

**ACO Participant(s)** means an individual or group of ACO provider(s)/supplier(s) that is identified by a Medicare-enrolled Tax Identification Number (TIN), that alone or together with one or more other ACO participants comprise(s) and ACO, and that is included on the required list of ACO participants.

**ACO Provider/Supplier(s)** means an individual or entity that is a provider or a supplier, that is enrolled in Medicare, that bills for items or services it furnishes to Medicare fee-for-service beneficiaries under a Medicare billing number assigned to the TIN of an ACO participant, and that is included on the required list of ACO providers/suppliers.

**Conflict of Interest** means circumstances in which the personal interests of an Interested Person may potentially or actually conflict with the interests of Trinity Health ACO or may be perceived as potentially conflicting with the interests of Trinity Health ACO. A Conflict of Interest only exists when the Trinity Health ACO governing board or board committee determines that a Conflict of Interest exists.

**Interested Person** means any director, principal officer, or member of Trinity Health ACO governing board or a committee with powers delegated to it by Trinity Health ACO's governing board, who has a direct or indirect Financial Interest, as defined below, in a transaction or arrangement being considered by Trinity Health ACO.

**Financial Interest** means a situation where a person has, directly or indirectly, through a business, investment, or family:

- a. An ownership or investment interest in any entity with which Trinity Health ACO has a transaction or arrangement; or

- b. A compensation or payment arrangement with Trinity Health ACO or with any entity or individual with which Trinity Health ACO has a transaction or arrangement; or
- c. A present or potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Trinity Health ACO is negotiating a transaction or arrangement, or might reasonably in the future enter into a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Per Section 7 - Compensation Matters herein, voting members of the board are not precluded from voting on compensation matters paid in accordance with board approved shared savings distribution models or formulas that apply to Trinity Health ACO classes of Participants or compensation for serving as a member of the Trinity Health ACO board or board committee.

#### **POLICY CONTACT**

For questions regarding this policy, please contact Trinity Health ACO's Integrity & Compliance Officer.

#### **RELATED PROCEDURES AND OTHER MATERIALS**

- 42 C.F.R § 425.106 (d). *Conflicts of interest*
- *Conflicts of Interest Disclosure Statement (attached)*

#### **APPROVALS**

**Initial Approval:** Trinity Health ACO Board of Directors 1/6/2016

**Subsequent Review/Revision(s):** *[insert dates of all subsequent reviews/revisions]*

**Trinity Health ACO  
Conflicts of Interest Disclosure Statement**

In accordance with Trinity Health ACO's Conflicts of Interest Policy, I hereby disclose the following **Financial Interests** (defined below) in organizations with which Trinity Health ACO has, or might reasonably in the future enter into, a relationship, transaction or arrangement in which I may have a Conflict of Interest:

Name of Organization	Description of Financial Interest

**Financial Interest** - A situation where a person has, directly or indirectly, through a business, investment, or family:

- a. An ownership or investment interest in any entity with which Trinity Health ACO has a transaction or arrangement; or
- b. A compensation arrangement with Trinity Health ACO or with any entity or individual with which Trinity Health ACO has a transaction or arrangement; or
- c. A present or potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Trinity Health ACO is negotiating a transaction or arrangement, or might reasonably in the future enter into a transaction or arrangement.

I hereby certify that the above information is true, correct, and complete to the best of my knowledge, information and belief.

**Please Note: If there are no Financial Interests to disclose, please check this box  and sign and date below.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Please return the completed Disclosure Statement to the attention of Staci Wylie (staci.wylie@trinity-health.org) at Trinity Health ACO.