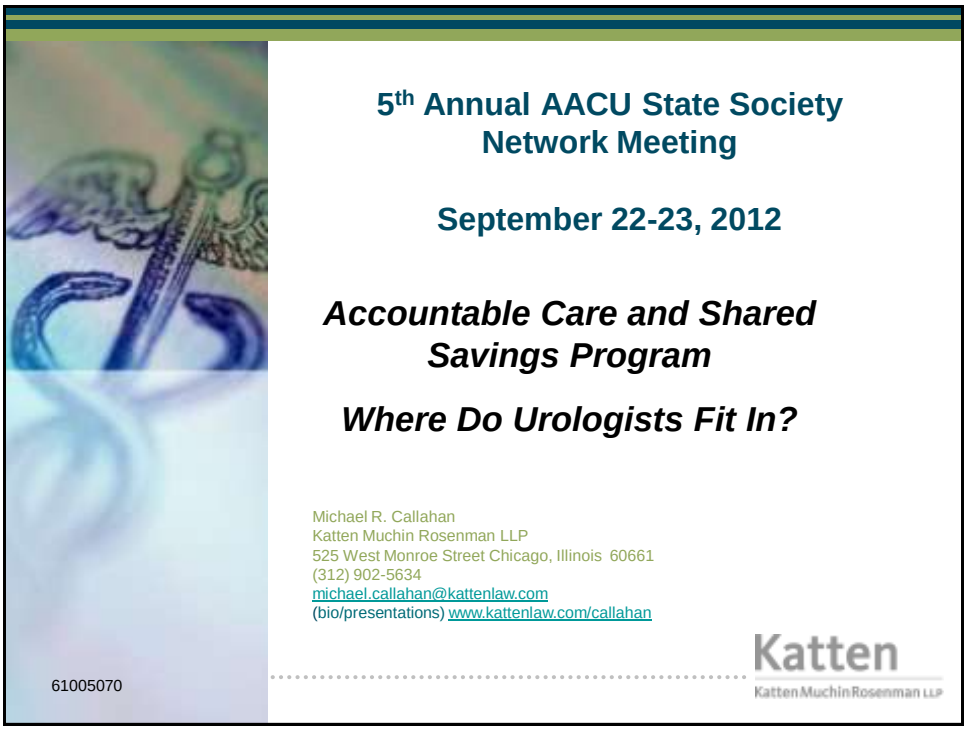

5th Annual AACU State Society Network Meeting

September 22-23, 2012

Accountable Care and Shared Savings Program

Where Do Urologists Fit In?

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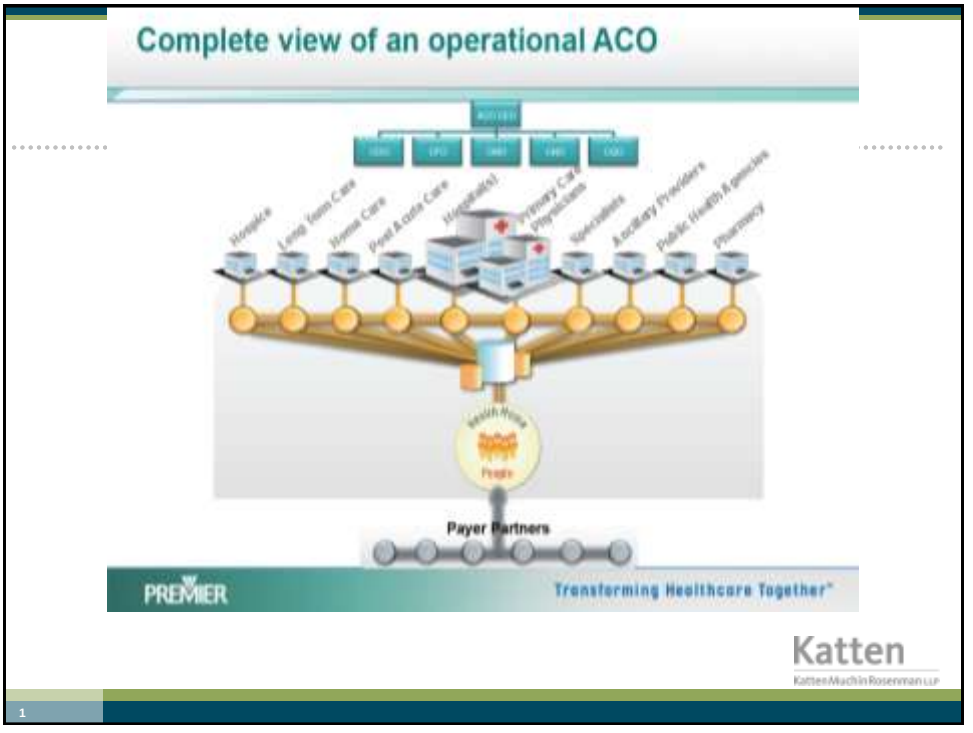

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Top 25 Diagnoses for Pioneer ACOs

- The following information pertains to the first 32 CMS Pioneer Accountable Care Organizations in 2011.
- There were a total of 15,245,067 admissions in this time period out of the 75,104,205 people who lived in the geographical coverage area of the ACOs in 2011.
  - Supplementary classifications – 2,150,629
  - Disease of the circulatory system – 1,271,469

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Top 25 Diagnoses for Pioneer ACOs (cont'd)

- Females with deliveries – 947,421
- Heart disease – 816,933
- Disease of the digestive system – 811,833
- Disease of the respiratory system – 797,652
- Injury and poisoning – 689,136
- Disease of the musculoskeletal system and connective issue – 510,330

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Top 25 Diagnoses for Pioneer ACOs (cont'd)

- Disease of the genitourinary system – 457,144
- Mental disorders – 454,974
- Endocrine, nutritional and metabolic disease and immunity disorders – 421,046
- Neoplasms – 391,270
- Psychoses – 323,919
- Malignant neoplasms – 301,355
- Infectious and parasitic diseases – 262,760

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Top 25 Diagnoses for Pioneer ACOs (cont'd)

- Pneumonia – 253,413
- Fractures, all site – 244,254
- Disease of the nervous system and sense organs – 228,021
- Congestive heart failure – 223,144
- Certain complications of surgical and medical care – 216,035

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Top 25 Diagnoses for Pioneer ACOs (cont'd)

- Osteoarthritis and allied disorders – 215,351
- Cerebrovascular disease – 202,253
- Disease of the skin and subcutaneous tissue – 177,758
- Cardiac dsyrhythmias – 164,243
- Coronary atherosclerosis – 157,930

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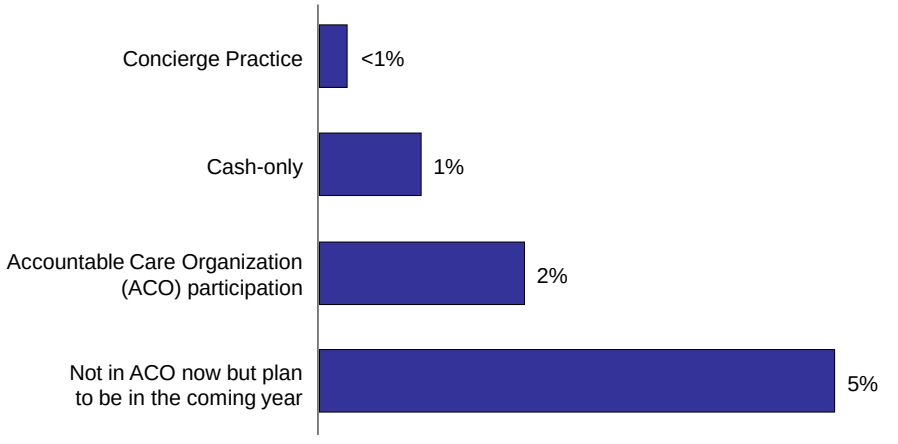
Urologists in Alternative Patient Care and Payment Models



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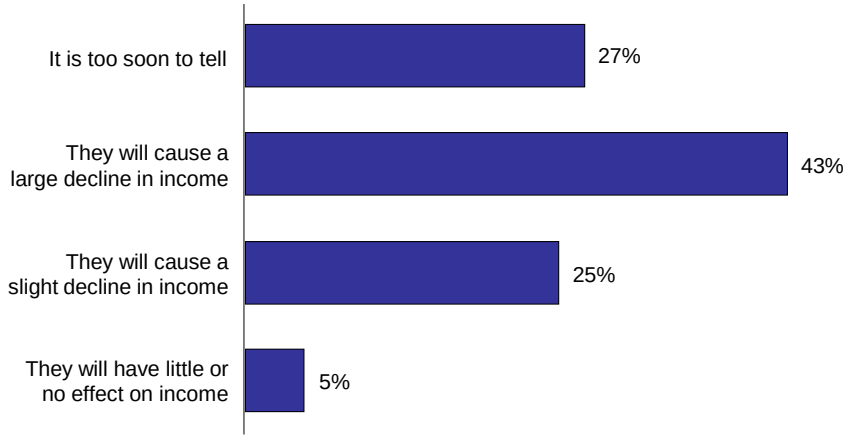
How Will ACOs Affect Your Income?



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Will Quality Measures and Treatment Guidelines Improve Patient Care?

51%

No, they will have a negative effect on patient care

35%

No, they will have no impact on the quality of patient care

14%

Yes, they will lead to better care for the patient

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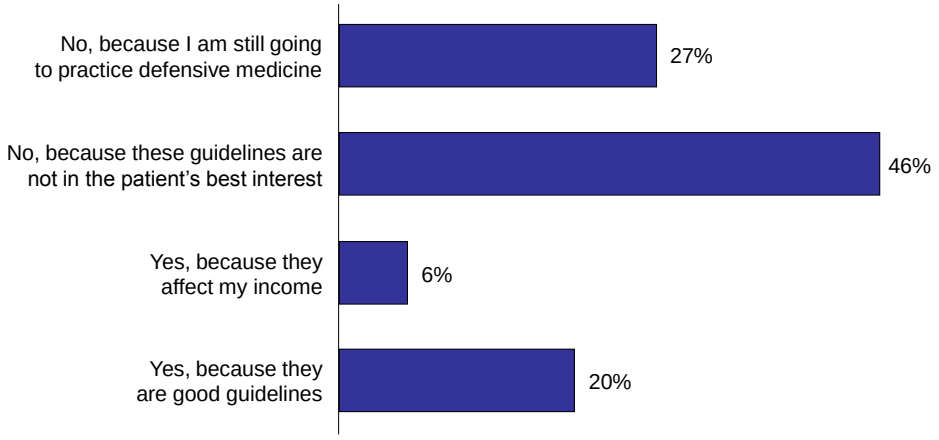
Will You Reduce Testing to Contain Costs?



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Legal Advantages and Risks

- Overview
  - Movement from volume to value
  - Reimbursement will be based on achieving quality outcomes
    - ACO Quality Metrics
    - Value Based Purchasing
    - P4P

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Legal Advantages and Risks (Cont'd)

- Increasing focus of OIG/DOJ/State AGs on providers providing substandard care.
  - False Claims Act – billed for poor quality care
  - Exclusion from Medicare/Medicaid programs
  - 2012 OIG Work Plan
- Failure to achieve quality outcomes will have licensure and accreditation implications.
- Failure to achieve quality outcomes will increase liability exposure for physicians and hospitals.

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Legal Advantages and Risks (Cont'd)

- Failure to achieve quality outcomes will adversely affect memberships on Medical Staffs, ACOs, IPAs and PHOs.
  - OPPE/FPPE standards
  - "economic credentialing"

- Greater Leal Flexibility for ACOs
  - Current legal standards under Stark (referral prohibitions), Anti-Kickback, Civil Monetary Penalties (reduction in care tied to financial incentives) and Antitrust inhibit, if not prevent, proposed sharing of savings under Medicare Shared Savings Program.

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Legal Advantages and Risks (Cont'd)

- In order to encourage providers to participate in the Program, the OIG, DOJ, FTC and IRS adopted less restrictive standards and "waivers" to accommodate and induce creation of different ACO delivery vehicles as applied to single specialty or multi-provider ACOs.
- Antitrust
  - CMS certified ACO is presumed to be "clinically integrated" and "rule of reason" analysis will apply when ACO negotiates with commercial payors.

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Legal Advantages and Risks (Cont'd)

  - "Safety zone" is defined as the ACO having a combined "common service", i.e., specialty, market share of 30% or less in each participant's primary service area whenever two or more ACO participants provider that service in the PSA.
    - PSA defined as the "lowest number of contiguous postal zip codes from which the ACO participants draws at least 75% of its patients for that service".
  - Three major categories of services
    - Physician specialties, i.e., urology
    - Major diagnosis categories for inpatient facilities
    - CMS outpatient categories for outpatient facilities

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Legal Advantages and Risks (Cont'd)

- Safety zone applies to physicians and other providers irrespective of whether they are exclusive or non-exclusive to an ACO unless they fall within the rural exception or dominant participation limitation.
- Specialists can be in more than one ACO but be careful of exclusives results in market share.
- Falling outside safety zone is not illegal.
- If greater than 50% market share, Agency expedited review is recommended but not required.

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Legal Advantages and Risks (Cont'd)

- Waiver of Fraud and Abuse Laws
  - ACO needs to only meet the criteria for one of the three waivers.
  - No requirement for a signed or written agreement although this is a best and recommended practice.
  - As currently drafted, the waivers do not require that an arrangement be at fair market value or be commercially reasonable, but CMS will closely monitor for abuse and may incorporate additional restrictions.

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Legal Advantages and Risks (Cont'd)

- Arrangements need only be "reasonably related" to one of the purposes of the Shared Savings Program rather than a narrower approach of being "directly related," which was CMS's response in simplifying the process and addressing public comments requesting a broader approach.
- An ACO may provide incentives to all new primary care physicians such as covering the EHR proportionate expense or various office service benefits (but cannot pay based on volume of services or require that physicians refer patients to the ACO or ACO participants).

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Legal Advantages and Risks (Cont'd)

- Waivers are applicable to private payor arrangements, but these must show they are reasonably related to ACO participation in the Shared Savings Program.
- Satisfying the requirements of the Compliance with Stark Law Waiver essentially means that if an ACO arrangement satisfies the Stark law, it need not also comply with the Anti-Kickback Statute or COMP law.

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Legal Advantages and Risks (Cont'd)

- Pre-Participation Waiver
- Participation Waiver
- Shared Savings Waiver
- Patient Incentive Waiver

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