



Home Health Management Personnel

Management Personnel

Although the *Conditions of Participation (CoP)* place a significant amount of responsibility on the administrator, the administrator is not the only person with responsibility for the operation of the entity. The agency's governing body oversees and is ultimately responsible for the operations of the agency. The *CoPs* also require a home health agency to have a clinical manager responsible for overseeing the clinical aspects of care delivery. A home health agency may, depending upon its size, also have a human resources director or professional, sales/marketing manager and other management/supervisory personnel. Larger agencies may also find that roles such as privacy officer and compliance officer are each separate and distinct, rather than combined with other roles.

These pieces fit together in a hierarchy. The governing body sits at the top with the final authority for agency operations, including appointing the administrator. The administrator has day-to-day operational responsibility, reports to the governing body, and provides day-to-day oversight of the other management and supervisory personnel. It is important to understand each of these positions, their relationships to one another and their role in the administration and management of the home health agency.

The governing body

A home health agency may be established as a sole proprietorship (no legal entity separate from the owner), a partnership, a corporation or a limited liability company (LLC). The majority of home health agencies are established as either a corporation or a limited liability company. Corporations and LLCs are different types of legal entities, but each one has a governing body. A governing body is the group of one or more individuals who has responsibility for managing the

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business and affairs of the company. The governing body of a corporation is also known as the Board of Directors. An LLC can dispense with a “Board” and be directly managed by its members (the LLC equivalent to shareholders), or an LLC can opt to appoint one or more managers. A manager is the LLC equivalent to a director in a corporation. The governing body of an LLC is usually referred to as the Board of Managers, although some LLCs also refer to their governing body as the Board of Directors. In smaller companies, the Board of Directors/Board of Managers (the “Board”) will most often be the governing body for *CoP* purposes. In larger entities, the Board may appoint a separate governing body. This could be a committee of the Board or another group of individuals. The *CoPs* specifically allow this. It states that “a governing body (or designated persons so functioning” must discharge the duties of the governing body. (42 C.F.R. 484.105(a). Regardless of its specific title, the governing body has “the legal authority to assume responsibility for ensuring that management and operation of the home health agency (HHA) is effective and operating within all legal bounds” (82 *Fed. Reg.* 4548). The administrator works with, and will often report to, the governing body in performing his or her duties. The governing body should be clearly identified in the agency’s records for survey purposes. If the Board has designated another group of individuals to be the governing body, this designation should be clearly documented in a written resolution of the Board.

Because of their role in overseeing and managing the entity, the members of the governing body have significant responsibilities and duties to the entity. The members of the governing body are fiduciaries to the company and owe the company a duty of loyalty and a duty of care. The duty of loyalty requires the members of the governing body put the interests of the company ahead of their own interests. The duty of care requires them to act in good faith, with the level of care an ordinarily prudent person would use in like circumstances and in a manner that the individual believes is in the best interests of the company. The governing body sets policy, approves policies and procedures, appoints the administrator, oversees the Quality Assurance and Performance Improvement (QAPI) program, approves budgets and has a number of other responsibilities. Despite the long list of responsibilities, the governing body is not involved in day-to-day operations. The governing body will depend on the administrator and other management personnel to execute the day-to-day operations of the company.

The *CoPs* include a number of requirements related to the entity’s governing body. The *CoPs* require that a “governing body (or designated persons so functioning) must assume full legal authority and responsibility for the agency’s overall management and operation, the provision of all home health services, fiscal operations, review of the agency’s budget and its operational plans, and its quality assessment and performance improvement program” (42 *CFR* 484.105).

This requirement, in part, simply restates the legal role of the governing body, but the *CoPs* also impose additional, home health-specific requirements upon the governing body. The governing body appoints the administrator (42 *CFR* 484.105[b][i]). The administrator reports to the governing

body (42 CFR 484.105[b][i]). The governing body must ensure that the agency’s “ongoing program for quality improvement and patient safety is defined, implemented, and maintained” (42 CFR 484.65[e][1]). The administrator or other individual who is assigned authority for QAPI will report on the progress of QAPI efforts, suggest future QAPI projects and take other actions designed to ensure the governing body is properly informed so that it can ensure the QAPI program is meeting its expectations. The governing body is expected to ensure that any findings of fraud or waste arising out of the QAPI program are addressed appropriately as well (42 CFR 484.65[e][40]). The governing body will also be responsible for overseeing the home health agency’s corporate ethics and compliance program. It is important that governing body clearly document the performance of the obligations imposed on it by the *CoPs* in the governing body’s records.

The administrator will look to the governing body for budget approval, approval of policies and procedures, strategic direction and similar decision-making. The administrator will often carry out the day-to-day operations within parameters approved by the governing body, such as the budget. Occasionally, an issue will arise that requires the administrator to return to the governing body for specific approval. This may include resolving disputes with regulatory agencies or expenditures beyond those outlined in the budget.

The governing body should clearly document its activities so that there is a clear record of the communication, deliberation, and decision making. Documentation of governing body action may include minutes of governing body meetings, resolutions of the governing body, copies of reports made to the governing body. These reports will include QAPI reports, compliance program reports and reports from the administrator.

Surveyors will ask to review governing body documentation to verify that the Governing Body is properly discharging its role to oversee the agency. The appendices include forms for a Governing Body Agenda, governing body meeting minutes and other forms that can be utilized to document governing body activities.

Many topics that come before the governing body will be specific to home health. Members of the governing body should have at least some familiarity with home health.

The governing body oversees the administrator, which means they should be in a position to do more than defer to the administrator. In smaller agencies, the governing body is often composed of the owners of the agency. These individuals often have significant operational experience in home health.

In larger entities, this may not be the case. This will require the administrator to educate the board. The board/GB may need to be educated on a wide range of topics. This may include how episodic payment works, the home health *CoPs*, value-based purchasing, QAPI and more. The governing body needs to understand how these topics and others impact operations, compliance,