

Contracting:

A Guide from the Medication Optimization Technology Toolkit

Description

A guide for establishing the fundamental agreements that may be required for creating and maintaining a program that optimizes medication use and involves patient-centered technologies. This guide addresses the requirements of agreements between stakeholders, such as Contracts and Memorandum of Agreement (MoA), as well as important considerations for establishing such agreements.

Audience

For organizations preparing to implement medication optimization programs that involve the use of patient-centered technologies, or those ready to establish contracts among technology vendors and program stakeholders that support medication management.

Helpful Tips

- Engage the support of legal counsel as formal agreements between providers, vendors, and other parties are almost always needed.

1 Determine Necessity of Agreements

What provider and vendor agreements and contracts are necessary for implementation of services to optimize medication use and that involve the use of technology?

2 Examine Capacities & Establish Contracts

What are the primary terms that need to be considered or agreed to?

1 Determine Necessity of Agreements

Relationships among health care providers, patients, equipment vendors, service providers, clinicians, caregivers and others require careful coordination, and, in many cases, formal agreements. As is the case in other relationships, potential liabilities warrant careful consideration of contractual protections. The specifics of such contracts and their legal requirements will vary, and may be influenced by the structure of the medication optimization program and the environment in which it is operated.

Are formal agreements necessary? – The answer to this question will assuredly be “yes.” Details regarding the number and type of the agreements will be revealed by the answers to certain foundational questions, including the degree to which the program is managed internally or by external (third-party) organizations. However, regardless of the operational specifics of the medication optimization program being considered, program managers are advised to engage the support of legal counsel.

A non-exhaustive list of possible agreements is outlined below:

Contractual Services Agreement – An agreement may be required when medication optimization-related services are performed by an external third-party. Among many others, examples can include services required to bill a patient’s insurance company, and/or hosting and maintaining the backend data collection servers. A Contractual Services Agreement will frequently include Service Levels Agreements (SLA) that act to formally define the required performance.

Memorandum of Agreement (MoA) – A formal agreement, such as a MoA or Memorandum of Understanding (MoU), may be necessary to legally define and bind the terms of a cooperative working relationship. Examples of a MoA might include: coordination of staff resources, payment for services and supplies, supply chain management, and provision of workspace.

Business Associate Agreement – HIPAA allows for sharing of patient information among health care organizations and Business Associates, i.e., those engaged in a technology-enhanced program to optimize medication use. Business agreements that facilitate information sharing must include safeguards to patient privacy according to HIPAA.

Statement of Work (SOW) – An SOW acts as a document that captures and defines the work activities, deliverables, and timeline that a technology vendor, consultant or others, must execute in performance of specified work for a client. The SOW commonly includes detailed requirements, pricing, and terms and conditions.

2 Examine Capacities & Establish Contracts

When is contracting a good idea? Understanding what needs are being addressed by a medication optimization program, what resources are required, and what assistance may be needed, will drive the number and types of contracts. An administrative audit may be useful to determine organizational needs and answer questions related to resources, processes and technologies.

Further questions to productively guide the audit include:

Will more staff be needed to efficiently complete the program protocols that are related to the use of patient-centered technologies to optimize medication use, and if so, where can they be found, and who shall be responsible for their hiring and management?

How are existing program services paid for; are they efficient; and are the processes of payment replicable for the medication optimization program?

Are current supply chain management systems and workspace allocations amenable to the changes a medication optimization program will require?

Establishing contracts – By conducting a complete audit of capacities – and the resulting program implementation plan – specific contract requirements can be identified for all program participants, including partners, equipment vendors, and service providers.

Clear communications with contracted program participants are key to the successful execution and implementation of agreements. A thorough vetting of related information, coupled with an understanding of the needs and alignment of all parties, will result in accurate and effective agreements.

Other resources – For examples of contracts, MOUs/MOAs, and information for inclusion in contracts, please consult the Administrative section of the ADOPT Toolkit website.