

AHLA Annual Meeting 2025

Cracking the Code: Unlocking the Power of the Value-Based Exceptions and Safe Harbors



Presented by: Jim Carr, Rachel Polzin, Scott Strickland

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Rachel Polzin



Scott Strickland



Jim Carr



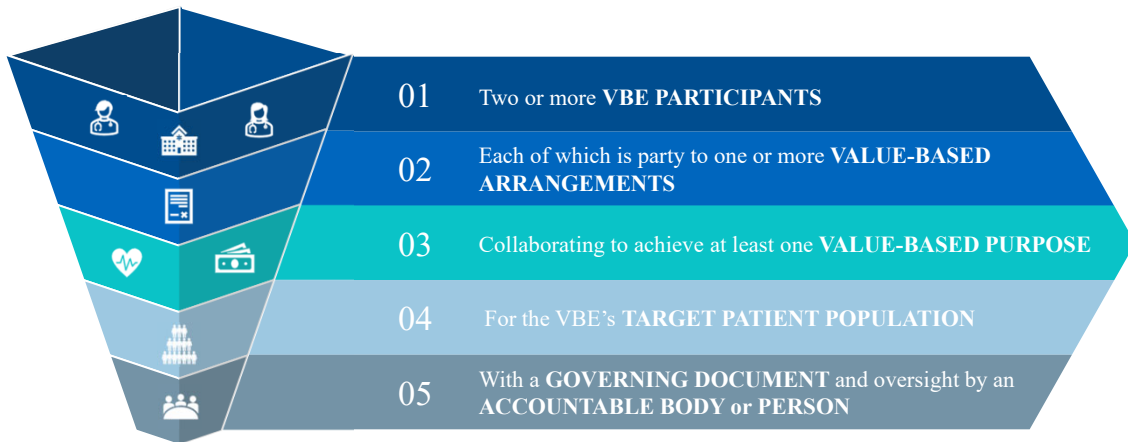
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What is a Value-Based Enterprise

Key Stark and AKS Foundational Requirements



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VBE Flexibilities

What's so great about VBEs?

GOALS

Multiple value-based purposes
Use any one or combination

PARTICIPANTS

Virtually any provider type
No set number – can be 2 or 200

RISK LEVELS

Multiple risk options
Flexibilities increase with more risk
Stark exceptions don't require payor risk

PAYMENT AMOUNTS

No requirement to demonstrate FMV
Fortifies compensation plan compliance

PAYMENT STRUCTURES

No VOVOR restrictions
Enables income pools and true gainsharing

ALIGNMENT

Compatible with many existing arrangements
Can mimic ownership interests

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The “Cost” of VBE Flexibilities

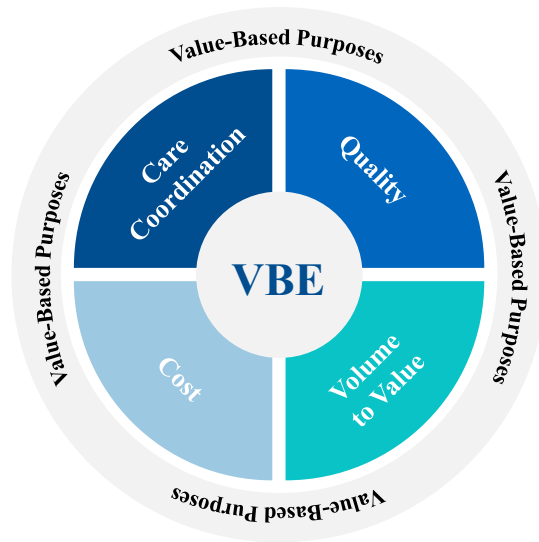
Value-Based Purposes

Care Coordination

Coordinating and managing the care of a target patient population

Cost

Appropriately reducing the costs to, or growth in expenditures of, payors without reducing the quality of care for a target patient population



Quality

Improving the quality of care for a target patient population

Volume to Value

Transitioning from health care delivery and payment mechanisms based on the volume of items and services provided to mechanisms based on the quality of care and control of costs of care for a target patient population

Situational Challenge #1

The Battle over Call Coverage Stipends

Background

Neurologists are paid \$500 per night and \$1,500 per weekend for ED call. They say the facility across town pays double those rates and are demanding more pay or they will stop providing call coverage.

Constraints

Our valuation firm says that \$1,000 per night and \$3,000 per weekend exceeds FMV for neurology call coverage at our facility. Our CFO says we can't afford to double our investment in neurology call coverage.

Opportunities

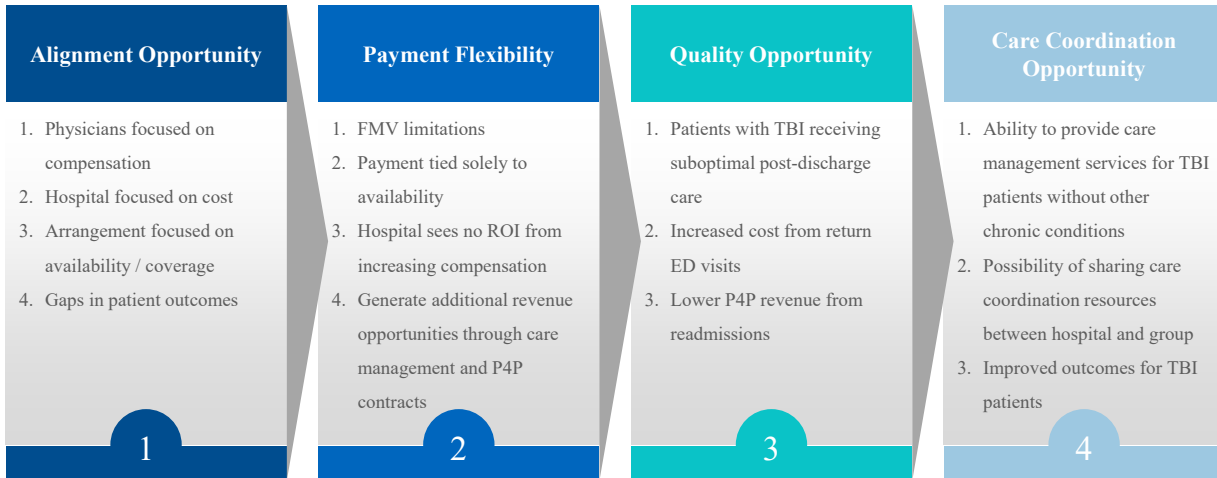
Our Level II Trauma Center sees many head injuries. Historically, we've had high number of return ED visits and readmissions for TBI patients. We believe better post-discharge care management will improve outcomes.

Desired Outcomes

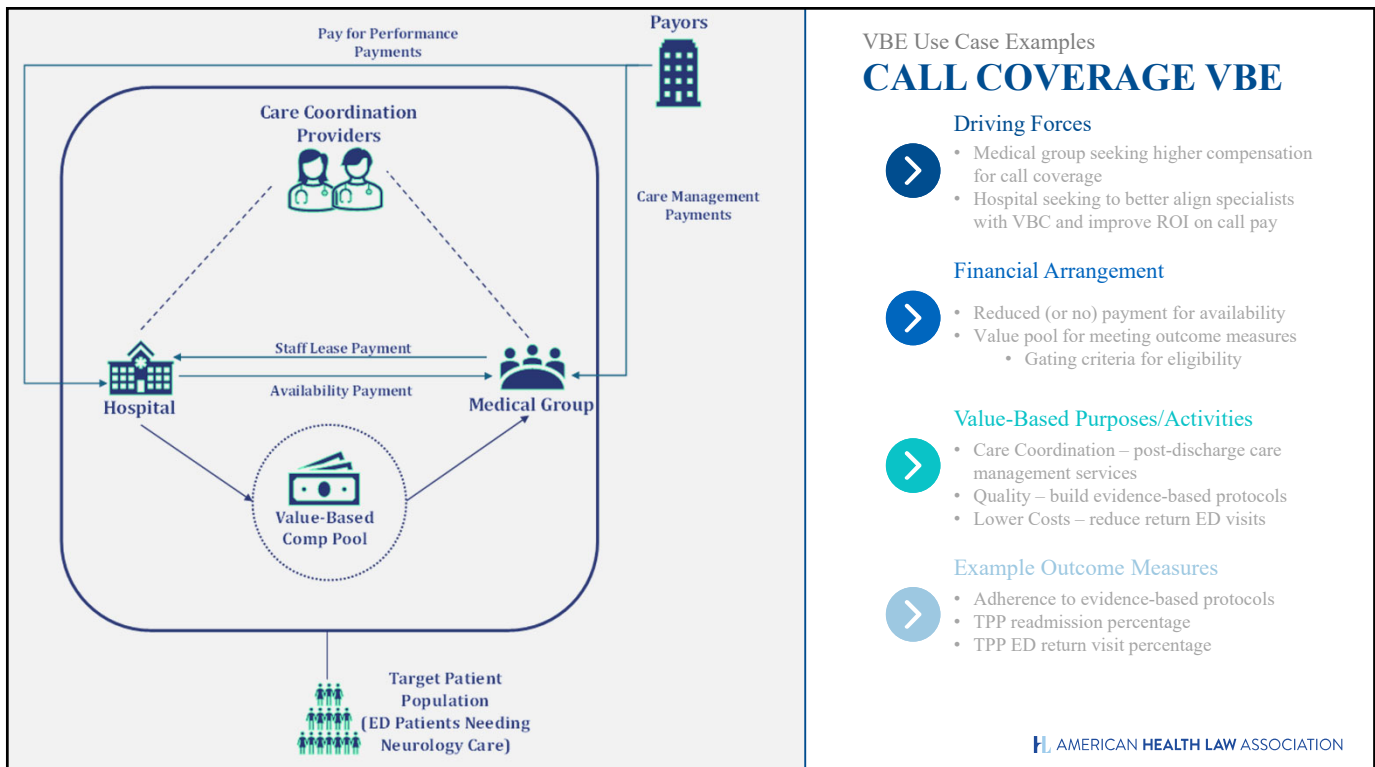
1. Maintain neurology coverage
2. Provide competitive call pay *using new funding sources*
3. Improve post-discharge care of TBI patients, reducing return ED visits and readmissions

VBE Indicators

How Do VBE Flexibilities Help?



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In-House Review

Evaluation of Proposed VBE Solution



Retains Stable Neurology Coverage



Increases Alignment between Hospital and Group



Improves Quality of Care for TBI Patients



Improves Hospital's ROI for Call Coverage Investment



Increases Arrangement Complexity



Value-Based Pool Not Covered by AKS Safe Harbor



Increases Risk of Compensation Administration Errors



Negotiations with Numerous Participants More Difficult

Situational Challenge #2

Evolution of Service Line Co-Management Arrangements

Background

Our hospital has several service line co-management agreements in place. The doctors seem wholly unmotivated by the hourly base fee. I'm concerned about FMV of the incentive fee that is heavily based on process measures with limited improvements in quality.

Constraints

Our valuation firm could not get comfortable with the amount of the base fee without a specified hourly commitment. We can't really pay an incentive fee that is based on the value the physicians create for the hospital.

Opportunities

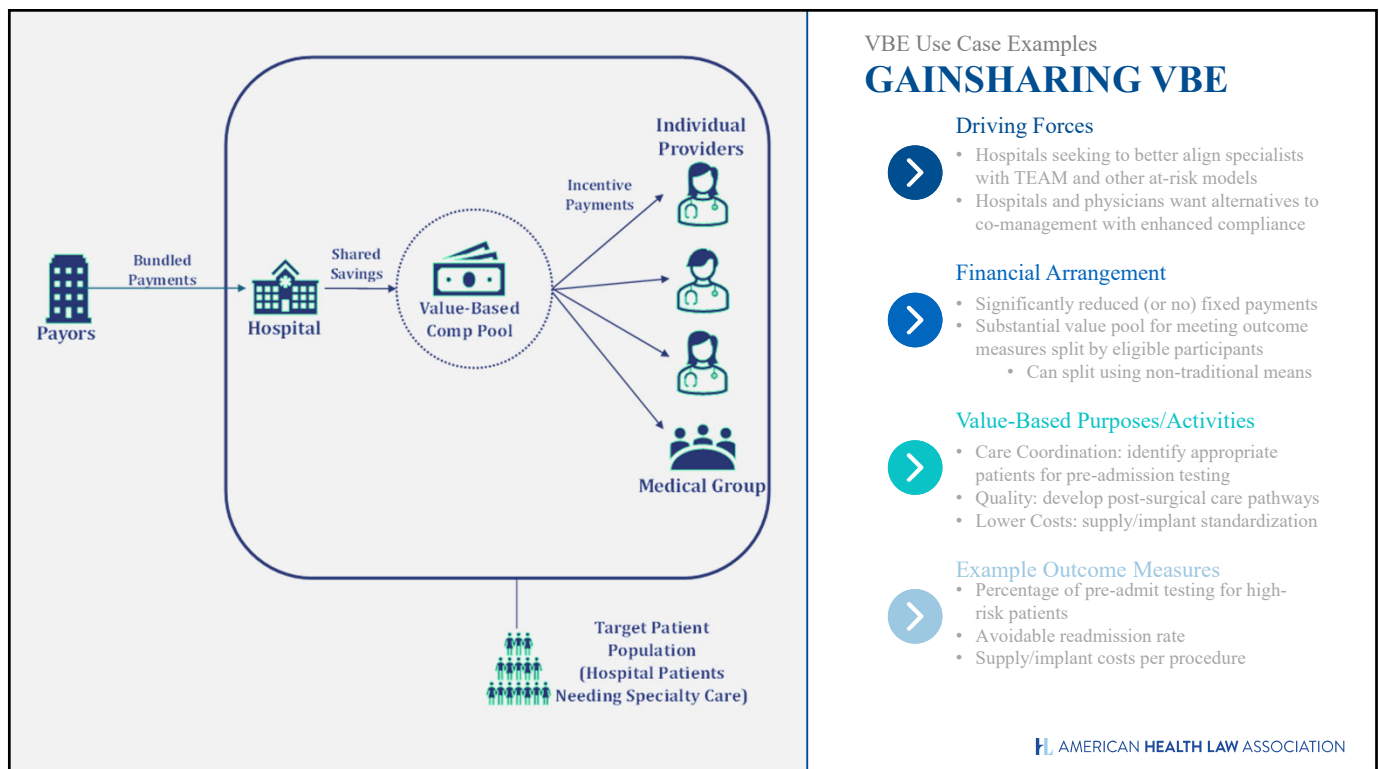
Our hospital is a mandatory participant in CMS TEAM, so we need to create stronger alignment with our specialists. We have historically not performed well in Medicare HVBP due to surgical site infection rates and cost per Medicare beneficiary.

Desired Outcomes

1. Enhance compliance of existing co-management deals
2. Strengthen alignment with specialists to drive outcomes
3. Improve quality and reduce cost for successful participation in TEAM and other at-risk payment models.

VBE Indicators

How Do VBE Flexibilities Help?



In-House Review

Evaluation of Proposed VBE Solution



Enhances Compliance - Can Fit Within Stark Exception and AKS Safe Harbor



Greatly Strengthens Alignment between Hospital and Specialists



Improves Quality of Care for Patients



Improves Hospital's Performance in At-Risk Payment Models



Need Participants to Accept Downside Risk to Fit AKS Safe Harbor



Could Reduce Margin for Hospital



More Extensive Monitoring Requirement



Need for Accountable Body/ Oversight Committee

Situational Challenge #3

Highly-Compensated Physician Employees

Background

We employ a group of very productive electrophysiologists with excellent clinical quality. We run into FMV concerns every time we renew their contracts. Renegotiations have become highly contentious and public, so other suitors are calling the group.

Constraints

FMV limitations leave group feeling underappreciated for their work. Hospital feels it has no ability to incentivize other alignment opportunities or to reward the group's high-quality care. Group complains about staff turnover and inefficiency.

Opportunities

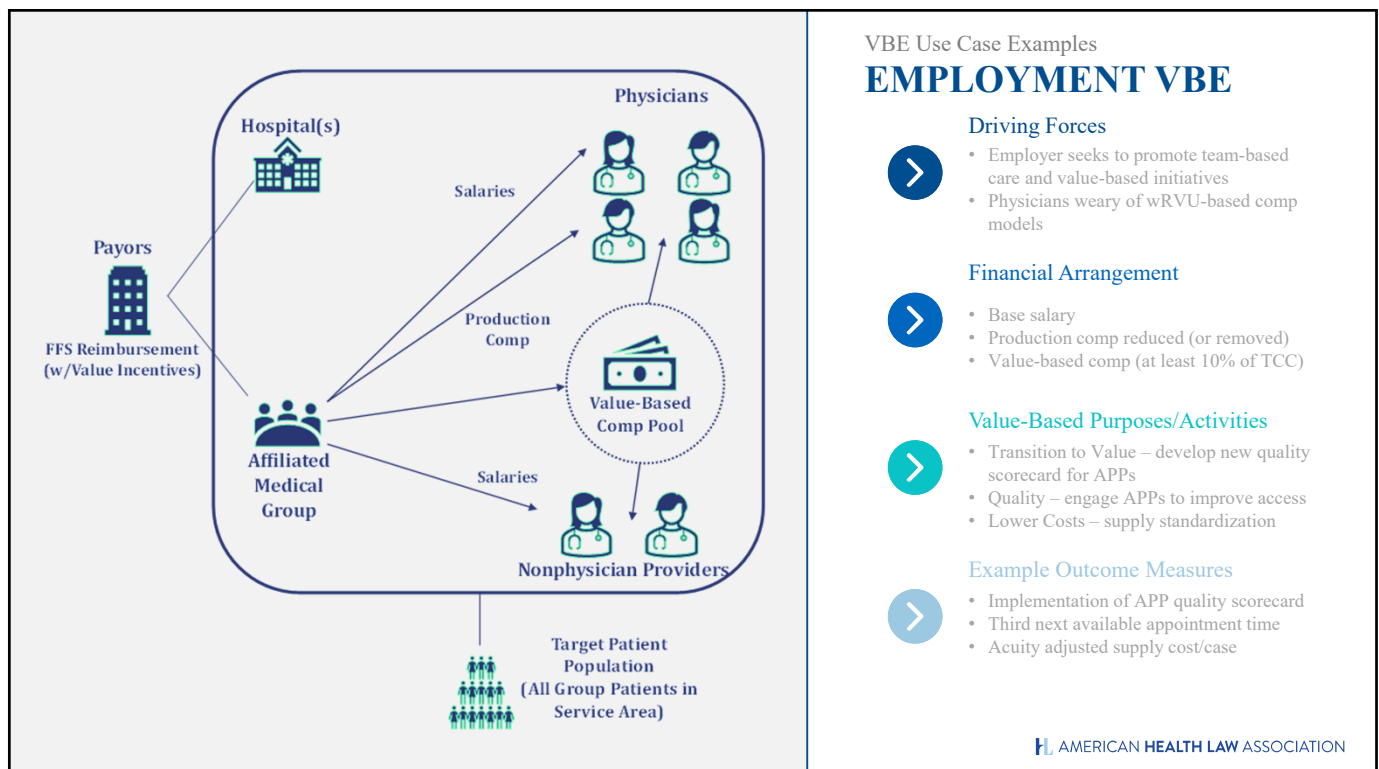
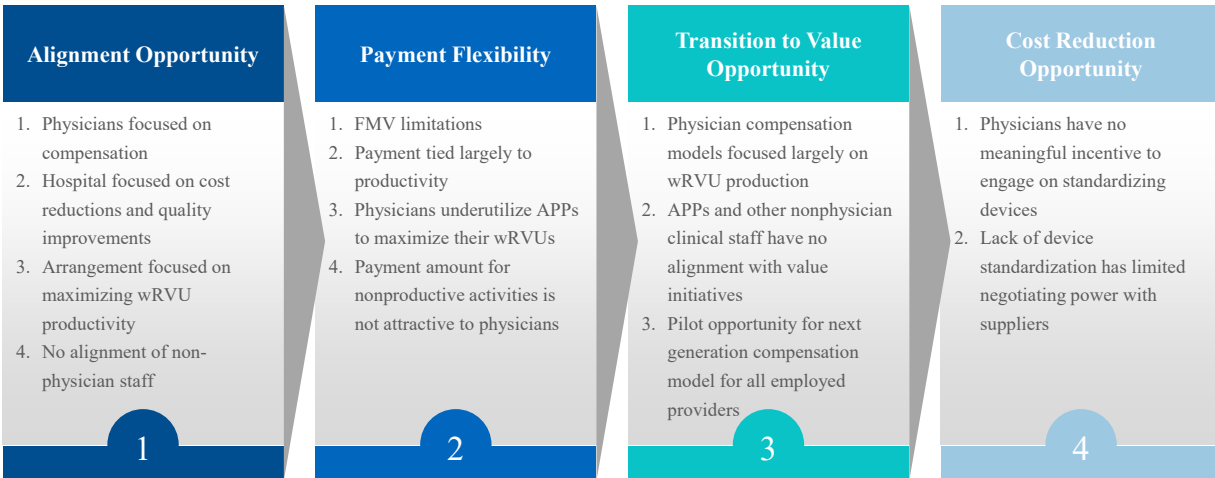
Our EPs have been unwilling to work with us to standardize devices, leaving us with little negotiating power and ample opportunity to reduce costs. We'd also like to see APPs and other providers utilized at the top of their license.

Desired Outcomes

1. Pay fairly for high production
2. Incentivize physicians to participate in nonproductive activities
3. Drive cost reductions
4. Better engage APPs and other clinical staff for efficiency and retention.

VBE Indicators

How Do VBE Flexibilities Help?



In-House Review

Evaluation of Proposed VBE Solution



Compliance With Stark Exception(s) and AKS Employment Safe Harbor



Greatly Strengthens Alignment between Hospital and Specialists



Encourages Team-Based Care and Engagement of Nonphysician Providers



Creates Framework for Expansion to Other Specialties



Some Physicians May Prefer Comp Driven Largely by wRVUs



Could Result in Reduced Revenue without Meaningful P4P Incentives



Near-term Result is Vastly Different Comp Plan for Part of Medical Group



Creates Need for Nonphysician Provider Contracting

Situational Challenge #4

Engaging Specialists in ACO Performance

Background

Our ACO is at full risk for an MA population attributed the ACO's PCPs. Incentivizing specialists, who control most of the total cost of care for the attributed members, to adhere to the ACO's protocols/processes has proven challenging.



Constraints

Our valuation firm says that we cannot allocate more than 30% of shared savings to specialists and stay within FMV. We don't think we can reduce the allocation to our PCPs without fallout. There aren't enough savings available to incentivize everyone.



Opportunities

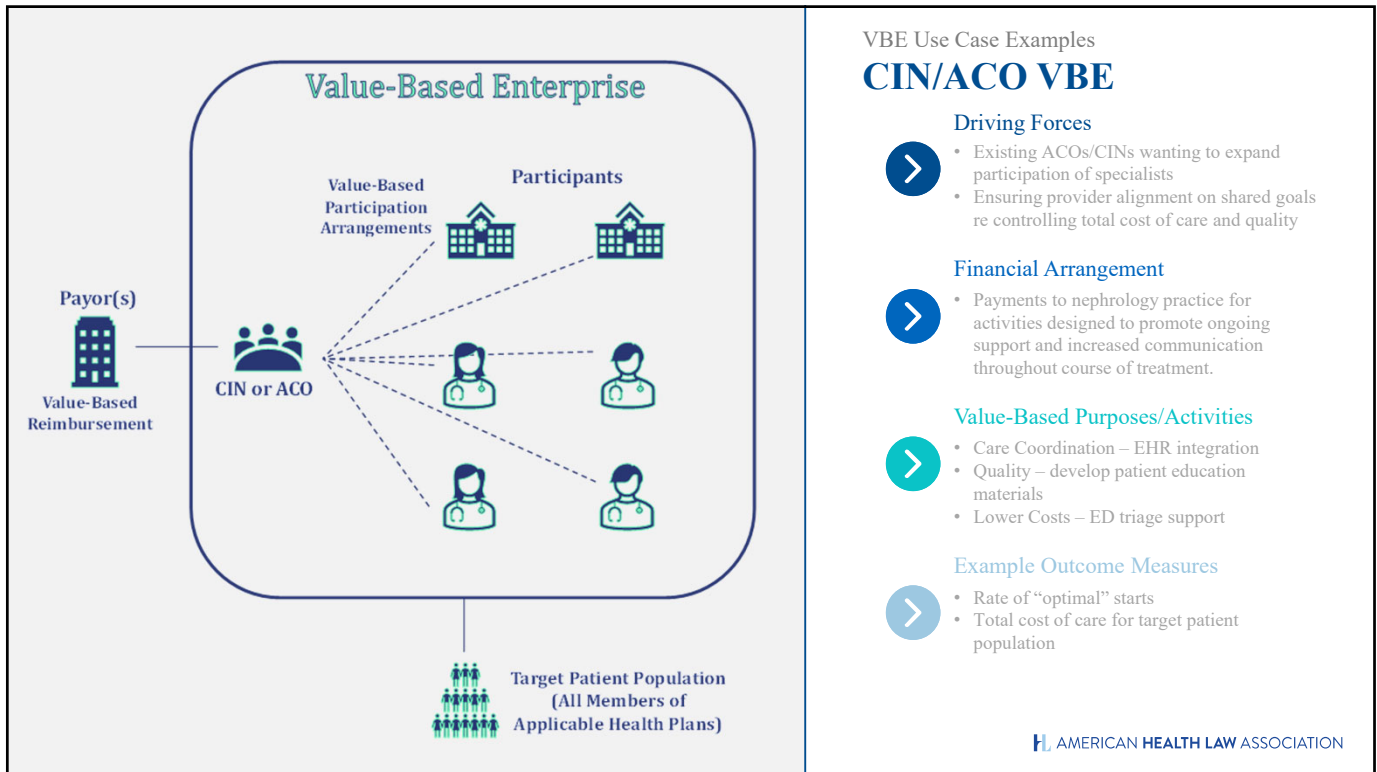
Unplanned nature of emergent dialysis and need for specialized medical interventions strains provider resources and increases costs for ACO. Better care coordination and increased patient education efforts from nephrologists could promote successful outpatient dialysis intervention for those with chronic kidney disease.



Desired Outcomes

1. Avoid "crash starts" (those starting emergently in hospital).
2. Improve outpatient dialysis access.
3. Improve patient education and ongoing support efforts to promote optimal starts.





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In-House Review

Evaluation of Proposed VBE Solution

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Key Takeaways



Best Practices and Lessons Learned

- **Know the flexibilities afforded by the value-based exceptions and safe harbors**
 - Become a “consultant” to help your business team solve difficult problems
 - Educate your client. May need to be more proactive than reactive in this space.
- **Crawl...walk...run**
 - You don’t have to jump to a full-risk model
 - Learn how to succeed with the no-risk and some-risk models
- **Don’t dismiss the value-based Stark exceptions because you are not in risk-based payor contracts**
 - Allow immense flexibility in aligning physicians
 - AKS Employees safe harbor or “intent analysis”
 - Many comp arrangements already meet 10% threshold for “meaningful risk”
- **Flexibilities don’t equal “anything goes!”**
 - Must ensure you meet all requirements of applicable exception/safe harbor (and may need to be comfortable with some AKS exposure)
 - Not every initiative in value-based arrangement is a “value-based purpose”

Questions?



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