

Resource Guide

Governing Community Care Hubs: Modifying Bylaws

Nonprofit governance consists of the systems, processes, and practices through which a nonprofit organization is directed and controlled. It involves oversight of the organization's mission, strategic direction, financial health and compliance with legal and ethical standards. Good governance is especially important for a new community care hub (CCH) as it seeks to engender trust and provides value to many different stakeholders, whether the CCH is part of a larger organization or is a standalone entity.

Most new CCHs are organized as a new function or division within an existing organization, which will have an existing board of directors.ⁱ However, some CCHs will be established as a new nonprofit organization or as a limited liability corporation (LLC) owned and controlled by several nonprofit organizations. In all three of these cases, the creation of a CCH should prompt organizational leaders to consider how the CCH will be governed. In some states that formally recognize CCHs as part of its Medicaid transformation efforts (e.g., New Yorkⁱⁱ and Washingtonⁱⁱⁱ), the state health care agency actually promulgates governance requirements for the host organizations, such as the inclusion of certain stakeholders on its board of directors.

Central to nonprofit governance is the board of directors, which serves as the governing body responsible for making high-level decisions and ensuring accountability. Board bylaws function as the board of director's operating manual, establishing formal rules for how the board operates, ensuring transparency, consistency and legal compliance. While an LLC doesn't have a board of directors or bylaws, the partners create an operating manual that serves a similar function.

This brief will discuss the major components of board bylaws and identify key questions that the organizers of the CCH will want to consider when drafting or updating its bylaws. The goal is to demystify and simplify the development or modification of bylaws to accelerate new hub creation so hubs can establish themselves and begin serving their communities. This brief also includes a bylaw template and examples of bylaws for organizations that serve as a CCH (or similar hub role) that can be used for inspiration. If you intend to construct your CCH as a new function or division within an existing organization, you may want to revisit your existing bylaws for potential modification based on this new function.

Note: *These documents do not contain legal advice. Bylaws must be consistent with state nonprofit law (or similar governance rules for other types of organizational structures). Often state law sets certain default rules that the board can decide to adopt or modify through its bylaws. Consult with an attorney who is experienced, knowledgeable and licensed to practice in the jurisdiction where your CCH plans to operate.*

Bylaws are not simply adopted once and followed. As your organization grows and evolves, you may want to add member classes, modify board composition, create new standing committees or change voting rules. It is good practice for organizations to review and potentially modify their bylaws annually or biannually. This is particularly true when an organization is taking on a substantially new role, like serving as a CCH.

While many nonprofit bylaws are very similar in structure and content, they should be tailored to reflect specific values and goals of the organization. When a CCH is developing or updating its bylaws (and even beforehand when stakeholders are establishing the legal entity that operates the CCH), it faces some very important questions. Before starting to draft or update your bylaws, consider the following questions.

1. MEMBERSHIP: Should the organization have members or not?

This is a core question that you may need to answer at the time of incorporation (before the bylaws are even drafted). Members are like shareholders in a public corporation. They have certain decision-making authority, often including election of the board of directors. Membership organizations often have different classes of members and may have contribution and dues payment expectations. Bylaws establish the different classes of members (and having a single class of members is perfectly acceptable), qualifications for membership and the respective rights and powers of each class of members. In the case of a CCH, the members may include existing community-based organizations (CBOs) and health care entities that come together to form the network, as well as other relevant stakeholders. For example, the Camden Coalition has four membership classes: health care, higher education, partnering organizations (social service organizations), and community residents.

Choosing to have a membership organization gives member stakeholders a level of control that would otherwise be reserved for an independent board. This limits the independence of the CCH and its board and creates a level of accountability to the members. In contrast, nonmembership organizations are governed solely by the board of directors, whose members are initially selected by the organizational founders. These nonmember or “self-perpetuating” board structures will select their own successors over time as outlined in the bylaws.

If you choose a membership structure, you will need to determine 1) whether CBOs that may potentially contract with the CCH are eligible to become members or conversely, 2) whether CBOs that may not be part of the CCH’s CBO provider network should be eligible, and 3) whether their representatives are eligible to serve on the board of directors.

In the same vein, should representatives from health care organizations or managed care payers that may or may not become contractors with the CCH be eligible for membership or serve on the CCH’s board? Having contracted CBOs or health care provider representatives in a member or board role gives them power over the CCH that can create a conflict of interest. On one hand, contracted CBOs and health care organizations are important stakeholders for whom the CCH should provide value and be accountable. On the other hand, having conflicted CBOs or health care providers as members or board members creates the potential for improper influence and lack of parity amongst contracted CBOs and health care providers and can impede the CCH management from operating effectively and making objective decisions.

If you decide to allow contracted CBOs or health care representatives to be members and/or board members, it will be critical to have a strong conflict of interest policy that is vigorously enforced. If allowed, the CCH’s bylaws should clearly exclude contracted CBOs and health care representatives from participation in discussion or voting on issues with which they have a conflict, and similarly conflicted board members should avoid informal influence over fellow board members or the CCH CEO and staff on issues involving their organizations or competitors.

2. GOVERNING BOARD: Who will be on the governing board, often referred to as board of directors or board of trustees (“board of directors”)?

The board of directors is the ultimate fiduciary authority for the organization. The board sets strategy and policy and oversees the chief executive and their team, who are responsible for day-to-day operations. Bylaws define various aspects of the board of directors, including its size (maximum and minimum); officers; any qualifications for directors (e.g., number from each member class or number possessing certain characteristics), including what constitutes a conflict of interest, terms of service, compensation; whether there are term limits; and how vacancies are filled.

The rules defining the board composition may dictate the relative influence of different classes (in a membership organization) or other types of stakeholders.^{iv} As discussed above, there are important considerations when deciding whether the representative of a contracted CBO or health care representative is eligible to sit on the board.

You will want to balance the size of the board. Too large a board creates a lot of work for the CEO to manage, can slow decision-making and may reduce the level of commitment and connection among board members. Too few board members risks having inadequate representation from different types of stakeholders and too narrow a point of view.

3. MEETINGS: How often does the board meet and what type of notice is required?

Bylaws establish rules around the frequency of board meetings, whether there can be virtual meetings, requirements regarding special meetings and an annual meeting, and how board members are notified of meetings. Quarterly meetings are the norm for a board of directors, but a smaller executive committee can meet in the interim months, if necessary, to manage any business that cannot wait for the larger board meetings. Rules about virtual meetings, remote participation, and proxy voting reflect a balance between flexibility and convenience for members while trying to establish a board culture and relationships that may be strengthened by regular in-person contact. Where in-person meetings are expected, or other requirements that create expenses for board members, the bylaws or board policy should describe whether the organization will or will not pay these expenses.

4. COMMITTEES: Which standing committees do you want?

Bylaws often establish standing committees such as Finance and Audit, Executive, Governance, Quality, etc. Bylaws can establish the purpose and composition of those committees. When starting, you should limit the number of committees to ensure you can devote adequate resources to their management. Note, however, that a CCH's board can establish committees (either standing or time limited) without amending its bylaws. For more information on CCH committees, see our Guide to CCH Committees and Charters.

5. QUORUM AND VOTING: Which voting rules do you want to establish?

A quorum refers to the minimum number of people who must be present at a meeting for the board of directors to conduct business. Generally, the quorum is simple majority, though bylaws can set the quorum either higher or lower. A higher quorum will make it harder for the board to conduct business but also will ensure that more directors are present at meetings.

Voting rules include the number of votes it takes to carry a motion or other vote at a meeting, whether directors can vote by proxy, whether the board can conduct votes by email or other electronic form, etc. While many boards require only a simple majority (51 percent) of directors present at a meeting to carry a motion, others may require a supermajority (often 60 percent or two-thirds) for some or all votes in order to promote compromise and consensus. Also, you may decide to require a higher level of consensus (e.g., a majority or supermajority of all directors, not just those who are present) for certain types of votes/decisions that go to the core of the organization's structure (e.g., amending bylaws or articles of incorporation). However, if it is difficult to gather that number of voting directors, the organization may be hampered in making time-sensitive decisions.

Suggested Sections of CCH Bylaws

The following is a comprehensive but not exhaustive list of topics that an organization hosting a CCH should consider including in their bylaws:

Major Sections of the Bylaws

- Name of organization
- Organization's legal location
- Mission/purpose of organization
- Organizational Membership (if applicable)
 - Names and qualifications for membership class(es), including whether membership is available to individuals or only organizations
 - Membership powers
 - Membership voting process
 - Process for removal

- Meetings of the Membership (if applicable)
 - Frequency
 - Authorize remote participation or proxy
 - Where and when
 - Special meetings
 - Notice of meetings
 - Quorum
 - Voting rules
- Governing Board
 - Size – minimum and/or maximum number
 - Directors – any qualifications for different board seats (including representation from different classes if a membership board)
 - Officers – usually Chair or President, Vice-chair, Secretary and Treasurer
 - Nomination/election process – describe process for both directors and officers, including rules regarding replacement of directors in cases of incapacity, removal, resignation or death
 - Terms and term limits
 - Resignation/removal of directors (with/without cause)
 - Compensation and expenses (if any)
- Meetings of the Board
 - Frequency
 - Authorize remote participation
 - Where and when
 - Special meetings
 - Notice of meetings
 - Quorum (see above)
 - Voting rules (see above)
 - Actions without meetings—notice and quorum/majority
- Board Committees
 - Name any standing committees (some states may have specifically required standing committees)
 - Designate authority of each committee
 - State law may prevent designation of committee authority that is reserved for the board as a whole and/or for action of the membership (e.g., approving a new trustee, changing the bylaws, amend or repeal any board resolution, etc.)
- Conflict of interest policy—including policy on annual disclosure
- Antitrust policy
- Indemnification and insurance
- Transaction of business – authorizing the organization to invest funds, incur indebtedness, execute contracts, etc. (may include any details about whether or when board approval is required)
- Modifying bylaws – any special voting rules around bylaw changes
- Dissolution

Conclusion

The creation of a CCH, whether structured as a new organization or housed within an existing organization, raises important governance questions that require thoughtful deliberation and decision-making. Drafting or updating bylaws does not, however, need to be an overly drawn-out process. Good bylaws are often revisited regularly, based on experience, to make sure that the rules and processes are realistic and achieve the desired intent. Sample bylaws and a bylaws template are linked to help make your process easier.

About the Aging and Disability Business Institute

This publication was produced for the Aging and Disability Business Institute via a collaboration of Partners in Care Foundation, stakeholders of the Partnership to Align Social Care, was authored by the Camden Coalition and was funded by **The John A. Hartford Foundation**. Led by USAging, the mission of the Aging and Disability Business Institute (Business Institute) is to build and strengthen partnerships between aging and disability community-based organizations and the health care system. The Business Institute provides community-based organizations with the tools and resources to successfully adapt to a changing health care environment, enhance their organizational capacity and capitalize on emerging opportunities to diversify funding. Learn more at www.aginganddisabilitybusinessinstitute.org.

Partnership to Align Social Care

A National Learning
& Action Network

About the Partnership to Align Social Care

The Partnership to Align Social Care, A National Learning and Action Network (Partnership) aims to address social care challenges at a national level by bringing together essential sector stakeholders (health providers, plans and government with consumers) to co-design multi-faceted strategies to facilitate successful partnerships between healthcare organizations and community care networks. The Partnership is a unique national effort to elevate, expand, and support a network-based approach to sustainably addressing individual and community health-related social needs. Learn more at www.partnership2asc.org.



About the Camden Coalition

The Camden Coalition is a multidisciplinary nonprofit working to improve care for people with complex health and social needs in Camden, NJ, and across the country. We work to advance the field of complex care by implementing person-centered programs and piloting new models that address chronic illness and social barriers to health and well-being. Supported by robust data infrastructure, cross-sector convening, and shared learning, our community-based programs deliver care to the most vulnerable individuals in Camden and regionally. Through our National Center for Complex Health and Social Needs (National Center), the Camden Coalition works to build the field of complex care by inspiring people to join the complex care community, connecting complex care practitioners with each other, and supporting the field with tools and resources that move the field of complex care forward. Learn more at www.camdenhealth.org.

Endnotes

- i Forming a CCH within an existing organization rather than starting a new organization has many benefits, including leveraging an existing legal entity, its board and leadership and existing operational and administrative infrastructure.
- ii New York's SCN Operating Manual requires that its Social Care Network (SCN) lead entities, which are CCHs, form a "governing body" for each regional SCN. The body must include "a wide array of stakeholders in the region, including (but not limited to) CBOs delivering HRSN services, providers, advocacy organizations, members, and other community members who are representative of the communities served by the SCN. CBOs should comprise the majority of the governing board for each SCN." [SCN Program, Billing, and Data Governance Operations Manual](#), p. 25-26, available at [SCN Program, Billing, and Data Governance Operations Manual](#).
- iii In Washington, the contract between the Washington Health Care Authority and each of the nine Accountable Communities of Health requires the following representation:

ACH Decision-Making Body Composition

Contractor must be headquartered in the region they serve and include in their governing bodies representatives of Managed Care Organizations, health care providers, and other relevant organizations within the region.

Tribal Partners Communication Policy

... Contractor's decision-making body must make reasonable efforts to receive ongoing training on the Indian health care delivery system with a focus on their local tribes and IHCPs and on the needs of both tribal and urban Indian populations.

Per the adopted HCA's Model ACH Tribal Collaboration and Communication Policy

...Contractor will hold at least one seat on the ACH governing board for the tribes, IHS Facilities, IHS Organization and UIHPs in its region to designate a representative.

- iv For example, Healthier Here, one of the CCHs in Washington State, assigns the distribution of its board seats to representatives of various sectors, including providers and payers, government, indigenous tribes, community and consumers, CBOs, philanthropy and business. The number of seats is not equal across all sectors and corresponds to the level of influence afforded each stakeholder group.