



## **2010 ISSUE BRIEF**

### **SEPARATE MEDICAL MALPRACTICE PROTECTION FOR ACCOUNTABLE CARE ORGANIZATIONS (ACOs)**

#### **Background**

ACOs are one of the key efforts of the recent health care reform legislation that address the two greatest challenges facing US health care: unsustainable escalation of costs that threaten the affordability of care and care that is fragmented, poorly coordinated with little accountability for the outcomes of care. The ACO concept couples payment and delivery systems reforms that may have the opportunity to bend the cost curve while improving access and quality.

#### **Position**

For ACOs to be successful, Congress should provide safe harbors for adherence to evidence-based clinical practice guidelines and subsidized reinsurance that is made conditional upon meeting certain patient safety goals.

The goal of providing a safe harbor for ACOs that adhere to evidence-based guidelines is to strengthen the weight of clinical guidelines during litigation. It could help prevent or lead to the dismissal of claims that lack merit. It would also likely reduce defensive medicine because providers would have more confidence about the legal standard of care.

The idea of government-subsidized malpractice reinsurance is that ACOs that meet certain conditions, such as improving patient safety, would receive subsidized reinsurance or stop-loss coverage on claims that exceed a certain threshold. This would offer an additional incentive to providers to improve quality and safety.

#### **AMGA Asks Congress To:**

- Provide a safe harbor from excessive medical malpractice costs to ACOs that adhere to evidence-based clinical practice guidelines
- Provide government-subsidized malpractice reinsurance to ACOs that meet certain conditions, such as improvements in patient safety