

Partnership Profile

How the Council on Aging of Southwestern Ohio Balances Cross-Sector Relationship Development with Smart Business Decision-Making

Developing relationships is a crucial component to creating—and sustaining—long-lasting cross-sector partnerships. The process of developing relationships thrives on mutual respect, balancing risk among partners—and knowing when to say ‘no’ and not allowing the desire to build a good relationship to override the imperative to make good business decisions.

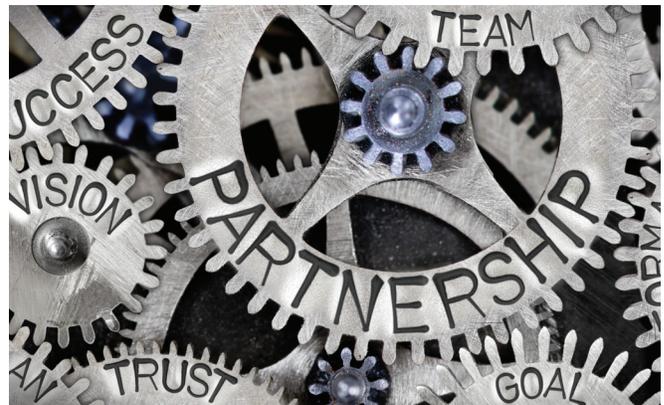
The Council on Aging (COA) of Southwestern Ohio is a master of balancing the needs of all sides and often plays the role of tough negotiator and collaborative partner to their health care clients to help ensure that each partnership brings value to everyone involved.

As COA’s CEO Suzanne Burke explains, “You must balance what is right for your business with the importance of nurturing cross-sector relationships. You cannot value the relationship so much that you end up making a bad business decision for your agency. Negotiations can get tough—and they will get tough—but you have to hold your ground and do what is right for your business.”

Maintaining this balance has paid off, as COA enjoys a robust portfolio of partnerships with several health plans, producing \$12.3 million in commercial revenue. These partnerships have helped health plans reduce health costs and institutional spending while improving health outcomes and the member experience.

Early on in the agency’s experience with cross-sector partnerships, COA engaged with a large national health system as part of a statewide program focused on managing health care and home and community-based waiver services for Ohio’s population of older adults who are eligible for both Medicare and Medicaid.

The contract requirements were, as Burke puts it, extensive. Community-based organizations (CBOs), she warns, must read contracts thoroughly and look for requirements hidden within clauses that may influence the way services are delivered, thus affecting the costs associated with service delivery.



In COA’s experience, health care plans partnering with CBOs often bring to the table contracts that refer to underlying documents that are full of requirements. The most common types of underlying documents COA has seen are three-party agreements involving the Centers for Medicare & Medicaid Services (CMS), the state of Ohio and health plans. In these instances, COA had to adhere to requirements of both its health plan partner and CMS, including many requirements that were not explicitly referred to in the text of the contract. “You may read a contract and see a straightforward service agreement, but in order to comply with the agreement, you actually have to find and understand the 200-page document it points to,” Burke says.

In other words, what may appear to be a straightforward and simple clause may end up requiring much more of the CBO than it had anticipated. Yet, CBOs are required to abide by all requirements of a contract, including those referred to in underlying documents, rules and regulations. COA has seen

requirements related to the programmatic—describing how it will provide care management and how it will classify individuals—to the non-programmatic—the number of required chart reviews and guarantees for staff trainings.

Burke stresses, “You’ve got to have a full-picture understanding of the ultimate contract your organization is being asked to sign before you agree on rates, otherwise you could wind up with surprises that impact business and the cost to deliver on what you’ve agreed to.”

If the first step of creating durable cross-sector partnerships is identifying whether a potential partnership opportunity is a relationship worth pursuing, the second step would be understanding the totality of what the health care partner is asking of your CBO. The third step is smart negotiation.

Determine Your Guiding Principles for Negotiation

Burke, a seasoned negotiator, and her team at COA have identified guiding principles that they now use as a framework for all contract negotiations. Guiding principles will be different for each CBO, but Burke recommends that all CBOs begin with identifying deal-breakers, the rationale for each and end with having the confidence to walk away from a potential partnership if the proposed contractual agreement is not aligned with what your CBO is willing—or able—to do.

Financial Viability

One of COA’s guiding principles is that the agency will not enter an agreement in which they believe they’re setting themselves up to lose money over the long term.

Of course, understanding whether a contract will cause your CBO to lose money over the long term requires that your CBO have a strong grasp of its financial model, the costs of service delivery and costs associated with any of the contract’s underlying requirements. COA’s leadership team has a solid understanding of the agency’s financials and they make a point to closely examine contracts, helping COA pinpoint any areas that may have a negative financial impact.



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In order to make wise decisions, CBOs should make these calculations and projections before negotiations begin. COA’s financial model assumes that there will be some unrecovered startup costs, but the financial model is also designed to project how the agency will recover these funds in the long term. If the proposed rates do not align or do not enable COA to recoup any initial losses—and make a profit over time—the agency will not enter into the partnership.

Burke and her team have learned to request a contract template—and any related attachments—from potential health plan partners early in the process, giving the COA team the ability to preview any requirements that may generate additional costs before discussions about commitments and rates begin. Offering another example, Burke explains, “Health plans have significant HIPAA (Health Insurance Portability and Accountability Act) requirements, particularly around technology, and some plans are requiring community partners to have Health Information Trust Alliance (HITRUST) certification, which can be a six-figure commitment. Understanding this contractual requirement and the associated cost is critical for rate negotiations.”



Mutually Beneficial Agreements

COA's second guiding principle puts emphasis on the term "mutual."

Cross-sector partnerships cannot be too one-sided, particularly when it comes to the contract language. For COA, determining how to balance the benefits of partnering starts in the early phases of relationship development and gets solidified during contract negotiations.

One area where mutual responsibility is critical is in indemnification. Many of the contracts COA has with health care partners include indemnification clauses, which are essentially promises that your partner cover your agency's losses if they do something that causes you harm or causes a third party to sue you.

Burke finds that most initial versions of partnership contracts have one-sided language around indemnity—meaning the health plan would expect COA to cover its losses without doing the same for COA. When COA receives such a contract, Burke says COA will always negotiate to turn one-sided indemnity language into mutual indemnity language.

COA does the same with termination clauses. Burke recommends that CBOs entering into contracts with health care partners ensure that their contracts include a clause that enables each involved party to terminate the agreement if needed. Burke stresses, "You need mutual termination language in your agreements." It is important to have mutual language that balances risk across both partners as a means to protecting your organization in cases where there are issues or surprises.

COA's emphasis on requiring mutual language in contracts speaks to the agency's steadfastness in protecting its business.

Ownership of Intellectual Property

COA's third guiding principle for reviewing contracts has to do with ownership. For example, COA believes that if it has designed the intervention, it owns the intellectual property for that intervention.

CBOs do valuable work and spend a considerable amount of time designing and delivering services and interventions that are unique to their organization. Why should a partner own that work? Burke recommends that CBOs take COA's lead by pushing back on contract language that may allow a partner to take any ownership of the CBO's work. In one case, one of COA's current partners sought to include language that would give it ownership of a brand that was a wholly-owned subsidiary of COA. Burke had no qualms about telling this potential partner that COA would have to walk away from the collaboration if that contract language did not change. And it worked—COA now enjoys a relationship with this health care plan.

Preserve Your Operations

COA's fourth guiding principle is that the agency will not sign an agreement that attempts to dictate how COA runs its business. "CBOs should feel empowered to run their businesses as they see fit," says Burke. "We won't relinquish control over how we run our business. For example, we would not sign a contract specifying that we must adhere to the health plan's holiday schedule, working rules or employee dress code." CBOs must raise a red flag if there are circumstances in which a potential partner may be overstepping boundaries.

"We're always thinking in terms of, 'Is this a good business decision?'" Burke says. "We've gotten pretty good at identifying problematic areas by using our guiding principles as our baseline negotiation framework, and when we need it, we also have good legal counsel."

Leaders of CBOs must determine where they will draw the line on partnership contracts with health care organizations. COA's guiding principles serve as a good starting point for any CBO that is pursuing partnerships as it determines which contract requirements it should

consider. CBOs that know their business boundaries will be in a better position make good business decisions. CBOs following COA's example are more likely to enter into partnership contracts that enable their agencies to (1) ensure that they aren't put in a position that may cause them to lose money, (2) protect their intellectual property and (3) maintain control over their operations.

COA's aptitude for negotiation enabled it to enter into a contract that expanded the agency's cross-sector work to include a new kind of intervention aimed at managed care members who have substance abuse disorders.

In the early stages of this new partnership opportunity, there were some "no-go" clauses that Burke and her team knew they could not agree to—and the COA team held its ground. "It can be a tricky rope to walk," says Burke. Where some organizations may have been tempted to overlook some of the tough negotiations that were needed to get a mutually beneficial agreement in place, COA's leadership team stuck to their guiding principles and did not let the desire to launch the partnership override the need to make a wise business decision.

Find Your Leverage Points

From COA's perspective, understanding leverage points means understanding how much the potential partner needs your agency and its services. This also means understanding the context for the opportunity—the who, what, why and when of the potential partnership. The more you know about the potential partner's motivations, challenges and needs, the more easily your agency can determine what leverage it has in the negotiating process.

Finding your point of leverage, or your strongest platform to stand on for negotiation, requires doing your homework to understand everything you can about the potential health care partner, the opportunity and the competition. To discover where your CBO has leverage, Burke urges CBOs to prioritize knowing what current initiatives potential partners are involved in and the corresponding requirements and risks, how these requirements influence the potential partnership arrangements, who else the potential partner is courting for partnerships, and your CBO's position in the list of organizations being courted.



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A CBO's leverage point will likely be different for each negotiation. Your CBO may find that it is the only agency the health care entity is considering for a potential partnership. If this is the case, and, if the health care entity cannot take its business elsewhere, then you have leverage in the negotiation. As a result, your CBO may be able to push harder for what it wants in the final contract because the health care entity has no choice but to find a way to work with you. In another instance, your CBO may find that one of its programs is known for being the best of its kind in the community. If your CBO knows that a health care entity wants to partner with the best service provider in the area, you will have leverage in negotiations. Or, your CBO may be approached by a health care entity that has a short period of time to submit a bid for a statewide contract. If the health care entity cannot convince your CBO to partner with them on the contract, it may lose the opportunity, giving you a leverage point in negotiations. Knowing just how much a potential partner needs you—and what this means—will reveal the leverage points your CBO can use as it negotiates contracts with confidence, giving you more power in negotiations.

As COA's experience shows, knowing your leverage points is helpful in any negotiation. Burke remembers that in the midst of negotiations, a health plan partner was gung ho about kicking off a program, including training for COA staff, by a certain start date, even though the COA and the health plan partner hadn't yet agreed on a rate. "The terms weren't finalized, so I had to make the decision that I wasn't going to send COA staff for training until we finalized all the other details of the agreement, including a rate," recalls Burke. "This was our point of leverage in this deal because we knew that without our staff getting the training, the work couldn't start in the timeframe desired by the health plan. The next day, after I canceled our staff's participation in the scheduled training, the health plan team was more motivated to finalize the rate quickly so that we could keep the initiative on track."

While asserting your power— and using any leverage points your CBO may have—in cross-sector partnership negotiations may feel uncomfortable, CBOs should not worry about damaging relationships with potential partners.

As Burke would attest, you are up against skilled negotiators, and at the end of the day, it's business. "It's business throughout the whole process of contract negotiation. It's business for them and it is business for us. We have numerous examples of getting uncomfortable during the negotiation process, but once the agreement was settled and signed, the relationship moved on," she says. "We've never had anyone hold a grudge because they thought we were difficult to negotiate with."



Understanding How Risk is Balanced Across Partners

While it is natural for CBOs to get excited about the operationalization of a new cross-sector partnership, it all comes down to the contract. And that contract should not only outline the specifics of the work your agency will undertake and the rates you have agreed upon with your partner, the contract should also serve as a template of how risk will be balanced across each organization.

The size of the partners involved should not matter—even if one organization is a large national health plan and the other is a small CBO. A partnership contract should be fair and balanced across all involved parties.

For a CBO, Burke says, "You are taking on risk when you enter a contract that represents your agency taking on a new payment structure, product or outcome." This is especially true when the partnership is new and there are many unknown elements that can become risks. For instance, while the contract terms may be fair and balanced, a CBO may find that the health care entity has incomplete or incorrect data about their members—creating an obstacle. COA's experience shows that CBOs will encounter unanticipated issues once the work begins. What is key to a good partnership is ensuring the contract agreement balances risk and emphasizes an underlying mutual desire to collaborate on finding solutions.

Keeping that idea in mind, it is also important for CBOs to remember that health care partners are also taking on risk. In addition to being accountable for partnership outcomes and adjusting to new reimbursement models that attach financial incentives to performance, reputational risk is a factor. If a health plan contracts with a CBO to provide services on its behalf and the CBO falls short or makes a poor impression on the plan's members, that could be very problematic for the health plan.

"The agreement has to be fair for both parties. I can't stress that enough. You don't want to lose out, but you don't want a contract that is unfair to the plan either. The partnership starts and ends with the contract. That's what the work falls back on," says Burke.



Be a Strong Negotiator and a Strong Partner

If you ask Burke whether cross-sector partnering is worth it, her answer is yes.

COA's biggest piece of advice for CBOs entering into cross-sector partnerships is that CBOs must not place the excitement of relationship-building ahead of sound business decision-making. CBOs need to think of themselves as being on an equal footing with potential health care partners. It is critical to identify where your CBO needs to draw its "business boundaries" and hone its skills around reviewing contracts and isolating any problematic clauses that could strip your CBO of its power over your business or cause your CBO to lose money. When your CBO enters negotiations with a sense of confidence that you are approaching

a contract negotiation with your business' best interests as well as a desire to work effectively and collaboratively across the sectors, it will be in a position to build durable, mutually beneficial cross-sector partnerships.

"You can't underestimate the magnitude of sectors working together to be successful," Burke adds. "There are great opportunities for CBOs out there. If you don't already have strong negotiators in your organization assessing cross-sector partnership contracts, it's a skill you need to bring in. Remember: this is your business."

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