Governing in the Post Reform Era

Fiduciary Responsibilities
Duty of Care

• A trustee has a responsibility to participate in decision-making on behalf of the organization, and must exercise independent judgment while doing so. These decisions must be informed meaning that the board member should make efforts to become familiar with the relevant, available facts.

• With respect to corporate compliance, the duty of care requires that board members “attempt in good faith to assure that (1) a corporate information and reporting system exists, and (2) this reporting system is adequate to assure the board that appropriate information as to compliance with applicable laws will come to its attention in a timely manner as a matter of ordinary operations.”

• Failure to comply with regulations and other federal and state laws can expose a hospital or system to significant criminal and civil monetary penalties that can be fatal to a hospital or system. ~ e.g., Toumey

Duty of Loyalty

**Duty of loyalty:** When acting on behalf of an organization, board members must set aside their own interests, whether professional or personal, or the interests of any other organization. Simply put, the nonprofit organization must come first.

Should “staying independent” be part of your mission?
Outpatient Services are Most Vulnerable to New Market Forces

Strategy Requires a Point of View (POV) Regarding Market Pace and Organizational Competencies

- What will the local market look like in five years?  
  - Show me the evidence!

- What competencies do you need to succeed?  
  - Do you possess them?  
  - Realistically can you develop them?

- What is the industry’s conventional wisdom, have we seen this movie before – how did it end?

- Are the physicians on board?

- What are the financial implications (w/o heroics)?
Value = Benefit/Price
(Differently better in the eyes of the customer)

--- Benefit ---
Appropriateness
Outcomes
Service
Access

Per Dollar

Requires Measurement & Elimination of Waste

Who is Accountable for Ensuring Value?

SIOUX FALLS, S.D. — More than a dozen physicians named as defendants in federal lawsuits for granting privileges to a spine surgeon.

~ USA TODAY JANUARY 11, 2015

It takes 17 years for a medical advance to make it into common practice.

~ Posted by policyDocs - September 10, 2012

HHS OIG - Hospital Boards Have Abdicated Their Duty of Care:
Expected to understand and be involved in the assessment of quality and patient safety.

Board Focus Correlates with Quality Outcomes Health Affairs 8/15
Can You Rely on the Medical Staff to Ensure Value

“Unwarranted care variation squanders resources and puts patients at risk.”

Rate of major obstetrical complications varies by 2x

Dr. Howard Graman, MD Chairman AMGA (2014)

<table>
<thead>
<tr>
<th>Concern About Incompetency of a Peer</th>
<th>Discussed Their Full Concern with the Peer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nurse</td>
<td>53%</td>
</tr>
<tr>
<td>Physician</td>
<td>68%</td>
</tr>
</tbody>
</table>

• Does something dangerous at least once a month
• The problem has gone on for a year or more
• A patient has been harmed by this person’s action

...other doctors described [the neurosurgeon] as ‘dangerous’... but the medical staff delayed taking action against him even though patients were being harmed. Meanwhile the hospital continued to both actively encourage other physicians to refer to him and pay to promote his neurosurgical practice. (2012)

Delivering High-Quality Cancer Care: Charting a New Course for a System in Crisis - IOM 2013

Findings point out a major quality issue for cancer patients who have no way of knowing how much their doctors’ financial incentives influence their recommended course of care.

Karen Hoffman, MD
MD Anderson
JAMA Oncol, 7/14/14
HealthLeaders, 7/17/2014
**The Emergence of More Government Scrutiny – New Focus on Physicians**

**Fraud Alert: Physician Compensation Arrangements May Result in Significant Liability**

June 9, 2015

The OIG states that physicians who enter into “compensation arrangements such as medical directorships must ensure that those arrangements reflect fair market value for bona fide services the physicians actually provide.”

<table>
<thead>
<tr>
<th>Georgia system to pay up to $35M (MD to pay $425K) for paying a physician excess salary, directorship, up-coding and self-referral</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broward County Hospital will pay the government $69.5 million to settle allegations that it illegally paid nine doctors for referrals.</td>
</tr>
</tbody>
</table>

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Clinical Integration
Clinical Integration

An active and ongoing program to control costs and ensure quality requiring:

1) Mechanisms to monitor and control utilization of services
2) Selectively choosing network physicians based on performance
3) Significant investment of capital, both monetary and human, in infrastructure
4) Realization of claimed efficiencies

Source: FTC/DOJ Statement of Antitrust Enforcement Policy in Healthcare, December 12, 2006

Job 1A: Organize Physicians into a Clinically Integrated Network (CIN) Practice on System Employees

Triple Aim
1. Improve the patient experience of care
2. Improve the health of populations
3. Reducing the per capita cost of health care

Triple Gain
1. Improve income
2. Improve work-life
3. Reducing work load

Value-based Care

Volume-based Care

CI Anatomy
- CI Staff
- CI Governing Board
- New IT Systems
- A few protocols developed but not universally used
- Physicians sign up

CI Physiology
- Interoperable EMR
- Aligned purpose and work
- Compliance with a large number of guidelines
- Actionable analytics
- Physician performance evaluation
- Market share gains
- Measurably improved quality (not core measures)
- Decreasing cost/episode
Then a Miracle Occurs: Leadership, Trust, Shared Vision

**MHMD** agrees to:

- Negotiate well to **align incentives**
- Include physicians in work and decision making
- Provide **clear and timely information**
- Communicate, communicate, communicate with physicians
- Make meetings worthwhile and engaging

**Physicians** agree to:

- Practice evidence-based medicine
- Report quality data
- Meet CI criteria
- Come to meetings and behave as professionals
- Accept decisions by physicians in MHMD committee settings
Physician Employment

Many Physician Employment Efforts Will Require Massive Restructuring
(No one is Immune to Arithmetic)

Loss vs. Investment = (1:1 cost reduction) or (1:4 incremental revenue)

Source: PYA Healthcare
Finding the “Magic” in Physician Employment

"A system will not manage itself. Left to themselves, components become selfish, competitive, independent profit centers, and thus destroy the system.” ~W E Deming

"The problem is management. It is management's job to direct the efforts of all components toward the aim of the system.” ~W E Deming

CONSOLIDATION & DEEP MANAGEMENT
- Central, shared governance
- Compact: gives and asks
- Physician hierarchy / performance evaluation and routine reports
- Consolidation of offices.
- Common name & standard office systems
- Standard use of clinical guidelines
- Referral management
- Blended comp. plan

Why Physician Engagement Frequently Fails: A Technical Fix is Not Sufficient to Solve an Adaptive Problem

~Ronald Heifitz

Technical Fixes
- Good for incremental changes to existing behaviors:
  - New compensation scheme
    - Incentives and bonuses
  - Reorganization
  - Huge potential for backlash if there is no “buy-in” and/or incentive payments
  - Fairview study: Performance incentives had no impact

Adaptive Problem
- A significant change in long-standing behaviors, assumptions and beliefs:
  - Requires TRUST: mutual adoption of explicit rules, goals, reciprocal expectations, code of conduct
  - Implementers must be given the tools and authority lead change

~Ideas developed by Jack Silversin, Americus Consulting
Employed, Self-Governing, Aligned Medical Group

KSA Compensation Template

Assumptions

<table>
<thead>
<tr>
<th>Individual Comp. Fixed Update</th>
<th>Target</th>
<th>Target-10%</th>
<th>Target-20%</th>
<th>Below</th>
</tr>
</thead>
<tbody>
<tr>
<td>wRVUs</td>
<td>5215</td>
<td>4695</td>
<td>4100</td>
<td>4100</td>
</tr>
<tr>
<td>Net Compensation</td>
<td>$ 250,000</td>
<td>$ 200,000</td>
<td>$ 100,000</td>
<td>$ 100,000</td>
</tr>
<tr>
<td>80% Base</td>
<td>$ 200,000</td>
<td>$ 160,000</td>
<td>$ 80,000</td>
<td>$ 80,000</td>
</tr>
<tr>
<td>20% Performance Based</td>
<td>$ 50,000</td>
<td>$ 40,000</td>
<td>$ 30,000</td>
<td>$ 30,000</td>
</tr>
</tbody>
</table>

Crop Door = 30% wRVUs = 4,150

Performance Bonus Values

| Specialty Specific Quality    | 40%    | $ -  | $ 22,500 | $ 18,774 |
| Group Performance             | 15%    | $ -  | $ 7,500  | $ 6,250  |
| Citizenship                   | 15%    | $ -  | $ 7,500  | $ 6,250  |
| Volume                        | 25%    | $ -  | $ 6,250  | $ 5,000  |
| Total Bonus                   | $ 52,500 | $ 44,500 | $ 37,500 | $ 37,500 |
| Total Compensation            | $ 212,500 | $ 191,500 | $ 187,774 | $ 187,774 |
| Pure production               | $ 250,000 | $ 224,876 | $ 219,856 | $ 219,856 |
| Difference                    | $ 17,500 | $ 18,774 | $ 37,644 |

Target Compensation/wRVU $ 47.94
80% Target wRVU $ 38.35

1) Performance bonuses are examples
**Authenticity**, the Key to Earning Long Term Brand Loyalty and Avoiding Commoditization

Employees and Affiliates

Do it:

**ARE YOU AUTHENTIC?**

Leadership Defines How to Behave and What to Do

Strategy: Provide Value that is Sustainably Differently Better as through the eyes of the customer (Measurement)

An airline for the common man: We exist to connect people to what's important in their lives through friendly, reliable, and low-cost air travel.

**UNITED**

To achieve best-in-class safety performance, flyer friendly, customer first!

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