

BoardBrief

Knowledge Resources for Health Care Governing Effectiveness

Infusing Quality Throughout the Board's Agenda

This expectation of informed, engaged and active participation in quality oversight and leadership should be the foundation for every board meeting agenda.

Attaching a measure to the amount of board meeting time spent on quality is one way to stimulate boards to carry out their quality accountability, and raise their level of quality and patient safety knowledge, engagement and effectiveness. Being conscious of the amount of governance time spent on quality will raise its prominence on the list of board priorities. Quality should be at the forefront in board discussions and decisions on virtually any agenda topic.

How Engaged Are You?

The "Boards on Board" governance "how-to" guide from the Institute for Healthcare Improvement (IHI)¹ suggests that boards typically fall into one of four categories in their quality accountabilities. The IHI considered board engagement in improving quality and safety, effectiveness, and understanding of quality principles. The four board categories they identify are:

1. Actively engaged and capable; already leading a high-performance organization and wondering how they can do their board work even better;
2. Actively engaged; often showing that commitment through a high-profile event, but needing a much stronger foundation for continual work on improvement;
3. Not fully engaged, but having strong, latent capabilities and talent on the board; looking to light a fire with the full board, but not sure how to proceed; and
4. Neither engaged nor capable; feeling quality is just fine; viewing quality of care as not the board's proper business, but rather that of the medical and executive leadership.

Quality Fraud

Infusing the board agenda with a focus on quality invites another perspective on the board's responsibility for quality and patient safety: the one of compliance, and avoidance of

"quality fraud." "Quality fraud" is a term not often understood, but it is one that every board should pay close attention to.

Both the Office of Inspector General (OIG) and the Department of Justice (DOJ) have increased their attention to quality and patient safety. Quality is increasingly being linked to reimbursement, and these government agencies want to ensure that patients receive the quality of care that they are paying for.

Payment for poor quality is viewed as a false claim, and failure to accurately report quality data may be considered potential fraud. Further, both the OIG and the DOJ place the responsibility for quality of care squarely on the shoulders of the board.

Prosecution for quality fraud may be determined by the following factors:

1. Has there been a systemic failure by management and the board to address quality issues?
2. Has the organization made false reports about quality or failed to make mandated reports?
3. Has the organization profited from ignoring poor quality or ignoring providers of poor quality?
4. Have patients been harmed by poor quality or given false information about quality?⁴

Corporate Responsibility and Health Care Quality: A Fiduciary Duty

In September 2007, the OIG and the American Health Lawyers Association (AHLA) co-sponsored *Corporate Responsibility and Health Care Quality: A Resource for Health Care Boards of Directors*.² The purpose of the publication was to equip boards with the rationale and tools necessary to understand and execute their obligations for quality and patient safety. Based on discussions of fiduciary duty of care and duty of obedience

to mission, the document advises that the duty of care is generally accounted for when the board acts:

- In good faith;
- With the care of an ordinarily prudent person in like circumstances; and
- In a manner reasonably believed to be in the best interests of the organization.

The OIG and the attorneys further advise that courts have interpreted the duty of care to include a level of due diligence that includes “reasonable inquiry” by the board into the organization’s operations and performance. More specifically, the document advises that the OIG expects boards to exercise general supervision and oversight of quality and patient safety, including:

- Being aware of quality issues, challenges and opportunities;
- Paying close attention to the development of quality measures and reporting requirements (including periodic education from executive staff); and
- Receiving executive updates regarding quality initiatives and associated legal issues.

OIG/AHLA Quality Oversight Recommendations

Boards can’t just be passive recipients of quality and safety information; trustees must be actively engaged in oversight. The OIG/AHLA publication includes a series of recommended questions and explanations for boards to use in understanding and governing quality. The OIG and the DOJ will increasingly examine governance to ensure that boards of trustees understand quality and patient safety issues, and that they effectively monitor performance to ensure that the care provided by their organization exhibits the highest quality and efficiency.

In the pursuit of “reasonable inquiry”, the OIG and AHLA recommend that boards ask and have solid answers to several questions:

1. What are the goals of the organization’s quality improvement program? What metrics and benchmarks are used to measure progress towards each of these performance goals? How is each goal specifically linked to management accountability?
2. How does the organization measure and improve the quality of patient/resident care? Who are the key management and clinical leaders responsible for these quality and safety programs?
3. How are the organization’s quality assessment and improvement processes integrated into overall corporate policies and operations? Are clinical quality standards supported by operational policies? How does management implement and enforce these policies? What internal controls exist to monitor and report on quality metrics?
4. Does the board have a formal orientation and continuing educational process that helps members appreciate external quality and patient safety requirements? Does the board include members with expertise in patient safety and quality improvement issues?
5. What information is essential to the board’s ability to understand and evaluate the organization’s quality assessment and performance improvement programs? Once these performance metrics and benchmarks are established, how frequently does the board receive reports about the quality improvement efforts?
6. How are the organization’s quality assessment and improvement processes coordinated with its corporate compliance program? How are quality of care and patient safety issues addressed in the organization’s risk assessment and corrective action plans?
7. What processes are in place to promote the reporting of quality concerns and medical errors, and to protect those who ask questions and report problems? What guidelines exist for reporting quality and patient safety concerns to the board?
8. Are human and other resources adequate to support patient safety and clinical quality? How are proposed changes in resource allocation evaluated from the perspective of clinical quality and patient care? Are systems in place to provide adequate resources to account for difference in patient acuity and care needs?
9. Do the organization’s competency assessment and training, credentialing, and peer review processes adequately recognize the necessary focus on clinical quality and patient safety issues?
10. How are “adverse patient events” and other medical errors identified, analyzed, reported, and incorporated into the organization’s performance improvement activities? How do management and the board address quality deficiencies without unnecessarily increasing the organization’s liability exposure?

Board Information: The Key to Quality Knowledge

The board should have materials and information that will enhance their quality discussions and support their governance efforts. These materials should include such things as:

- A comprehensive quality dashboard that includes key indicators of clinical quality, patient safety and satisfaction, employee and staff satisfaction, turnover and vacancies;
- Executive reports of medical staff quality meetings;
- Reports of grievances, adverse events, "near misses" and potential liabilities;
- Progress reports on corrective action plans;
- Information about quality improvement and patient safety plans;
- Understanding of publically reported hospital data and information; and
- Information about health care quality trends.

Background materials should include articles about quality, governance practices in relation to quality, emerging industry trends, legal and regulatory requirements regarding quality, and quality processes and practices from other industries that might be applied in the hospital setting.

Board Actions to Ensure Quality Leadership Fitness

Information should lead to knowledge, which should then inspire probing questions. The common theme found in best governance practices is the ability of board members to ask penetrating and insightful questions, such as the ones recommended by the OIG and the AHLA.

Providence Health and Services, a west coast health care system, identified seven governance questions to help define board responsibilities and "foster wise strategic thinking about quality and safety." Consider these seven questions as you seek to infuse more focus on quality in your meetings. As you review these questions and think about their applicability to your hospital, move past quick or simple responses like "yes" and "no" and identify substantiating data for your answers.

For example, what reports are you receiving, how are you reviewing them, what measures are included on those reports, and will those measures give you the information you need to answer these seven questions? If not, think about what additional information you need and what changes are you going to make to get that information.

1. Are we clear about our quality strategic aims and focused on the most important improvement opportunities to achieve those aims?
2. Is there a solid strategic rationale for the annual and long term improvement goals that management is recommending?
3. Are we improving fast enough to meet our annual and long term improvement goals?
4. Do we have any systemic weaknesses that should be addressed to meet our internal improvement aims and/or to respond to external demands for data and accountability?
5. Are there any individual facilities or programs that have weak improvement capabilities or insufficient capacity to improve?
6. What are our experiences with improvement telling us about the changes that are necessary in our Quality Strategic Plan?
7. Are we sparking innovation, finding and systematically spreading best outcome practices and great ideas?⁶

Board members should ask questions that will help them drill down to real issues and define expectations:

- Why is a particular dashboard measure not progressing as expected?
- What is the plan to change the trajectory, and when should we expect to see that?
- What potential for success does a corrective action plan have?

CEO and Medical Staff Support

The CEO and the medical staff can support the board's efforts by:

- Working closely with the board chair to set the agenda for quality discussions;
- Including medical staff perspective in reports, materials and information. This perspective should include an explanation of the significance of the information, and its relevance or impact on the hospital;
- Anticipating the board's questions, and including explanations or answers in presentations;
- Bringing forward best practices to share or recommend to the board, contrasting them with current hospital practices

and providing an evaluation of resources required to implement any changes;

- Being on the lookout for emerging trends, calling the board's attention to them, and putting them into context;
- Recommending conferences, workshops or other quality related events that will further the board's quality literacy and governance capability; and
- Ensuring that the board and medical staff are aligned and working collaboratively in the pursuit of quality and safety.

The Goal: "Quality Literacy"

A critical tool for advancing quality is continuing governance education and knowledge building. The goal is to build the board's "quality literacy."

Quality education planning should include new trustee orientation. Does your orientation emphasize quality? Does it include help in understanding quality reports and dashboards, information about quality trends, a summary of legal and regulatory quality mandates, an explanation of quality terms and acronyms, and a review of your hospital's quality program, initiatives, challenges and issues? Have you considered assigning new trustees to the Quality Committee to provide them with a deeper understanding of the hospital's quality commitment and efforts?

More Best Practices

There are more practices that will further the board's quality governance and leadership:

Goal Achievement and Compensation. Tying executive goals and performance to compensation is critical practice. Achieving certain quality goals should be a part of not only the CEO's performance evaluation each year, but of every employee's performance evaluation. Ensure that achievement is rewarded by linking a meaningful percentage of compensation to quality goal achievement. The entire organization should be focused on quality progress, and goals should cascade through all levels of the organization.

Budget. Ensure that quality improvement plans and goals are incorporated into the budget. Identify the resources needed to help guarantee success well enough in advance so they may be incorporated into the hospital's annual budget process. And if budgets need to be reduced, ask what impact those cuts may have on quality.

Quality Diversity. Evaluate the diversity of your board. Do you have members with quality expertise? That expertise might be clinical or it might be an individual with quality performance improvement experience from an outside industry.

Board Self-Assessment. Does your annual board self-assessment include an evaluation of board and individual quality expertise and practice? Have you considered those findings as you develop quality and patient safety education for the board?

Conclusion

If you begin to think of quality in these ways, you will infuse your agenda with quality discussions at every level. More importantly, you'll think of your quality leadership in qualitative terms – what you accomplish – rather than quantitative terms – how much time you spend.

Sources and Additional Information

1. 5 Million Lives Campaign. Getting Started Kit: Governance Leadership "Boards on Board" How –to Guide. Cambridge, MA: Institute for Healthcare Improvement; 2008. www.ihl.org.
2. Arianne N. Callender, Douglas A. Hastings, Michael C. Hemsley, Lewis Morris, Michael W. Peregrine. Corporate Responsibility and Health Care Quality: A Resource for Health Care Boards of Directors. United States Department of Health and Human Services Office of Inspector General and American Health Lawyers Association. September 2007. www.oig.hhs.gov/fraud/docs/complianceguidance/CorporateResponsibilityFinal%2009-4-07.pdf.
3. OIG Report on Board Oversight and Quality of Care: What it Means for Health Care Boards of Directors. Foley & Lardner LLP. October 16, 2007. www.foley.com/publications/pub_detail.aspx?pubid=4515.
4. Alice G. Gosfield, J.D., James L. Reinertsen, M.D. Avoiding Quality Fraud. *Trustee*. September 2008.
5. Joanna H. Jiang, Carlin Lockee, Karma Bass, Irene Fraser, Robert Kiely. Board Engagement in Quality: Findings of a Survey of Hospital and System Leaders. *Journal of Healthcare Management*. March-April, 2008.
6. Jim Roberts, M.D., Steve Durbin. The Board's Role in Quality and Safety, 7 Key Governance Questions. July 9, 2007. Providence Health & Services.
7. Hospital Governing Boards and Quality of Care: A Call to Responsibility. National Quality Forum. December 2, 2004. www.qualityforum.org/pdf/reports/call_to_responsibility.pdf.
8. 5 Million Lives Campaign. Getting Started Kit: Governance Leadership "Boards on Board" How –to Guide. Cambridge, MA: Institute for Healthcare Improvement; 2008. www.ihl.org.

Infusing Quality Throughout the Agenda: Sample Agenda Discussion Topics

Finance

- Do quality initiatives have adequate resources?
- How does capital spending directly improve quality?
- What would any budget cuts or changes mean to quality and patient safety?
- When you review financial performance, are you making the “quality connection?”

Compliance

- How are you ensuring that mandated data reports are accurate? What internal controls do you have?
- How well integrated is quality in your policies and operations?
- Are you getting the right information, and are you analyzing and discussing it?
- What new laws or regulations have been implemented or are under consideration, and how would they affect you?

Human Resources

- How are you investing in quality proficiency throughout our workforce?
- Does your “on-boarding” plan for new hires include a focus on the hospital’s quality initiatives and their significance?
- What new skills are needed? Plan? Budget?
- How do your employee satisfaction levels or turnover rates compare to benchmarks for comparable organizations?
- How does turnover affect the quality of care you provide?

Quality and Patient Safety

- Do you devote time at every board meeting to hear about a quality failure or near miss?
- Do you discuss root cause investigations of significant adverse events?
- Do you “connect the dots” on the quality dashboard?

Education

- Do you invest time to build board-wide quality literacy?

Administrative Report

- Does the CEO’s report include an executive briefing on a quality related subject?



31090 SW Boones Bend Rd.
Wilsonville, OR 97070
503-694-8539

lw@walkercompany.com

walkercompany.com