FALL 2018

Nonprofit Beat

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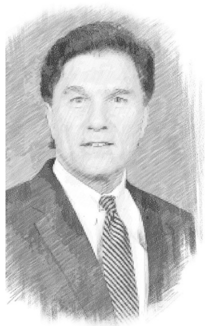
Inside This Newsletter



On behalf of our almost 30,000 employees around the world, all rowing in the same direction with a September end goal of 90,000 volunteer hours for the nonprofit sector, in honor of our 90 years of operation, we are sharing some recent thoughts on the nonprofit sector. As many of you know, serving the nonprofit sector has been in our DNA from the beginning and today no broker threads that global needle of connection, specialized knowledge and teamwork better than Gallagher. We are proud of our team's contribution of this unique incubation of growing nonprofit sector insight each and every day...something we offer to the sector as our value proposition.

We have long realized that we are the public-serving sector and you only have to see your phone alerts to realize that there is truly a global public outcry about the ways we have let the public down – we would best describe as society in general – our schools, our churches, our communities, our families. We are witnessing the spread of the abuse of power from a painful misconduct of children to harassment of adults and kids – often latent and below the surface, only to raise its ugly head of reality at some point in the future. What a collision of malfeasance!

This is putting all of us in such a paradoxical position – often the occurrence was prior and so our present knowledge clashes with that prior experience – not surprising due to advances in awareness and knowledge of these dreadful exposures. This is not an excuse for the past but a tough balancing act as we go forward. And, I don't think the answer is more insurance and more limits per se! I write about this in a piece on our external website (URL) and hope you will consider not only taking the time to read but reaching back out in dialogue about this focus on 'duty of care'.

Recently in ground work for a presentation we are preparing on the sexual misconduct issue I asked the Headmaster about the issue – he quickly responded how 'we fear the next notice or complaint'. I thought for a bit and then said 'how would your leadership's mindset change if you rather kept this framework in mind 'It is happening'? And

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"happening" might extend in a school environment to the broader evil behaviors of bullying, harassment, cheating, lying, stealing, et al.

That shift in mindset allows us to recognize statistics, reality and the pervasive nature of this 'disease' and instead to put our focus on all the 'scaffolding ideas' under the 'duty of care' best practice that should be our guiding light.

Think about it. Let's talk about this.

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HIPAA Privacy, Security, and Nonprofit Employer-Sponsored Health Plans

by Petula Workman, J.D., CEBS Division Vice President, Compliance Counsel

Since the Privacy and Security Rules under the Health Insurance Portability and Accountability Act (HIPAA) became effective in the mid-2000s, organizations in the United States have become more and more aware of the need to safeguard health information. Indeed, HIPAA focuses on a certain type of health information called protected health information (PHI). However, nonprofit organizations that provide health benefits to their employees often overlook their obligations to comply with many of the administrative requirements under HIPAA, primarily due to some common misconceptions. Below, we work to dispel those myths.

1. **Myth #1: We don't have to comply with HIPAA Privacy and Security because we're a nonprofit organization.**

   HIPAA focuses on the types of benefits sponsored, not the type of employer sponsoring those benefits. So, governmental agencies, nonprofit organizations, for-profit organizations, and even churches must comply with the HIPAA Privacy and Security Rules if they sponsor certain benefits.

2. **Myth #2: We don't have to comply with HIPAA because we only have fully insured benefits.**

   While organizations may be what is called "Hands Off" and thus have limited obligations under the Privacy Rule, organizations cannot be "Hands Off" for purposes of the Security Rule and must meet certain administrative, technical, and physical safeguards for electronic PHI. Furthermore, many organizations are not actually "Hands Off" because they help employees with claims issues.

3. **Myth #3: Our resources are too limited to comply with HIPAA.**

   While many nonprofit organizations may feel budget constraints, obtaining written policies and procedures and conducting training are very inexpensive in comparison with the alternative. For example, current penalties may be as high as $1.67 million per violation per year. So, an organization with five years of a single violation (such as failing to maintain written Security policies and procedures) could be subject to a penalty as high as $8.35 million.

4. **Myth #4: Our organization relies heavily upon volunteers, who aren't subject to HIPAA.**

   The HIPAA Privacy and Security Rules require organizations to have policies that apply to and conduct training for individuals who are called "HIPAA Workforce Members." HIPAA Workforce Members are employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, such as an employer-sponsored health plan, are under the direct control of such entity, whether or not they are paid by the covered entity. In fact, due to the high turnover potential for volunteers, nonprofit organizations may be even more vulnerable to errors resulting from mishandling of PHI due to a lack of training. So, it is important for nonprofits to assess their volunteers' involvement with PHI and train them accordingly.

5. **Myth #5: We don't have time to properly train workforce members.**

   The HIPAA Privacy and Security Rules do not specifically state how an organization must conduct its training, only that it must train its HIPAA Workforce Members. Training need not be a costly or time-consuming activity. However, in order to conduct training, organizations must first identify their HIPAA Workforce Members, which should include individuals who can or do access PHI as part of their job duties, such as human resources and benefits personnel and IT personnel. Training can then take the form of formal training sessions or simply periodic review of the written policies and procedures. However, organizations should have periodic reminders about how to respond to threats to electronic PHI, such as warnings about viruses or how to spot suspicious emails.

Now that some important myths have been busted, what can a nonprofit organization do to comply with HIPAA? First and foremost, the organization should determine which of its benefits are subject to HIPAA Privacy and Security. That includes medical, dental, vision, health FSA, EAP, and other health benefits. Then, the organization should determine where that organization has PHI, such as in filing cabinets, email, shared drives, laptops, and other electronic storage media. Next, it should determine who can "touch" that information in order to create its list of HIPAA Workforce Members.

Once those tasks are accomplished, the organization should obtain written policies and procedures for both Privacy and Security, designate a HIPAA Privacy Officer and a HIPAA Security Officer, conduct workforce training, and periodically review and update its HIPAA policies and procedures. It should also make sure that it has appropriate Business Associate Agreements in place with its Business Associates, such as a third-party administrator for its health FSA or its consultant for its health benefits.

As a best practice, organizations should encrypt their electronic PHI at rest (i.e., stored) and encrypt emails containing electronic PHI. Organizations should also take steps to vet the security safeguards used by their third-party vendors such as TPAs and insurance carriers. Finally, organizations should make certain to view HIPAA Privacy and Security compliance as an ongoing part of their everyday operations in order to minimize their risk of a breach.

Resourceful Governance: Leveraging board talent.

by James A. Rice, Ph.D.

Resourceful organizations require resourceful managers and boards to thrive in our current uncertain US and international political and economic landscapes. Resourceful in our new reality means recruiting and developing board members who exhibit attitudes and actions that enable the capacity for mission pursuit by meeting and mastering challenging difficulties and opportunities with creativity and agility.[1] This agility and innovativeness is now particularly important for nonprofit organizations.

Nonprofit organizations have proven essential to the vitality of communities. They enrich quality of life, epitomize the highest societal values and strengthen democracy. Volunteers, board members and employees become involved with a nonprofit because of the organization's public benefit mission.[2]

Unfortunately, as divisiveness and resource scarcity squeeze the vitality of nonprofit organizations, the boards of these *third-sector organizations* (in Europe, UK and US we refer to not-for-profit organizations that are neither governmental nor commercial as functioning in the third sector)[3] require an *accelerated journey of resourcefulness* if they are to successfully achieve their missions.

But how can these boards' best make this journey into resourcefulness? A good roadmap can be found in a recent guide for nonprofit organizations that describes 11 accountability principles, with 192 practices to evaluate and improve their operations, governance, human resources, advocacy, financial management and fundraising.[4]

Risks of not being resourceful?

As we work with the governing bodies of nonprofit organizations across the U.S., the UK and Europe, we have identified five risks that become evident when board members fail to be resourceful as they exercise their fiduciary duties of care, obedience and loyalty:

- **Risk 1: Money:** An erosion of revenues from constrained service delivery weakens the capacity of nonprofits to secure staff, technologies, and facilities needed to accomplish their mission.
- **Risk 2: Advocacy:** Weak advocacy disrupts the adoption of policies by the nonprofit's stakeholders needed for mission accomplishment.
- **Risk 3: Volunteers-Staff:** Unresponsive talent development erodes morale.
- **Risk 4: Litigation:** Disgruntled beneficiaries more likely receptive to sue.
- **Risk 5: Regulators:** Poor compliance erodes tax-exempt status.

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1. See: https://nonprofitquarterly.org/2014/07/28/nonprofit-leadership-theory-and-organizational-culture/
2. http://www.minnesotanonprofits.org/PrinciplesPractices.pdf, page 3
3. See: https://www.nao.org.uk/successful-commissioning/introduction/what-are-civil-society-organisations-and-their-benefits-for-commissioners/
4. Ibid. Note: The Minnesota Council of Nonprofits (MCN) is a statewide association of more than 2,000 Minnesota nonprofit organizations. See: http://www.minnesotanonprofits.org/

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Characteristics of Resourceful Boards:

To avoid or mitigate these risks, wise directors and trustees of nonprofits will find it useful to collaborate with their executives and risk managers to invest in board development initiatives that nurture five essential characteristics of resourceful boards:

- Embrace generative thinking
- Engage stakeholders
- Earn new revenues
- Empower management
- Enhance decision-making

I. Embrace Generative Thinking

To embrace "Generative Thinking"[5] (a cognitive process for generating consensus about what to pay attention to, what it means, and what to do about it)[6] for bolder, more creative and agile strategies to accomplish their strategic plans, resourceful boards should consider three key actions:

1. **Scan Environment:** Community leaders and managers frame trends and descriptions of alternate future scenarios, and then explore the possible implications of each on the organization's capacity for success.
2. **Unleash Mission Moments:** Turbulent times require boards to continuously ground their work at the beginning of each meeting with a story or message that illustrates the value of the organization's mission to the people they exist to serve.
3. **Vitality Visioning:** Organizational vitality is catalyzed by inspiring statements that define how the board believes organizational success should look and behave in the future.

II. Engage Stakeholders

To engage increasingly more diverse stakeholders in the pursuit of their organizational mission, resourceful boards should consider three key actions:

1. **Diverse Partners:** As our communities become more demographically and culturally diverse, organizations need not only more diverse board members, more diverse alliances and partnerships that shape and help fund the strategies and tactics of their organizational plans.
2. **Strategy Charrettes:** High performance organizations design and conduct eclectic, inter-disciplinary and intergenerational planning retreats that have the innovative and iterative characteristics of Charrettes.[7]
3. **Sustained Relationships:** Resourceful nonprofit organizations cannot just delight their beneficiaries/clients once, but must meet their needs continuously over long periods. Stakeholder relationship management programming and infrastructure are imperative to sustained mission achievement.[8]

III. Earn New Revenues

To earn new revenues when competition for philanthropy and government grants are being squeezed, resourceful boards should consider three key actions:

1. **Probe Costs:** There are never enough resources for sustained mission achievement. Negative costs via re-designing, reducing, and re-allocating operating costs convert into positive "new" revenues. Effective boards collaborate with their managers to create organizational cultures that embrace the lean, cost-effective use of scarce resources.
2. **Beneficiary Value:** When clients and beneficiaries see value from your services and programs, you optimize your ability to collect fees, secure philanthropic support, and harness needed political resources for organizational success.

5. See: http://www.trowerandtrower.com/about-us/three-aspects-of-governance/
6. See: http://www.pewtrusts.org/-/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/pew_fund_for_hhs_in_phila/governance20as20leadership20summary20finalpdf.pd
7. See Charrette techniques and resources here: http://charretteinstitute.org/
8. See: https://www.salesforce.com/

Resourceful governance: Leveraging board talent.

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IV. Balance Revenues & Philanthropy: Earning steady gains in fee based revenues reinforces your attraction of public and private philanthropy and in-kind-resources. Resourceful boards establish a creative reliance on financial plans for a balance of earned revenue and earned philanthropy.

Empower Management

To empower and support their management colleagues, resourceful boards should consider three key actions:

1. **Mutual Expectations:** Clear metrics that define shared performance expectations for the board and the CEO are the central elements of what can be referred to as "a compact"[9] forged annually between those who govern and lead the organization.
2. **The Q Factor:** Smart boards ask questions of their management team that cannot be answered by yes or no; they are questions that stimulate meaningful thought and conversations, such as "why are we", "what can we", "how should we" type inquiries.[10] Questions that engage and unleash stakeholder insights for success help foster their ownership for sustained organizational vitality.
3. **Performance Incentives:** Leadership teams are more likely to stretch their performance and creativity when recognized and rewarded by boards for work that excels beyond routine results. Resourceful boards need to create cultures of celebration.[11]

V. Enhance Decision-making

To enhance the effectiveness and efficiency of their governance decision-making, resourceful boards should consider three key actions:

1. **Strategic Roadmaps:** Creative journeys to high performance require clear strategies and budgeted resource utilizations mapped to the mission and vision of the organization.
2. **Performance Dashboards:** Dashboards and balanced scorecards[12] that define the essential goals of the organization, help focus and monitor the talents and work of the board.
3. **Board Portals:** To facilitate agile and effective board, committee, and stakeholder decision processes, modern governance participants need information that is now available 24/7 on secure board portals.[13]

Next Steps:

While resourceful board work is essential to organizational vitality in this era of uncertainty, rising consumer expectations, and constrained resources, stimulating and supporting such work is not easy. The disciplined actions outlined above can help guide your journey into sustained positive results.

9. See: https://thefutureorganization.com/social-service-level-agreements-social-crm/
10. For Q factor insights, see: http://www.criticalthinking.org/files/SAM-Questions2005.pdf
11. For modern recognition programs, see: http://www.maritz.com/incentives-and-rewards-solutions
12. See: https://www.idashboards.com/scorecard/?keyword=balanced&_bk=balanced%20scorecard&_bt=76622251572286&_bm=e&_bn=o&utm_source=bing&utm_medium=cpc&utm_campaign=Scorecard&utm_term=balanced%20scorecard&utm_content=balanced%20scorecard
13. See example here: http://www.boardeffect.com/board-portal/

Keeping a strategic focus on attracting and retaining employees.

by Phil Bushnell

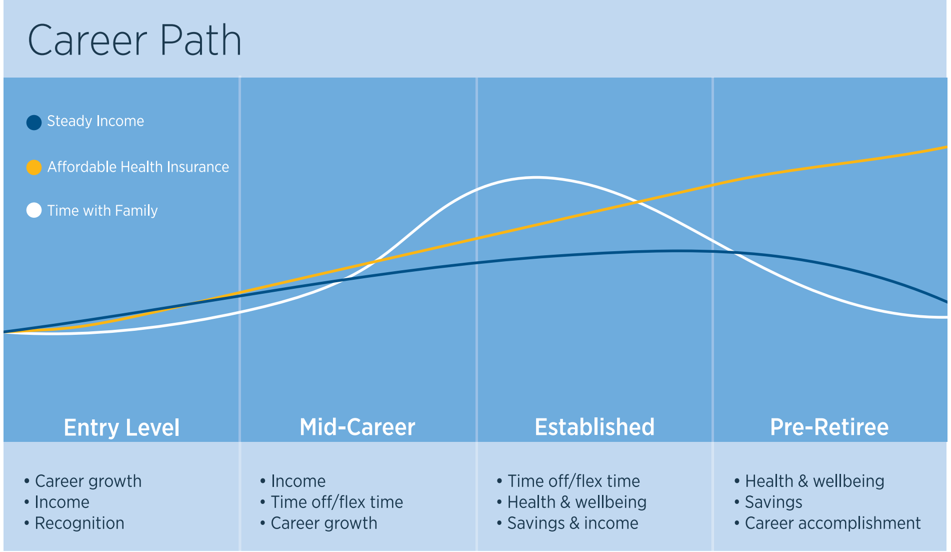
One of the challenges facing nonprofit organizations is walking the tightrope of providing benefits programs that will assist in the attraction and retention of good employees, while at the same time managing the costs of these programs so as to be able to sustain your mission. Gallagher utilizes a proprietary Workforce Evaluation methodology to help organizations assess the effectiveness of their employee benefits program in driving strategic organizational objectives.

A Workforce Evaluation offers a new way of looking at an employee population to discern underlying trends that affect employee loyalty, job satisfaction and benefit and compensation costs. This methodology was developed primarily to help organizations fine-tune benefit programs, and delivers valuable observations across the full spectrum of human capital strategy.

An important part of the analysis is determining how different workforce segments are represented in an employer's organization and measuring their relative levels of engagement with the total rewards programs you offer. For the purposes of workforce evaluation, Gallagher identifies four distinct workforce segments based on life and career stages. Each segment is characterized by a set of prevailing needs, financial priorities and learning styles (see Illustration).

Nonprofit employers in the reinvigorated U.S. economy are, once again, finding that challenges with recruiting and retaining sought-after talent is a significant threat to their sustainability. Some industries and professions are tougher to source than others. The fastest shrinking jobs require low-to-moderate skills, while the fastest growing jobs require advanced skills. In response to these challenges, employers work to reposition total rewards in a way that improves their ability to attract and retain employees, and allows them to work within persistent budgetary constraints.

Fueled by the social change and technological progress of the recent decade, workforce dynamics have changed more rapidly than at any other time since the Industrial Revolution. Today's workers have varied and distinctive work styles, career aspirations and financial needs. Forward-thinking companies now recognize that catering to these different needs and styles is the key to engaging and motivating talent. This insight has given rise to a sharper strategic focus in designing total rewards.




Gallagher
90
YEARS
OF TRUST
As Gallagher celebrates 90 years of services in 2018 that includes from its earliest days serving the nonprofit sector, starting with dioceses in the U.S., we are committed globally to having our employees give back with a goal of 90,000 hours of volunteer work in 2018.