Trustee Insights

Radical Decision Making for Hospital and System Boards

Boards need a more aggressive process to respond to unusual competitors

BY MICHAEL W. PEREGRINE AND KENNETH KAUFMAN

The seismic forces currently roiling health care present boards with a new set of profoundly consequential strategic options. These often involve significant risk, major mission shifts, and challengingly short windows of opportunity. The depth and breadth of these forces require fiduciary introspection: As currently structured, does our decision-making process position us, as a board, to prudently respond? Can we move fast enough, give sufficient consideration of the issues, adequately digest advice from advisors and management, and acquire a sufficient understanding of the stakes in play?

In this environment, the board's traditional approach to major decisions increasingly falls short. A more aggressive process, somewhat radical in design but still grounded in duty of care principles, merits serious consideration.

TRUSTEE TALKING POINTS

- A disruptive health care environment presents boards with a new set of consequential strategic options.
- But the traditional approach to decision making may be overly time consuming and ponderous.
- Colossal environmental shifts are accelerating the end of the useful life of the traditional approach.
- Health care leaders need a different, and perhaps more radical, approach to decision making.

From 'Now' to 'Near' to 'Far'

Jim Hackett, CEO of Ford Motor Company, provides health care leaders with a powerful framework for understanding the decision-making demands of a disruptive environment. The framework organizes strategic objectives into

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three dimensions that executives and boards must address simultaneously:

- **Now:** Be successful in the current health care delivery and economic model while also making the critical pivot to the future model.
- **Near:** Place bets on the future and pivot resources to support those bets.
- **Far:** Envision a future state and future role, knowing that any prediction is uncertain and subject to change.

Each dimension requires a very different set of strategies, capabilities and cultures. For the boards of health care organizations, a critical question is whether the decision-making process that has been successful in the "now" — an inpatient-oriented, incrementally changing environment — is the same process that will be successful in the "near" and "far" — a rapidly changing outpatient and digitally oriented environment with large, aggressive new competitors.

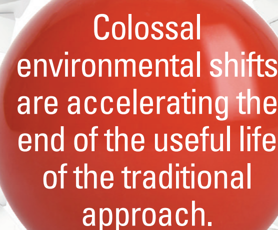
Very likely, the answer is no, leaving boards and executives to determine how they will make a major transition from the long-standing structure, process and culture of decision making.

The Traditional Approach

The traditional approach to decision making by hospital and health system boards is a highly deliberative process with several basic features: a bottom-up conversation commencing at the committee level, a lengthy gestation process for individual initiatives; an evaluation process respectful of trustees' limited time commitment; a lenient approach to trustee conflict; substantial deference to management perspectives; and a desire for ultimate broad consensus. Although this process has historically been effective, increasingly it is being seen as overly time consuming and ponderous when compared with the demands of the "near" and the "far."

The traditional approach has its roots in an era when hospitals and other health care organizations were frequently locally based, independently controlled and led by prominent community leaders. Their operational portfolio was limited to inpatient facilities. Decision making was designed to accommodate a board/management dynamic that was exceptionally deferential to the senior management team and the perspectives of medical staff leadership.

This approach has become significantly more sophisticated in the years following Sarbanes-Oxley; however, it remains heavily deliberative. It is also particularly sensitive, as circumstances may merit, to considerations of core mission, community need, and the time commitment of volunteer board members. These are not bad features. In many ways, they effectively serve the needs of the long-standing health care delivery and economic model and competitive environment. They reflect an earnest effort to satisfy in good faith the decision-making elements of the fiduciary duty of care.



Colossal environmental shifts are accelerating the end of the useful life of the traditional approach.

The traditional approach, much like the parent-subsidiary corporate structure, has proven durable and reliable over the years since Medicare was introduced and health care became a truly regulated sector along the lines of banking, finance and defense. However, as with corporate structure, colossal environmental shifts are accelerating the end of the useful life of the traditional approach. The deliberative time frame is increasingly longer, the magnitude of the decisions is increasingly larger, and the competitive and quality issues at stake are often profound. With all this comes the need for a different, and perhaps more radical, approach to decision making.

Definition of Radical Decision Making

The concept of radical decision making contemplates a sweeping change to the traditional hospital or health system determinative procedure. It is grounded in the presumption that the traditional approach no longer allows the board to make the types of decisions that may be necessary to address the "far" — the evolutionary and revolutionary changes affecting health care.

Radical decision making may best be applicable to issues that relate directly to the long-term sustainability of the mission, and whose solutions are dramatic and outside the historical comfort zone of the board. Such issues may

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involve a higher level of uncertainty and/or risk than usual, relate to unfamiliar services or relationships, involve a high degree of political and/or mission sensitivity, and require greater speed than usual in order to reach resolution.

In this context, "radical" refers not only to timeline considerations, but also to the expertise, preparation and commitment by board members.

Areas Requiring Radical Decision Making

The subjects most appropriate for radical decision making carry the "gulp factor"; they are the subjects that promise a more transformational shift in the nature of hospital or health system mission and operations, and as a result carry with them a greater risk. They are, most definitely, decisions outside the traditional ones for a hospital or health system.

Examples of subjects for radical decision making might include: substantial "pruning" of the hospital or system's operational portfolio; material commitment to innovation and technology; the reallocation of capital away from the inpatient delivery service line to new care delivery models; pursuing horizontal and vertical partnerships with nontraditional health sector participants; pursuing corporate partnerships on a significantly larger scale than ever before; and adopting a new approach toward the geographic market in which the hospital or system will compete.

Elements of Radical Decision Making

Despite its break from the traditional approach, radical decision making is intended to incorporate all of the elements of prudence, disinterest and good faith that are subsumed in the fiduciary duty of care as applied by regulators and the courts. A radical approach to decision making can work within the framework of "informed risk taking," a concept long recognized by the law of corporate governance.

At its procedural essence, radical decision making is a truncated but concentrated and enhanced decision-making platform designed to satisfy the elements of the business judgment rule. This platform might include the following:

Corporate purposes. Assessing corporate purposes is a critical early step to changing the decision-making process. Is the current statement of corporate mission and purposes adequate for the current environment? Does it provide sufficient flexibility for the hospital or health system to pursue the types of transformational initiatives that may require a different decision-making platform?

Strong chair position. The role of the chair of the board should be strengthened to allow a more powerful and aggressive leadership role in the consideration of transformative initiatives. The selection of the chair should be made on the basis of merit and leadership style, as opposed to seniority, donative history or similar "soft" factors.

Engagement. Radical decision making requires a significantly increased level of engagement among board members. Individual trustees will be asked to assume far more duties and spend significantly more time on their board responsibilities. This is especially the case with informing themselves of the scope, advantages and disadvantages of individual transformative proposals. Limits on other board service may be necessary to ensure necessary engagement.

Delegation. The extent to which tasks are delegated to board committees, and the scope of the delegation, should be reconsidered. Although the committee process can effectively facilitate decision making, some decisions are so fundamentally transformative that the entire board will need to be involved fully in their evaluation. This may sometimes render traditional committee consideration unnecessary or duplicative.

Consultants. A necessary byproduct of radical decision making is increased involvement of strategic, finance, legal and other advisors in order to make decisions effectively on an expedited timetable. The work product of these consultants must be coordinated and disseminated in a manner that supports the trustees' ability to make informed decisions more quickly.

Reliance. Another critical element of the expedited timetable is to rely properly on the advice of

experts and the recommendations of management and committees. With transformative initiatives, especial care must be taken to ensure that in each instance the reliance is being made in good faith, with a full understanding of the nature of, and basis for, the recommendation.

Conflicts. The process depends on the detailed identification and resolution of actual and potential conflicts across the broadest scope possible, to help ensure the sustainability of what might be considered potentially controversial transactions.

Constructive skepticism. Ultimately, the interaction of board, management and advisors should incorporate the constructive yet pointed skepticism/analysis of the proposed initiative that will satisfy what the courts have long considered necessary to support informed decision making.

Timetable. All of these elements support one of the most critical goals of radical decision making: a truncated decision-making timetable that allows the board to act in a nimble manner on time-sensitive transformative issues.

Culture and Leadership for Radical Decision Making

The traditional approach to board decision making has served organizations well for many years. It has ensured incremental progress toward well-defined objectives and has effectively mitigated the various elements of risk.

It is hard to overestimate the level of change confronting health care. Hospital organizations need to maintain their inpatient presence while also competing on the outpatient front with some of the largest, most aggressive, most technologically skilled companies in the country. At the same time, hospitals and health systems need to cope with declining inpatient volume, declining payment and expenses that are growing faster than revenues.

Few legacy organizations have been able to make the kind of pivot necessary to shift from "now" to "far" in such a fast-changing environment. Few have been able to develop a vision of the future, acquire the necessary capabilities, and take the kind of steps needed to transform their organizations for a viable new role in a new health care delivery model.

One capability rests at the very core of making that pivot: decision making that can identify a vision for the future — and place bets on that future — while still satisfying the basic good-faith principles of fiduciary responsibility.

This is the kind of decision making that will take legacy health care organizations into the "far." Fostering this type of decision making will require complete alignment of board and management around the purpose, path and pace of change.

While perhaps "radical" in nature, it is likely to be essential in terms of ensuring long-term mission sustainability.

TRUSTEE TAKEAWAYS

- Radical decision making allows the board to make the types of decisions that may be necessary to address the revolutionary changes affecting health care.
- The most appropriate subjects for radical decision making promise a transformational shift in the nature of hospital or system mission and operations.
- A radical approach to decision making can work within the framework of "informed risk taking" and thus satisfy the business judgment rule.
- This approach to board deliberation requires a significantly increased level of trustee engagement and a truncated timetable for such time-sensitive issues.

Learn more about radical decision making in a two-part "Governing Health" podcast series featuring Michael Peregrine and Kenneth Kaufman. Visit: www.mwe.com/governinghealth

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