TRENDS

And their

Implications for GOVERNANCE:

Time For a NEW MODEL

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MISTER BOFFO
"C'MON" -THE ONLY REAL OPTION AFTER "PLEASE"-
AND HIS "WONDER-DOG" WEEDERMAN
BY JOE MARTIN
2019 JoeMartin.Dist.ByNeatlyChiseledFeatures
SO HOW WAS YOUR FIRST BOARD MEETING?
NICE, THEY HAD AN ASSORTMENT OF CHEESES, CRACKERS, HUMMUS, PITA BREADS, WAFERS, BOWLS OF CASHEWS,
SPORT DRINKS, SPARKLING WATER, OLIVES, PICKLES, FRESH FRUIT PLATTERS, EVEN FIGS AND DATES
THE ONLY THING MISSING WAS PATÉ AND SMOKED SALMON
WHAT DID YOU DISCUSS AT THE MEETING?
THE PATÉ AND THE SALMON OF COURSE
JOE MARTIN 5-5-19

EVEN SMALL HEALTHCARE INSTITUTIONS ARE COMPLEX, BARELY MANAGABLE PLACES… LARGE HEALTHCARE INSTITUTIONS MAY BE THE MOST COMPLEX ORGANIZATIONS IN HUMAN HISTORY.

Peter Drucker

The Quality of Governance that was Sufficient to Get your System where it is Today will be Insufficient to Get It Where It Needs to be Tomorrow

Yes, But…

- We have had the same model of governance for over 260 years!
- Most governance improvement efforts have been conceptualized, implemented, and evaluated within the context of that model.
- The Model Itself is showing its age, is under pressure and is faltering…

Perhaps We Should
(Or MUST)
Consider Other
Models?

The Evolution of Governance

1. The Honorific/Philanthropic Model 1752 – 1965

2. The "Wink Wink" Model 1965 – 1983

3. The Good Governance Model 1983 – 1990

4. The Effective Governance Model and Governance of Systems Mode 1990 – 2017

5. The Next Model or Mode?

Implicit Components of the Traditional Model

- Community based governance
- Voluntary (uncompensated) trustees
- Minimal-to-manageable time commitments
- Lack of standardized or mandatory training

Implicit Components of the Traditional Model

- Diffuse and variable accountability of both boards and their members
- Long tenured board members and leaders
- A tolerance for conflicts of interest on the board in service of community relationships
- Others?

Pressures on the Traditional Model

This traditional governance model can no longer be taken for granted as it is straining under the pressures of its age and two significant categories of trends:

1. The rapidly changing and radically challenging healthcare environment; growing Hospital and System Governance Complexity.

2. The sweeping scope of broad societal change brought about by economic, demographic, generational, and cultural forces.

Worrisome Winds Blowing for Governance

- A healthcare market where the pace of change continually accelerates as its complexity grows.
- As the complexity of healthcare grows, so does the task of effective governance.

GOVERNANCE MOVES TO THE FRONT PAGE!!

Good Governance Matters!

"An Effective Board means effective numbers, which means effective payment, Which means a good bond rating. Ineffective Boards usually mean the opposite of that."

Kevin Hollaran, Fitch Senior Director
Quoted in Modern Healthcare, March 24, 2018 p. 7

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Missouri bankruptcy approved **Peabody En-**rp.'s $200 million pledge r environmental damage mines in three states.
owing a hearing on sday, Judge Barry ner signed off on the ent, as well as up to $12 in bonuses meant to in-ze top executives trying he company's reorgani-over the finish line.
Louis-based Pea-agreement with the states—Indiana, New and Wyoming—en-hat up to $200 million tential environmental ation obligations are head of secured lenders her creditors.
body sought chapter 11 ion earlier this year to ture more than $10 bil-debt.
company has mines in ia and the U.S., where ons are concentrated in wder River basin in Colo-d the Illinois basin in the st.
coal miner's environ-

Dilemma for Nonprofit Hospitals

Some administrators' and board members' business ties can pose conflicts at facilities

By Andrea Fuller And Melanie Evans

Nonprofit hospitals have extensive business ties that can pose conflicts of interests for their administrators and board members, a Wall Street Journal analysis of newly released Internal Revenue Service data shows.

While having relationships with companies doing business with a nonprofit hospital isn't necessarily improper—as long as the deals are disclosed and at market rate—administrators and board members sometimes may be forced to choose between what's best for the hospital and what's best for their private interests.

"Just because something is legal doesn't mean that it's appropriate," said James Orlikoff, a Chicago-based hospital governance consultant. "You run the real risk of violating the public trust."

Hospitals rank among the largest nonprofits in the country. Because they often are big employers and have complex business arrangements, they face these dilemmas far more

Conflict Risk

Hospitals, more than any other kind of nonprofit, have business transactions with officers and board members.

ORGANIZATION	TOTAL	SHARE THAT HAD A TRANSACTION WITH AN INSIDER
Hospitals	2,353	46%
Colleges and schools	14,580	14%
Medical research organizations	313	12%
Hospital affiliates and clinics	1,558	10%
Other nonprofits	262,219	6%
Total nonprofits	**281,023**	7%

Note: For the fiscal year ending in 2014. Data is based only on nonprofits filing Form 990, typically those with receipts of at least $200,000 or assets of at least $500,000.

Source: IRS

THE WALL STREET JOURNAL.

RINGO CHIU/ZUMA PRESS

laws, and Avera hasn't received complaints regarding Journey Group's contracts, she added.

Mr. Fleck said hospital trustees disclose conflicts at each board meeting, and he didn't discuss or vote on Journey Group contracts. Mr. Fleck, like most board members at nonprofits, isn't paid for serving.

In addition to deals with board members, nonprofit hospitals are required to disclose transactions with families of officers and directors.

At California-based **Dignity Health**, the chief executive's son has a multimillion-dollar marketing contract. Nathan Dean, son of Dignity CEO Lloyd Dean, landed a contract in 2011 said. "eLead met the criteria for the open-bidding process," he said. Nathan Dean didn't respond to interview requests.

Dignity Health solicited competitive bids for the marketing job, and said eLead's bids were "fair and reasonable" and "market competitive." Dignity declined to say if eLead was the lowest bidder.

Unlike government entities that solicit contracts, nonprofits aren't required to disclose their bidders.

Dignity's board reviewed eLead's bids and performance annually, said Peter Hanelt, who chairs the committee tasked with the reviews. "The conflict is not inherently wrong," Mr. Hanelt said. "You simply want to disclose it and vet it and make sure it's fair."

Hospitals in small towns may face a particular dilemma when it comes to managing conflicts, said Michael Peregrine, a Chicago-based lawyer and governance consultant. They may think that because "governance gurus are telling us we've got to get the best and brightest people," their only choice is to turn to the local business leaders known by the hospitals.

Rob Montagnese, chief executive of **Licking Memorial Health Systems** in Newark, Ohio, said his hospital banned business contracts with board

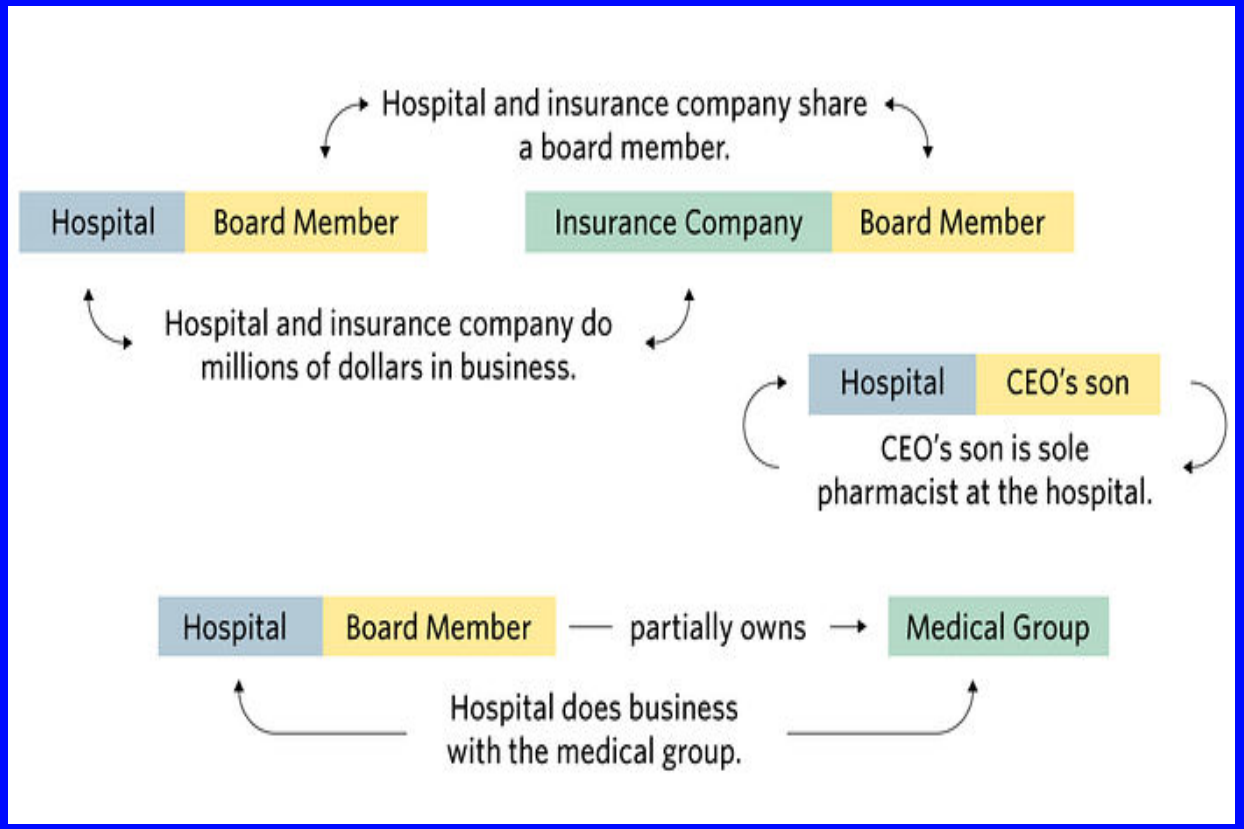
WALL STREET JOURNAL Aug 22, 2016

"In 2014, 46% of more than 2,300 nonprofit hospitals had at least one trustee or officer with business ties to the hospital—either directly or through a relative. That is compared with 7% of all nonprofits in the Journal's analysis of tax-return data compiled by the IRS.

At more than 270 nonprofit hospitals, the arrangements topped $1 million each. Many of the largest transactions involve hospitals and medical companies that have common board members. But in other instances, hospitals have multimillion-dollar contracts with companies owned by trustees in areas such as advertising and construction."

http://www.wsj.com/article_email/nonprofit-hospitals-business-relationships-can-present-conflicts-1471797105-lMyQjAxMTE2ODI2MTUyMzE4Wj

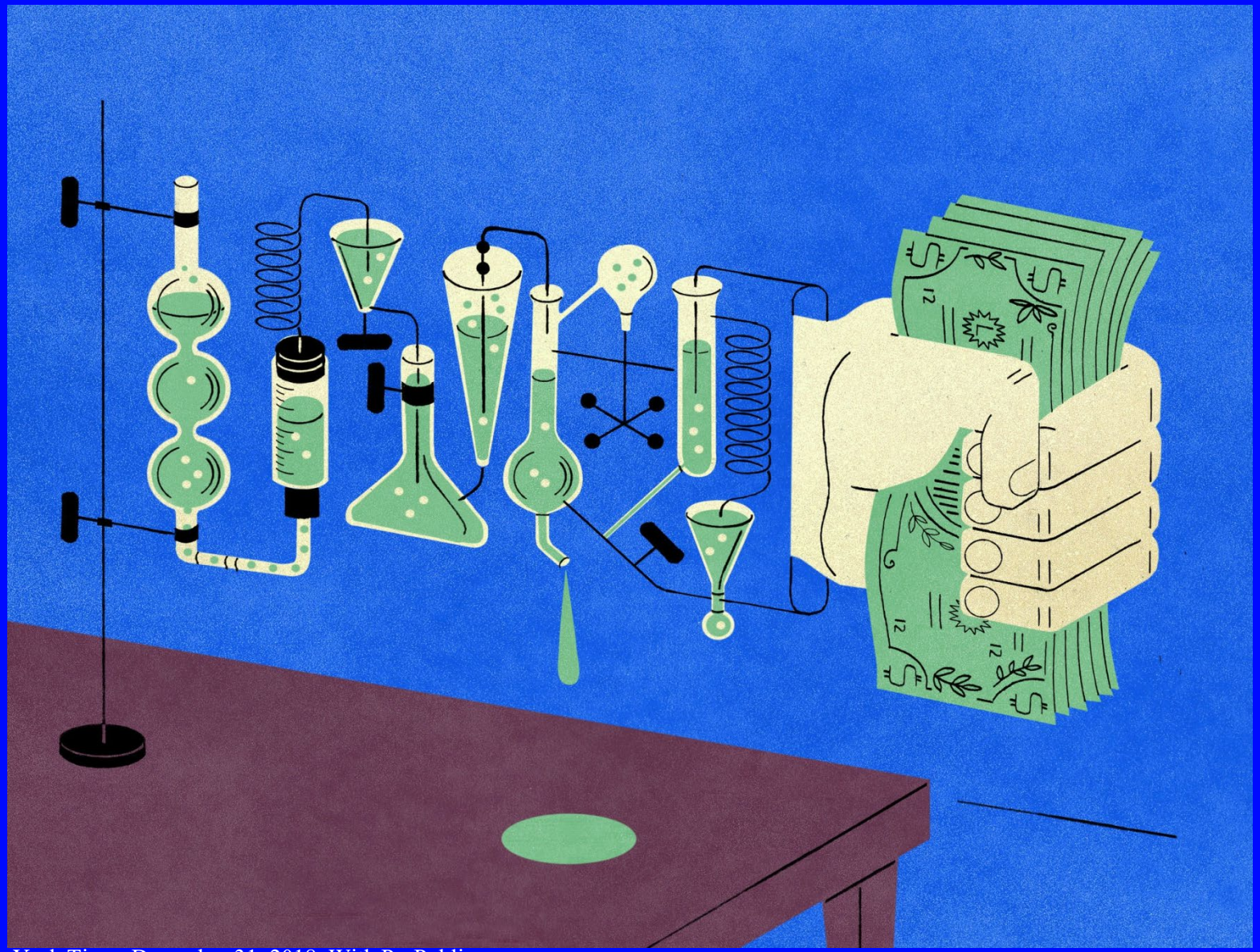
“Hospitals frequently conduct business with their board members and officers—far more often than other nonprofits.”



Wall Street Journal August 22, 2016

http://www.wsj.com/article_email/nonprofit-hospitals-business-relationships-can-present-conflicts-1471797105-lMyQjAxMTE2ODI2MTUyMzE4Wj

Memorial Sloan Kettering's Season of Turmoil



New York Times December 31, 2018. With ProPublica
https://www.nytimes.com/2018/12/31/health/memorial-sloan-kettering-conflicts.html?utm_campaign=KHN%3A%20First%20Edition&utm_source=hs_email&utm_medium=email&utm_content=68687868&_hsenc=p2ANqtz-9lLfuxcwZVLkH928NMt2Cq32VO90we4bakyxJuFyyNlPd65cNaF_GhOdJfB5RoNeC9z5CzPzKaKtCdmV-uOyjADwnKFQ&_hsmi=68687868

Conflicts of Interest? Who Sir, Me Sir?

Dr. Craig B. Thompson, the chief executive of Memorial Sloan Kettering Cancer Center, resigns from the boards of Merck and Charles River Laboratories. New York Times, December 31, 2018.

Conflicts of Interest? A New Day for Boards!

"The key substantive issue is that the problems we face were not caused by failures to disclose conflicts. The problems were due to the conflicts themselves… And if you don't recognize that a problem exists there is no chance you will solve it."

Colin Begg, the chairman of MSK department of epidemiology and biostatistics

New York Times December 31, 2018. With ProPublica
https://www.nytimes.com/2018/12/31/health/memorial-sloan-kettering-conflicts.html?utm_campaign=KHN%3A%20First%20Edition&utm_source=hs_email&utm_medium=email&utm_content=68687868&_hsenc=p2ANqtz-9lLfuxcwZVLkH928NMt2Cq32VO90we4bakyxJuFyyNlPd65cNaF_GhOdJfB5RoNeC9z5CzPzKaKtCdmV-uOyjADwnKFQ&_hsmi=68687868

University of Maryland Medical System pays members of volunteer board hundreds of thousands in business deals - Baltimore Sun March 13, 2019

Among the board members doing business with UMMS:

- Baltimore Mayor Catherine Pugh, who received $500,000 from the system's purchase of her children's book. She has resigned from the board.
- Former state Sen. Francis Kelly reported that his family's insurance firm made $2.8 million in revenue last year from system contracts.
- John Dillon reported that his healthcare consulting firm received more than $150,000 a year from the system. He has resigned from the board.
- Robert Pevenstein, who founded technology companies, reported that his firms received more than $150,000 in 2017 from system contracts. He has resigned.

Board Conflicts at University of Maryland Medical System cause uproar in the state -
Modern Healthcare March 25, 2019

"Nearly a third of its board members have substantial business deals with the system…nine of the system's 30 board members, including elected officials, have such deals."

Board Conflicts at University of Maryland Medical System cause uproar in the state - Modern Healthcare March 25, 2019

Now, Compare These Two Written Statements:

"The fact is, all of our contracts with board members are legal and fully disclosed, and the business relationships are permissible under state law. UMMS has a consistently enforced conflict of interest policy, and we comply with all financial disclosure requirements required of every hospital in Maryland.“ – CEO Robert Chrencik

"There is nothing more important than the trust of those that depend upon the board's leadership. The board and I are firmly committed to evolving our governance principles and operating with even more transparency."
Board Chairman Stephen Burch

Board Conflicts at University of Maryland Medical System cause uproar in the state -

Modern Healthcare March 25, 2019

Longtime UMMS CEO Robert Chrencik put on a leave of absence

Kaiser Permanente, Associated Black Charities paid Baltimore Mayor Pugh almost $200K for 'Healthy Holly' books

The Baltimore Sun April 1, 2019

"Health provider Kaiser Permanente paid Pugh more than $100,000 to buy about 20,000 copies of her books during a period when the company was seeking a lucrative contract to provide health benefits to city employees."

"In September 2017, the city's spending board, which Pugh sits on and controls, awarded the Kaiser Foundation Health Plan of the Mid-Atlantic States Inc. a $48 million contract to provide health insurance to city employees from 2018 through 2020, with options to renew. Pugh does not appear to have abstained from voting on the contract."

"Baltimore Mayor Pugh to take leave of absence in midst of 'Healthy Holly' book controversy"

https://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-kaiser-deal-20190401-story.html?15541355219963

Gov. Hogan asks state prosecutor to begin criminal investigation of UMMS, Baltimore Mayor Pugh's deals

The Baltimore Sun April 1, 2019 Luke Broadwater and Doug Donovan

Gov. Larry Hogan on Monday formally asked the state prosecutor to investigate allegations of self-dealing and no-bid contracting involving Baltimore Mayor Catherine Pugh in her role as a member of the University of Maryland Medical System board.

University of Maryland Medical System CEO resigns amid board scandal

– April 27, 2019 Baltimore Sun

Robert A. Chrencik, president and CEO of Baltimore-based University of Maryland Medical System, has resigned, effective April 26, 2019, as a result of a scandal involving board members profiting from contracts with hospital networks they oversee.

In March, three medical system board members, including Baltimore Mayor Catherine Pugh, resigned and four others took a leave of absence. Ms. Pugh stepped down for failing to disclose a $500,000 business deal she had with the medical system, which involved the health system purchasing Ms. Pugh's Healthy Holly book series and distributing them to schools in the city.

Two other board members resigned for personally profiting off deals with the health system while serving on the board.

Mr. Chrencik defended the health system, including its purchase of the books, and he voiced opposition to a state house proposal that would prevent no-bid contracts between the health system's board members and the hospitals they oversee as well as force board members to resign and reapply if they want to return to their positions, according to the Baltimore Sun. The measure passed.

Worrisome Winds Blowing for Governance

- Accountability continues to grow for hospital and system leaders.
- These changes and challenges inexorably present increasing demands on boards and governance models and practices.

Cabell Huntington Hospital to pay County $1M for board seats
November 19, 2018

By WSAZ News Staff | Posted: Mon 5:53 PM, Nov 19, 2018 | Updated: Tue 8:42 AM, Nov 20, 2018
https://www.wsaz.com/content/news/Changes-expected-for-Cabell-Huntington-Hospitals-board-of-directors-500867591.html

Cabell Huntington Hospital to pay County $1M for board seats

Cabell Huntington (W. Va.) Hospital will pay the Cabell County Commission $1 million to give up its three seats on the hospital's board.

The County Commission is entitled to appoint three people to the board: one who lives in the county, one over 65 years old, and one whose income is below average for the area. Under the new agreement, the hospital will now have the power to choose the board members according to the same qualifications.

"I believe that the hospital knows more about people who are knowledgeable in running hospitals and would have that information for the board of directors than people we might choose," said Cabell County Commissioner Jim Morgan.

By WSAZ News Staff | Posted: Mon 5:53 PM, Nov 19, 2018 | Updated: Tue 8:42 AM, Nov 20, 2018
https://www.wsaz.com/content/news/Changes-expected-for-Cabell-Huntington-Hospitals-board-of-directors-500867591.html

Chicago Tribune

QUESTIONS? CALL 1-800-TRIBUNE | SUNDAY, MAY 12, 2019 | BREAKING NEWS AT CHICAG

Bill seeks more diversity on boards

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sides. That's where Trump and Chinese President Xi Jinping are right now: trapped in a retaliatory grudge match. On Monday, U.S. markets tanked after Washington and Beijing slapped new tariffs on each other. Larry Kudlow, director of the National Economic Council, acknowledged that without a settlement both sides will suffer. That includes U.S. consumers, who'll see rising prices for goods either made in China or produced by firms that compete with Chinese-made goods.

plummeted, costing farmers plenty. Some of the loss was made up by U.S. government compensation, but once a big agricultural buyer like China becomes a customer elsewhere, there's no guarantee when it will return. Notable losers in Monday's stock market flop included two export-driven companies headquartered in Illinois: Boeing and Caterpillar.

A deal with China is still probable. Trump and Xi expect to see each other

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Bill aims to force boards to diversify

Some say Illinois legislation is unconstitutional

BY CORILYN SHROPSHIRE
Chicago Tribune

> ***"It's fundamentally undemocratic. By mandating (board seats) you create the problem of reverse discrimination."***
>
> *— Charles Elson, the Edgar S. Woolard Jr. chair in corporate governance and the director of the John L. Weinberg Center for Corporate Governance at the University of Delaware*

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Why Illinois shouldn't mandate quotas for company boards

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There are also major legal problems with the Illinois bill. Henderson points out that federal civil rights law forbids discrimination on the basis of race or sex in employment, and it may apply to choosing corporate directors. He also notes that the U.S. Supreme Court has ruled explicit racial and gender quotas to be unconstitutional, and that's exactly what this proposal would establish. If it becomes law, he says, "I fully expect it to be challenged and to go down."

For anyone who thinks corporations based here ought to include more women and racial minorities on their boards, there are options for encouraging change that aren't doomed from the start. Advocates can publicize which companies meet their expectation. Shareholders can attend annual meetings and raise the issue — and

Hospital and System Mergers – The Growth of *Super Systems*

The New York Times

The Risks of Hospital Mergers

In retrospect, it looks as if Massachusetts made a se-
rious mistake in 1994 when it let its two most prestigious
(and costly) hospitals — Massachusetts General Hospital
and Brigham and Women's Hospital, both affiliated with
and cost increases would be hel

The Growth of *SUPER SYSTEMS*: Immediate Implications for Governance

- As system size grows, Governance Complexity Increases; as System Complexity grows, Governance Complexity increases.
- Governing a Hospital System is more complex than governing a Hospital
- Governing an Integrated Delivery System, or System of Care, is more complex than governing a Hospital System

Laws of Systems
(From Deming, Batalden, Reinertsen, Others)

1. Every System is Perfectly Designed to Produce the Results it Gets.
2. In Order to Optimize the System, One or More Parts Must Be Sub-Optimized.
3. If Each Part is Optimized, the SYSTEM Will Be Sub-Optimized.
4. Complex Adaptive Systems are Not Like Complicated Machines, They are More Like a Flock of Birds.

These trends challenge the deeply imbedded tradition of the volunteer board member of the not-for-profit *health system*, which grew directly from the long-standing model of voluntary governance of the local not-for-profit *hospital.*

Societal Pressures on the Traditional Model

As daunting as the first category is, it is the second significant category of societal trends that portends the obsolescence of the traditional model of healthcare governance.

Pressures on the Traditional Model

1.Demographics – Society and Boards are aging.

2. Economics and Society – Who has the Time?

3. Director Distraction – growing pressure and requirements to limit the numbers of boards on which an individual can serve.

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** THE WALL STREET JOURNAL. Friday, April 12, 20

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Vanguard Sets Sights On Board Members

By Cara Lombardo And Dawn Lim

Vanguard Group is taking a tougher stance against companies whose board members it believes are stretched too thin.

The world's second-largest asset manager plans to vote, in most cases, against corporate executives running for two or more public-company board seats beyond where they are employed, a Vanguard spokeswoman said. Vanguard said it would generally vote against other board candidates seeking more than four board seats at one time.

Vanguard, which has roughly $5.3 trillion under management, is a large shareholder in many major public companies. It has recently begun informing U.S. companies it invests in about the new policy, which is part of a broader update on corporate-governance guidance planned for release this week. Vanguard said it is following the new policy as it votes on proxies at this year's annual meetings.

Index-fund managers such as Vanguard and rival **BlackRock** Inc. control roughly 26% of the S&P 500, according to an analysis by JPMorgan Chase & Co. This means their voting policies and opinions influence how American corporations conduct themselves.

BlackRock has tended to be more outspoken than its peers. Last year, the firm made changes to its voting guidelines and indicated it would be more likely to vote against chief executives on more than one other public-company board.

Some in the money-management business have criticized the firms for not going far enough given their size. This is forcing index-fund managers to be more transparent on how

Please turn to page B10

Vanguard Sets Sights On Boards

Continued from page B1

they are thinking about everything from boards' gender diversity to compensation practices to share buybacks. So-called overboarding is another focus, driven by concerns that directors can have too many demands placed on their time.

"Overboarding has become a bigger and bigger issue because the role of the director has increased over time," said Jack "Rusty" O'Kelley, who leads Russell Reynolds Associates' board advisory and effectiveness practice. "To serve on a board is requiring more time and effort."

The executive-search firm estimated in a recent report that each public-company directorship requires an average of 200 hours a year, not including travel time.

More than 60% of public-company directors sit on at least two public boards, and 45% of CEOs sit on at least one outside board, according to a 2018 analysis of S&P 500 corporations by executive-search firm Spencer Stuart.

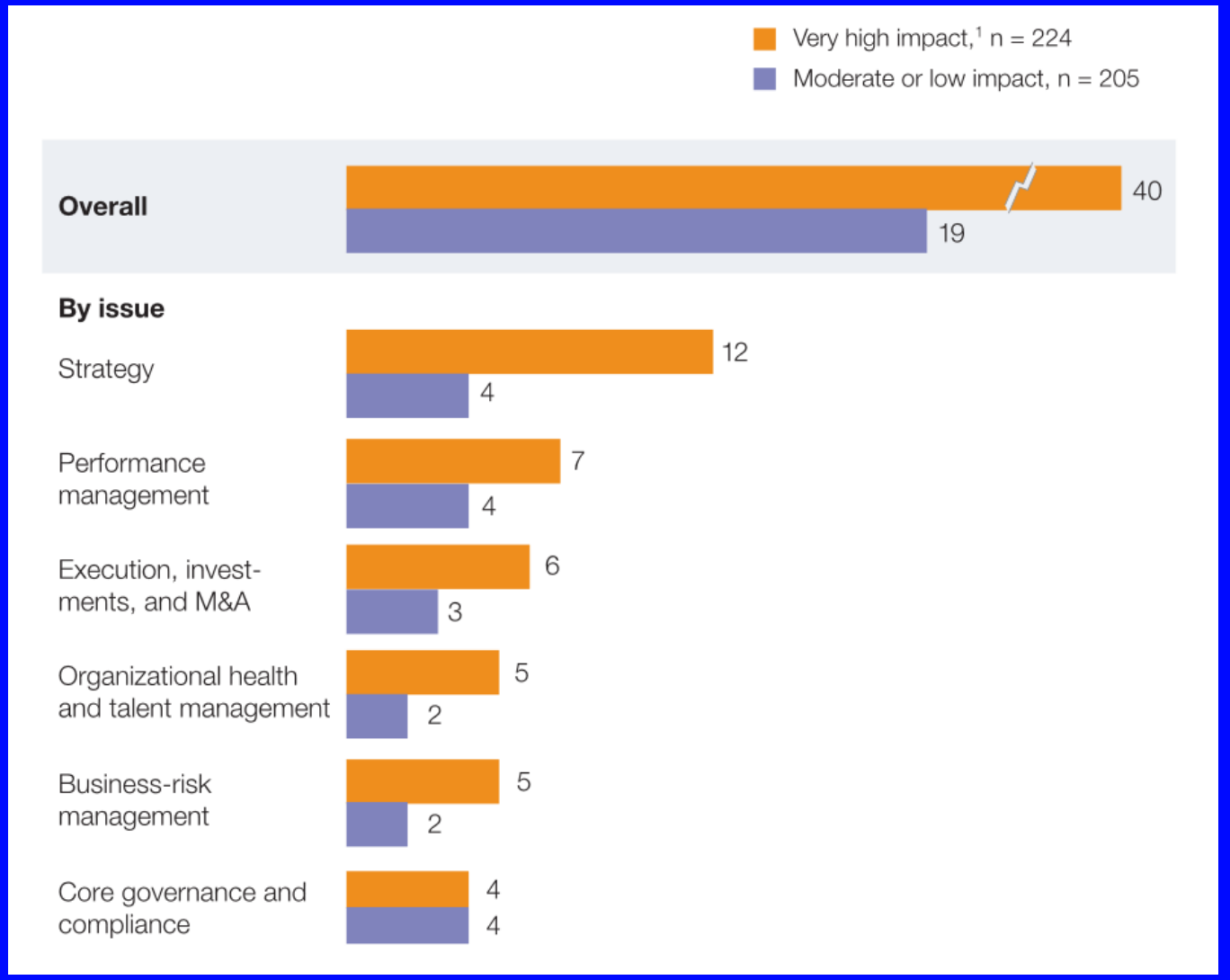
"As we go into the U.S. proxy season, we are engaging with and voting at a substantial number of companies. It's an appropriate time to put these matters front and center," said Glenn Booraem, who heads stewardship at Vanguard.

There can be potential downsides on placing more restrictions on company boards, according to some advisers.

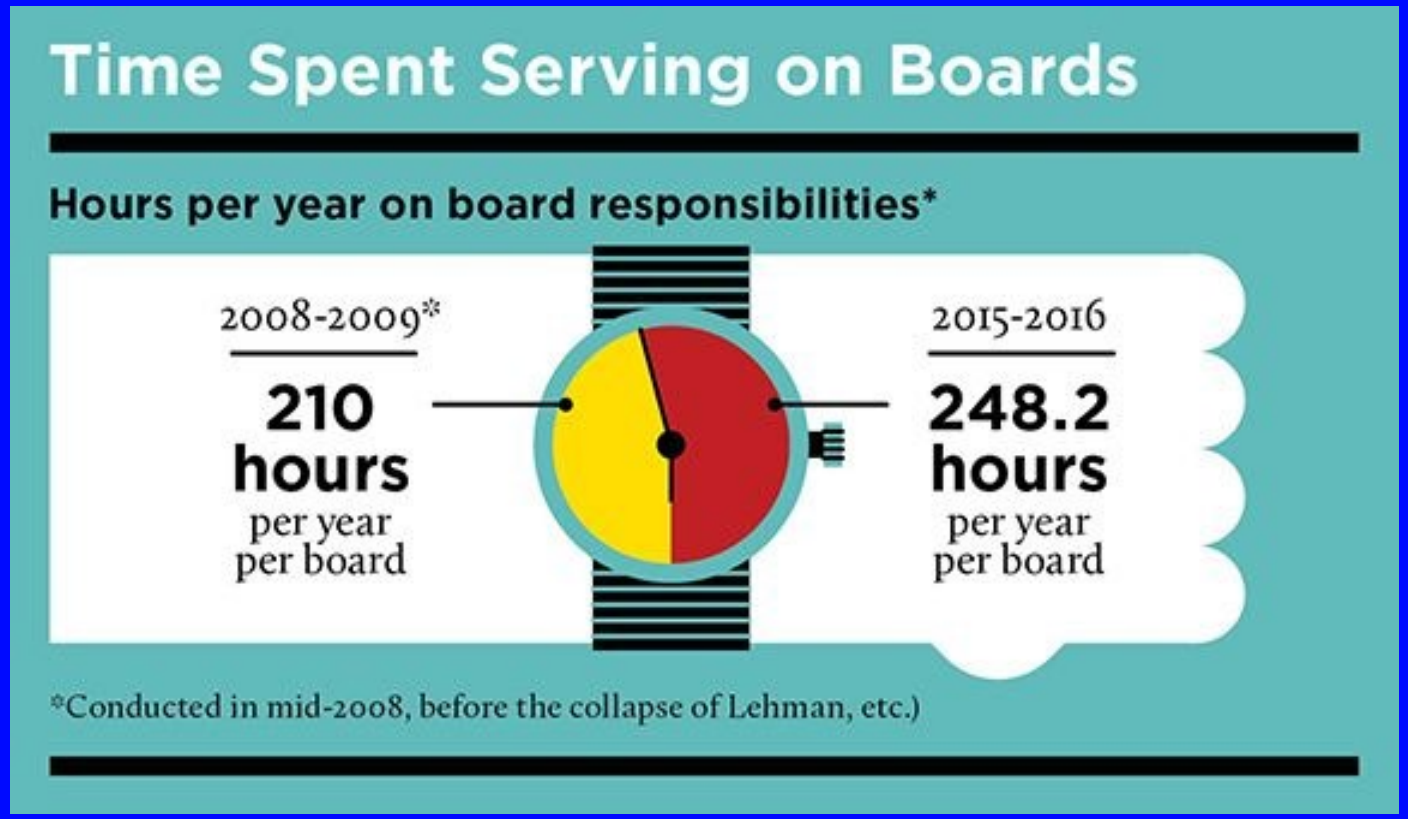
"Losing valuable directors, depriving shareholders of these directors' contributions and limiting the pool of effective director candidates are downsides of board-service limits that are too tight," said Sabastian Niles, a partner at Wachtell, Lipton, Rosen & Katz.

Vanguard will weigh many factors in assessing boards and push for a variety of viewpoints in corporate boardrooms. It is also expected to indicate in the updated guidelines it will support more disclosures on board diversity across gender, age, ethnicity and other aspects. It will likely support proposals to separate the roles of chairman and CEO if it thinks boards aren't providing enough independent oversight.

Number of Days a Year Board Currently Spends on Issues



Figures do not sum to total because of rounding
Source: April 2013 McKinsey Global Survey of 772 directors on board practices



Korn Ferry Institute Briefings Magazine “Are Board Directors Going Overboard?” May 15, 2017

Korn Ferry Institute Briefings Magazine “Are Board Directors Going Overboard?” May 15, 2017

Concerns in For Profit Governance as Well

"The expectations and demands on board members and boards have never been greater. With the rapidly evolving business environment and industry disruption affecting all companies, directors must work hard to stay current and they must make sure management is up to the task."

The Key Areas Boards Need to Improve Now. Forbes. August 28, 2018.
https://www.forbes.com/sites/forbesinsights/2018/08/28/the-key-areas-boards-to-improve-now/#45ce3c89325a

Concerns in For Profit Governance as Well

- "the NACD related that over half of the directors surveyed felt that there was not sufficient time for in-depth strategy discussion in their meetings."

- "A full 45% of those surveyed felt that director education was inadequate and wanted more time dedicated to learning. In fact, the time spent in education, about 21 hours annually, represented less than 10% of the total average time dedicated to a directorship."

The Key Areas Boards Need to Improve Now. Forbes. August 28, 2018.
https://www.forbes.com/sites/forbesinsights/2018/08/28/the-key-areas-boards-to-improve-now/#45ce3c89325a

AHA Trustee Services

National Health Care
Governance Survey Report

2019

Some Interesting Highlights from AHA 2019 Governance Survey

- 19% of System boards and 18% of Freestanding hospital Boards increased the length of their board meetings.
- 41% of System boards and 37% of freestanding hospital boards report that governance is taking more trustee time than three years ago.

Figure 6.15 – Time Spent on Board Activities Compared to Three Years Ago

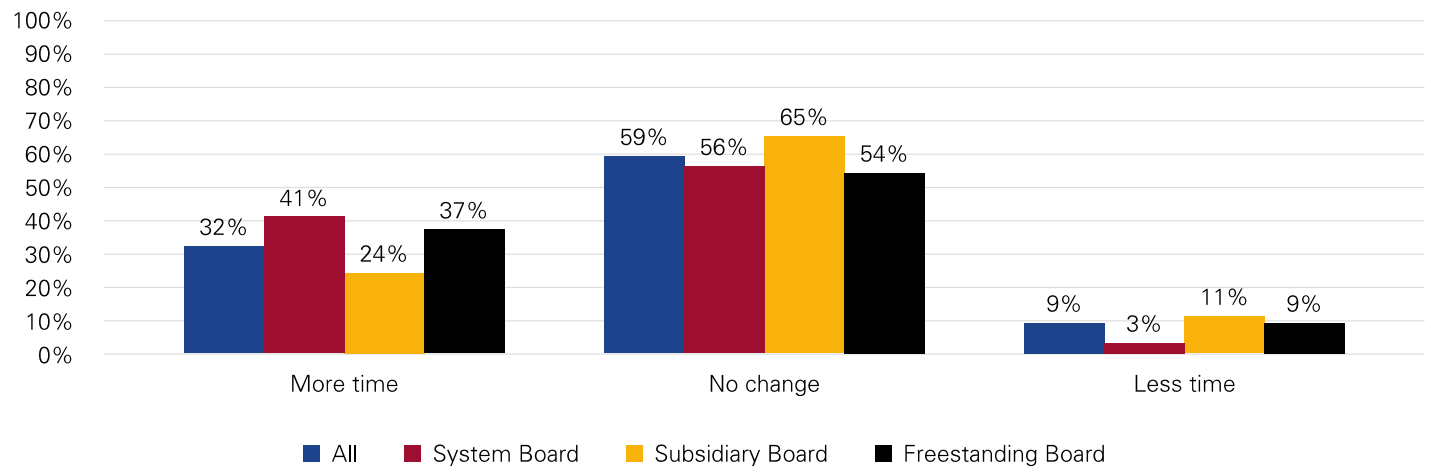


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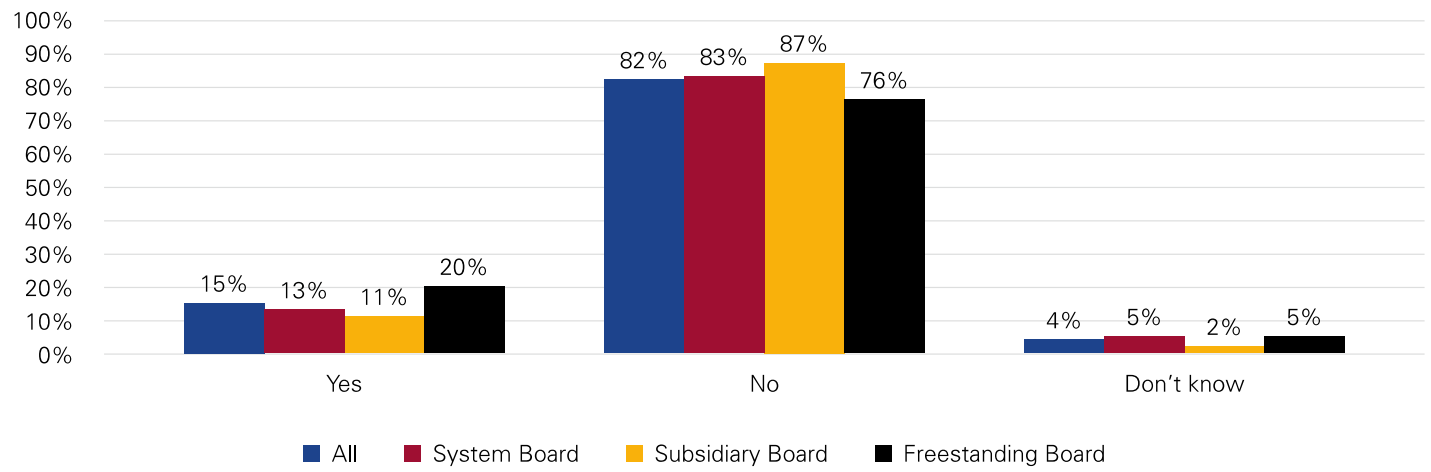
Figure 6.17 – Board Member Concern About Board Service Time Commitments



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The Two Most Common Board Member Complaints I am Hearing:

1. We do not spend enough time as a Board in Strategic or Generative Discussions.

2. Governance is taking more and more of my time. I am a Volunteer and this is too much.

An Illustrative Quote from a System Board Member:

"By way of background, I sit on a number of other boards and the (___system) board and committees take up as much time as all the other three put together. I am considering early resignation from the board due to this and the fact that I don't feel "aligned" with the organization."

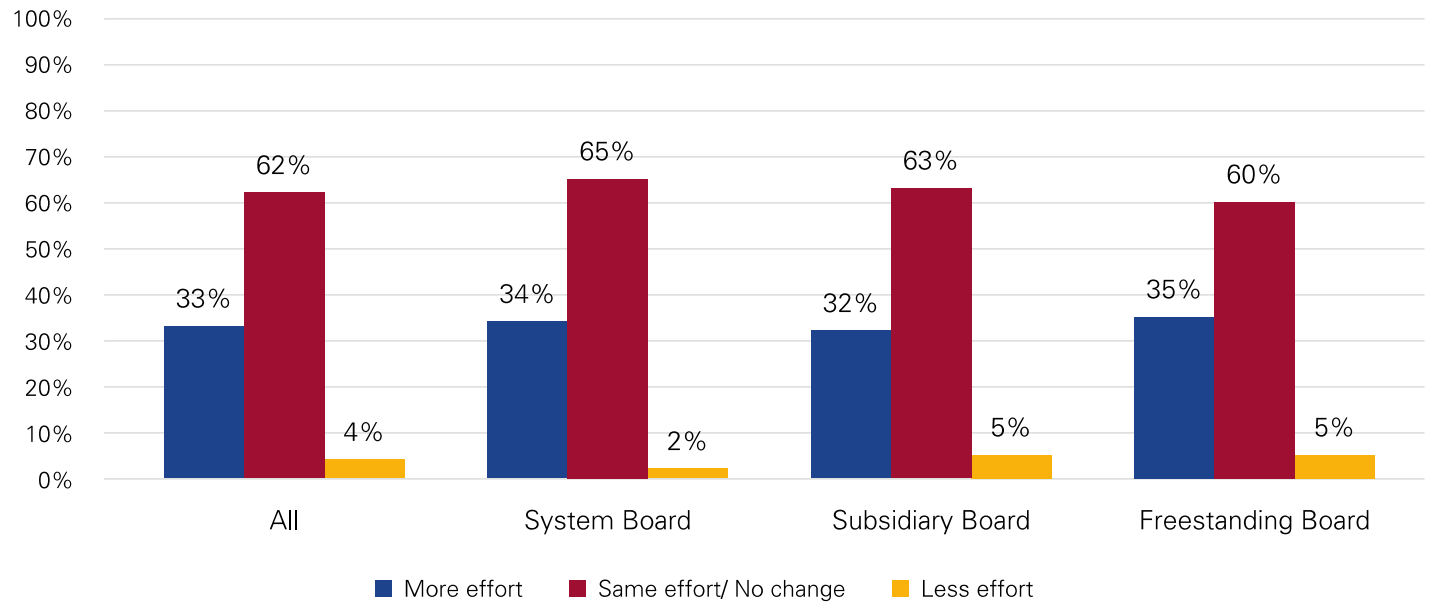
Private email communication to Jamie Orlikoff, July 7, 2017

WHY??

What is it about hospital or system governance that should require triple the time commitment of board members compared to for-profit, corporate boards?

A more important question: is this time demand on volunteer trustees sustainable?

Figure 4.7 – Effort Required to Recruit New Board Members Compared to Three Years Ago



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Just like the Population, Board Members are Getting Older…But FASTER!

Some Interesting Highlights from AHA 2019 Governance Survey

- All boards reported a higher percentage of members aged 71 or older in 2018 than 2005 – 12% versus 9%.
- And, a lower percentage of trustees aged 50 or younger; 22% in 2018, down from 29% in 2005.

Generational Differences in Governance

- Hard to recruit and retain Millennials to boards. Different commitment to volunteerism?

- Different approaches to group process, strategic planning, decision making, use of technology.

Figure 2.17 – Efforts to Engage Millennials in Governance

What efforts, if any, has your board/organizations undertaken to engage Millennials (individuals between the ages of 21-35) in governance?

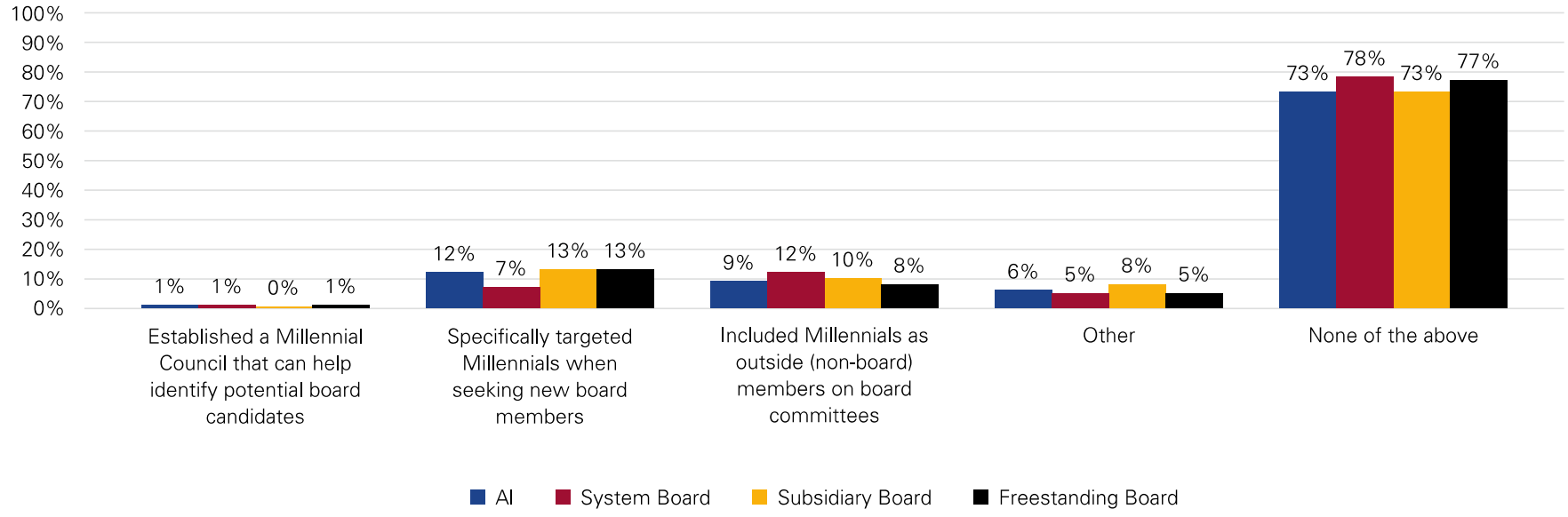

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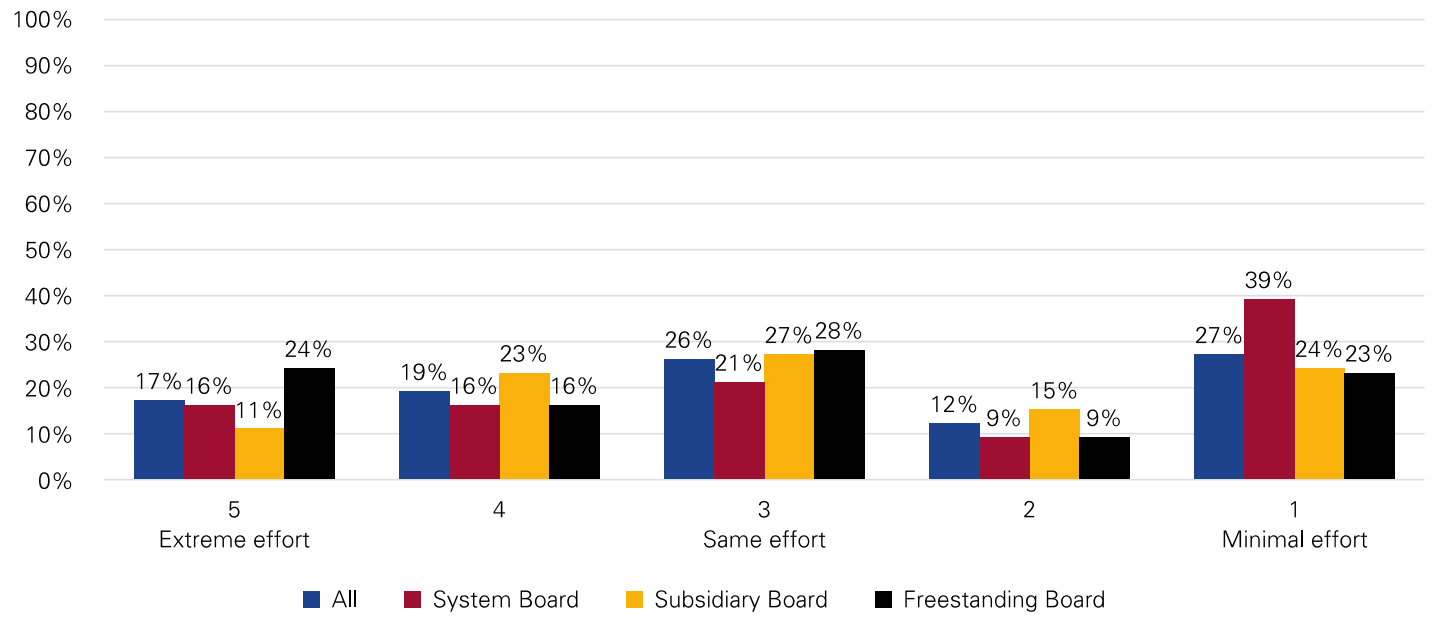
Figure 4.8 – Effort Required to Recruit Millennials Compared to Other Age Cohorts



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Generational Questions for Governance

- Will we require that Millennials make themselves relevant to our current governance model?

Or…

- Will we change our governance model to make it relevant to Millennial culture; and to the changing environment?

Societal Questions for Governance

Can society continue to expect Gen X or millennial professionals, or business executives dealing with family pressures in today's hectic and disruptive environment to ***volunteer*** significant, if not excessive, amounts of their time to governing hospitals and health systems?

Societal Questions for Governance

If the pool of qualified and willing potential system and hospital board members shrinks, we will be looking at a future where the only individuals who can afford the time to serve as effective volunteer members of healthcare boards are either retired, or independently wealthy, or who have the luxury of working for generous employers or owning businesses that essentially run themselves; or, who are individuals who are employed by the hospital or system itself.

Societal Questions for Governance

Meantime, the Baby Boom generation is aging and cannot be the primary source of healthcare board members for too much longer.

Societal Questions for Governance

Many current board members are becoming concerned that the complexity, regulation, quality and safety challenges of governing a hospital or health system expose them to inordinate and unacceptable amounts of liability and reputational risk. A growing number of them say, "I can volunteer to serve on the boards of other organizations that require less of my time and effort, and that have much less liability and reputational risk exposure. ***Why should I serve on the board of a hospital or healthcare system?"***

IMPLICATIONS

- **It will become increasingly more challenging to recruit and retain qualified board members.**
- **The average age of boards will continue to increase, and age diversity on boards will become a growing issue.**
- **Effectively integrating members of the Millennial Generation and Generation X into current governance models will be a growing challenge**

- **The Traditional Governance Model May *Fail*.**

STRATEGIES

- **Make the current, traditional governance model as EFFICIENT as POSSIBLE. Adopt Best Practices – NOW to buy time.**

- **Begin to consider and experiment with New Models of Governance.**

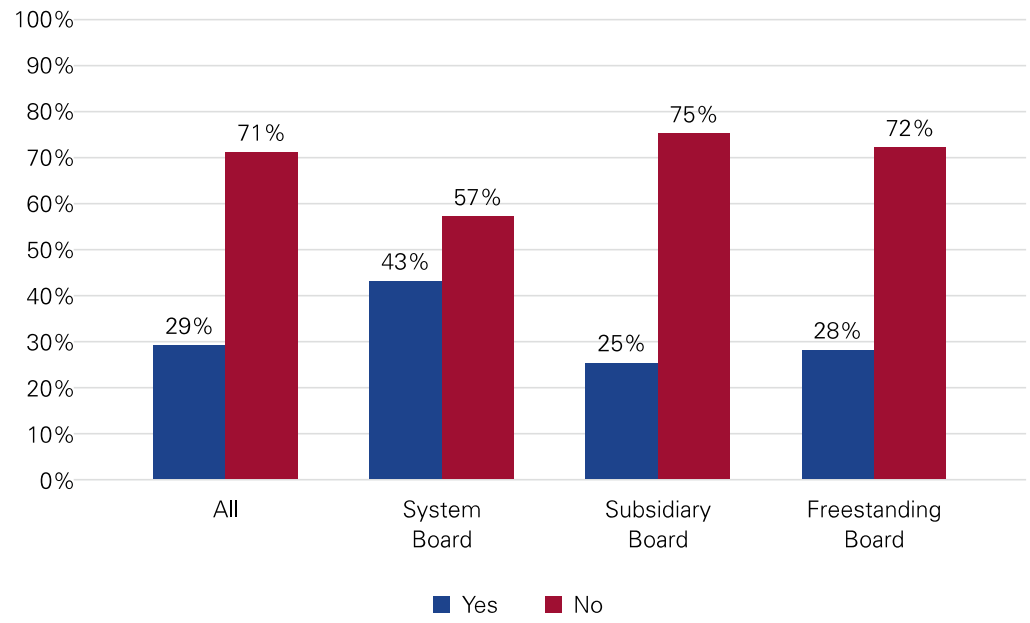
Some Interesting Highlights from AHA 2019 Governance Survey

- Only 17% of Freestanding hospital Boards have an outside board member, compared to 49% of system boards and 27% of system subsidiary hospital boards.

BARRIERS TO EFFECTIVE SYSTEM LEADERSHIP

- FAILURE TO UNDERSTAND THE CORE BUSINESS OF THE ORGANIZATION
- INABILITY TO OVERCOME THE PARADIGM OF THE PAST (Hospital paradigm)
- INABILITY TO CONVINCE THE “CASH COWS” TO ACCEPT SYSTEM STRATEGY
- INABILITY OF TRUSTEES TO UNDERSTAND THE NEW HEALTHCARE ENVIRONMENT

Figure 4.14 – Board Member Continuing Education Requirement



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So, what Could Some "New Models" Look Like?

- **Compensated Boards or Select Compensation of "Professional Board Members."**
- **Professionalize healthcare governance; create a professional health system board member pool?**
- **Require Training and Certification of health system board members.**
- **Different Governance Models for Different Organizational Types**

So, what Could Some “New Models” Look Like?

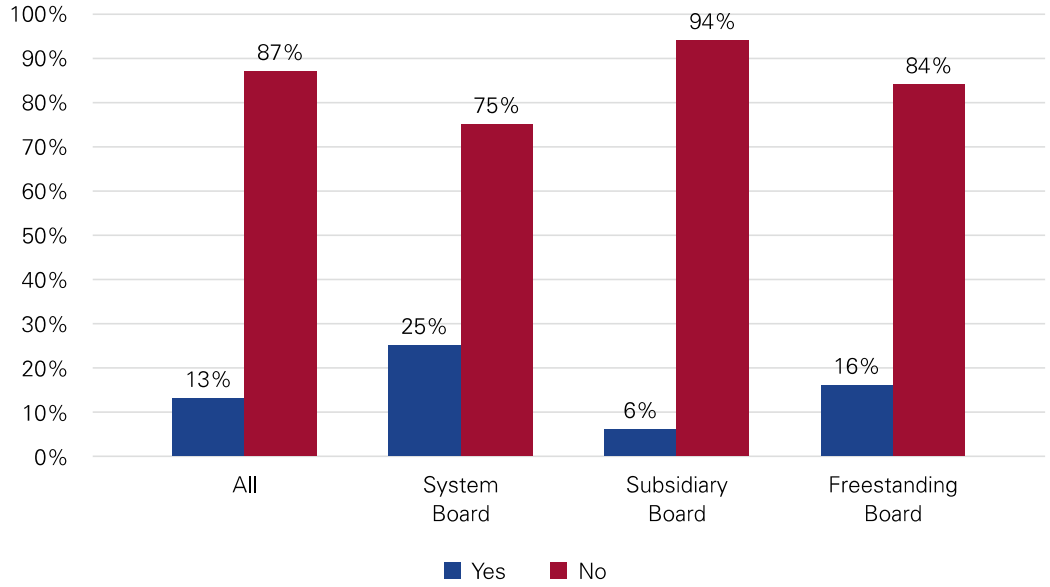
- **Convert to Not-for-Profit, NON-Tax Exempt, or For Profit to avoid IRS requirements. This would allow boards of “Insiders” (UK model with NEDs)**
- **Travelling “Boards for Hire” organized as corporations**
- **AI board “members”**

Is Board Compensation Legal?
Yes, (for now…)

The current state of the law—generally permits compensation of Not for Profit Organization Board members so long as it is reasonable, necessary, and not excessive

Figure 3.4 – Board Member Compensation

Do you compensate board members excluding reimbursement for out-of-pocket expenses?



2018 Average all respondents: 13 percent
2014 Average all respondents: 10 percent
2011 Average all respondents: 13 percent

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Pros of Board Compensation

- May Make it Easier to attract and retain board members with needed competencies, especially healthcare professionals.
- Increased time demands, regulatory and accountability pressures, and growing responsibilities may require it.
- Health care, especially large systems competing with Fortune 500 companies for board talent
- Increased liability and reputational risk for board members
- May be necessary to attract younger board members who do not have the same voluntary spirit

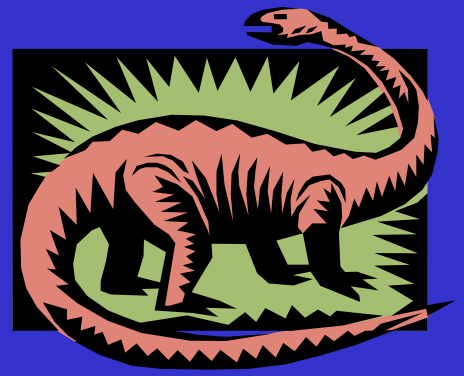
Cons of Board Compensation

- Loss of Statutory Immunity from Liability. Federal Volunteer Protection Act of 1997; State's charitable immunity laws.
- Negative Optics, Media Scrutiny
- Potential Future Impact on Tax Exempt Status
- Challenges of IRS director Independence, excess benefit transaction, rebuttable presumption of reasonableness rules
- Challenges of implementing compensation arrangements while avoiding appearance of conflict of interest (Congress voting itself a pay raise)

There is no empirical or anecdotal data that indicates that compensation, ***in and of itself,*** will improve governance. However, compensation ***In Exchange*** for higher performance expectations, accountability to rigorous performance evaluation, and a willingness to "Fire" non-performing board members ***MAY*** improve governance, and be the future Model of governance, especially of systems.

The coming crisis in the traditional governance model threatens the very health care system it is tasked with leading.

Board leaders and executives now face another, even more daunting challenge: to unmake the very models they use to govern before they fail, and then to create new ones to lead hospitals and health system into the future.



IT IS NOT THE STRONGEST WHO SURVIVE, OR THE FASTEST.

IT IS THE ONES WHO CAN CHANGE THE QUICKEST.

Charles Darwin

Whither the Soul of Healthcare Governance?