general counsel also can act as their compliance officer, and there is no clear legal mandate saying they cannot. But the language in the GCPG says that those should be two separate roles held by different people.

Wergin notes that there is a new emphasis on patient safety in the new OIG guidance, looking for more integration among patient safety, quality, and compliance.

"It's not just whether you are looking at possible materially substandard care in relation to fraud and abuse violations. The compliance program guidance certainly is concerned with fraud and abuse, but it's also looking at medical necessity, HIPAA, information blocking, and EMTALA," Wergin says. "Look at your patient safety data not only for the sake of patient safety, but also to see if it raises any of these other compliance concerns or other risks. The enterprise risk management framework is very broad, and we are trying to look at risk from a holistic integrated perspective." ■

SOURCES

- **Natasha Sumner**, JD, Senior Counsel, Husch Blackwell, Oakland, CA. Phone: (510) 768-0637. Email: natasha.sumner@huschblackwell.com.
- **Judith A. Waltz**, JD, Partner, Foley & Lardner, San Francisco. Phone: (415) 438-6412. Email: jwaltz@foley.com.
- **Josi Wergin**, JD, FASHRM, Husch Blackwell, Madison, WI. Phone: (608) 258-7132. Email: josi.wergin@huschblackwell.com.

How to Educate the Board on Quality and Safety as QAPI Expects

The Quality Assessment and Performance Improvement (QAPI) program from the Centers for Medicare & Medicaid Services specifies that hospital boards are responsible for oversight of the QAPI program and that hospital administrators are responsible for educating the board on quality and safety issues. But how does a risk manager educate and update the board on these issues?

Budget approval may be the first responsibility that comes to mind when thinking of hospital and health system board members, but they also establish goals, make strategic decisions, and oversee performance, says **Sue Ellen Wagner**, vice president for Trustee Services with the American Hospital Association.

With QAPI requiring the education of the board on quality and safety, risk managers may find themselves intimidated by the idea. The 2022 American Hospital Association Governance Survey found that only about 24% of surveyed board members have clinical backgrounds, and that may color how education efforts are presented. *(The report can be found online at: https://bit.ly/3uZBoPW.)*

Typically, the board chair runs the meeting and plans the agenda, Wagner notes. Risk managers can work with the board chair, usually by going through the CEO, to get on the agenda and plan the presentation.

"Giving the trustees some articles to read, and then having a follow-up discussion would be important because making sure they understand is important, particularly if you're talking about something like new requirements," Wagner explains. "The other thing I would stress is the urgency for hospitals and health systems to ensure that they have continuous education on quality and patient safety initiatives, meaning throughout the year, because it shouldn't be a one-stop shop."

A key focus of board education should be ensuring board members understand what they are accountable for, Wagner says. Quality and safety should be on the meeting agenda for every board meeting, along with time for discussion.

"The board really should be having that overall broad high-level picture of what's going on in terms of quality and patient safety in

EXECUTIVE SUMMARY

The Centers for Medicare & Medicaid Services Quality Assessment and Performance Improvement (QAPI) program requires educating the board on quality and safety. Risk managers should use the best tactics to comply with the requirement.

- Give regular presentations at monthly board meetings.
- Speak in terms the board members can understand.
- Emphasize that board members are responsible for QAPI compliance.

their organization, but every board member should be aware that a lot of the details are discussed in quality committees," Wagner says. "That information does need to be brought to the full board because they're all accountable for quality and patient safety."

Choose Words Carefully

Wagner cautions risk managers to avoid talking in acronyms. Use full words at least at first, and possibly introduce the acronym as the conversation progresses. Explain terms like "sentinel event" that may be obvious in risk management circles but may not be familiar to board members without a healthcare background. Remember that even if a risk manager is intimidated by speaking to the board, the board members may be intimidated by jargon they do not understand and just let it pass by without asking for clarification.

"You have to keep in mind your audience, who you're talking to, and their level of comfort with some things that may be very familiar to you," Wagner says.

New board members need a one-on-one orientation to quality and patient safety to get them up to speed, she suggests. That orientation can include a glossary of healthcare acronyms and what they mean, since they will be reading materials that may include those terms. That glossary also could be provided to the entire board as a backup to the risk manager using plain language in presentations.

"Boards are really receptive to education, and that can come in a variety of different ways. The in-person presentation is a must," Wagner stresses. "Sending them articles or webinars and podcasts is easier and does offer value, but I think having that in-person report at meetings is critical. The discussion needs to be included in board meeting minutes because that's what the regulators will be looking for."

Board Members Are Responsible

Each director should be aware that the board of directors is legally responsible for the conduct of the hospital, including the quality of care provided to patients, says **Jeffrey H. Frost**, JD, partner with Jackson Walker in Austin, TX.

To fulfill its legal responsibility to safeguard patient care, the board must rely on the hospital's medical staff and hospital reports and must ensure the medical staff is accountable to the board for the quality of care provided to patients. Additionally, the board must ensure the hospital has developed, implemented, and maintained an effective, ongoing, hospitalwide, data-driven QAPI program, which reflects the complexity of the hospital and tracks medical errors and adverse patient events, analyzes their causes, and implements preventive actions and mechanisms that include feedback and learning throughout the hospital, Frost says.

Risk managers often are responsible for the reporting and tracking of adverse events and are in the best position to guide the board on which high-risk, high-volume, or problem-prone areas the QAPI should focus on. Frost says risk managers must collaborate with the hospital's quality department to provide the board with assurances that the QAPI

program includes medical errors, adverse patient events, analysis of error and adverse event causes, potential problem areas, actions to remedy its identified problem areas, and follow-up to determine if the remedies were effective in improving performance and quality.

"Risk managers should educate the directors so they clearly understand the basic requirements of the QAPI and why they are receiving this QAPI program report," Frost says.

Frost explains that board members should understand these points about the QAPI program:

- It is based on the hospital's system to monitor quality and safety through accurately tracking medical errors, including near-misses, adverse events, and other quality indicators.
- The program incorporates measures and metrics that reflect problematic areas based on the quality indicators and data in the hospital's tracking system, in addition to other high-risk areas.
- QAPI captures the hospital's performance improvement activities initiated by the board focused on areas that are highest risk, highest volume, or most problem-prone.
- Program data indicate whether the performance improvement activities are successful and if the improvements are sustained. If not successful, there should be a discussion of the next recommended performance improvement activity.

"The education should focus on the board's and hospital's obligation to have a QAPI program in place that continually assesses care provided and how to improve such care, how quality of care is monitored and improved, and whether the quality of care has improved," Frost says. "After providing an overview, a real-life example of quality improvement could be helpful, such as how the hospital identified pressure ulcers as a problem area, the steps taken to reduce pressure ulcers, and the sustained success the hospital achieved in reducing pressure ulcers."

CMS expects the board to effectively communicate the goals of the QAPI program and its clear expectations for a culture of safety that is hospitalwide in scope, Frost notes. The board should understand why it is receiving the QAPI and the information provided in the QAPI reports. Education should be detailed enough to achieve this understanding but not overly detailed.

> CMS EXPECTS THE BOARD TO EFFECTIVELY COMMUNICATE THE GOALS OF THE QAPI PROGRAM AND ITS CLEAR EXPECTATIONS FOR A CULTURE OF SAFETY THAT IS HOSPITALWIDE IN SCOPE.

"For example, the board does not need to know the clinical causes of a complication — just why the complication is considered an adverse event, the frequency of the complication, and the improvement steps being taken to reduce the frequency," Frost says.

Do not forget to include the medical staff and physician leaders' roles in the quality improvement process. The medical staff is accountable to the board for the quality of care provided to patients, so medical staff leaders and other physician leaders should provide input and agree with the hospital's QAPI program.

"Don't stop tracking after successful improvement," Frost says. "Sometimes, success in improving performance will cause a measure to no longer be tracked. When an issue is no longer being focused on, it may reoccur."

Provide Enough Data

Determining the level of information presented to the board can be challenging, says **Bette McNee**, RN, NHA, vice president for clinical safety at insurance broker Graham Company in Philadelphia. The board cannot be involved in the minutiae of daily operations, but they need enough information to understand key quality and safety issues.

Some risk managers offer their boards a risk management education module, and some boards include a subcommittee focusing on quality, safety, and risk. McNee has worked with some hospitals and health systems that have sent board members to attend risk management conferences.

"Those board members will typically come back and provide that education to the rest of the board," McNee says. "You end up with someone on the board who has developed a deeper understanding and appreciation of quality, safety, and risk, and that person can help educate fellow board members."

Any presentation of a quality, safety, or risk issue should include an explanation of how the organization is addressing it, McNee says. Avoid presenting a great deal of data without describing how the issue

presents itself at your institution and how it is addressed with best practices.

The expanded role of the QAPI program under the updated guidance requires hospital boards to take a more hands-on approach to compliance, says **Henry Norwood**, JD, an attorney with Kaufman Dolowich in San Francisco. The routine presence at board meetings of hospital staff tasked with implementing the QAPI program for each department would ensure a continuous dialogue between the board and those handling the QAPI program every day. Board members should be provided regular updates on the progress of QAPI initiatives in advance of meetings and provide opportunities for hospital staff to suggest changes to the QAPI program.

"Documentation of the board's involvement is key under the updated guidance. The emphasis the guidance places on surveyors to monitor hospitals' QAPI progress and adherence to the QAPI standards underscores the importance of ensuring documentation of the board's involvement in the QAPI process," Norwood says. "Inclusion of the board's QAPI decisions should be included in meeting minutes, agendas, and regular communications throughout all hospital departments."

Although the updated guidance requires greater efforts from board members, it also provides the board with an opportunity to contribute to improved quality more directly in the hospitals they serve, Norwood says.

Tips for Budget Issues

When it comes time to persuade the board to invest in new technology, **Amy Carenza**, chief commercial officer for ActivePure, an air disinfection company based in Dallas, offers these suggestions:

• **Focus on evidence-based tactics.** Present data and case studies demonstrating the effectiveness of innovative solutions in reducing infection rates and improving patient outcomes. Champion a culture of innovation throughout the hospital that encourages new technology trials focused on patient outcomes.

THE EXPANDED ROLE OF THE QAPI PROGRAM UNDER THE UPDATED GUIDANCE REQUIRES HOSPITAL BOARDS TO TAKE A MORE HANDS-ON APPROACH TO COMPLIANCE.

• **Take a broad and granular approach.** Combine a broad overview of patient safety and quality improvement with granular details on specific technologies and practices. This approach ensures board members understand the overall goals and the specific ways to achieve them. Lean into board member curiosity concerning innovative risk management technologies whenever and wherever possible, which necessitates both broad and granular understanding.

• **Connect the financial dots.** New patient safety and quality tactics often require new investments in technology, which is a challenging decision for many hospitals still recovering from pandemic-related disruptions to their revenue and costs. Quality improvements take time to materialize, so risk managers should itemize the costs of not acting — from unreimbursed costs of care to CMS penalties. By creating awareness of the "hidden" costs of inactivity, the return on investments in quality can be better understood and appreciated.

• **Providing ongoing education and updates.** Regularly update the board on new developments and advancements in patient safety technologies and practices. This could include workshops, seminars, or briefings with experts in the field.

• **Involve the board in decision-making.** Encourage active participation in decision-making processes related to patient safety and quality improvement. This involvement ensures board members are more engaged and informed about implemented tactics and can better hold hospital administration accountable for results.

• **Use real-world examples.** Share success stories from other healthcare facilities or the hospital's internal trials where new technologies and methods for improved patient quality and safety are showing positive results. Celebrate innovation and improvements of any scale. This can help in illustrating the potential impact and benefits. ■

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- Amy Carenza, Chief Commercial Officer, ActivePure, Dallas. Phone: (888) 217-4316.
- Jeffrey H. Frost, JD, Partner, Jackson Walker, Austin, TX. Phone: (512) 236-2269. Email: jfrost@jw.com.
- Bette McNee, RN, NHA, Vice President for Clinical Safety, Graham Company, Philadelphia. Email: bmcnee@grahamco.com.
- Sue Ellen Wagner, Vice President for Trustee Services, American Hospital Association, Chicago. Phone: (312) 422-3000.