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New Jersey Legislature mandates hospital trustee training

By Lourdes Martinez, Esq.

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New Jersey Governor John Corzine recently signed into law a unique requirement for hospital trustees in his state. As a condition of serving on the board of a public or private general hospital in New Jersey, newly appointed trustees must now go through a one-day training program designed to clarify their roles and duties.

The law mandates that trustee training programs be approved by the New Jersey State Commissioner of Health and Senior Services, and directs the commissioner to consult with the New Jersey Hospital Association, the Hospital Alliance of New Jersey, and the New Jersey Council of Teaching Hospitals to develop appropriate subject matter. Training programs must include a review of the types of financial, organizational, legal, regulatory, and ethical issues that a hospital trustee may be required to consider in the course of discharging his or her governance responsibilities.

The commissioner must also: (1) arrange for or specify the entity or entities to provide the training; (2) specify the time frame within which the training is to be completed; (3) certify completion of the training for each trustee upon receipt of appropriate documen-

tation; (4) take other actions appropriate to effectuate the purposes of the law; and (5) adopt appropriate rules and regulations.

This training requirement only applies to trustees appointed after April 30, 2007 (the date the law was enacted). Training must take place within six months of appointment. In the case of those trustees appointed on or after April 30, but prior to the law's effective date (which will be October 28, 2007), the training must occur no later than six months from the effective date (i.e., April 28, 2008). Finally, the law requires that the training program be at least one day in duration.

The sponsor of this legislation, Assemblyman Gary Schaer (himself a trustee of St Mary's Hospital in Passaic City for more than a decade), stated that "since hospitals have increasing needs for governmental financial assistance, trustee training should be mandatory to ensure hospital trustees are educated about basic fiscal, managerial and ethical aspects of the position."

New Jersey should be applauded for taking a step in the right direction. Nonetheless, the training requirement is only a small step and begs the following questions: Why did the legislature not require training for all hospital trustees? Why is the training limited to just one day? Why not impose annual refresher training?

Trustee responsibilities

A hospital's trustees are generally a diverse group of individuals with distinctive backgrounds, skills, and leadership qualities.

Increasingly, trustees have come under the microscope; scrutiny from governmental regulators, bond rating agencies, and the general public has led to demands for more accountability and transparency in the very complex environments that trustess govern. The variety of health care operational and ethical issues for which a trustee must provide oversight may include, for example, physician and community relationships, ensuring that the hospital's charitable mission remains viable, conflict of interest management, executive compensation, financial strategies, technology, governmental regulations, compliance/ethics, and (last, but not least) quality of care management.

The passage of the Sarbanes-Oxley Act (SOX), in 2002, required public companies to increase corporate responsibility by adopting rules and guidelines regarding audits, compensation, the effectiveness of controls, and certain disclosure requirements. SOX did not proscribe any particular training program to enhance governance. Many thought individual states would rush to imitate the federal law and extend it to the not-for-profit sector. While that did not happen, SOX did create an impetus for more board involvement and oversight in certain areas, particularly in the compliance arena.

The Federal Sentencing Guidelines were amended to reflect that a compliance program can only be considered effective if there is demonstrable and appropriate board oversight. In furtherance of this concept, the OIG in conjunction with the American Health Lawyers Association (AHLA) issued a resource for health care boards to assist them in overseeing compliance programs. This resource focuses on the "reasonable inquiry" test incumbent in a "good faith" analysis owed under a duty-of-care fiduciary obligation. It provides specific questions that boards should be ask-

ing in order to carry out their due diligence. The OIG also hosted a roundtable with the HCCA on the role of governance in corporate compliance programs. Of note, some participating compliance officers observed that board members did not have the skill sets that would benefit their organizations.

A one-day state-sanctioned training session will hopefully improve New Jersey trustees' skill sets and more importantly, educate them on their additional and on-going need for information.

For New Jersey trustees not affected by this requirement and trustees in other states, why wait for legislation? Many resources are available for today's health care trustee (e.g., Web-based seminars, audio conferences, on-site educational programs) to help improve their governance skills. Trained trustees can guide their hospitals and communities through a challenging environment to achieve the goal of providing high-quality health care in an efficient and ethical manner. ■

Share your Compliance Week Celebration with Us!



On May 20–26, 2007, thousands of our members celebrated Corporate Compliance and Ethics Week. Now, we want to hear from you. Please write a brief article letting us know what you did

to celebrate. Send us your event photographs, identifying those pictured, and describe the activities you organized.

We'll use the articles, photos, and brief reviews in an upcoming issue of **Compliance Today**. By sharing your activities with us, you will help your fellow colleagues plan their celebrations for Corporate Compliance and Ethics Week in 2008!

Please send your information to Margaret Dragon (e-mail margaret.dragon@hcca-info.org or phone: 781/593-4924).

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