Presenter

Fern N. Zappala currently serves in the capacity of Special Counsel to the CEO for the American Society of Health-System Pharmacists, and handles selected legal projects for the organization. Prior to retiring in 2014, Ms. Zappala represented ASHP in various full time positions for a total of 28 years. She was the General Counsel/Vice President for ASHP for over 14 years. Ms. Zappala holds a Juris Doctor from Catholic University, as well as a Master of Public Health and Bachelor of Science from the University of Minnesota.
Disclaimer

Any views or comments offered today are those of the presenter and should not be construed as the official position of the ASHP.

This presentation is designed to provide an accurate and general overview in regard to the topic covered. It is provided with the understanding that Ms. Zappala is not providing legal services or advice. If legal services or other assistance is required the services of a professional in your jurisdiction should be sought.

Opening Thought

Boards govern, and staff/management company manages.
Today’s Discussion Topics

• Fiduciary Duties of Directors
• Expectations of Board Members
• Risk Awareness and Prevention

Fiduciary Duties

• Board members have certain legal and ethical standards of conduct in carrying out their responsibilities to the organization (grounded in state law).
  – Duty of Care
  – Duty of Loyalty
  – Duty of Obedience
Duty of Care

• Exercise reasonable and ordinary care when making decisions and providing oversight.

• Protect the financial assets/resources/proprietary information of the corporation.

Duty of Loyalty

• Pursue the “organization’s best interests”.
  – Allegiance to the organization.

• Put the interests and mission of the organization above self-interest or other external interests.
  – Minimize and manage conflicts of interest.
  – Maintain confidentiality of information.
Conflict of Interest

• Formal Policy and Procedure
  – Regular Disclosure
  – Refrain from voting on a matter and/or participation in discussion;
  – Resign or withdraw from an activity

Confidentiality

• Nondisclosure agreement
• Do not disclose information learned in the course of your Board service.
• As a starting point, assume all deliberations and/or materials are confidential.
Duty of Obedience

- Compliance with state and federal laws, and regulations
- Act only in accordance with organization’s articles of incorporation, bylaws, and board policies
- Avoid negligent and fraudulent actions

Expectations of Directors

- Attend all Board meetings
- Prepare before the board meeting
- Study and understand mission, bylaws, strategic plan, board policies
- Reliance on Experts
- Treat all information and discussions as confidential
- Participate and manage conflict of interest
- ASK QUESTIONS!
Other Matters

Indemnification of Directors

Providing Directors and Officers Insurance

Risk Awareness and Prevention

Tax Exempt Status

Cyber security

Use of Social Media

Contractual Arrangements
Takeaways

Ensure the proper governance and direction of the organization

Compliance with mission/exempt purpose

Fulfilling your fiduciary duties minimizes risk of liability and claims against Boards, and it shields Board members from personal liability for actions of the Board

Ask questions!

Good Governance Values

• Accountability
• Transparency
• Responsiveness
• Participation
• Respect (ideas and people)
• Integrity
• Effectiveness
QUESTIONS

Resources for Board Members

- ASHP website. www.ashp.org/stateaffiliates
- American Society of Association Executives (ASAE). www.asaecenter.org