

American Society of Health-System Pharmacists

Theft, Fraud & Embezzlement

ASHP's Financial Toolkit for Affiliates

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INTRODUCTION

One of the main **LEGAL** responsibilities of an association's board is to maintain financial accountability of their organization.

The board acts as trustees of the organization's assets and must exercise due diligence to oversee that the organization is well-managed and that its financial situation remains sound, fulfilling their role as fiduciaries.

What does fiduciary mean?

Fiduciary duty requires board members to stay objective, unselfish, responsible, honest, trustworthy, and efficient.

Board members must always act for the good of the organization, rather than for the benefit of themselves. They need to exercise reasonable care in all decision making, without placing the organization under unnecessary risk.

Not every board member can be a financial expert. Every board member, however, needs to understand their basic fiduciary responsibilities which include but is not limited to:

- Review and "approval" of monthly financial reports
- Budget approval
- Review of audit report and year-end financial statements prepared by outside auditor
- Review of Form 990 IRS submission annually

These responsibilities also include understanding general terminology, having the ability to read financial statements and judge their soundness, and recognizing warning signs that might indicate a change in the overall health of the organization. If a board member does not understand something, he or she must be willing to find out the answer.

This toolkit is designed to provide the ASHP State Affiliate with guidelines for successful financial stewardship of your association.

THEFT, FRAUD AND EMBEZZLEMENT

It is hard to acknowledge that theft, fraud, and embezzlement are pervasive in today's society. In many cases the person who commits these acts is someone you know, like, and trust. Convincing a nonprofit to prosecute is often difficult. A nonprofit's duty to its members, the community, and its donors are significant and this should have strong consideration when determining whether to prosecute or not. Managers of nonprofit organizations must constantly be on the lookout for fraud.

Fraud costs U.S. organizations more than \$400 billion annually. The average organization loses approximately 6 percent of its total annual revenue to these abuses. And these abuses are perpetrated at all levels of organizations.

Preventing Theft, Fraud, and Embezzlement

Every organization should have a strong system of internal controls. Internal controls are not only for large organizations; there are steps small organizations can take to protect their assets as well. They may not have enough volunteers or employees to maintain strict delineation of duties but internal controls are still possible. Without good internal controls it could take months to become aware of a problem.

Internal Controls

Internal controls are a process designed to provide reasonable assurance regarding the reliability of financial reporting, the effectiveness and efficiency of your operations, and compliance with applicable laws and regulations.

See the ASHP Financial Management Checklist for a list of financial controls you can implement at your organization.

Implementing proper internal controls provide assurance that:

- Fraud will be discovered on a timely basis
- Perpetrators will be identified
- A strong deterrent to improper activities is in place
- Loss will be covered by insurance (i.e. general liability, D&O)

Good internal controls will take away the opportunity needed by desperate people to commit a crime. What will cause a normally good person to reach this point? Gambling debts, divorce, illness, drug problems, peer pressure, and work lay-offs are some of the reasons that are given when people are questioned about these abuses. It may be hard to take appropriate action when you have compassion for the person committing the fraud, but that should not be part of the consideration.

Warning Signs

- Treasurer's report delayed or non-existent
- Budget monitoring reports delayed (may be part of the treasurer's report)

- Delayed deposit of cash receipts
- Missing supporting documents
- Multiple corrections to the cash book
- Checks bouncing when there should be sufficient cash
- Lifestyle or behavior changes of staff or volunteers

Reasons Why Some Organization's find it Difficult to Report Fraud

- Many associations fear the effects of negative publicity if they file an official report of insider theft
- A nonprofit may be threatened with civil action by the offender for defamation if public statements are made
- Concern for personal safety if the abuser becomes aggressive.

The Cost of Not Prosecuting Fraud

- Not pursuing action sets a precedent that may cause additional fraud later on or create an environment that encourages fraud rather than deters it
- This may cause loss of credibility and respect for the association among the members, community, partners, and donors.
- Lack of prosecution may void the insurance policy

Fraud can have a significant impact on your association. It can lead to:

- Financial loss
- Costly investigation (in actual dollars and time lost)
- Lost opportunities
- Damaged reputation
- Damaged relationships with vendors, partners, members, and the community
- Loss of donors
- Litigation

Investigate all suspected fraud and decide if sufficient probable cause exists to prosecute. You may want to get an attorney involved from the beginning to make certain that evidence of possible fraud is properly preserved. They can advise the association on the likelihood of success in civil court, and protect the organization from issues related to improper actions or civil rights violations against the suspect.

Do not be afraid to talk about fraud; make it well known that theft will not be tolerated and that prosecution may result. Promote safeguards to reduce incidents of fraud and encourage people to come forward if they suspect irregularities.

Suspected Fraud Action Step by Step

- Determine if insurance covers the loss
- Consider whether to call the police
- Consider whether to call the district attorney
- Consider whether to meet with the individual

Have a written policy with procedures describing how future incidences will be handled.

Check the organization's insurance policy before you have a problem to see if it requires prosecution in order to recover a loss. You should also check the policy to see if it will cover losses if you do not have written controls in place or what happens if the controls are not followed. Many times this is grounds for denying a claim. You may want to check your state law to see if there are provisions that you may want to incorporate in your policy.

First Steps for Suspected Fraud or Theft

- Do not make accusations
- Determine what other access the suspect has, what other types of fraud schemes the suspect could have perpetrated, the likelihood of collusion, the possible duration of the schemes discovered
- Document all allegations
- Gather facts, documents, and interviews
- Identify all bank accounts involved and consider closing or freezing the accounts. Follow steps in the policy developed to cover such matters
- Contact the authorities
- Contact insurance company
- If it is determined that fraud did occur, it is recommended that the state affiliate should file an official report with the police department.