

Caroline Schiavo
UNI: cs3345
Nonprofit Governance
10 March 2021

Case Study Analysis II

As the executive director for the Lemington Home for the Aged, I know the most pressing governance concern is upholding my duty of care related to applicability of the ‘business judgment rule’ which states that in regard to these decisions, I am making them solely on behalf of all stakeholders guarding the board against legal issues. I am acting openly and honestly on behalf of the Home. This governance issue includes reviewing the organization’s fiscal responsibility surrounding recordkeeping, auditing, appointing a finance committee, and providing proper oversight. Without financial integrity, any nonprofit organization cannot fulfill any further obligations, create a budget, set fundraising standards, conduct auditing, follow 501(c)3 tax deductible guidelines, hence why this is the most important issue to address.

Currently, in my role, I am not “ensuring compliance with state and federal filing requirements, particularly annual information return” (BoardSource, 2010, pg. 131). The “going concerns” warning in the audits backs up this claim that doubt has been casted on my organization. I must address these doubt and compliance issues. The Sarbanes Oxley-Act is not be followed and designations to the financial committee are nonexistent. The act’s good practice recommendations include having both the chief financial officer and the chief executive “certify the appropriateness of financial statements and that they fairly present the financial condition and [internal control] operations” of the nonprofit, as an audit committee has not been established, no treasurer positions has been filled, and many other financial problems exists (BoardSource and Independent Sector 2003, pg. 6). I must evaluate the CFO’s actions in failing to maintain customary financial records or a ledger, which may mean asking the CFO to resign. My position as Chief Executive requires me to monitor day to day operational decisions, set agreements and contracts, consider all the advice available to me, which is addressing the duty of care, and

promote responsiveness to stakeholders and facilitation of boards (Renz, 2016, pg. 179).

Furthermore, the duty of care involves informing and communicating directly with the board, I should conduct better outreach and invite feedback among the board. This governance issue can be tackled with a risk management plan. Risk management comes in handy when dealing financial activities as a safeguard for events that can cause harm to an organization. If a concrete plan is put in place, internal control mechanisms can be stronger such as separation of duties and deficits will be lower (Mattan & Hartnett, 2011). In further addressing this issue, I should call an emergency board meeting to discuss a new fiscal oversight strategy. During this meeting, I should address the board's lack of due diligence, and financial accountability of the entire board by not appointing a treasurer and by not providing checks and balances on the CFO. I may even go further to suggest that new board leadership is need to solve these financial woes.

As the Executive Director, I control the narrative of the Home – good and bad. Financial mistakes have started to consume everyday operations and I have failed to uphold the duty of care. Two residents have died, and it is recommended that I be replaced. By addressing, these issues headfirst with the board, CFO, and other involved parties, I can hope to make a dent in solving the financial issues that have plagued the Home for the last 20 years.

1. Why is the board attendance less than 50 percent?

The reasoning for this question is that the board is required to have a least 50 percent present in all meets to conduct their duties responsibility. Furthermore, I am curious if attendance is correlated to lack of disinterest in our mission's cause or failure for timely notification of meeting dates. "Every board member must make it a priority to attend all board meetings and to miss a meeting only under exceptional circumstances" when a member does not attend they are not educated on decisions and updates of the organization (BoardSource, 2016). Being a board

member is a committed obligation, perhaps some members are not taking our organization as seriously prior to 2000.

2. Why are bylaws not followed in terms of financial oversight?

I would ask this question since a board treasurer and finance committee are integral to financial checks and balances, seeking an auditor, approving the annual operating budget, and certain expenses.

3. Why have you as the Board Chair not resigned yet?

The board should be at fault as there is overwhelming evidence of self-dealing and financial mismanagement. Basic board governance principles such as meeting attendance, following bylaws, and creations of committees were never established.

Bibliography:

BoardSource and Independent Sector. (2003). *The Sarbanes-Oxley Act and Implications for Nonprofit Organizations*.

BoardSource. (2010). *The Handbook of Nonprofit Governance*. San Francisco, CA: Jossey-Bass.

BoardSource. (2016, October). *Recommended Governance Practices*. Retrieved from <https://boardsource.org/wp-content/uploads/2016/10/Recommended-Gov-Practices.pdf>

Mattan, R. & Bridget Hartnett. (2011). *How Nonprofit Organizations Manage Risk*.

Renz, David O. & Associates (2016). *The Jossey-Bass Handbook of Nonprofit Leadership and Management* (4th ed.). Hoboken, NJ: Jossey-Bass, A Wiley brand.