

Partnering: Know Yourself First

We're seeing a shakeout" as weak healthcare organizations align with stronger ones through mergers and affiliations, according to Robert L. Schuchard, an attorney with Musick, Peeler & Garrett, Los Angeles. The principal reasons that organizations are collaborating, he said, are to better serve the community; to eliminate the "arms race"—for example, when two organizations want to buy a magnetic resonance imager; to achieve economies of scale; and to improve their position in the managed care arena.

But before affiliating, organizations must know their strategic directions and how the partnership will aid them. "You need to know what you want to accomplish. You can't determine deal breakers and effectively negotiate without identifying this," insisted Schuchard, who spoke at the first annual Executive Leadership Institute in Ann Arbor, MI. The August meeting was cosponsored by the University of Michigan and the American Hospital Association's American Society of Health Care Marketing and Public Relations.

PRECOLLABORATION FACTORS

As they plan a partnership, Schuchard advised, organizations must look at legal restrictions such as antitrust laws, charitable trust issues that may restrict the use of funds of not-for-profit corporations, and contractual restrictions.

Schuchard pointed out the importance of examining a number of partnership options so that board members can demonstrate they satisfied the "best judgment rule." Under this common law principle, trustees must identify the transaction's benefits to the organization's constituents (e.g., patients, employees), be fully informed about the impact of the transaction on the institution, exercise their fiduciary duties, and make decisions that are rational and without self-interest, he warned.

Early in the partnering process, the organizations involved need to confront what Schuchard termed "gut issues." They need to know their

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desire and need for control and decide who will have the final authority on such decisions as approving budgets and authorizing capital expenses.

A letter of intent, in which the parties agree to key "deal points," should be completed early in the process, Schuchard insisted.

SUCCESSFUL NEGOTIATION

To negotiate successfully, Schuchard advised knowing from the beginning what the barriers to collaboration are. "Know what would derail the train. Once you get the train going, it's easy to lose sight of what you shouldn't allow," he said.

He said that involving physicians in the negotiation process will help broaden the support because the physicians will communicate the benefits of the partnership to their constituents. Choosing a good chief negotiator is key, Schuchard added. He pointed out that a businessperson on the board, who will be viewed as independent, often can be the most effective negotiator.

COMMUNICATING THE PARTNERSHIP

Schuchard says organizations sometimes neglect to plan how they will communicate the new arrangement. He advises the following rules:

- Have one spokesperson for all audiences—press, employees, etc. Usually this person is the chief executive officer, he said.
- Coordinate internal and external communications. "Tell the press and the employees the same thing; develop a statement that goes to everyone."
- Coordinate with the other party in the transaction so that both organizations are saying the same thing.
- Have an attorney review communications of both parties to all audiences to ensure these communications are consistent with communications to the government, for example.
- Use language that has some leeway or qualifying terms in case plans are modified.

—Judy Cassidy