In Search of a Systems-Based Approach to Healthcare Delivery

The National Congress on Healthcare Clinical Innovations, Quality Improvement and Cost Containment

October 26, 2011

Facing the "Unknowable"

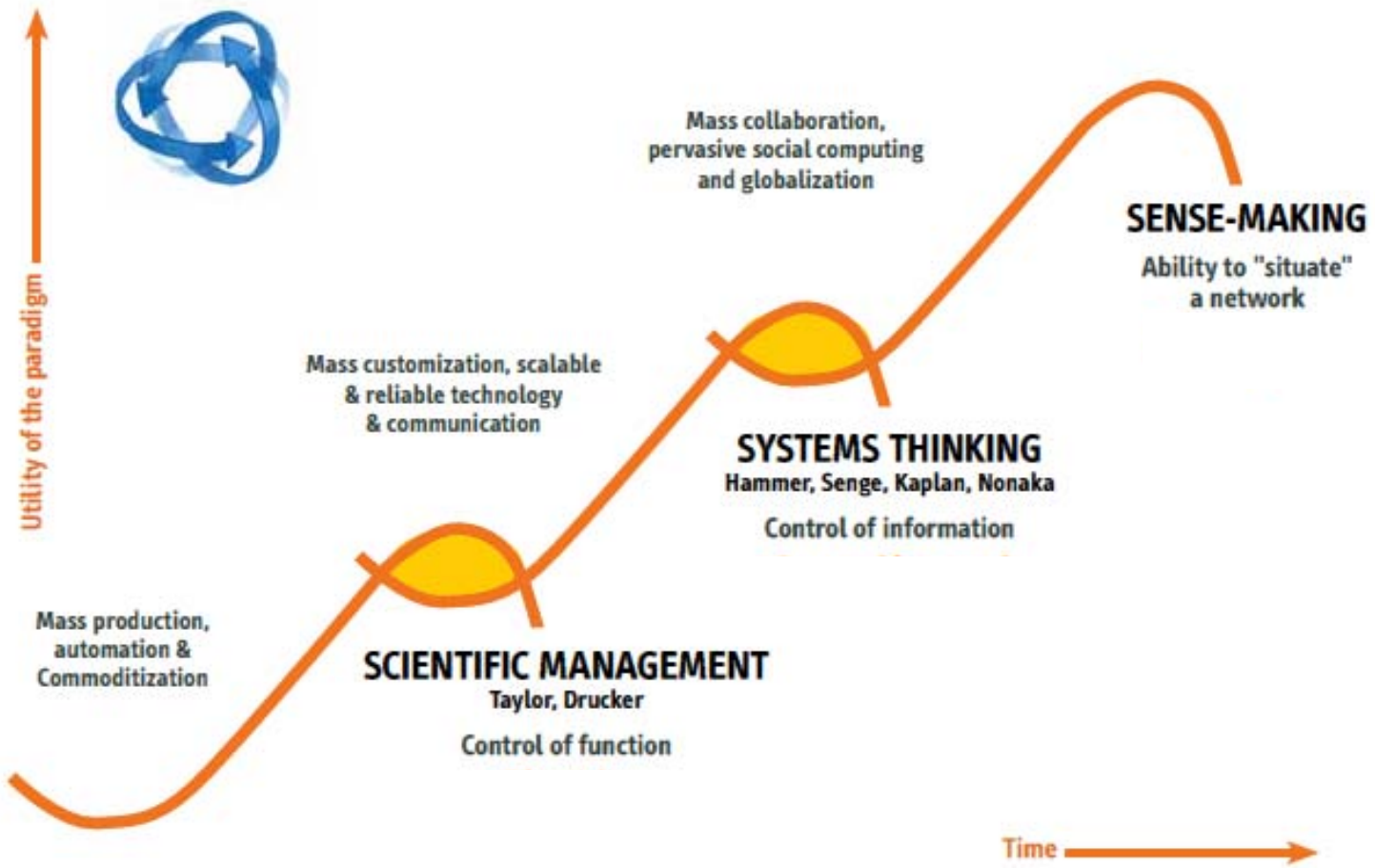
"Healthcare in the United States is on the cusp of change, and the future cannot be readily predicted from the past. We are faced with having to make choices now about something that is not only unknown, but basically unknowable."

SOURCE: Gonnering, Russell S., MD, MMM, FACS, CPHQ. Make and Sell vs. Sense and Respond. *Physician Executive Journal*. September/October 2011, pp. 22-26.

Everyday Hospital

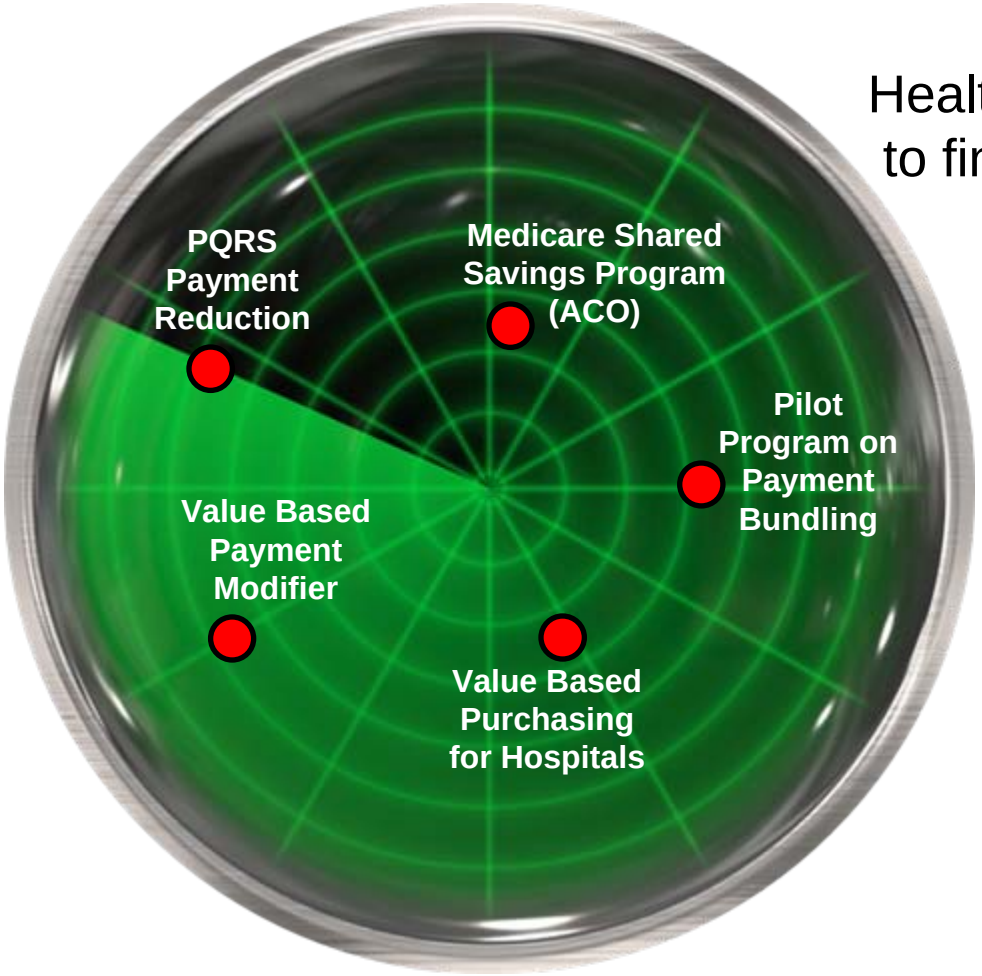
- 175-bed facility located in an affluential suburban community in SE US
- Within 30 minutes of the hospital are three large, prominent health systems
- Influx of cardiologist in the community due to the “lifestyle” provided
- No CMO -- antiquated medical staff governance structure
- Integration strategy with physicians is a recent investment in EHR
- 8 employed physicians; 2 of which are primary care physicians

Understanding Change Management



Used with permission from David Snowden, Founder & Chief Scientific Officer, Cognitive Edge Pte Ltd, www.cognitive-edge.com

Reimbursement Based on Quality



Healthcare reform creates a new urgency to find new, efficient systems that create an emphasis on quality of care

The indicators are on the radar – a new era of quality is on the horizon.

Manage Reform – Don't Let It Manage You

Healthcare reform is causing many health systems to quickly react/respond to proposed changes (i.e., bundled payments, ACO regulations, value-based purchasing, etc.)

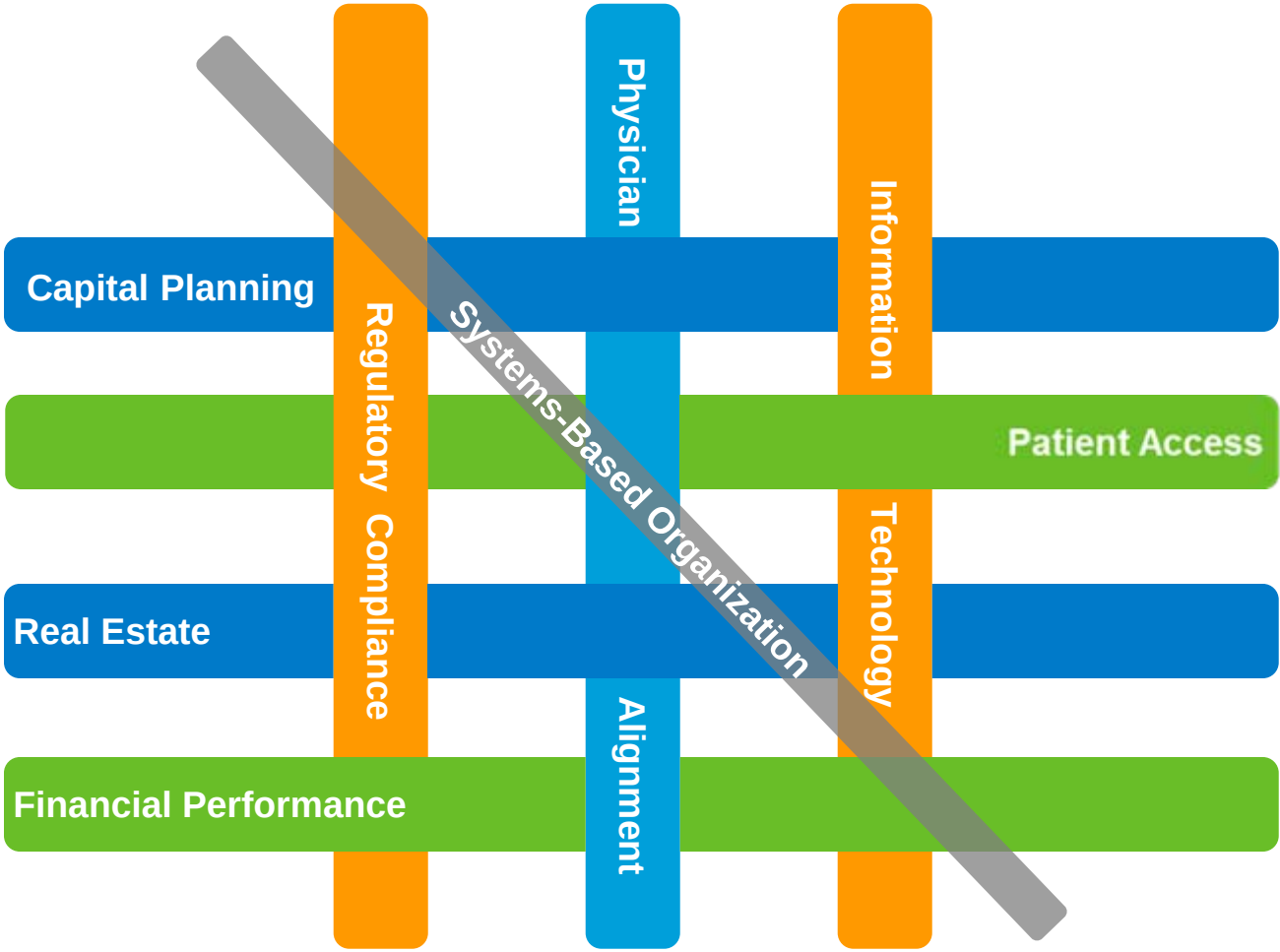
Too often, health systems are failing to proactively plan for the response of the reaction to healthcare reform often leaving the system at risk

Hastened decisions are often made in silos and without considering the impact/risk to all entities

System-Based: Enterprise Risk Management

It’s All Coming Together Now

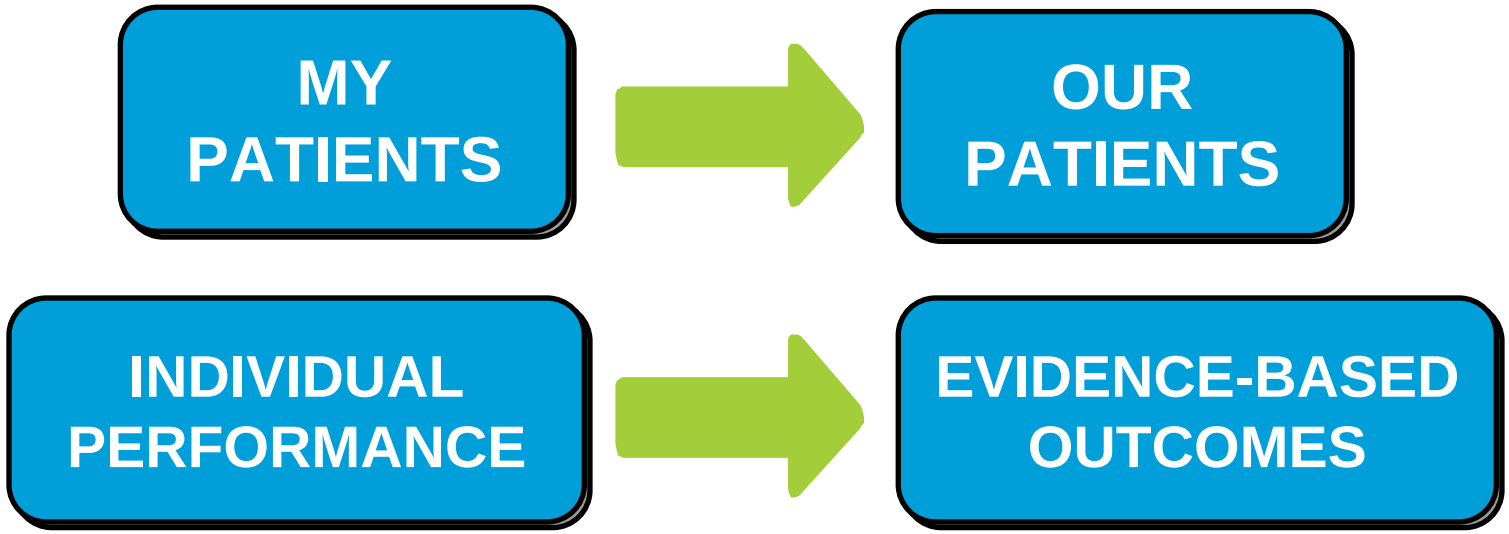
- Health systems operate multiple businesses with divergent priorities within one entity
- An effective systems-based structure and a disciplined process, intersects each distinctive business initiative to provide a holistic view of the health system.



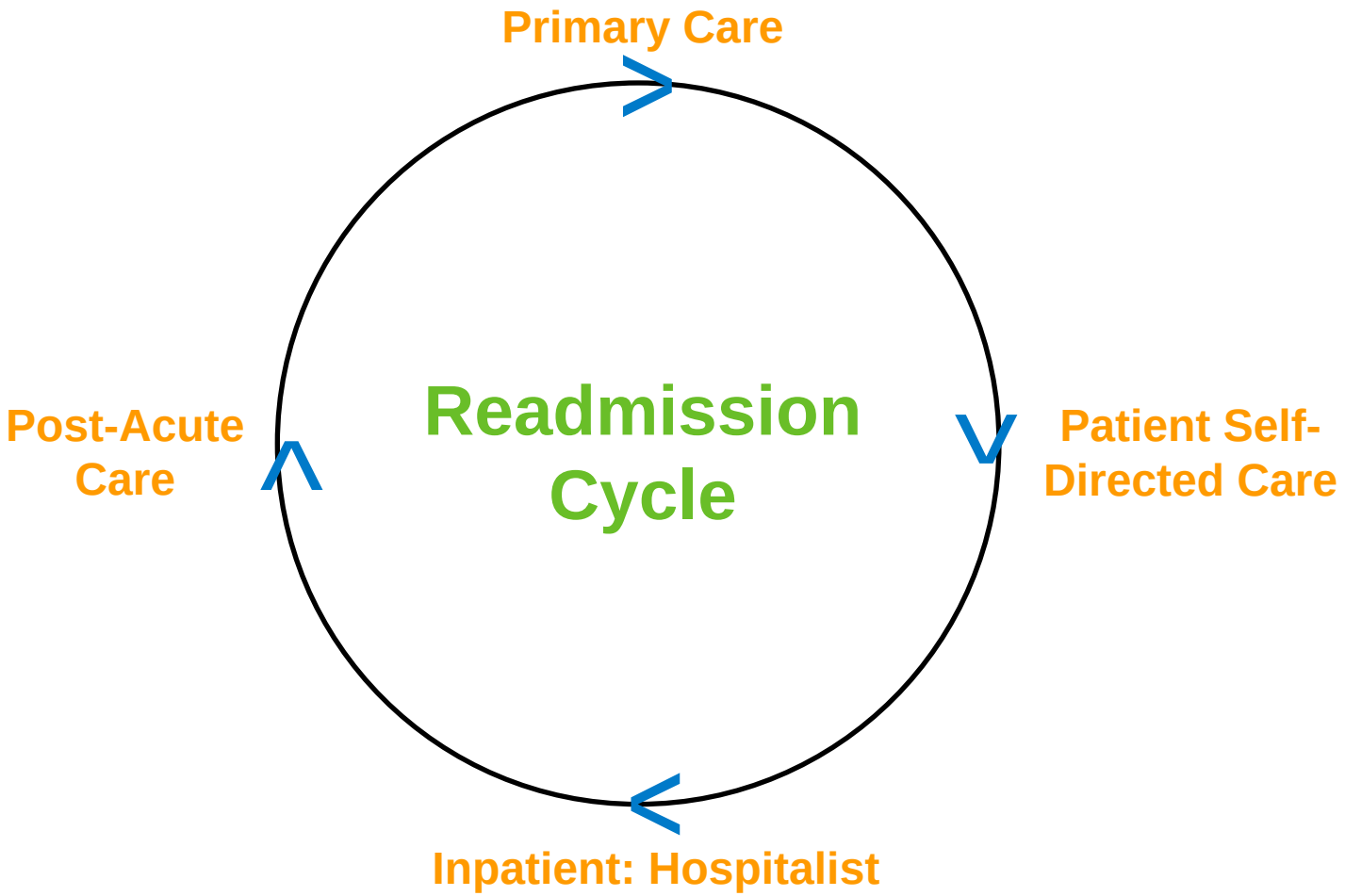
The Great Shift

Moving from a model that focuses on individual performance to systems-based performance

Requires a shift in thought



Why “Our Patients”?



The Response

The systems-based approach requires a shift in the traditional paradigms of providing care and the models that support it.

Current medical staff operates as an independent unit, separate from hospital management, reporting directly to the hospital board.

In a systems-based model, there must be a coordinated effort to ensure quality of care and efficient utilization of resources.

The New Medical Staff on the Block

Current

The medical staff is a self-governing entity that is responsible for the quality of care rendered at the hospital.

This autonomy in decision-making creates an environment that makes systems-based change difficult.

Future

New healthcare era requires a structure in which all stakeholders are responsible for quality of care and efficient use of financial resources.

Creation of a quality oversight committee facilitates communication and coordination of care.

"The Joint Commission's American Model of medical staff "self-governance" provides an infrastructure which allows for, and perhaps fosters, the accentuation of material conflicts among and between medical staff members, physician leadership and physician committees, and the governing body relative to the definition, adoption, implementation and enforcement of requisite Quality/Safety standards."[1]

[1] Peters, Brian M. and Nagele, Robin Locke. Promoting Quality Care and Patient Safety: The Case for Abandoning The Joint Commission's "Self-Governing" Medical Staff Paradigm. *MSU Journal of Medicine and Law*. 2010. No. 313, p. 313-373.

Legal Implications

- Joint Commission Accreditation Exposures
- Antitrust Liability Exposures
- Common Law Challenges
  - Breach of Contract
  - Tortious Interference with Contract
  - Defamation/reputational injury

Change in Action

Peer Review and Credentialing

Current System

- Limited to individual performance alone ("community standard of care")
- Generally only to address improper conduct
- Medical staff reports to governing body and hospital management is bypassed

Systems-Based Model

- Assess performance in context of integrated delivery system
- Emphasis on evidence-based care
- Peer review and credentialing responsibilities are not contained in one "silo"
- Peer review is not only used as a method for disciplinary action but viewed as a means to continue to refine crucial practices

"The Affordable Care Act's pervasive emphasis on systems-based medicine challenges this individualized approach by suggesting that the primary question is not so much whether a practitioner demonstrates reasonable judgment and skill as an individual, but whether that practitioner functions effectively within the system of integrated care that the act envisions."[1]

[1] Belmont, Elisabeth et. al. A New Quality Compass: Hospital Board's Increased Role Under the Affordable Care Act. *Health Affairs*. July 2011, pp. 1-6.

Legal Implications

- State Peer Review Privilege laws
  - Immunity
  - Confidentiality
- Increase in malpractice “data-mining”
  - Need for federal tort reform
- Corporate Practice of Medicine

Evidence-Based Medicine

- The current medical staff model at most community hospitals presents barriers to implementation of evidence-based protocols.
- Hospitals generally left with two choices:
  1. Avoid conflict with independent medical staff by abandoning development of evidence-based protocols, thus jeopardizing safety/quality standards
  2. Attempt to unilaterally force implementation of protocols, thus undermining cooperative relationship[1]

[1] Peters, Brian M. and Nagele, Robin Locke. Promoting Quality Care and Patient Safety: The Case for Abandoning The Joint Commission's "Self-Governing" Medical Staff Paradigm. *MSU Journal of Medicine and Law*. 2010. No. 313, p. 313-373.

Evidence-Based Medicine

Evidence-Based Medicine (EBM)
Clinical practices leading to better care, i.e., the content of providing care, and knowledge of how to put this content into routine practice.[1]

Evidence-Based Management (EBMgt)
Organizational strategies, structures, and change management practices that enable physicians and other healthcare professionals to provided evidence-based care.[1]

Both must be in place before improvements in healthcare can be accomplished

[1] Stephen M. Shortell et al., *Improving Patient Care by Linking Evidence-Based Medicine and Evidence-Based Management, 298 JAMA 673, 673 (2008) (citing K. Walshe et al., Evidence-Based Management: From Theory to Practice in Healthcare, 79 MILLBANK Q. 429-57 (2001)).*

Legal Implications

- Authority for clinical protocol enforcement must reside in the Medical Staff Bylaws
  - Board/medical staff “compact.”
- Mechanisms for enforcement should be:
  - Collaborative and non-punitive
  - Focus on improving team processes
  - Individual “peer review” tailored to clear and specific evidence-based protocols.

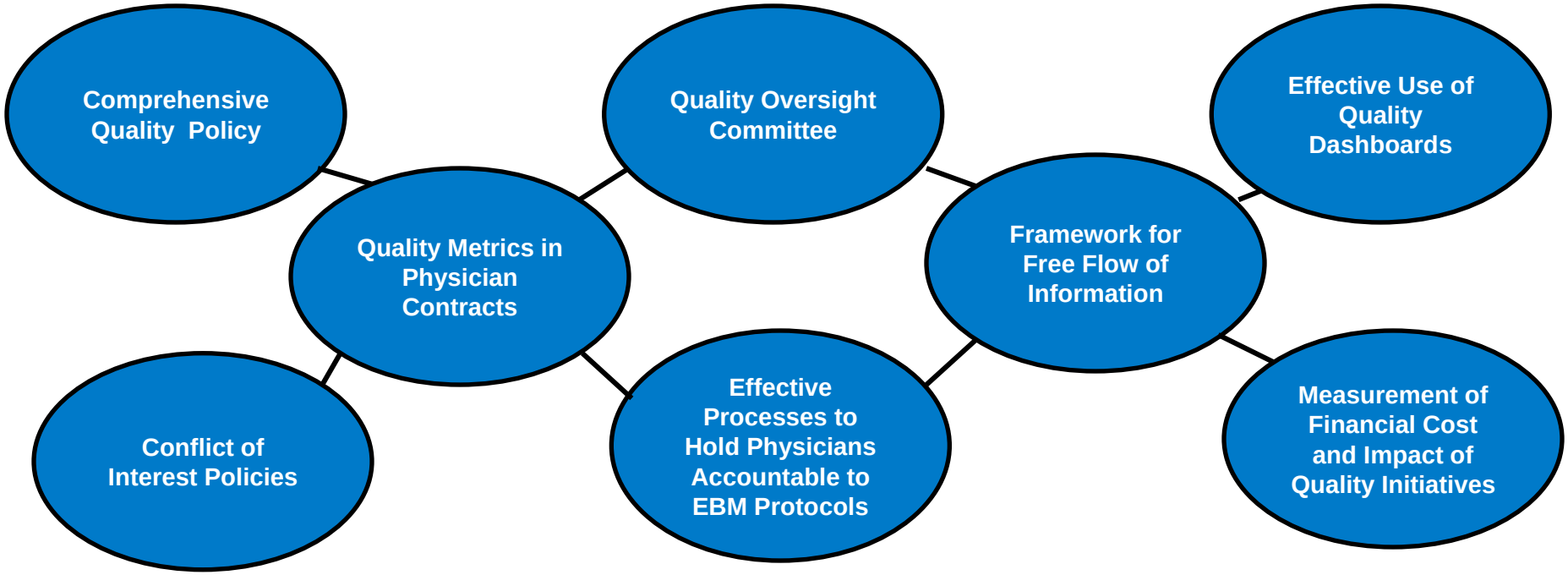
Quality Oversight in Action

- The Board of Directors is responsible for quality of care it is essential that they take a more active approach
- Quality oversight structure must:
  1. Function effectively and involve all key stakeholders
  2. Facilitate free flow of accurate information
  3. Integrate quality and financial planning aspects[1]

[1] Belmont, Elisabeth, et. al. Quality in Action: Paradigm for a Hospital Board-Driven Quality Program . *Journal of Health & Life Sciences Law*. February 2011. Vol. 4, No. 2, p. 134-145.

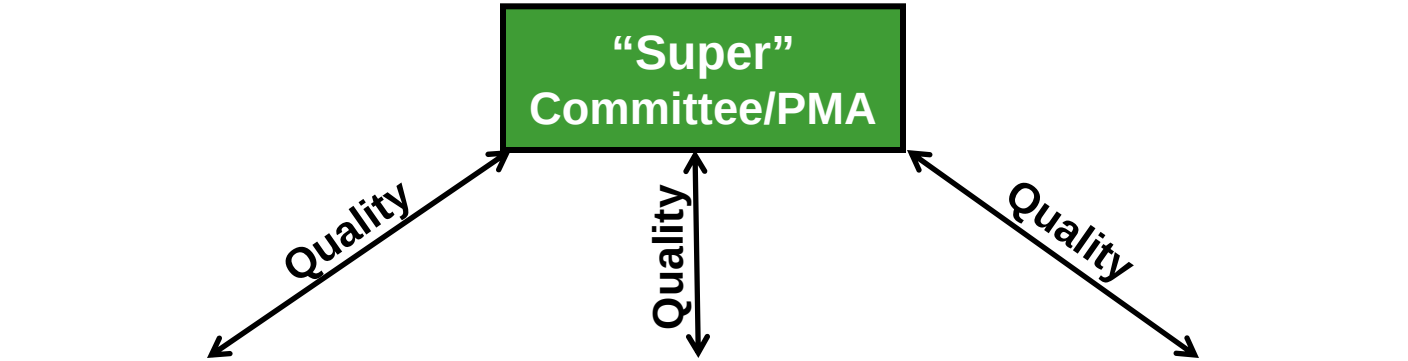
Is it working?

Components of Effective Quality Oversight



SOURCE: Belmont, Elisabeth, et. al. Quality in Action: Paradigm for a Hospital Board-Driven Quality Program . *Journal of Health & Life Sciences Law*. February 2011. Vol. 4, No. 2, p. 134-145.

Another Path to Quality



PMA's
(Orthopedic, Cardiac, Urology)

- PMA Quality
- PMA Quality
- PMA Operations

Coverage Contracts
(Call, Pathology, Radiology, Remote-ICU)

- PMA Quality
- Coverage Quality
- Coverage Operations

Other Medical Services
(CCM, Other)

- PMA Quality
- Other Medical Quality
- Other Medical Operations

Overview:

- Surveys the environment and dialogues with physicians to determine best practices in quality
- Quality initiatives consistent across service lines and parties become accountable across continuum
- Centralizes physician leadership structure to plan, inform and act more collaboratively

Legal Implications

- Extension of peer review to external groups.
  - Legal protections: immunity and privilege.
  - Source of enforcement authority
    - Where does the “compact” reside?
      - Bylaws, contracts, policies
    - Who are the “enforcers”?
    - What are their tools?
  - Role of the Patient Safety Organization (PSO)

Knowing is Half the Battle

Increased Board education on the current healthcare environment is essential for systems-based change and effective quality improvement

- Understanding the quality review process and language
- Sufficient time at Board meetings for quality oversight discussion
- Effective evaluation of cost and quality relationship
- Knowledge of federal and Joint Commission regulations and standards
- Developing the ability to challenge medical staff decision-making

[9] Belmont, Elisabeth, et. al. Quality in Action: Paradigm for a Hospital Board-Driven Quality Program . *Journal of Health & Life Sciences Law*. February 2011. Vol. 4, No. 2, p. 134-145.

Characteristics of an "Agile Organization"

Conclusions