



— Written By Karrie Hyatt

# Captive Board Assessments for the Better

**J**ust like any other part of a business, a company's board of directors must have regular evaluations to understand if it is doing the job it's supposed to. While it doesn't necessarily have to be conducted every year, a board assessment should be conducted every three to five years, and, most importantly, it must be acted on.

According to PwC's 2020 Annual Corporate Directors Survey, in 2014 only 50 percent of directors said their board made changes as a result of their assessment process, but that figure had risen to 72 percent by 2020.

In the past, joining a board was something with which to polish a resume, now joining a board means more responsibility and being held responsible, for issues from fiduciary decisions to company reputation.

The PwC survey found that 72 percent of responders felt that a reputational crisis for a company reflected negatively on the board of directors and more than three quarters felt that it reflected negatively on their personal reputation.

According to John Foehl, an independent director with more than 30 years' experience in the captive industry, "Especially in the captive space, board members need to understand the personal liability they assume when they sit on a board. Lack of understanding will come home to roost when the captive board finds itself in trouble and the finger pointing starts."

This is why regular board assessments become important. With boards holding more responsibility and liability for mistakes made, understanding where a board is not living up to its commission is key.

Whether the assessment is evaluating the full board, its committees, individual directors, or conducting peer assessment, it has to be as comprehensive as possible and it has to result in changes. It's a feedback tool that an effective board will review and act on.

For captives, assessments should focus on board culture, board composition, best practices, and planning for board succession and can be conducted through questionnaires and surveys, individual interviews, and facilitated discussions.

Captive board assessments can be done either entirely in-house or with an outside proctor. For Foehl, "My preferred methodology for doing an evaluation would be using a third-party facilitator. I think that when an individual comes in with no prejudices, with no axes to grind, and their sole responsibility is to conduct an assessment, they can draw forth all of the potential issues that are circulating among board members."



"Board assessments should be done in two parts," he continued. "The first is the self-assessment by individual directors and is shared only with the chairman or with an independent consultant. What you're hoping for is that the board member who is doing it is being as honest as they can be of their own assessment of their performance. The second part is the overall assessment of the board."

Peer review is becoming a more popular and much needed form of assessment. In the PwC survey, 49 percent of directors felt that a least one fellow board member should be replaced. This is likely reflected in captive boards as well, and of actionable assessment results, it's one of the hardest to implement.

"There are really good board members and some that are not so good. Given the fact of the heightened responsibility of boards, including a fiduciary duty to the captive owners or parent, each director must pull their weight," said Foehl. "Board assessments, if done properly, can home in on issues with individual board members."

While Foehl believes a third-party facilitator is key to getting good results from a board assessment, many captive boards are reluctant to spend the money. However, bringing in an outsider to help conduct the evaluation can help diffuse any brewing personality conflicts, while providing a more objective analysis of the assessment's results.

An outside facilitator is better positioned to identify where a board may be experiencing a gap in knowledge. For pure captives, their boards usually consist of individuals who are already involved with the parent company—either working directly for the parent or as a consultant.

For group captives, board members are often made up entirely of captive owners. As there is often not an experienced insurance professional on the captive board (besides the captive manager), assessments evaluating the board becomes even more important in understanding where knowledge gaps may be occurring.

“The problem for group captives is, in many instances, is that every policyholder, every member wants to have a seat at the board and then the board becomes unwieldy. There are 35 to 40 people on the board and you don't get to any decisions because, in essence, it becomes a huge debating society,” said Foehl.

The advertisement features a purple background with a white house silhouette. At the top left is the Homestead logo (three horizontal lines) and the text 'HOMESTEAD SMART HEALTH PLANS'. Below the logo is the contact information 'info@homesteadplans.com • homesteadplans.com'. The main text on the left reads: 'We know the current health benefits system is broken. At Homestead Smart Health Plans, we don't just spend time talking about the problem—we deliver the products and services that fix it, all under one roof.' To the right of this text is a large vertical bar, followed by the headline 'Don't settle for a traditional health benefits plan'. At the bottom, a diagram shows three icons in a row: 'Third-party administration service' (with a stethoscope icon), a plus sign, 'proprietary reference-based pricing and auditing system' (with a magnifying glass icon), another plus sign, 'an insurance company bearing risk' (with a hand holding a cross icon), an equals sign, and finally the Homestead logo and name.

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“Additionally, group captive boards run into what I would call a ‘group think’ problem. When they all come from the same background, they are likely to think the same way.”

Using a board assessment to identify gaps in knowledge—whether it be IT, legal, specialty insurance, or something else—can help boards solve the issue in two ways: by appointing an independent director and by providing educational opportunities.

From experience, Foehl strongly advocates for having an independent director on a captive board, particularly in group captives. “Too often the fallback position is that the captive manager knows the answers. I think that is a weak position because in many instances, captive managers don’t have all the answers,” he said.

The most common reason that captive boards don’t bring on an independent director is that this type of director should be compensated, whereas most directors on group captive boards are volunteers and only reimbursed for costs related to traveling for meetings.

“It’s a tough sell,” said Foehl, “But I think that the money spent on an independent director is well spent. Both captives that I was involved with used an independent director solely as an outside sounding board. They provide the perspective that, potentially, is not represented in a group captive given it’s set up.”

Board assessments can also help determine what educational components would be useful for members. Whether it’s dedicating at least one meeting a year to education or bringing directors to captive conferences, insurance education is a key component to building a knowledgeable board.

Foehl suggested, “Given the fact that captive boards tend to be non-insurance professionals, one thing that should occur in an on-going basis is an educational session at least once a year on insurance topics to help make the directors more attuned to the business they are running.”



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“Too often, members come from whatever industry the group captive serves and don’t understand insurance,” continued Foehl. “In many instances, the board members rely solely on the captive manager for that expertise, which can be problematic simply because the captive managers are interested in making sure the relationship with the captive continues and are not necessarily always willing or potentially able to bring up topics that might be difficult to have discussions around.”

Captive conferences are an excellent education tool for board members because they offer not only educational sessions for directors, but also the opportunity to meet other captive board members.

Foehl found that early in his career, creating a personal network of directors from other captives was essential in understanding the business. “Being able to talk to peers about issues is a great way to learn about what’s going on and to get different viewpoints on how to handle problems you may be faced with. The more that board members are able to interact with peers and hear stories about what’s going on with other similar organizations the better they will be as board members.”

A board assessment is not an easy undertaking—especially as it can point to both personal and collective weaknesses. Yet, to make sure your captive board is performing optimally and meeting its stated goals, board assessments are a necessity.

Good corporate governance, continued education, and strong board oversight are the results when an effective board assessment is conducted, and its recommendations implemented. ■

Karrie Hyatt is a freelance writer who has been involved in the captive industry for more than ten years. More information about her work can be found at: [www.karriehyatt.com](http://www.karriehyatt.com).



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