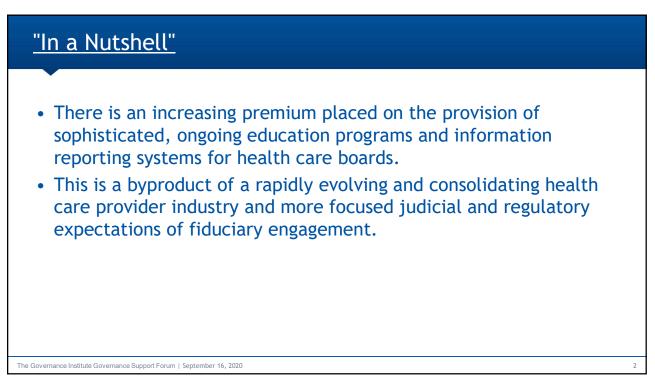
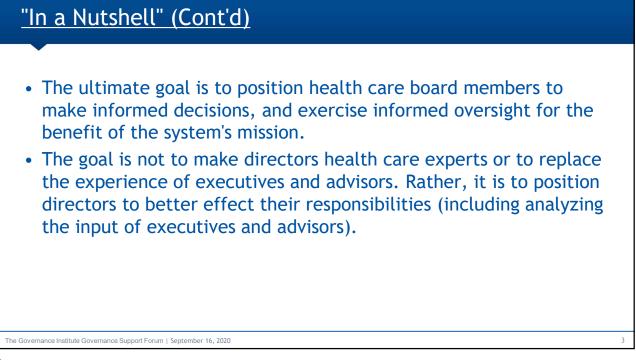
The S	hift to a More Professional Board:
	Megan R. Rooney McDermott Will & Emery LLP mrooney@mwe.com
	Prepared for
	The Governance Institute
	Governance Support Forum September 16, 2020
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The Elements of Effective Education

• This relates to each of director orientation; ongoing director education as to matters of organizational, industry, regulatory, economic and political concerns; internal management-to-board reporting relationships; agenda development and board member access to members of the executive team.

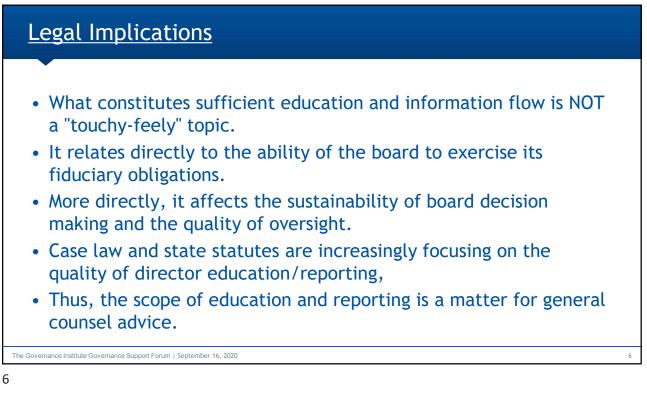
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The Concept of Board Professionalism

- As it relates to director education, "professionalism" refers to a programmatic commitment that is commensurate with the needs of the directors of an organization of a particular financial status, operating in a highly regulated industry.
- Not looking at necessarily just at what individual directors are interested in receiving, nor at what executive leaders believe the agenda can tolerate-but rather what corporate law would expect.

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Element #1: Orientation and Onboarding

 'Companies should conduct a thorough and robust orientation program for their new directors, including background on the industry and the competitive landscape in which the company operates, the company's business and operations, important legal and regulatory issues, etc." [Source: The Commonsense Governance Principles 2.0]

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Element #1 (Cont'd.)

- New directors should participate in a robust orientation process designed to familiarize them with various aspects of the company and board service. [Source: The Business Roundtable Principles of Corporate Governance 2016]
- Possible topics might include, e.g. business operations, strategies, major risks, primary competitors, regulatory and compliance climate; executive hierarchy, corporate organizational documents, committee structure, identification of primary advisors and external auditor, executive briefings.

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Element #1 (Cont'd.)

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- This relates to the obligation of the board, in conjunction with management, to position incoming board members to be able to participate in board and committee matters as soon as possible upon being seated.
- While the development of the orientation/onboarding program should be the responsibility of management under the oversight of the Governance and Nominating Committee, the incoming director(s) is expected to participate actively in the development and functioning of the program.

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Element #2: Traditional Board Education

• "A board should be continually educated on the company and its industry, seeking information from a variety of sources, including research reports, audit reports and, where relevant, regulatory pronouncements. If a board feels it would be productive, outside experts and advisors should be brought in to inform directors on issues and events affecting the company". [Source: The Commonsense Governance Principles 2.0]

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Element #2 (Cont'd.)

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 "Directors should be encouraged to take advantage of educational opportunities in the form of outside programs or "in board" educational sessions led by members of senior management or outside experts". [Source: The Business Roundtable Principles of Corporate Governance 2016]

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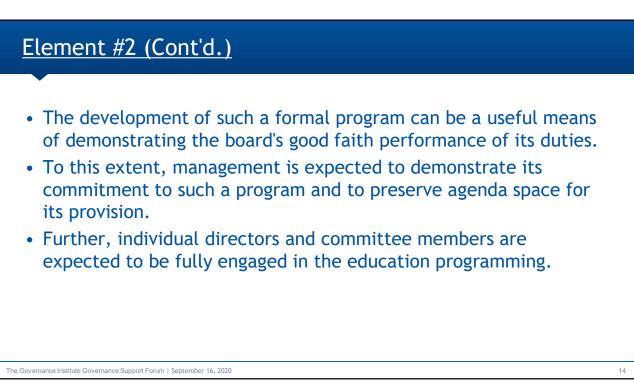
Element #2 (Cont'd.)

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- This should be a formal program, developed by the Governance Committee with management support, designed on an annual basis to address education needs of board and committees.
- Note the emphasis on use of outside advisors, as a means of both diversifying the perspectives of those who present to the board/key committees, as well as assuring expert commentary on key concerns.
- Should be flexible enough to incorporate updates on new developments of significance to the board/committees and their duties.

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Element #3: Internal Management-to-Board Reporting Relationships

- The quality and timeliness of information that the board receives directly affects its ability to perform its oversight function effectively.
- The board should work to foster open, ongoing dialogue between management and members of the board. Directors should have unfettered access to senior management outside of board meetings, in a manner authorized and coordinated by the board. [Source: The Business Roundtable Principles of Corporate Governance 2016]
- This topic has been a significant area of focus in recent Delaware decisions.

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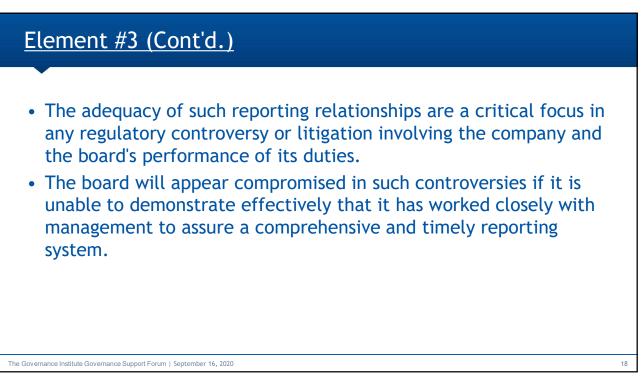
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Element #3 (Cont'd.)

- This is an area of critical importance to the ability of the board to render effective oversight and decision making, and is frequently referenced so in judicial decisions.
- This should be the byproduct of discussions between the board, its committee leaders and executive leadership team.
- Topics of information reporting should relate to all aspects of corporate operations: risk, financial performance, compliance, quality of care, strategic planning, talent development, culture, benefits and compensation, etc.

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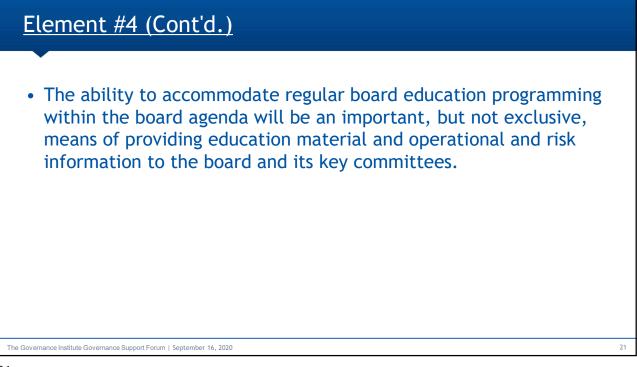




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Element # 5: Other Vehicles for Providing Education

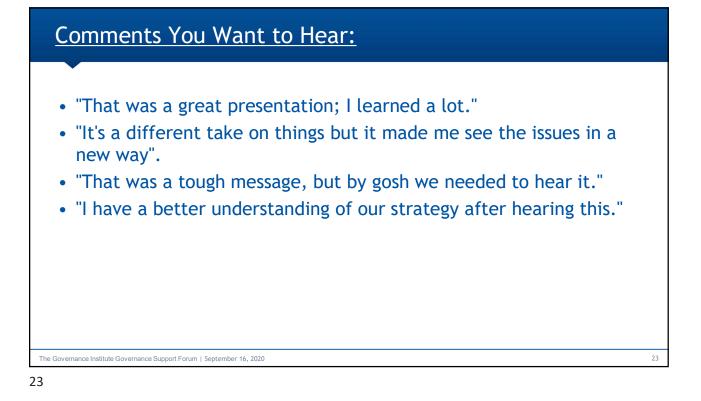
- As noted above, opportunities to provide director education and management-to-board reporting should not be limited to the agenda of regular and special agendas of the board and of its committees.
- Other acceptable vehicles would include, but not be limited to membership in external governance organizations and industry trade associations; participation in external governance seminars; board retreats with governance focus; distribution of written and electronic/video materials on governance issues.

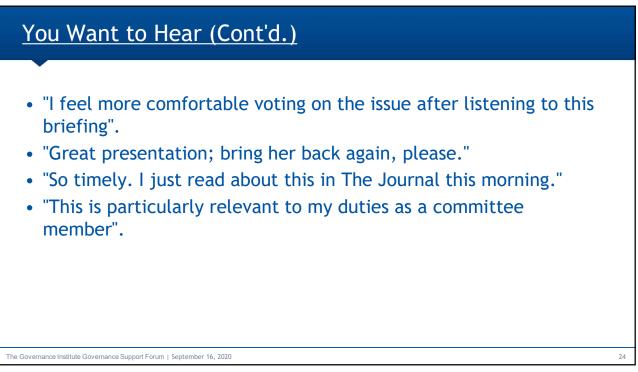
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