

Social Inequities as Enterprise Risks for Health Care Organizations

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How a health care organization responds to demands for corporate social justice may affect its ability to achieve performance goals. Racial, gender, and other inequities function as enterprise risks for health care organizations, with potential to have a negative impact on performance ranging from patient satisfaction to quality care measures. As health care organizations continue to manage the financial strain and logistical challenges of the pandemic, they also are pursuing strategic objectives designed to improve the quality of care, increase access for underserved communities, and enhance the experience of care for patients and health care professionals. Health care organizations can use enterprise risk management (ERM) principles to make informed decisions related to corporate social justice and improve performance.

The term “corporate social justice” refers to a business’ efforts to demonstrably improve the “measurable, lived experiences of groups harmed and disadvantaged by society.”¹ In 2020, health system leaders and the American Medical Association issued statements calling racism a public health problem.² The COVID-19 pandemic highlighted racial disparities of care³ and the relevance of social determinants of health.⁴ Physicians and health care organizations should expect demands for remediation of systemic racism and other root causes of disparities of care to gain momentum and visibility.⁵ Failure to effectively address these social justice concerns could jeopardize an organization’s ability to achieve its objectives by causing diversion of leadership focus or distraction among the workforce. Declines in employee job performance (and quality of care) are a risk if employees believe that their health care employer fails to mitigate racial disparities of care as a provider or fails to combat systemic racism and gender bias in the organization as an employer. If patients and community members believe a health care organization is not actively working to reduce disparities of care or not taking a leadership position on social justice issues in the community, then the organization is at risk of losing community trust and support, which can be manifested in multiple ways, including by patients choosing other providers and drops in philanthropic contributions. ERM can help health care organizations identify and evaluate present and emerging social justice risks, assess mitigation efforts, and select social justice initiatives. Using ERM, a health care organization can begin to see demands for corporate social justice not just as enterprise risks but also as opportunities to improve relationships with employees and the community and thereby improve organizational performance.

The ERM Process

Traditional health care risk management focuses on insuring, or transferring, known risks such as unintended consequences or injury following medical or surgical care, and implementing measures to control or mitigate those risks. ERM, on the other hand, is a business process intended to improve the overall performance of an organization.⁶ ERM improves performance by establishing a framework for making well-informed, or risk-intelligent, decisions. Going through the process of becoming risk-intelligent with respect to any potential strategy or decision-point positions decision makers well to make risk-aware decisions, discern additional opportunities and be resilient when encountering unanticipated obstacles. In simplest terms, ERM means establishing and supporting a culture of informed decision making within an organization.

ERM does not require a separate infrastructure; rather, ERM is a mindset. For a health care organization, using ERM requires a willingness to become fully informed, but does not require additional budget allocations for staff or other resources. The fundamental ERM process is simple: (1) understand and articulate the strategic objective or goal; (2) identify, assess, and prioritize risks to achieving the objective; (3) evaluate methods for control and mitigation; and (4) monitor, communicate, and inform strategic objective setting.

The ERM process starts with understanding strategic objectives.⁷ The next step, risk identification and assessment, will be most meaningful when an organization solicits multiple perspectives from different departments and levels within the organization, all focused on identifying potential roadblocks, or risks, to achieving consistently and plainly presented strategic objectives. Many hospitals and health systems have a mission statement (a form of strategic objective) that includes providing high-quality, accessible care in a cost-effective manner. A hypothetical health system with such a mission statement might have strategic objectives of, for example, reducing the cost of care by increasing the use and acceptance of telehealth resources and moving more procedures from the inpatient setting to the ambulatory surgery center (ASC) setting with no decrease in system quality measure performance. Successfully achieving such strategic objectives will depend, in part, on maintaining an engaged, supportive workforce adaptable to change and a community/patient base that trusts the health system to make decisions in the best interests of patients. Whether through an organic internal risk identification process or through a review of external risk-related literature,⁸ racial, gender, and other inequities are likely to surface as risk factors for any objective dependent in part on employee engagement or community trust.

ERM Mindset in Action: Workforce, Community Trust, and Corporate Governance

Using ERM principles, health care organizations can assess risk related to corporate social justice and evaluate potential actions to address social inequities. Below are

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examples applying ERM to social justice risk and the health care workforce, patients and the community, and the board and corporate governance.

Workforce

A health care organization looking to learn about social justice risk in relation to its workforce should use ERM risk identification tools such as interviewing, facilitated brainstorming discussions, focus groups, surveys, and questionnaires to obtain input from employees at all levels of the organization. By listening to employee responses, a health care organization can learn about employee perceptions of the organization as employer, provider, and corporate citizen. Specific areas of inquiry might include the following:

- (a) At work, do you face inequities based on your race, gender, or other factors?
- (b) Do you see other employees facing inequities based on race, gender, or other factors?
- (c) Do patients encounter racism, gender bias, disparities of care, or other inequities from the organization? In what ways?
- (d) Does the organization actively seek to do good in the community? How?
- (e) Are the organization's efforts to be a good corporate citizen effective, sufficient?
- (f) Does the organization maintain a culture that supports raising and discussing concerns about social justice issues?

After collecting and evaluating the responses to these or other questions, the organization can use what it learns to identify areas for further investigation, prioritize risks, and begin the process of exploring risk mitigation and control methods.

A multi-disciplinary team (i.e., an ERM working group) assessing the response data should look for differences among departments or employee levels and do a deeper dive inquiry into any such differences. The working group might ascertain that employees in certain departments report seeing or experiencing systemic racism or gender bias, and that employees in other departments do not report the same issues or the same prevalence of issues. Such differences in reporting are worthy of exploration to determine if there are problems in particular segments of the organization, if issues are consistent across the organization but perceived differently based on position or department, or if there are other explanations. This identification and assessment phase can help the organization find (1) disparities that require attention; and (2) opportunities to change, improve, or enhance employee perceptions of the organization as an employer, provider of health care, and corporate citizen.

Input from an ERM working group also will be useful in evaluating the effectiveness of current control and mitigation strategies and exploring new strategies. Suppose, for example, a hospital determines that there is a race-based disparity in opportunity for

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promotion and advancement in pediatric nursing and that employee engagement scores among pediatric nurses reflect a lower than average confidence in management. The hospital's diversity and inclusion program, a control or mitigation strategy for addressing the risk of systemic bias, requires that all nurse managers with hiring authority attend annual training on recruiting and retaining a diverse workforce. An ERM working group that includes individuals from different levels of the organization and obtains ample input from individuals in the racial groups experiencing less opportunity may be able to pinpoint why current organizational efforts have failed to correct the disparity in pediatric nursing. The working group may also be able to suggest new or additional control measures that would be more effective.

After reviewing an ERM working group's observations, the health care organization's management can select ways to monitor specific risks and controls, share insights about risks and the effectiveness of various controls more broadly within the organization, and use ERM intelligence to inform strategic objectives. With respect to monitoring risks and controls, in addition to reviewing data on employee transfer requests, turnover trends and engagement survey responses, management should follow a process for monitoring discussions on social media that provide insight into the concerns of the workforce. Additionally, management should consider creating easy opportunities for employees to share information directly with management, such as discussion groups or executive management rounding.

As for communicating to raise awareness of risks and effectiveness of controls, reporting to the board at least annually about results of risk and control assessment work is an important step in keeping the board informed about the risk picture. Communication about business goals at every level of the organization should include references to risks and controls. Management should make efforts to speak and write plainly and concisely to employees about risks to achieving strategic objectives and which risk mitigation efforts have proven effective. When an organization fully integrates ERM into its business processes, executive leaders will use ERM principles as part of decision-making support. Ideally, an organization develops a culture that incorporates risk and control assessment and discussion as part of the goal setting and measurement processes.

Risk aware decision makers, informed by the risk and control intelligence acquired while going through the ERM process, can tweak strategic objectives to account for risk areas and how effective an organization is at controlling those risks. If the risk and control identification and assessment process highlights concern among the workforce that the organization is not taking a stand on social justice issues such as inequities in housing or other social determinants of health, then the organization may determine to do one or more of the following: (1) dedicate resources to raising awareness of the substantial efforts already devoted by the organization to addressing social determinants of health; (2) take additional, publicly visible steps to address social determinants of health; or (3) offer more opportunities for employees to engage in the organization's efforts to address social determinants of health.

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Patients and Community

ERM risk identification techniques are useful for learning about social justice concerns of patients and the community as well as discerning what social justice goals resonate with community members. As with risk identification in the workforce, when seeking information about risk from patients and the community, a health care organization should solicit multiple perspectives and seek responses in multiple ways. Surveys and discussions at patient support/affinity groups or community fora are good options for obtaining patient and community input. Additional sources of information include social media posts and targeted one-on-one interviews with individuals who are familiar with concerns of specific groups, such as civic, church, or neighborhood/community association leaders. Questions to patients and other community members should afford respondents opportunities to offer perceptions of the organization as employer, provider, and corporate citizen, and might include the following:

- (a) Do you believe the organization has a reputation for actively addressing systemic racism and gender bias as an employer?
- (b) Do you believe the organization has a reputation for actively addressing disparities in health care tied to social determinants?
- (c) Do you believe the organization actively seeks to do good in the community?
How?
- (d) Are the organization's efforts to be a good corporate citizen effective, sufficient?
- (e) Do you believe the organization has a reputation for seeking and being receptive to input from members of the community?
- (f) What is the most important thing the organization can do to be a force for good in the community?

The organization can charge an ERM working group, perhaps the same group assessing risk identification information from employees, with evaluating responses from patients and community members, prioritizing identified risks, and evaluating effectiveness of controls. Based on its review of the response data, the ERM working group should be able to provide management with an overview of how community members see the organization as a corporate citizen. Response information might reflect that there is desire in the community for the health care organization to take a public stand on issues such as inequities in housing or community policing, or to be more aggressive in addressing racial disparities in care. Armed with this knowledge, management can devote resources to those social justice initiatives that will be most responsive to community concerns. In addition, management of any health care organization with risk disclosure obligations should be transparent about significant identified social justice risks.

Board and Corporate Governance

From a corporate governance standpoint, a health care organization board concerned about social inequities as an enterprise risk can first focus on building and maintaining a board culture that supports diversity of thought and perspective. Social (e.g., age, gender, race/ethnicity) and professional experience diversity among board members fosters a board culture that values diversity of thought.⁹ Not having a sufficiently diverse board, in addition to depriving the organization of valuable insight and perspective, puts the organization at risk for reputational damage if the board is viewed as representative of corporate inequity.¹⁰ Demonstrating tangible results of board diversity building efforts serves both as good governance and an enterprise risk control measure.

The board of a health care organization also should understand and provide oversight for executive management's efforts to address social inequities as enterprise risks, including plans to combat systemic racism and gender bias as an employer and disparities of care as a provider, and to pursue corporate social justice initiatives as a corporate citizen. Counsel can assist board members in understanding their duties of care and inquiry under state law and how to demonstrate discharge of those duties. As the board engages in oversight, board members may want to see that executive leadership is following a sound, tested business process, such as ERM, to manage social inequity and social justice concerns. Part of the process of verifying that management has good systems in place to promote equity as an employer, provider, and corporate citizen will be to ask for results from or examples of specific management plans and processes. Boards might inquire about vendor diversity programs, policies and procedures to prevent gender and racial disparities in advancement and pay, and leader educational requirements on discussing issues of corporate social justice and supporting a culture in which discussion of such issues is welcome.

Health care organization board members, particularly those who function as ambassadors for the organization in the community as hospital board members often do, are likely to have a keen interest in how the organization selects its corporate social justice initiatives. ERM provides a solid framework for evaluating such potential initiatives. Assume that a health care organization is considering engaging in public efforts to address social determinants of health. Before selecting a social determinant of health domain¹¹ or set of issues, the health care organization will want to examine the implications of its support from multiple perspectives, narrowing the field to goals that draw employee and community support, and ultimately focusing on issues for which it can make real contributions and generate good will. A management team with an ERM mindset might use an ERM working group to evaluate (1) how an initiative could affect those inside and outside the organization; (2) potential reactions from internal and external constituencies; and (3) responses to those who are not supportive of or who actively oppose the organization's efforts. With respect to any recommended initiative, the board will want assurances that executive management has evaluated controls and

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strategies for mitigation, such as having a process for monitoring both employee and patient conversations and complaints, and a recognized pathway for alerting security, human resources, and community relations if strong negative reactions develop. By following the ERM framework for risk intelligent decision making, the board and executive leadership increase their chances of selecting social justice initiatives that will afford the organization the opportunity to improve lives and strengthen employee and community loyalty.

Conclusion

Health care organizations must constantly improve and adjust in today's environment of rapid change fueled by new competitors, reimbursement model redesign, and consumer access to information. Social inequities, including racial disparities in health care emphasized by the COVID-19 pandemic, threaten to impede performance of health care organizations by draining management and other resources and by eroding employee engagement and community support. Relying on ERM principles, health care organizations can better understand the current and potential impact of social justice risks, assess effectiveness of risk-control efforts, and select social justice initiatives to receive support. A health care organization using ERM prepares not just to mitigate the negative effects of social inequities but also reframes demands for corporate social justice as opportunities to improve organizational performance.

¹ Lily Zheng, *We're Entering the Age of Corporate Social Justice*, HBR.org (June 15, 2020), <https://hbr.org/2020/06/were-entering-the-age-of-corporate-social-justice> ("Corporate Social Justice is a framework regulated by the trust between a company and its employees, customers, shareholders, and the broader community it touches, with the goal of explicitly doing good by all of them. Where CSR is often realized through a secondary or even vanity program tacked onto a company's main business, Corporate Social Justice requires deep integration with every aspect of the way a company functions").

² Healthcare Anchor Network, *It is undeniable: Racism is a public health crisis* (Sept. 27, 2020) (Thirty-nine large health systems commit to address racism as a public health crisis), <https://healthcareanchor.network/2020/09/it-is-undeniable-racism-is-a-public-health-crisis/>; Steven Ross Johnson, *AMA calls racism a 'public health threat'* MODERN HEALTHCARE (Nov. 16, 2020 04:55 PM), <https://www.modernhealthcare.com/physicians/ama-calls-racism-public-health-threat> ("The American Medical Association Monday voted to recognize systemic racism and interpersonal bias by healthcare workers as a 'serious' threat to public health that hinders efforts to achieve health equity and reduce disparities among minority populations"). See also, Samantha Artiga, Bradley Corallo & Olivia Pham, *Racial Disparities in COVID-19: Key Findings from Available Data and Analysis*, KAISER FAMILY FOUNDATION ISSUE BRIEF (Aug. 17, 2020) <https://www.kff.org/report-section/racial-disparities-in-covid-19-key-findings-from-available-data-and-analysis-issue-brief/> ("[T]hese data show that people of color are bearing a disproportionate burden of COVID-19 cases, deaths, and hospitalizations and that they may face increased barriers to access testing. Other analyses also suggest that the COVID-19 pandemic is taking a larger economic toll on people of color. These disparities in COVID-19 reflect and compound longstanding underlying social, economic, and health inequities that stem from structural and systemic barriers across sectors, including racism and discrimination").

³ See, e.g., Daniel Wood, *As Pandemic Deaths Add Up, Racial Disparities Persist – And In Some Cases Worsen*, NPR.org (Sept. 23, 2020 1:01 PM), <https://www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen>, (“Today, as the U.S. has surpassed 200,000 COVID-19 deaths, and reached nearly 7 million confirmed cases, racial data is more complete, and the trend is crystal clear: People of color get sick and die of COVID-19 at rates higher than whites and higher than their share of the population”). See also, Samantha Artiga, Bradley Corallo & Olivia Pham, *supra*, note 2.

⁴ Leo Lopez III, MD, MHS; Louis H. Hart III, MD & Mitchell H. Katz, MD, *Racial and Ethnic Health Disparities Related to COVID-19*, JAMA. 2021;325(8):719-720 (Jan. 22, 2021), <https://jamanetwork.com/journals/jama/fullarticle/2775687>.

⁵ See e.g., Alicia Victoria Lozano, *Senate bill aims to reduce health disparities related to Covid-19*, NBC News.com (Feb. 25, 2021, 1:13 PM EST), <https://www.nbcnews.com/politics/congress/senate-bill-aims-reduce-health-disparities-related-covid-19-n1258799> (“The COVID-19 Health Disparities Action Act ... would direct the Department of Health and Human Services, acting through the Centers for Disease Control and Prevention, to develop public awareness campaigns to address disparities in testing, hospitalizations and deaths among racial and ethnic minority groups”).

⁶ Richard J. Anderson & Mark L. Frigo, *Creating and Protecting Value, Understanding and Implementing Enterprise Risk Management* 3 (Jan. 2020) (research commissioned by Committee of Sponsoring Organizations of the Treadway Commission), <https://www.coso.org/Documents/COSO-ERM-Creating-and-Protecting-Value.pdf>.

⁷ Mark Beasley, Ph.D., *What is Enterprise Risk Management (ERM)?* at 6, NC State Poole College Of Management (July 17, 2020), <https://erm.ncsu.edu/library/article/what-is-enterprise-risk-management>.

⁸ Carolina Klint, *These are the top risks for business in the post-COVID world*, WORLD ECONOMIC FORUM, THE DAVOS AGENDA 2021 (Jan. 19, 2021), <https://www.weforum.org/agenda/2021/01/building-resilience-in-the-face-of-dynamic-disruption/> (“More than ever, consumers, employees, and investors expect firms to reflect their values. This became apparent as the pandemic’s longer-term health, social and economic impacts manifested, as well as in the response to global social justice movements such as Black Lives Matter (BLM). For example, last summer at the height of the BLM protests, thousands of businesses stopped advertising on social media platforms. Revenue and reputation risks, and ultimately long-term value risks, are emerging over employee diversity, job security and fair pay; outsourcing, gig-work and contracting; and climate action”).

⁹ Stephanie J. Creary, Mary-Hunter McDonnell, Sakshi Ghai, & Jared Scruggs, *When and Why Diversity Improves Your Board’s Performance*, HBR.org (Mar. 27, 2019), <https://hbr.org/2019/03/when-and-why-diversity-improves-your-boards-performance> (“To make diverse boards more effective, boards need to have a more egalitarian culture — one that elevates different voices, integrates contrasting insights, and welcomes conversations about diversity”).

¹⁰ See e.g., Nasdaq to Advance Diversity through New Proposed Listing Requirements (Dec. 1, 2020 7:15 AM EST), <https://www.nasdaq.com/press-release/nasdaq-to-advance-diversity-through-new-proposed-listing-requirements-2020-12-01>. See also, Lizzy Gurdus, *Diversity, inequality metrics will see ‘a lot of scrutiny’ next year as ESG investing grows*, MSCI says, ETF EDGE, CNBC.com (Dec. 19, 2020, 10:26 AM EST) <https://www.cnbc.com/2020/12/18/diversity-under-scrutiny-as-esg-investing-grows.html>.

¹¹ The United States Department of Health and Human Services has grouped social determinants of health into five domains: economic stability; education access and quality; health care access and quality; neighborhood and build environment; social and community context. See United States Department of

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Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030
<https://health.gov/healthypeople/objectives-and-data/social-determinants-health>.

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