



COLLABORATIVE  
SOLUTIONS

# Governance 101: for Newer Board Members

CMHA Ontario Conference

April 1, 2019

# Our Objectives Today

1. Present an overview of three governance topics:
  - ✓ Role of the Board and individual Board members
  - ✓ Board structure including governance models and committees
  - ✓ Understanding finances and financial statements
2. Answer your questions on these topics.



# Topic 1: Role of the Board and individual Board members



# What is Governance?

- It is:
  - The people, structures, policies and processes entrusted by the members to
    - set direction and priorities
    - define organizational parameters and performance expectations
    - oversee performance towards the direction and within the parameters
  - Where significant decisions are made
  - Where ultimate accountability of the organization lies
  - Where the culture and tone of the organization is set



# Governance – A Definition

*“Governance deals with the leadership, stewardship and oversight of an organization. It concerns itself with the direction of an organization’s activities and includes policy making, structure, decision-making processes and accountability mechanisms, as well as operating values, behaviours, traditions and other elements of organizational culture.”*

*James R. Nininger*



# Why Governance Matters

*“Because trustees are more emotionally distant from the day-to-day of the organization, they are often in a better position to see things from a balcony perspective. They can observe the whole dance floor – without getting caught up in the dance.”*

Ronald Heifetz-  
*Adaptive Leadership*



# Governance is an Evolving Process

“The quality of governance that was sufficient to get your organization where it is today will be insufficient to get you where you need to be tomorrow.”

*James E. Orlikoff*



# What is the Board?

- “The directing mind and will of the corporation”.
- In a mission-driven organization the Board’s role is to ensure that the organization:
  - Fulfills its Mission
  - while moving towards the Vision
  - adhering to its Core Values
  - and discharging its accountabilities.

*Guide to Good Governance  
2<sup>nd</sup> Edition  
Governance Centre of Excellence*





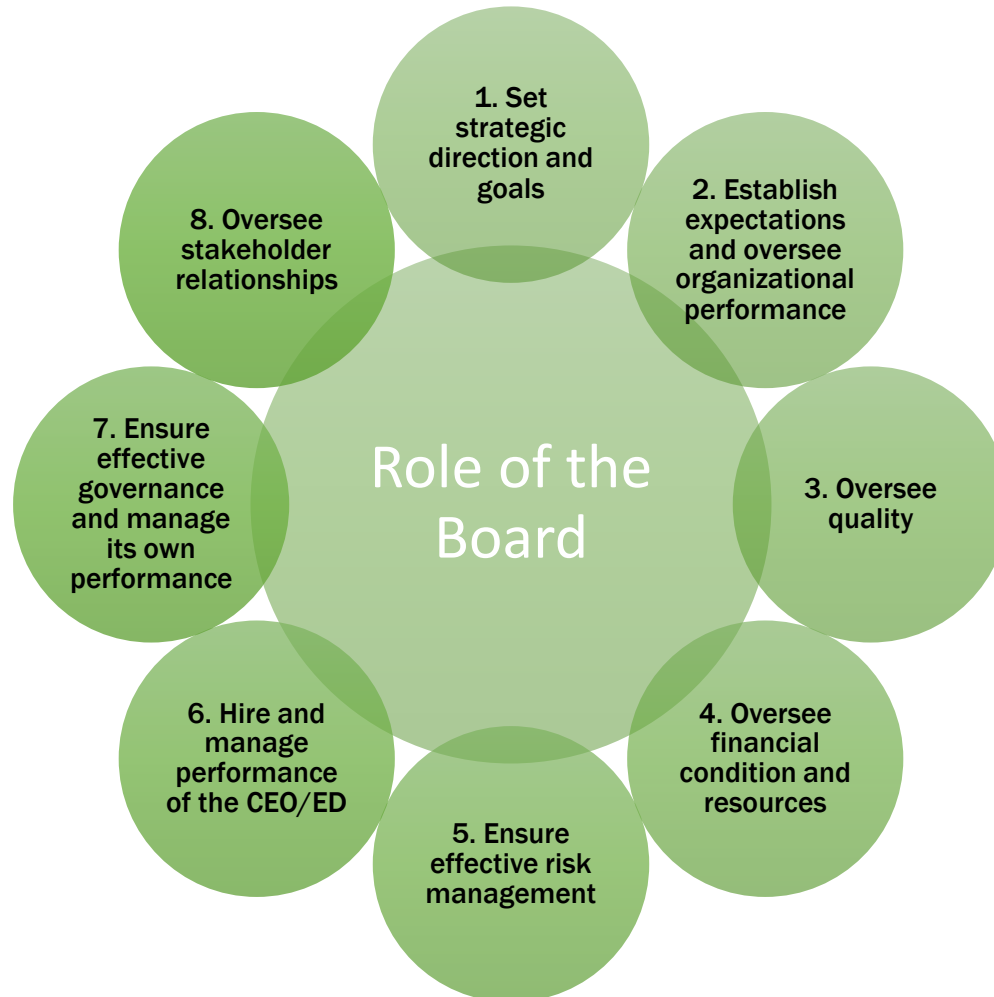
# Role of the Board

- The Board holds **ultimate accountability** for the success and sustainability of the organization it governs.
- **Success** refers to the degree to which the organization is achieving its purpose and meeting its objects as
  - Set out in letters patent
  - Interpreted from time to time by the Board in Vision, Mission, Values statements and the strategic plan
- **Sustainability** refers to the capacity, credibility and viability of the organization to achieve its objects over time



# Role of the Board in Practice

## Eight Core Responsibilities



# Role of the Board

## *Other considerations*

- The Board may delegate some functions - to an individual (ED/CEO) or group (a committee) - but it cannot delegate its overall authority and responsibilities.
- The Board's power exists as a collective:
  - Board decisions are made by the whole Board
  - No single Board member or committee may make a decision or act for the Board.
  - A person who speaks for the Board must have been given authority to do so by the Board.
- The Board relies on the collective contribution of its individual Directors to fulfill its eight responsibilities.



# Duties of Individual Directors

## *Legal expectations and standards*

- **Fiduciary Duty**

- *To act honestly, and in good faith, and in the best interests of the corporation.*
- Duty is owed only to the corporation and not to any individual or group.
- Every Director owes this duty regardless how they were elected or appointed to the Board (including *ex officio*).
- For Ontario healthcare, best interests of the corporation includes fulfilling system-level obligations of funding agreements.

“Directors stand in a fiduciary relationship with the corporation. The fiduciary duties that are owed by a director to the corporation are among the highest standard of conduct that the law imposes.”

Guide to Good Governance,  
2<sup>nd</sup> Edition  
Governance Centre of Excellence



# Duties of Individual Directors

## *Legal expectations and standards (continued)*

- **Standard of Care (common law)**
  - *To act with care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.*
  - “Reasonably prudent person” means “someone with their knowledge and experience”
  - Standard for each director depends on that director’s personal knowledge and experience.
  - Directors with special skill and knowledge are expected to apply them to matters that come before the Board.



# Duties of Individual Directors

## *Legal expectations and standards (continued)*

- Rules of Fiduciary Conduct
  - As a fiduciary, a Director is expected to abide by certain additional rules that include:
    - *Exercising power honestly*
    - *Maintaining loyalty to the corporation*
    - *Maintaining corporate obedience (aka Board solidarity)*
    - *Respecting confidentiality*
    - *Avoiding conflicts of interest*
  - The standard for these is the same for every Director regardless of skill or experience, including for *ex officio* Directors.

“A director who is opposed to a corporate decision that has been validly taken has a duty to respect and adhere to that decision.”

Guide to Good Governance  
2<sup>nd</sup> Edition  
Governance Centre of Excellence



# Understanding Duties on Your Own Board

- Specific responsibilities are described in your organization's by-laws, Board policies, and/or a position description
- These often include:
  - Maintaining confidentiality of information received as a Director
  - Following a code of conduct
  - Avoiding conflicts of interest and declaring when they do arise
  - Fulfilling attendance requirements
  - Being prepared and actively participating in meetings
  - Providing financial support (membership fee, donation)
- Be familiar with your Board's expectations



# Some final thoughts on your role.....

- Understand how your vote counts:
  - Ensure Board minutes reflect your vote for or against a motion
  - If absent you are assumed to have supported motions passed at the meeting, unless you indicate in writing otherwise
  - Abstention does not mean you voted against, just that you didn't vote
- Understand your liabilities, ensure protections are in place:
  - D&O insurance, with premiums paid up
  - Payroll and remittances paid up, with written verification from management
- The best Board members ask questions:
  - “Group think” is one of a Board’s biggest risks
  - If you are unsure or unclear, chances are someone else is too
  - You don't need to be an expert, but you do need to understand the issues and decisions you are being asked to making – if you don't, ask



Questions?



# Topic 2: Governance Models and Board Structure



# Increased Attention on Governance and the Role of the Board

- Significant corporate failures in recent decades resulted in increased attention on governance and rethinking the role of the Board.
- Board “failures” were part of the corporate failure story
- Board failures included:
  - Board “group think”
  - Conflicts of interest not managed
  - Hard questions not asked
  - Performance and results not properly overseen
  - Non-performance not properly addressed

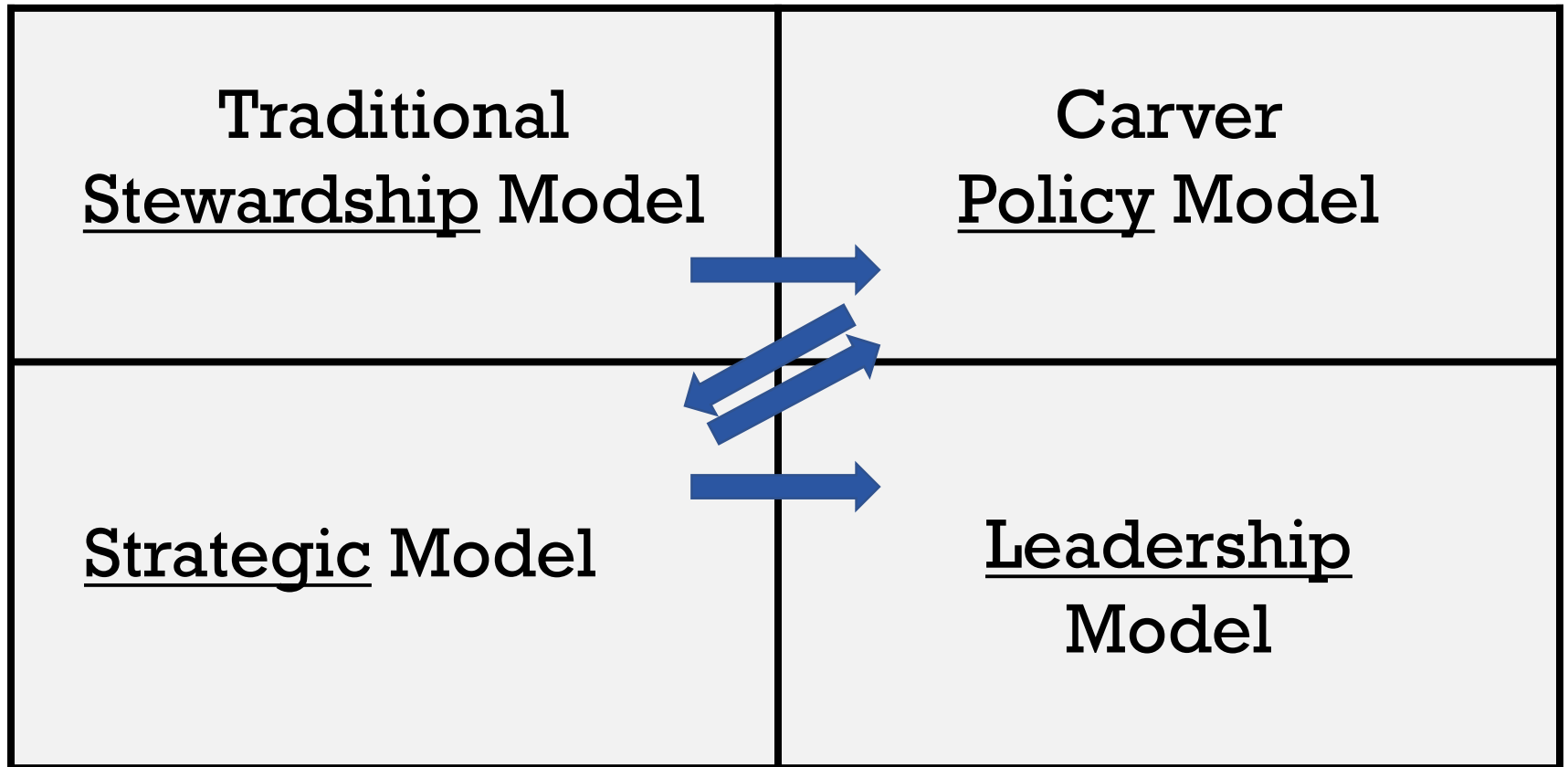


# Significance of the Governance Role Is Now Well Recognized

- A well functioning Board is recognized as a significant factor in the organization's success.
- Organizations – and Boards - are being held to higher standards of accountability and transparency
- Greater attention is being paid to the full potential of the Board:
  - Effectiveness of Board processes and its continuous improvement
  - What the Board spends time on
  - Whether the full potential of Board member skills, experience and knowledge is being used
  - Ensuring Board leadership is part of newer strategic areas such as quality, system collaboration



# Evolving Thinking on the Board's Role has Evolved Governance Models



# Evolving Thinking on the Board's Role has Evolved Governance Models



## Traditional Stewardship Model

- Boards are primarily trustees of the public trust
- Goal is on long-term sustainability of the organization, its reputation and proper use of its assets
- Includes approval and oversight of budget
- Focus of Board work is on oversight, ensuring compliance.

## Strategic Model

- Expands Board role from stewardship and compliance to providing strategic leadership
- Boards are engaged in high level strategy development
- Focus is on setting and approving strategic direction through strategic plan and approval of other key strategies and plans (e.g., quality, risk)

## Leadership Model

- Latest evolution of thinking on the Board's role
- Builds on stewardship and strategic



# Governance as Leadership

*(Chait, Ryan and Taylor, 2005)*

- “Rethinking the Work of the Non-Profit Board”
- Builds on the view that:
  - Non-profit Boards are significantly undervalued
  - Intellectual capital on the non-profit Board is largely untapped
- Reframes the Board as a significant asset in a complex and ever-changing world
- Integrates *leadership* as a defined role of governance



# Leadership Model Focuses on Enhanced Board Performance

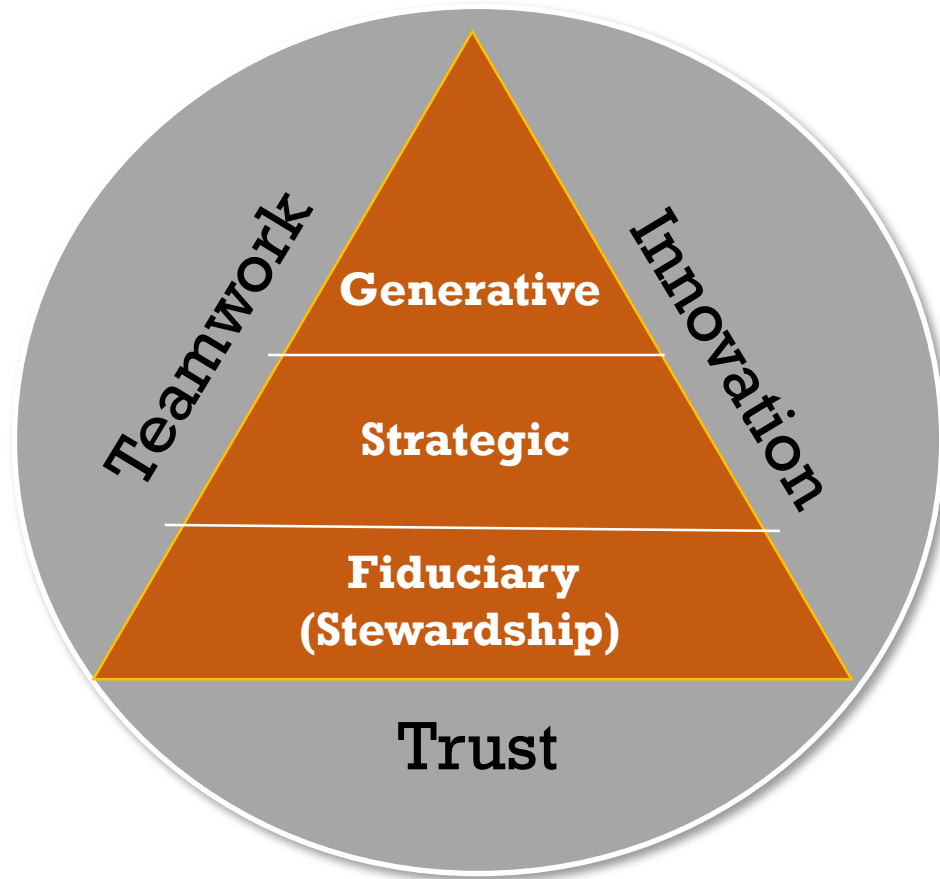
- The Board adds - and derives – its greatest value from meaningful participation in important issues.
- Board engagement - and effectiveness - increases as the significance of issues, opportunities for influence and probability of results also increase.
- Better purposes produce better performance.





# High Performance Governance Leadership

*(Adapted Generative Model, James R. Nininger)*



# Leadership Model: Board Role In Three Modes

## Fiduciary

- Ensuring the organization meets its legal responsibilities and accountabilities

## Strategic

- Making decisions about direction, priorities and resources

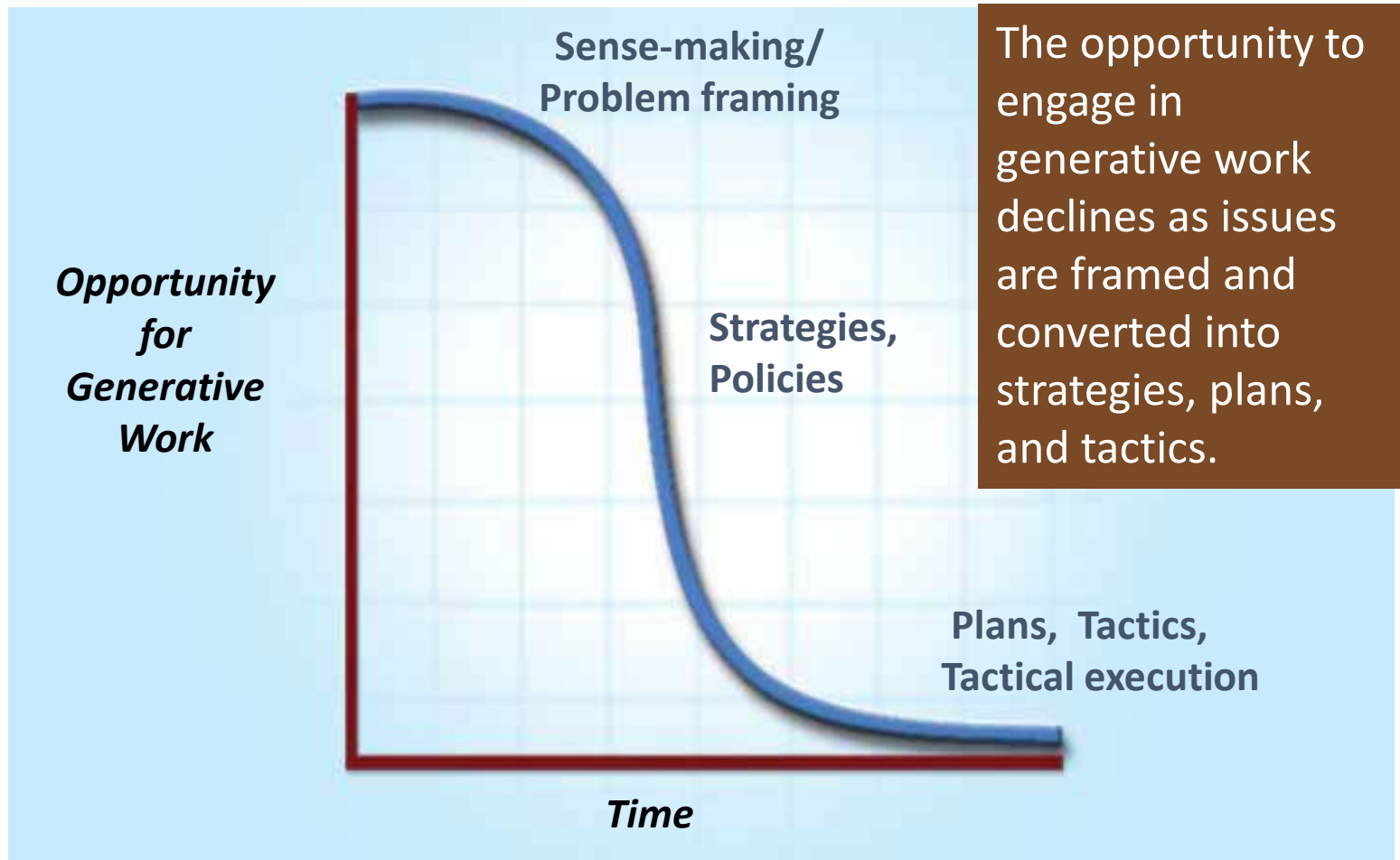
## Generative

- Exploring root causes, optional courses, new ideas



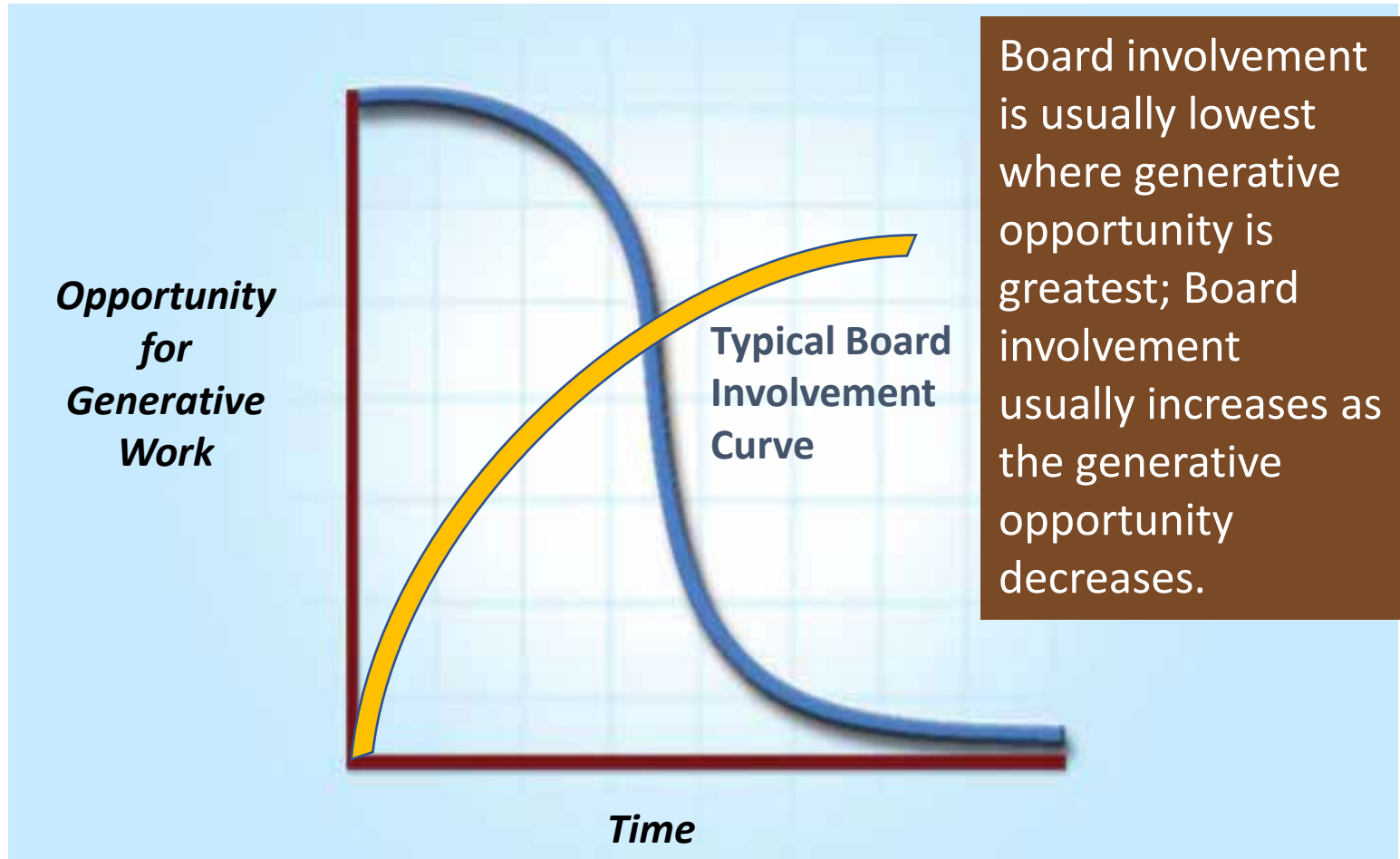
# The Generative Curve

*(Generative Governance and Leadership: Opportunities and Challenges for Health Care Boards, Presentation by Cathy Trower at Health Achieve, 2011)*



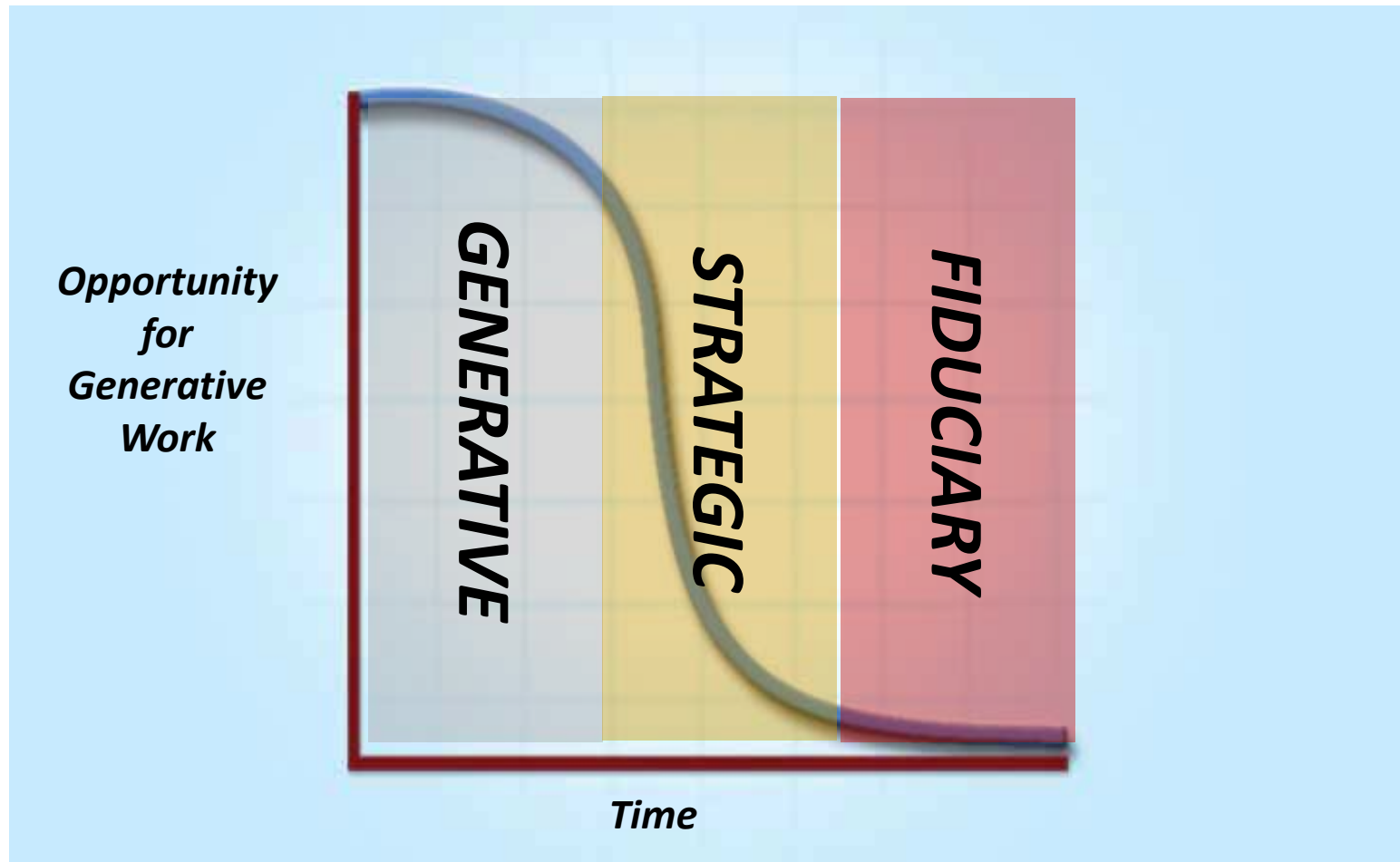
# The Generative Dilemma

*(Generative Governance and Leadership: Opportunities and Challenges for Health Care Boards, Presentation by Cathy Trower at HealthAchieve, 2011)*



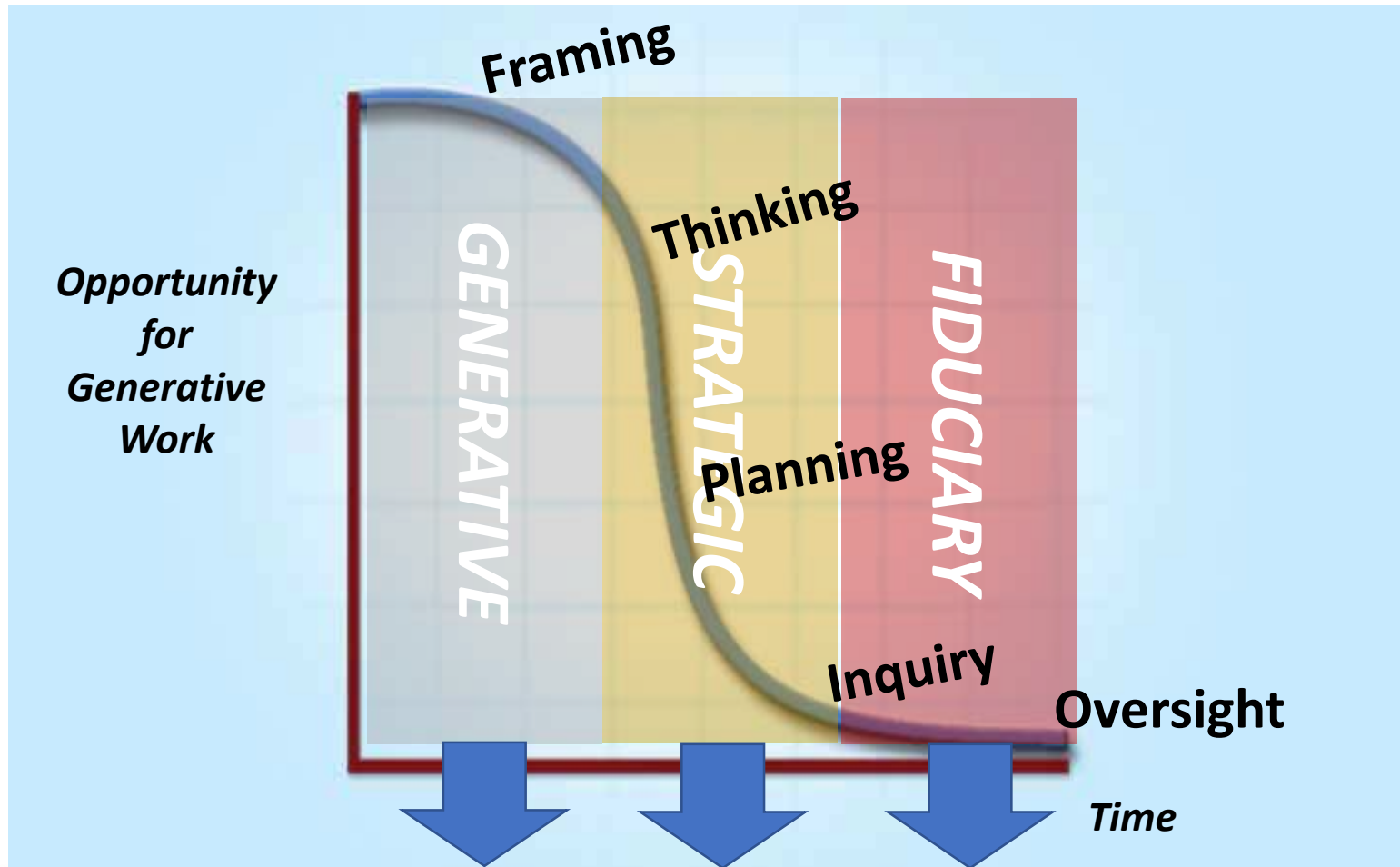
# Three Modes on the Generative Curve

*(Generative Governance and Leadership: Opportunities and Challenges for Health Care Boards, Presentation by Cathy Trower at HealthAchieve, 2011)*



# Three Modes on the Generative Curve

C Trower, 2011



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*Sense*    *Direction*    *Execution*

# Board Behaviour in Three Modes

	Fiduciary (Stewardship)	Strategic	Generative
<i>Key Question</i>	✓ “Is everything OK?”	✓ “What’s the plan?”	✓ “What’s the question?”
<i>Board Focus</i>	✓ Define problems ✓ Review performance	✓ Solve problems ✓ Shape strategy	✓ Frame problems ✓ Engage in sense-making
<i>Board Process</i>	✓ Parliamentary procedure	✓ Analytical & empirical discussion	✓ More informal & creative
<i>Problems are to Be</i>	✓ Spotted	✓ Solved	✓ Framed
<i>Decision Making</i>	✓ Resolution	✓ Reaching consensus	✓ Framing the question
<i>Board Sees Their Role As</i>	✓ Steward & Oversight	✓ Strategist	✓ Fresh perspectives & insights
<i>Performance Metrics</i>	✓ Facts, figures, finances, reports	✓ Strategic Indicators, competitive analysis	✓ Signs of learning & discerning

# Build Your Generative Muscle

1. Don't jump into it
2. Create a defined space for generative discussion
3. Identify suitable generative topics, ones where
  - uncertainty is high
  - goals are ambiguous
  - the future is uncertain
  - solutions/directions are not already clear
4. Plan and execute the discussion
  - Provide background information to inform the discussion
  - Clearly define the topic/question and stick to it
  - Focus on framing/making sense of the issue, not solving it
  - Clarify what happens after the discussion





# Build the Foundation First

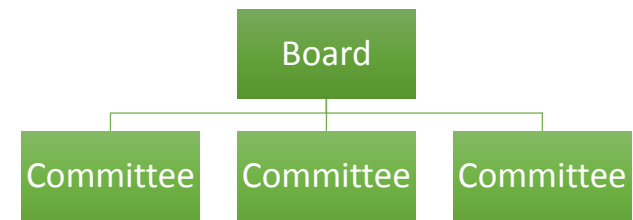
“You have got to get the fiduciary mode right. If you don’t, you can’t go forward. It makes no sense to be generative if you are on the precipice of bankruptcy or engaged in ethically questionable behaviour. But if boards spend all their time on financial literacy, integrity, compliance and legal liabilities, they will have missed the boat on what governance should be.”

*Governance as Leadership,  
an interview with R. Chait*



# Governance Structure - Committees

- Board committees do the detailed work of the Board
- Committee structure is not a one size fits all
  - Each Board has to decide what they need
  - Some are required by funders, accreditors
- Topics/functions most often assigned to a standing committee are Finance, Audit, Governance, Quality,
- Executive Committees are not as common as they once were



# Leading Practices for Committees

- Terms of reference for each committee
- Time limits on all but standing committees
  - Consider an annual review of all committees
- Board standing committees are chaired by a Board member
- External members on standing committees only as needed
- CEO and Board Chair as *ex officio* on all committees
- Staff support of committees is managed by the CEO
- Annual evaluation of committees, committee Chairs and committee meetings
- Membership on committees is an important succession planning tool for the Board



Questions?



# Thank You

[catherine@collaborativesolutions.ca](mailto:catherine@collaborativesolutions.ca)

