



Handbook  
for  
Board of Directors  
and  
Advisory Council  
Members



Medicaid  
Management  
Services, Inc.



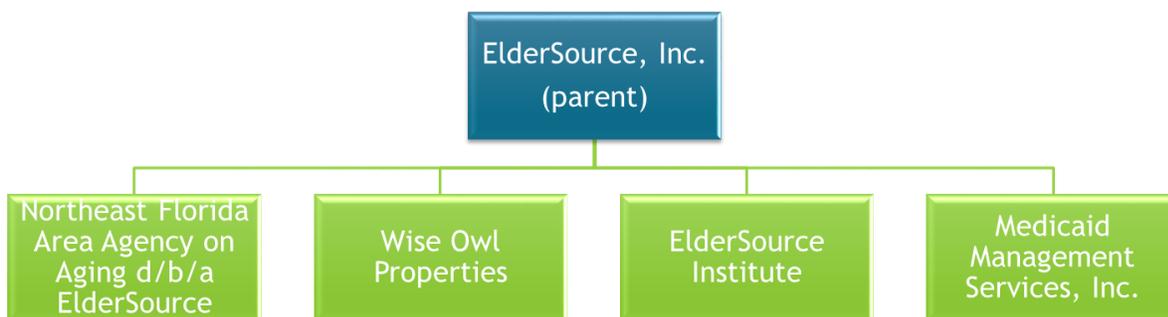
# TABLE OF CONTENTS

Background	3
Missions and Guiding Principles	4
Distinction between Boards of Directors/Trustees and Advisory Councils	5
Why Have a Board of Directors?	5
Why Have an Advisory Council?	6
Intersection of Duties and Potential for Conflict	7
Composition of Boards and Councils	8
Officers	9
Committees	9
Duties and Responsibilities of the Board	10
Duties and Responsibilities of Advisory Councils	11
Bylaws	12
Board Policies	13
Advocacy	13
Lobbying and Political Activities	14
Strategic Planning	15
Other Resources	16

## BACKGROUND

ElderSource, Inc. is the Parent Company over four subsidiaries: ElderSource (AAA/ADRC), ElderSource Institute, Medicaid Management Services and Wise Owl Properties. Each company has its own Board of Directors and in the case of ElderSource (AAA/ADRC), they also have an Advisory Council.

This handbook will review responsibilities of Boards, in general, and speak to each specific Board and the Advisory Council for ElderSource (AAA/ADRC)



The over arching vision for the family of corporations is that *everyone lives and ages with independence and dignity in their home and community.*

The next page outlines the missions and guiding principles of each of the companies.

	<b>ElderSource, Inc. (parent)</b>	<b>ElderSource (AAA/ADRC)</b>	<b>Medicaid Management Services</b>	<b>ElderSource Institute</b>	<b>Wise Owl Properties</b>
<b>Purpose</b>	ElderSource, Inc. coordinates and leverages the resources of the ElderSource organizations to maximize their effectiveness	ElderSource provides expertise to bring information, services and resources to the elderly and people with disabilities	Medicaid Management Services provides services to plans and organizations serving older adults.	ElderSource Institute provides access to the most trusted resources, expert knowledge and local network on all matters of aging.	Wise Owl Properties manages capital investments to best support the missions of the ElderSource organizations and provide a return on investment.
<b>Guiding Principles</b>	<p>We value:</p> <ul style="list-style-type: none"> <li>• Honesty, integrity and professional behavior</li> <li>• Results and accountability</li> <li>• Community collaboration</li> <li>• The knowledge, loyalty, commitment and unselfish team spirit</li> <li>• Our role as the proactive and innovative leader in the aging network</li> <li>• The highest level of service</li> <li>• Opportunities for personal and professional growth</li> <li>• Our role as an instrument of positive change</li> </ul>	<p>We value:</p> <ul style="list-style-type: none"> <li>• Those we serve</li> <li>• Excellent and responsive service</li> <li>• Honesty, integrity and professional behavior</li> <li>• Results and accountability</li> <li>• Proactive, innovative and visionary efforts</li> <li>• Community collaboration</li> <li>• The knowledge, loyalty, commitment and unselfish team spirit of staff, volunteers and providers</li> <li>• Our role as the leader in the aging network</li> <li>• Our role as an instrument of positive change</li> </ul>	<p>We value:</p> <ul style="list-style-type: none"> <li>• Honesty, integrity and professional behavior</li> <li>• Results and accountability</li> <li>• The knowledge, loyalty, commitment and unselfish team spirit of staff, volunteers and supporters</li> <li>• The highest level of service</li> </ul>	<p>We believe:</p> <ul style="list-style-type: none"> <li>• People can live their best lives after 50.</li> <li>• When people are empowered they are more confident and able to make better choices.</li> <li>• Delivering the highest level of service depends on the highest quality of professionals.</li> <li>• Offering opportunities for personal and professional growth allows individuals and organizations to thrive.</li> <li>• We need to collaborate with others to be successful</li> <li>• Communicating with passion and energy encourages people to actively engage.</li> <li>• The needs of the aging population require us to be proactive and innovative in the work that we do.</li> </ul>	<p>We value:</p> <ul style="list-style-type: none"> <li>• Honesty, integrity and professional behavior</li> <li>• Results and accountability</li> <li>• The knowledge, loyalty, commitment and unselfish team spirit of staff, volunteers and providers</li> <li>• Our role in supporting and enhancing ElderSource capabilities</li> </ul>

## **DISTINCTION BETWEEN BOARDS OF DIRECTOR AND ADVISORY COUNCILS**

A basic distinction between boards and advisory councils is found in the terminology. An advisory council, by definition, gives advice. That advice can be acted upon, ignored or put on hold for future decisions. The point is, the advice is just that, advice or recommendation. Respective organizations consider, but are not bound to act upon, advisory council recommendations, as much as they may appreciate them. Boards of directors' decisions, however, are binding and serve to govern the organization. That is why boards of directors/trustees may be held collectively liable for the functioning of their organizations while advisory councils, generally, are not. The only company in the ElderSource family of corporations to have an advisory council is ElderSource (AAA/ADRC) which is the Area Agency on Aging and Aging and Disability Resource Center for Northeast Florida.

## **WHY HAVE A BOARD OF DIRECTORS?**

The foremost reason is that a board of directors/trustees is required by the Internal Revenue Service as a condition of filing for non-profit status. However, the law and tax breaks aside, it is a good business practice in other ways as well.

Boards are usually composed of individuals with a great deal of personal and business experience. These individuals are leaders of – in the case of many nonprofits – multi-million dollar operations. Board members are often professionals, such as bank executives, accountants, politicians, educators and social service administrators. They might also be prominent, influential members of the community whose notoriety and connections serve as crucial assets in fundraising and facilitating progress for their agencies. Ideally, these individuals are representative of the diverse ethnic and age groups that they serve.

As governing bodies, boards provide valuable oversight to ensure that the agencies they oversee are progressing in the right direction and operating efficiently. In essence, the buck stops with the board. Boards decide on and fine-tune the missions and objectives of their respective organizations, as well as recruit, hire (and fire) chief executive officers. They retain overall fiscal responsibility for their respective organizations. Agency budgets, policies and strategic plans are usually crafted with board input and *always* require board approval. Other functions of boards of directors/trustees for non-profit agencies include:

- promotion and enhancement of the agency, its mission, and services within the community;
- promotion of and adherence to ethical standards;
- assistance with organizational design, structure and planning;
- monitoring of programs, services and overall performance relative to mission and goals;
- ensuring adequate resources and assistance with fundraising;
- recruitment and orientation/training of new board members; and
- assumption of overall responsibility and accountability for the agency.

### **WHY HAVE AN ADVISORY COUNCIL?**

As stated earlier, the only company with an advisory council in addition to a board is ElderSource (AAA/ADRC). One simple reason: two heads are better than one. Or, in this case, 10, 20 or 30 and more heads.

The number is not as important as the representation. Advisory councils, like boards of directors, are optimally composed of representative members of a community bringing a wide range of perspectives, experience and expertise to an agency. In the field of aging, keeping up with research, data and innovations across the country and around the world is increasingly vital to providing the best and most efficient services. Staying abreast of the rapidly evolving needs of one's own community, and making sure its representative agency understands those needs, is just as crucial.

Another more formal and pressing reason to have an advisory council is that advisory councils they are required adjuncts for area agencies on aging. This mandate comes from the Older Americans Act (U.S. Code Sec. 3026 {D} of the OAA), which stipulates that area agencies on aging must: *“establish an advisory council consisting of older individuals (including minority individuals and older individuals residing in rural areas) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, providers of veterans’ health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters related to the development of the area plan, the administration of the plan and operations conducted under the plan.”*

Also like boards, advisory councils are vital links between the agencies and communities they serve. Though they have neither formal hiring nor formal fiscal responsibilities, nor any absolute say-so over agency organization, planning and policy, advisory councils provide crucial input to agencies regarding the particular needs and priorities of the communities and populations they represent.

#### Advisory Councils:

- provide proportional representation of older persons, minorities and other groups with particular concerns, serving as the eyes and ears of their communities;
- keep up with regional and national demographic trends, demonstration projects and other innovations in aging-service delivery that may be beneficial to both the agency they advise and the aging population they represent;
- assist with the development and administration of area agency strategic and operational plans; and
- provide input on the initiation of new programs and services and/or the phasing out non-productive practices.

#### **INTERSECTION OF DUTIES AND POTENTIAL FOR CONFLICT**

For ElderSource (AAA/ADRC), it is important for the boards of directors and the advisory council to be aware of possible areas of intersection of duties and activities. There should be no secrets. Within reason, the left hand should always know what the right hand is doing to avoid duplication of effort, stepping on toes and other types of potential conflict. At ElderSource, the Chair of the advisory council is a voting member on the board of directors. In general, advisory councils will focus on educating themselves, their communities and their agencies on the many issues and emerging trends, innovations and best practices in aging and social service delivery. Meanwhile, boards will place emphasis on the big picture - helping area agencies decide when to act on advisory council recommendations and providing leadership and resource stewardship that cultivates the most efficient, effective and responsible operation of the agency.

Advisory councils and boards should keep in mind that they serve to advise and give direction to their agencies; form links and partnerships within the community; help plan goals and fine-tune mission statements; and approve long-range plans and budgets. As a rule, neither boards nor councils should get overly involved in the day-to-day business of the agencies they serve, or try to micromanage an agency's services and programs.

## **COMPOSITION OF BOARDS AND COUNCILS**

Again, there is not a hard and fast requirement for the number of members that should serve on boards and councils. Most range from 8 to 24 members, not including ex-officio representatives (i.e., members who hold positions on a board by virtue of other offices they hold, such as a state representative or political cabinet member, but do not regularly attend meetings or hold official voting privileges).

All boards – and, especially, advisory councils, as specified in the previously cited Older Americans Act language – should have membership that strives to represent constituents in terms of age, race and social strata. All should live in the geographic area that they represent. The most effective boards and councils will be comprised of those from various backgrounds in both the public and private sectors: e.g., parents, grandparents, business, labor, health, social services, education, psychology, community planning, law enforcement and politics (bipartisan). Board members, and sometimes advisory council members, may be selected with their community connections and fundraising potential in mind. Ex-officio members, often holding political office, can be very influential and resourceful in helping their boards and councils plan and achieve objectives. Often, they and other board members will represent agencies with areas of intersection and common interest with aging services, such as health, disabilities and family services. The ElderSource (AAA/ADRC) board is comprised of one person from each of the counties served by ElderSource with the remaining seats filled based on the needs of the organization. The Advisory Council is comprised of a minimum of two individuals per county with a maximum of four individuals per county. The boards of the other companies do not have a county representation requirement.

Board and council memberships are sometimes political appointments, but once a board or council is formed, these bodies will frequently adopt authority for nominating and/or selecting their own members. They will generally nominate and vote for their own chairs, treasurers, secretaries, etc. Just as there is not a set number for aging-service boards and advisory councils, there is not a set set time period for service. Board and council members usually serve terms of from one to three years, but the terms can be longer or shorter, depending on agency-specific bylaws. Also, members can usually be re-appointed to consecutive and multiple terms. Board members from all the companies should review their respective bylaws for terms of office.

## **OFFICERS**

Boards and councils will have officers, almost always: a chair or president; a vice-president; a treasurer; and a secretary. The chair or president is responsible for conducting meetings in a fair and efficient manner. The treasurer is, of course, in charge of tracking monetary matters, such as fundraising, associated with the board or council. The secretary takes minutes of the meetings and oversees records and paperwork related to the board or council. In most cases, officers – preferably persons with experience related to their positions – will be elected by a simple majority of the boards or councils. In some instances, volunteers for the offices may be requested. Board officers for each of the companies in the ElderSource family of corporations should periodically review their respective bylaws and position descriptions.

## **COMMITTEES**

Depending on the size of the board of directors or the advisory council and the agency each oversees, it may be wise and expedient for the board or council to form committees to explore and discuss certain issues. This may be especially useful when the subject matter involves expertise in a specific area held by one or more of the board or council members, such as finance, public relations, real estate or human resources.

These committees may be standing committees (formed as part of the board's permanent structure) or ad hoc (that is, formed on a temporary basis to address a pressing issue). Standing committees may address such issues as the budget, fundraising, public relations/marketing, strategic planning, community outreach, and board recruitment and development. Ad hoc committees might deal with the hiring or firing of a new Chief Executive Officer, the feasibility

of finding a new building or implementing a new service, or any number of concerns that might be brought to the board by the community and/or agency that it serves.

ElderSource, Inc. (Parent) has three standing committees: Finance, Strategic Planning and Development. ElderSource (AAA/ADRC) standing committees are Finance, Programs, Personnel/Bylaw and Governance. Medicaid Management Services, ElderSource Institute and Wise Owl Properties currently do not have standing committees.

## **DUTIES AND RESPONSIBILITIES OF THE BOARD**

Board members are expected to conduct themselves in accordance with time-honored legal principles emphasizing good faith and the ever-governing term “reasonable” in relation to judgment and actions. As boards of directors/trustees may be held liable for their decisions and behavior, it is extremely important that they, as individuals – and as a group - become acquainted with the laws related to their positions.

These legalities pertain not only to personal behavior, but to mandates for a range of requirements, such as:

- filing articles of incorporation – and sometimes bylaws – usually with the respective secretary of state;
- filing Tax Form 990 with the IRS for federal tax-exempt status; and filing with the state for state tax-exempt status;
- filing employees’ social security and income tax withholding with the IRS;
- filing of annual reports;
- applying with the state for accreditation and/or licensure;
- being aware of the Fair Labor Standards Act and other employment regulations; and
- following statutes regulating solicitation, fundraising and political lobbying by non-profit organizations.

The vast majority of the above requirements will likely be taken care of by agency staff and consultants. However, the board is ultimately responsible, and the importance of boards consulting legal counsel concerning the intricate state, federal and local requirements governing non-profit corporations cannot be overstated.

### **Duties of Care, Loyalty and Obedience**

Though the language may seem archaic, *BoardSource* – formerly the National Center for Non-Profit Boards (NCNPB) – states that the traditional standards board members are obligated to meet in conducting themselves fall under the headings of “duty of care, duty of loyalty, and the duty of obedience.”

The “duty of care” essentially concerns the competent behavior of the board. According to *BoardSource*, some 20 states have statutory language to the effect that “duty of care,” can be defined as “the care that an ordinarily prudent person would exercise in a like position and under similar circumstances.”

The “duty of loyalty” requires board members to be faithful to the best interests of the organization they oversee when making decisions or taking action in relation to that organization. Mainly, this duty pertains to **NOT** using information or contacts acquired as a board member for personal gain, or the gain of business associates, family members or friends. Similarly, board members should be aware of the principle of “private inurement,” which holds that income from non-profit organizations cannot be used for the benefit of those connected to the organization.

This does not mean that board members cannot be compensated for their work, but it does prohibit compensation considered excessive. In any case, board members should be extremely sensitive to even the appearance of conflicts of interest, and it is best to have strict policies and bylaws governing such issues firmly and prominently in place.

The “duty of obedience” calls for board members to act in accordance with the mission and goals of their organization. While board members are certainly entitled to exercise their own, individual judgment in pursuit of their organization’s goals, words and actions should not be inconsistent with their organization’s overall mission.

## **DUTIES AND RESPONSIBILITIES OF ADVISORY COUNCILS**

According to the federal law that spells out the details of the previously cited OAA mandate, area agency on aging advisory council duties and responsibilities (and regulations for composition) are as follows:

- a. The council shall advise the agency relative to:
  1. Developing and administering the area plan;
  2. Conducting public hearings;
  3. Representing the interest of older persons; and
  4. Reviewing and commenting on all community policies, programs and actions that affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.
- b. Composition of council. The council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the area agency in developing community-based systems of services. The advisory council shall be made up of:
  1. More than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in programs under this part;
  2. Representatives of older persons;
  3. Representatives of health care provider organizations, including providers of veterans' health care (if appropriate);
  4. Representatives of supportive services providers organizations;
  5. Persons with leadership experience in the private and voluntary sectors;
  6. Local elected officials; and
  7. The general public.
- c. Review by advisory council. The area agency shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

## **BYLAWS**

A point of similarity concerning boards and advisory councils exists in the area of bylaws. Both boards and councils need bylaws to provide formal structure to their operations.

These bylaws state the purpose and objectives of a board or council, and specify how the organizations may, for instance:

- (s)elect members and officers;
- establish terms of service;
- organize committees;
- be compensated and reimbursed;
- schedule and conduct meetings;
- address and avoid potential conflicts of interest;
- raise funds (usually boards only);
- hire CEOs (boards only); and
- handle personnel matters (boards only).

Board members for each of the corporations and the ElderSource advisory council members should familiarize themselves with their respective organization's bylaws and, perhaps, revise them from time to time in accordance with changing circumstances and objectives. It is highly recommended that legal counsel be obtained before creating or updating bylaws to ensure that any alteration is in line with local, state and federal law.

Regarding bylaws and protocol for conducting meetings, many boards and councils use *Roberts Rules of Order*, a reliable guide to getting down to business in meeting rooms across America for over a century. This thorough manual covers everything from opening a meeting, to initiating, amending and passing a motion, to establishing a quorum to disciplining those found out of order.

## **BOARD AND ADVISORY COUNCIL POLICIES**

Each board and the ElderSource (AAA/ADRC) advisory council each have their own set of policies. Members of each board and the advisory council should periodically review these policies and update them as needed.

## ADVOCACY

Advocacy is simply the support of an idea, cause, or in this case, more aptly, a particular population. Successful advocacy requires a comprehensive understanding of the issues involved, and is almost always a byproduct of clear, concise communication and building positive relationships. Its key components include passion, persistence and patience; creativity, cooperation and collaboration; and energy, flexibility and resourcefulness in pursuit of an organization's objectives.

Area agencies on aging (i.e. ElderSource) are not only encouraged to advocate for the older people in their districts, they are **mandated** to do so. Older Americans Act regulations specify that agencies "shall serve as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services in each community throughout the planning and service area" (45CFR:Sec.1321.61). Among other advocacy-related requirements, the regulations stipulate that area agencies shall:

- *"Represent the interests of older persons to local level and executive branch officials, public and private agencies and organizations."*
- *"Monitor, evaluate, and, where appropriate, comment on all policies, programs, hearings, levies, and community actions which affect older persons."*
- *"Undertake a leadership role in assisting communities throughout the planning and service area to target resources from all appropriate sources to meet the needs of older persons with greatest economic or social need, with particular attention to low income minority individuals."*

Accordingly, each area agency should strive to educate locally elected officials (city, county, state and federal), as well as private service organizations, on the issues and concerns of older persons and the field of aging. Area agencies should also aim to ensure that older persons and those who care for them are aware of the programs, services and resources available to them in their respective areas. Far too many older Americans do not avail themselves of in-home and community-based services because they remain unaware of them.

Although it is often associated with political lobbying, advocacy can be many other things as well, including: letters to the editor and media campaigns; minority outreach and coalition building among stakeholders; public testimony; presentations at community forums and

health fairs; and a number of other grassroots efforts. Whatever form advocacy takes, however, certain fundamentals will usually apply.

At ElderSource, we reach out to the board members of each of the corporations to participate in advocacy efforts. This is in addition to the efforts of the ElderSource (AAA/ADRC) advisory council.

The following guidelines should prove helpful in efforts to increase the visibility of your agency and improve the lives of older Americans.

## **LOBBYING AND POLITICAL ACTIVITIES**

There can be a very slim line between advocacy, lobbying, and engaging in political activities. Both boards and advisory councils (as extensions of their organizations) should be very careful about these divides. *BoardSource* warns that the rules governing lobbying activities by charitable, tax-exempt organizations (such as area agencies on aging) are “complex, frequently misunderstood and have severe consequences.”

To demonstrate that complexity, *BoardSource* cautions that while the law “strictly prohibits political activities” by charitable, tax-exempt nonprofit organizations, this does not make it illegal for individual board members to be involved in politics, or support certain candidates for office, so long as those individuals are not representing or attempting to speak for the board.

And though partisan “political activities” (defined by *BoardSource* as “activities intervening directly or indirectly in any political campaign on behalf of or in opposition to any candidate for public office”) are off-limits to nonprofit organizations, these organizations can conduct lobbying activities under certain circumstances. Lobbying (defined by *BoardSource* as attempting to “influence legislation”) by nonprofit organizations is permitted under the condition that the lobbying activities do not constitute “a substantial part of the organization’s total activities.”

*BoardSource* notes that the IRS puts a dollar amount on the term “substantial” to guide organizations in adhering to the tax-exempt statutes. For example, nonprofit organizations may allot up to 20 percent of their first \$500 in expenditures for lobbying activities; 15 percent for the next \$500,000; 10 percent of the next \$500,000; 5 percent of the next \$500,000, on up to \$1 million total in lobbying expenditures.

The IRS further stipulates that only 25 percent of all nonprofit expenditures can be devoted to grassroots lobbying (i.e., efforts to gain political support of the general public). Though it is highly unlikely that an area agency on aging would reach that 25 percent cap, it is critical that agencies carefully track their lobbying activities and funds –and all the more reason for boards of directors to consult legal counsel in areas of uncertainty related to lobbying. There will usually be many.

### **STRATEGIC PLANNING**

Strategic planning determines where an organization is going over the next year or more, how it is going to get there and how it will know if it got there or not. Strategic planning is done jointly by the Board of Directors and staff of the organization. ElderSource, Inc., the parent corporation, has a strategic plan encompassing all of the subsidiaries. The strategic plan requires the staff and the board to be vigilant in its implementation. Therefore the plan is reviewed with staff throughout the year. Staff provide status reports to each of the Boards and to the Parent Board on a semi-annual basis.

### **OTHER SOURCES OF INFORMATION**

Board Bylaws

Advisory Council Bylaws

Board Policies

Advisory Council Policies

Strategic Plan