

*Excerpted comments from speech by Deborah S. Hechinger before Grantmakers in Health conference, September, 2004*

---

As health conversion foundations, you stand in a unique position in the middle of this debate. Because of your history, you face a special set of responsibilities and a special set of opportunities. Today, we're going to talk about some of these challenges and opportunities.

All boards face governance issues. But health conversion foundations face special challenges. Why?

Because health conversion foundations arose out of the birth of for-profits from the belly of nonprofits. When the health care facility became a for profit company, it replaced a health care provider that the community saw as one dedicated to serving the community, not one dedicated to making money. So many of those conversions were accompanied by a strict public scrutiny that continues today

Think how the community felt when the conversion took place. Many of the people in the community spent their time and resources supporting that nonprofit hospital. So it's only natural that they now they look to the foundation to substitute for that commitment to the community and they expect the foundation to step in to bring health resources needed by that community.

Health conversion foundations are different from other private foundations. Private foundations were based on personal fortunes; these are based on public assets. In essence, the public is the donor so the resulting foundation is a public trust. As such, the foundation should be structured to give the public a voice in the governance and mission of the foundation. Due to the high level of scrutiny and public nature of assets, conversion foundations must face accountability issues head on.

Let's go back to the scandals I mentioned earlier. They were all different – some involved excessive compensation either for trustees or for CEO's, some involved transactions that were rife with conflict of interest, some of them involved trustees who didn't know their responsibilities and others involved trustees who decided to ignore them.

In short, despite all their differences all these scandals were created by or exacerbated by failures in the boardroom. Accountability begins and ends then.

As board members, you have three legal responsibilities to meet – a duty of care, a duty of loyalty and a duty of obedience. You owe them all, as a legal matter, to the foundations on whose board you serve.

To get us started, let me list six issues that face most organizations but are particularly salient for health conversion foundations given their origins and their history. We can discuss these or others that you'd like.

1. **Compensation**

- should trustees of HCF be compensated as trustees for their service?

2. **Board composition**

- How were and are the trustees of your foundation selected?
- What is the relationship of your trustees with the for profit health care facility?
- Are your trustees independent?

3. **Loyalty**

- to whom do trustees owe their loyalty?
- Do your trustees understand the difference between the role of trustee for the underlying health care facility and the new conversion foundation?

4. **Grantmaking**

- How knowledgeable are your trustees about the mission of the foundation?
- What role does the board play in setting the mission?
- What role does your board play in grantmaking?
- Are the trustees experienced or knowledgeable in grantmaking?
- What are the policies of your foundation about grants to board member organizations?

5. **Conflict of Interest**

- Does your foundation have clear and unambiguous policies about how to handle conflicts of interest?
- Would all your grants pass the “NY Times” test?

#### **6. Spending Practices**

- Speaking of the NY Times test, what kinds of expenditures does the foundation tolerate?

As I open this up for discussion, remember that as trustees, you have the responsibility and the opportunity to do it right. If we as a sector don't do it right, three things will happen:

1. That drop in public confidence that Paul Light reports on won't be reversed. Funding for nonprofits will not rebound to its previous levels – levels that are necessary to meet the mission of so many charities. The nonprofit sector is sometimes referred to as the third sector – along with government and the private sector, it forms the third leg of the stool which support so much of the needs of our communities.
2. If we don't find a way as a sector to meet these responsibilities, someone else will do it for us. As many of you know, the Senate Finance Committee has already held hearings, several bills are pending before Congress on administrative expenses, trustee compensation, and the staff of the SFC is working closely to try to push forward governance mandates.
3. But more important than either of these is the lost opportunity. All of us know that a board that knows its responsibilities and lives up to them is a board that increases the effectiveness of its organization.

Thank you. I'll be happy to take your questions now so we can begin to discuss some of these issues as a group.”

*Excerpted comments from speech by Deborah S. Hechinger before Grantmakers in Health conference, September, 2004*

