

Transcript

Good morning everybody.

Massachusetts Attorney General Martha Coakley, with me on my right is Senator Mark Montigny and on my left is Representative Marty Walz. I'm delighted to be with them here today. We are releasing, today, a report around our investigation into the practices of compensation for Not for Profit Boards of Directors. By way of background, I want to stress that the vast majority of Not for Profit organizations in Massachusetts and we have over 22,000 registered here. I would say almost all of those Public Charities do not pay their Board Directors. We believe that volunteer boards on Not for Profit organizations avoid conflicts of interests and appearance of conflicts of interests, especially around those organizations that deal with health care and rising health care costs. We think that those issues should be front and center as those boards seek to accomplish the missions of their organizations. We know that those organizations enjoy significant tax and other benefits, as the result of being organized as Not for Profits. In turn though, under Massachusetts law, they are held to a very high standard of duties of loyalty and independence, to accomplish the missions of their organizations and particularly to, we believe, standards of transparency. We believe that the boards answer to the public and they answer to the Attorney General's Office. Back in November of 2009, as we began investigations around compensations issues, both for CEOs of Not for Profits, our attention turned to the practice by a very small number of health care insurance companies, Not for Profit insurers, who are compensating their board members. We began that investigation and we asked them-- we went to the board members and said tell us why you are different from virtually every other Non Profits in Massachusetts. We gave them an opportunity to justify why their boards were paid. We did not believe in the course of the investigation that there was an adequate response or justification for why those board members, as opposed to any others in Massachusetts, should be compensated. Two of those insurers, as you know, Blue Cross Blue Shield and Fallon, have since indicated that they have suspended payments to their Boards of Directors. We applaud that decision, we think it's the right decision and we think it allows them and frankly, the Commonwealth, the legislature, us, everybody to move forward as we address the compelling issues in containing health care costs. However to others, Harvard Pilgrim and Tufts, Boards have publicly said that by decision of their boards that they will continue to compensate themselves. We've asked them again for the justification and they have said and this is detailed in the report that we issued today, they believe that they are unique and complex; they believe that because of the time and effort put in by their Boards of Directors-- and let me deal with those two issues. We do not believe that they have been able to distinguish themselves in any way, from any other volunteer Board of Directors that serves for hospitals, for instance in Massachusetts, for educational institutions, all of which have unique and complex issues, large amounts of money involved in terms of management, regulatory bodies they have to deal with. So we believe they have not justified they are unique or complex in any way that any other Not for Profit in Massachusetts is. In addition, they said that they compete with national companies For Profit companies for Boards of Directors and yet it's not totally accurate when you look at their Boards--and let me make it clear that we believe that the Board

members are upstanding citizens who are not casting aspersions on any individual members of the Boards. What we are saying, collectively as a Board, that they are all from Massachusetts and so it'd belie the argument that somehow they are looking for competition or talent outside Massachusetts. We believe they have not justified why they should be compensated and as a result of that today we are taking two actions.

Immediately going forward, we will require any Not for Profit in MA that continues to chose to compensate Board members to file an annual report with those Board members, the amount of compensation, and the justification for the compensation at all as well as the amounts of compensation. We will release an annual report going forward on that because we believe it's our responsibility in terms of the transparency of this issue for those Not for Profits. In addition today, and it's why I've asked Senator Montigny and Representative Walz to be with me here today. With their filing today of legislation, we intend to ask the legislature, to going forward, provide that for any Board seeking compensation that has to be approved by the Attorney General's Office prior to that with justification. In other words, unless we approve compensation, it would be prohibited in Massachusetts. And we leave open the idea that in some instances, unique or complex or others, criteria may make it appropriate under MA law for certain kinds of compensation or amounts of compensation, but we have not seen it with these two insurers and so we believe that it is incumbent upon us in terms of our duty to charitable assets and the public trust and the transparency involved with these to make these two changes today. With that, it's my pleasure to turn the microphone to Senator Montigny.

Thank you Attorney General. It couldn't have been better said, so perhaps I should resist saying anything else, but I won't; I'm sure to your chagrin. A number of things I want to say. First, I want to thank the AG for her leadership on this, and also thank you Vice chairwomen. There have been a few of us for years suggesting this should have been done long ago, so it's particularly frustrating to be sitting here or standing here thinking and talking and debating or anticipating a debate on the issue, but its particularly gratifying to see that you Attorney General, not only have given us the ability, I think, to actually get a law passed, but also the production of the report, which ultimately will highlight the abusers is very important to us because as I'm sure any of you have found who have tried to foyae information or even in fact read information that is required by law or regulation—it's particularly difficult to go through. You would have to sift through, 22,000 charities—Good luck! Because we tried to find out who the most abusive were and it is exceedingly difficult to do. A couple of things I want to say. First, for those who don't know, I spent some time in the legislature chairing health care and then ways and means. So I understand the policy and I understand how expensive it is to implement that policy. There are many who champion a nonprofit model. There's perhaps no one who fought any harder to defend than I. So saying that I think this needs to be looked at carefully and those that continue to abuse the system need to have their very nonprofit status questioned, I think is an expression of how frustrated I am. In other words, we sat in the room and listened to the arguments over the years, defended the nonprofit model, while other states chose to do otherwise. I'm deeply concerned when I see a private equity firm coming in buying up hospitals. So I'm not against the Not for Profit model, but if you do as the Attorney General said so well, benefit from extensive, in a sense, tax payer resources, you must live by your mission. So I think the hybrid is dangerous when

the business or the entity is operating a private business model, yet receiving all of the benefits of the Not for Profit. I think it's particularly troubling. In 2007, when we read about, perhaps at the time, the poster child for this issue, and that was Blue Cross Blue Shield, when they delivered a 16 million dollar platinum parachute, I guess would be the best way to describe it to build Bill Van Farsum, who then became a consultant, who stayed as a director, and I think at one time was even an interim executive again of the company. We filed a bill-- that was 2007 saying let's limit compensation, there should be a waiver. I've put in a very strict limit of \$500,000. Some felt it was unreasonable. My feeling was put it on the table, let the entity justify through a waiver process that that is not enough. There will be some that, I believe, in fact will need to compensate more than that. But it was to spotlight the issue. Unfortunately, after a lot of work by a lot of us, we are here in 2011, not only with the latest parachute, an 11 million dollar package to a gentleman who ran a company at a 160 million dollar loss. For those that have criticized the abuse in the private sector, in some ways proportionate to performance, these bonuses and compensation packages are even more abusive. I want to reiterate my gratitude and I want to commend you Attorney General for working with us on this, particularly to the Not for Profit Directors. To straighten out any confusion there—two bills-- we refiled one bill from 2007 that limits compensation to the executive, has a waiver process, and also will prevent Directors from being compensated. This bill today that we're talking about I think is very specific, is a result of clear abuse, is also a result of the fact that companies like Harvard and Tufts just have not gotten with the program. I think that the Attorney General was very clear, the investigation was thorough, there was no justification, there was no unique circumstance and yet a couple of the biggest abusers have chosen to change their practices and I commend them for that. Harvard and Tufts need to get with the program but that should include any charity in Massachusetts. The default should be we start, you do not compensate voluntary directors. There are multitudes of really intelligent people currently serving on charitable boards. There are lots of others out there who will do it without compensation, they'll do it with pride. I'll conclude by saying the obvious, I think what has happened particularly in Massachusetts and more particularly in Boston, the beauty of the Not for Profit delivery and charitable service, which is great. I'd be the first to commend it, also is the beast of it. There's a very cozy relationship in the private world that would almost be sort of interlocking directorates. I'm on your board, you're on my board. You have this contract, I'll give you that contract and I think the Attorney General looking at that at places like Suffolk University has really spotlighted the issues. But now is the time of compensation of volunteers to end. Again there are many good people out there. This is not you simplify and you denigrate nonprofit service. It becomes almost more of a country club board membership, instead of what it should be---very talented people that know that business, that are selected for their expertise and frankly most of them are compensated very well in their full time lively hood. So I hope that we will pass one or both of these laws this year and it will be in no small part to your determination Attorney General. Thank you.

Thank you Senator and Representative.

Thank you. The oddity of this situation of compensating directors of non profits, I think was just captured in something that Senator said talking about in terms of compensation

of voluntary directors. The notion is that the service on the Board of Directors on a nonprofit organization is voluntary, and the notion that we pay people to do that is completely antithetical to our understanding to what it means to be a director of a nonprofit organization. Our state, in fact our whole country, gained it from our state, is this deeply held tradition of volunteer service and for generations, people have given of themselves for hundreds of hours in service to nonprofit boards of directors. What was true generations ago, is no less true today. Serving on a nonprofit board is a prestigious role that many of us seek out. And it's that very prestigious that shows why paying people to do it is entirely unnecessary, in my view. Maybe there's rare circumstances where it would be appropriate, but that certainly would be the exception, rather than the rule. In fact, the position that serving on a board of a nonprofit is so sought out, people compete for the opportunity and many of us list those experiences on our resumes very proudly because service on a Board of Directors is a sign of respect. It's that people have chosen you to be on the board for your expertise and your willingness to donate. And people who serve on the boards do it for the leadership experience, for the personal satisfaction of helping a nonprofit achieve its mission, whether that mission is feeding the hungry or providing health care for the sick. The notion that you serve on the board to help achieve that mission. And everyone I know would never even think about taking compensation from the organization to do that work. In fact, for most directors, the expectation is that you give, financially, not that you take, financially, from that nonprofit organization. So in some ways, what we're seeing turns the experience of being a nonprofit director on its head. And it's one that is completely antithetical to our common understanding, in reflecting on today I couldn't help but think about the observation made back in the mid 1800s by Detokeville, as he was traveling our country making observations about Americans and the way we join and the way we do things together. I was really struck by that when thinking about why it is so wrong for most of us that people serving on a nonprofit board would be paid. I was also reflecting on my experience when I was a student at Harvard, taking a class at the Harvard Business School and realizing that as part of the MBA program, Harvard is training future business leaders to serve on non profit Boards of Directors. They're not just training them to serve on For Profit Boards. It's so much an expectation of people with expertise and often financial resources that they will serve on a nonprofit board, that it's part of the curriculum of an MBA program at Harvard. Training people to give back to their communities, not with an expectation of pay and cash, but with an expectation that often times you will be donating to those non profits. So in many ways, I regret that this legislation is necessary and I'm proud the Attorney General is shining a spotlight on this issue. I very much look forward to Senator Montigny and my legislative colleagues, and passing this legislation into law so that we end this practice of people being paid to serve their communities as directors of nonprofit organizations. Thank you.

Thank you Representative. I want to acknowledge the terrific work of our Division of Charities, in particular our division chief David Spackman. This has been a long and difficult project. I will acknowledge the time and energy of the Not for Profits involved in this. We did feel that the conclusion we reached today in our report, is the right one. And I want to acknowledge David's judgment and hard work in arriving at that decision and as we look forward, I hope to moving past this so that we can focus on what most people

in Massachusetts are concerned about, the cost containment of health care costs. With that I'd be happy to take questions.