

Juvenile Diabetes Cure Alliance

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What is the Role of the Board at the Non-Profits?

Conclusions:

- The Board of Directors is the primary governing body of the non-profits. The Board's main responsibility is to set and maintain direction to fulfill its mission.
- Non-profit Boards have a fiduciary duty to ensure that money is utilized in accordance with the promise through which it was raised. The non-profits solicit the majority of their donations using a cure promise, but the Boards frequently fail to direct the majority of these funds to cure research.
- The non-profit Boards are not structured for maximum effectiveness, in our view. Most have a large member count and are not focused on the most important initiatives.

Organizations of Focus:

American Diabetes Association (ADA)

Diabetes Research Institute Foundation (DRIF)

JDRF

Joslin Diabetes Center (Joslin)

Our Mission:

To direct donor contributions to the charitable organizations that most effectively fund research with the goal of delivering a type 1 Practical Cure by 2025.

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This report, the fifth in our corporate governance series, examines the role of the non-profits' governing Board and analyzes its effectiveness in the pursuit of a type 1 cure. A strong and effective Board of Directors (Board) is critical to solid corporate governance. At public companies **the Board is the final authority that oversees the management of the operations, provides strategic guidance, and maintains focus on achieving the mission.** At the four major diabetes non-profits, the Board of Directors (known as the Board of Trustees at Joslin) is the governing body that could effectively focus strategy and channel resources to achieve the organization's mission.

For public companies, Board members (Directors) are selected on the basis of their qualifications to oversee the direction of the company and to achieve the organization's mission. Public company Directors are elected by the shareholders, who are the primary stakeholders in the company. **Importantly, Directors have a fiduciary duty to act in the best interests of the company and its stockholders.**¹

Directors of most public companies are elected annually by shareholders and receive compensation for their service. In addition to their regular duties, Directors may serve on smaller Board committees, such as the Executive, Finance, Audit, and Nominating Committees that oversee specific functions of the organization.

In contrast to the election process for public companies, Directors at the DRIF and Joslin are elected by a limited number of "insiders" that include Directors and Officers. At the JDRF, delegates from each recognized chapter and each chartered international affiliate elect the Directors.² The ADA has a more complex selection process. The ADA Board includes: 1) a predefined group of officers who serve for one year, and 2) independent Directors who are elected for a three-year term by the ADA's National Leadership Council.³ **Regardless, for each of the four non-profits, Director selection does not involve the donor community at large.**

Nearly all of the Directors of the four major type 1 non-profits are elected for a term of three years, and each Board is "staggered", meaning that one-third of the Directors are up for election every year. Non-profit Directors are not compensated unless they also serve as an officer. Directors at the major type 1 non-profits are expected to participate in fundraising, but fundraising requirements vary by organization. For example, fundraising is a materially higher priority for DRIF Directors than for Directors at either the ADA or JDRF.

The following table depicts key metrics of the non-profits' Board structure:

Non-Profit Board Metrics

	ADA	DRIF	JDRF	Joslin
Size of organization (2011 revenues in millions)	\$209	\$11	\$220	\$80
Number of Directors ^A	39	31	35	14 ^B
Length of one term of service (years)	3	3	3	3
Maximum number of terms allowed to serve	2 ^C	No Limit	3	3 ^D

Source: Foundation and charity financial statements and by-laws

^A As of July 24, 2012

^B Includes 11 elected Trustees and 3 Ex Officio Trustees with voting rights

^C Maximum of 2 consecutive full 3-year terms for Directors that are not officers

^D Maximum of 3 consecutive 3-year terms; but the Board may waive this term limitation

As seen in the table, three of the four non-profits (ADA, DRIF, JDRF) have Boards with more than 30 Directors. These organizations choose to retain so many directors for reasons that vary from representing stakeholder diversity, to recognizing significant donors, to balancing professional and non-professional members. However, larger Board size does not translate into greater effectiveness, in our opinion. Joslin is an outlier by comparison. It had 27 Trustees in 2010, but that number has since decreased to 14.⁴ In recent years the ADA and DRIF have also significantly reduced the size of their Boards.⁵ Even so, opportunities exist for further Board streamlining at these two charities as well as JDRF.

In comparison, the number of Directors at companies such as General Electric, IBM, Proctor & Gamble and numerous other blue chip enterprises ranges from 10-17. Apple, the company with the world's largest market capitalization, is governed by just eight Directors. **In our opinion, large Boards become unwieldy and dilute the best ideas, thereby diminishing their overall effectiveness.**

Summary and Conclusion

The Board of a type 1 non-profit is charged with effectively overseeing operations, maintaining the proper strategic direction, and carrying out the organization's mission. **A strong and effective Board will remain focused on activities that can achieve the mission while acting in the best interests of donors, who we believe are the non-profits' principal stakeholders.** The donor community at large has no say in the election of the Directors of the major type 1 non-profits, nor do donors have direct influence on setting the direction of the organization and establishing strategies to achieve the mission. **The Board has a fiduciary duty to act in the best interests of donors and the organization. That duty extends to correctly aligning the allocations of donor contributions with the cure message that is so prevalent in fundraising, in our view.**

Non-profit Boards should be directly and continuously accountable to donors, in our opinion. The Board has a responsibility to oversee execution of the operating strategy, to evaluate management's performance, and to objectively evaluate its own performance. No disclosures are made by the charities regarding the metrics and goals that are used to evaluate senior management's performance or the Directors' own performance. We believe that the non-profit Boards could exercise significantly greater accountability regarding overall organizational performance and, more specifically, development of a type 1 cure.

Lastly, we believe that most of the four non-profit boards are insufficiently focused on the development of a type 1 cure, which is fundamental to the mission of all four non-profits. The Board of Directors has a duty to keep the organization moving in the right direction, but they must also prevent the organization from going in too many wrong directions. With the possible exception of the DRIF, the non-profits are diverting their focus from a type 1 cure by pursuing far too many activities with no potential to deliver that outcome. The ADA and Joslin split their emphasis between type 1 and type 2 and are involved in numerous activities unrelated to cure research. The JDRF has decreased its funding of cure research as a percentage of total research grants. None of the Boards have articulated a clear strategy to deliver a cure. Adopting a definition of a cure and a cure-by date are two of the first steps that they could take to refocus their vision.

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1. Dalley, P. (2008). Shareholder (and director) fiduciary duties and shareholder activism. *Houston Business and Tax Journal*, 8 (3), 301-336.
2. Board selection information retrieved from Joslin's Bylaws, DRIF's Bylaws, and the JDRF International's Bylaws
3. The Voting Members of the ADA comprise the ADA's National Leadership Council. The Council consists of: all of the members of the Board of Directors, and delegates, including all Community and Volunteer Development Committee members, a representative from each Diabetes Epidemic Action Council, a representative from each national Committee, a representative from each Community Leadership Board, and 8 past Principal officers. Information retrieved from the ADA's Bylaws.
4. Information retrieved from Joslin's 2010 Form 990 and its website (http://www.joslin.org/about/joslin_leadership.html) as of July 24, 2012.
5. Information retrieved from DRIF's 2009 Form 990 and its website (<http://www.diabetesresearch.org/page.aspx?pid=281>) as of July 24, 2012; and from the ADA's 2006 Form 990 and its website (<http://www.diabetes.org/about-us/board-of-directors.html>) as of July 24, 2012.

Analyst Certification

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