

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX  
ATTORNEY GENERAL

## Written Submissions

### Attorney General's Community Forum on the Proposed Sale of the Detroit Medical Center to Vanguard Health Systems, Inc.

<b>DATE &amp; TIME:</b> Wed., August 18, 2010 5:00 – 7:00 p.m.	<b>LOCATION:</b> Cadillac Place, Main Floor, Rm L150 3030 West Grand Blvd. Detroit, MI 48202
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During the Attorney General's Community Forum, 31 community members provided comments and the following documents (attached) were submitted:

1. MichUHCAN Testimony, Attorney General Forum Sale of the Detroit Medical Center to Vanguard Health Systems. The document was submitted by Marjorie Mitchell whose comments are on pages 17-19.
2. Testimony of Gary Benjamin, Health Law Attorney. Mr. Benjamin's comments are on pages 21-23.
3. Statement of John Karebian, Executive Director, Michigan Nurses Association, In opposition to sale of the Detroit Medical Center to Vanguard Health Systems. Mr. Karebian's comments are on pages 23-26.
4. E-mail dated 8/17/10. The document was submitted by Florine Mark whose comments are on pages 34-36.
5. Mary Ellen Howard, RSM, Sister of Mercy, Detroit Resident & Healthcare Administrator Statement. Sister Mary Ellen Howard's comments are on pages 38-40.



**TESTIMONY  
ATTORNEY GENERAL FORUM  
SALE OF THE DETROIT MEDICAL CENTER TO  
VANGUARD HEALTH SYSTEMS  
AUGUST 18, 2010**

**This testimony is on behalf of MichUHCAN, one of the members of the Coalition to Protect Detroit Health Care. MichUHCAN is a not for profit organization founded in 1990. We provide education and advocacy on health care issues. We work to achieve access to affordable, quality health care and to build healthy communities by addressing the social determinants of health.**

**Our concerns about the sale of DMC, a not for-profit organization to Vanguard, a for-profit organization remain much the same as we outlined in our letter of March 30, 2010.**

**One of the concerns relates to mission. A not for -profit organization's mission is to be responsive to its community and, by law, to give back to that community, limiting its profits in return for its tax exempt status. The mission of a for-profit organization is to make a profit for its shareholders. A further cause for anxiety is that Vanguard is majority owned by Blackstone, a very large hedge fund. After consulting a local economist, I learned how hedge funds work. He said they were like giant vacuum cleaners that suck money out of businesses and communities and send it to Wall Street. When the profits don't meet expectations, they liquidate- like any other business. Detroiters have reason to be skeptical. If, as is rumored, Vanguard goes public, the pressure for dividends and profits for shareholders will grow even larger. Decisions will be based even more clearly on dollars and cents**

**A second concern is that the power to make decisions is emanates from those who have the purse strings. The new owners would be far away from Detroit in Tennessee. The health care needs of Detroit will look very different from that distance when they are in competition with the need to demonstrate increasing profits. Likewise, when corporate cuts need to be made in Nashville, Vanguard will look to regional managers to make changes regardless of local community need. We all know who wins in these contests....the need for money.**

**A third and by far the most important concern is the limited commitment of Vanguard to maintain charity care policy and needed but not necessarily profitable health care services that are part of the current mission of DMC. Vanguard, being a for-profit entity, may justify a revision of that policy, as economic imperatives take hold. What process is Vanguard willing to commit to that will assure the continuation of all essential services to the people of Detroit after their ten year commitment?**

**If this sale is approved, there must be a robust oversight process developed to assure Vanguard delivers the affordable, high quality health care that the people of Detroit deserve. Consumers of these services must play an important role in this process.**

**Thank you for the opportunity to comment.**



Anti-poverty Advocates

**Testimony of Gary Benjamin  
Health Law Attorney  
August 18, 2010**

It does not appear that the sale of a not-for-profit to a for-profit corporation is legal under MCLA 450.2301 (5). Since it is clear that Vanguard will be using the not-for-profit assets for 'non-charitable' purposes, there is a significant question as to whether this sale is legal even with the approval of the Attorney General.

As a further difficulty, when the DMC was formed it assumed control of a city owned hospital, and a statute governs that transfer. MCL 331.622 permitted the sale only because the DMC continued the charitable purpose of Receiving Hospital. Subsection (c) specifically requires DMC to provide:

**... the highest quality health services to all persons needing them, regardless of the person's religious, racial, or ethnic identification, or economic status.**

It is unlikely that Vanguard will be able to fulfill this obligation to Detroit's residents.

It is important that Detroit residents continue to benefit from the care that DMC provides. The financial information made available by the DMC suggests that some solution to guarantee the future viability of the system is necessary. However, in order to continue to provide critical health care services that Detroiters need, the mission of the DMC, as expressed in the statute quoted, must be protected in perpetuity – not just for 10 years.

The 'Legacy DMC' Board charged with monitoring and enforcing the agreement, has a 'shelf life' of ten years. We reviewed the proposed agreement and it does provide some protection to the residents of the City of Detroit for 10 years. Financial aid is offered at the same rate currently provided for by the DMC. Core services are protected for 10 years. Hospitals may not be closed for 10 years. However, 10 years is not enough. There must be a commitment to the statutory protections which are not time-limited.

An additional concern is that the membership of the "Legacy Board" include a greater number of representatives from the consumers of health care. We met with the Board Chair and Vice-Chair to express our concerns and we believe that they share our goal of enforcing the contract vigorously. But the Board is a structure that will continue beyond the terms of current individual members. It therefore should be established to guarantee places for consumer voices that know Detroit and its health care needs and that can advocate for those needs.

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Moreover, it is our understanding that although a for-profit system benefits from the increased coverage granted under the newly passed ACA, these for-profits would not be required to follow the same rules imposed on non-profit hospital systems. For example, under these rules, non-profits must conduct a "needs assessment" and report annually concerning their efforts to meet the needs of the community where they are located. Non-profits are also required to report in their annual 990 filings, concerning what community benefits they provided. They also must communicate their financial aid policies widely. The Attorney General should require Vanguard to agree to follow these ACA provisions.

Finally, the perpetual mission of the DMC will be housed in a foundation, a separately created entity that will maintain the "c 3" status and raise funds that can be used to carry out the mission of the DMC. That foundation should be a separately chartered organization with an independent board comprised of members from the Legacy Board and from the Detroit community.

These commitments are important because when the 10-year term expires, the Vanguard/DMC group may decide to close a hospital or a unit that meets a critical need. The community needs assessments could establish that the hospital not be closed or service discontinued. Yet for a profit driven organization, the pressures from stock holders and investors to terminate services that are unprofitable would be enormous.

What if Vanguard/DMC decided to close the only neo-natal unit in the city after 10 years has passed? Should the non-profit systems here be saddled with providing that service, or should the DMC Foundation be approached to fund the service? Having the Foundation available is a 'safety net' for Detroiters and it must be structured to make sure that Detroiters can benefit from that net.

We hope that a solution can be reached that will benefit everyone. We understand that the DMC Board is attempting to avoid a future financial crisis. But we do not want the proposed solution to hurt people who need help, especially since the City of Detroit is so invested in the DMC and since the statute prohibits discrimination based on economic status. The objective should be to improve the health care system for Detroiters for the long term. A temporary fix which permits the dismantling of the system after 10 years will defeat this purpose.

Thank you.

**Statement of John Karebian**  
**Executive Director**  
**Michigan Nurses Association**  
**In opposition to sale of the Detroit Medical Center**  
**to Vanguard Health Systems**  
**August 18, 2010**  
**Detroit, MI**

Good evening Attorney General Cox

I am John Karebian, the executive director of the Michigan Nurses Association, which is the largest, most effective union for RN's in Michigan. As the voice of all registered nurses in Michigan, we advocate for nurses and their patients at the State Capitol, in the community and at the bargaining table.

I am here as part of the *Coalition To Protect Detroit Health Care* with our friends from the Michigan Universal Health Care Action Network (MichUHCAN) to oppose the sale of the Detroit Medical Center to Vanguard Health Systems, a for-profit hospital chain.

We oppose this proposed sale because we believe that for-profit health care is bad for patients, it's bad for health care workers, and ultimately, it will be bad for Detroit.

We also oppose the sale of DMC to Vanguard because we do not believe that the Vanguard Health Systems has a good track record in the other facilities that they have purchased. Their record is one that needs to be thoroughly reviewed before making your decision.

For decades, the Detroit Medical Center has served as a safety net for thousands of poor patients throughout southeastern Michigan. We cannot put that safety net at risk and we believe that it's unrealistic to assume that a for-profit entity will continue to provide that care long term.

I would like to begin by addressing the problems of for-profit care. Hospitals began largely as charitable endeavors, dedicated to the proposition that the preservation of health and life is so dear that no one should be denied. Nursing's mission has closely paralleled that philosophy.

Their first and only concern was to provide quality care for the patient. The patient is never the first priority in a for-profit hospital. The shareholders and the need to make a profit will always be the first priority. Businesses exist to make money, plain and simple.

Research indicates that there are clear and significant differences between the missions, programs, services, and operations of non-profit and for-profit hospitals. In contrast to non-profit hospitals, for-profit hospitals returns its profits to investors rather than back into new technology, services and programs that best meet the healthcare needs of the community.

There have been numerous studies over the past decade that have all made the case that for-profit hospitals do not provide the same level of care as not-for-profit hospitals.

The most recent study was one that was released by Thomson Reuters on August 9, 2010. This research brief titled "Differences in Health System Quality Performance by Ownership" found that the quality, efficiency, and the perception of care vary significantly by ownership. The study found that investor-owned hospitals had significantly lower performance than all other types of hospitals. ([www.thomsonreuters.com](http://www.thomsonreuters.com))

In 2006, Harvard Medical School published an analysis that found that overall, not-for-profit hospitals consistently performed better than for-profit hospitals when it came to delivering high-quality care for three common medical conditions: congestive heart failure (CHF); heart attack; and pneumonia. ([www.web.med.harvard.edu](http://www.web.med.harvard.edu))

In 2004, a study that was carried out by a highly respected team of physicians and statisticians at McMaster University in Canada found that investor-owned hospitals in the U.S. have 19% higher charges than non-profit hospitals. ([www.pnhp.org](http://www.pnhp.org))

Research by Drs. Steffie Woolhandler and David Himmelstein of Harvard Medical School calculated that converting all investor-owned hospitals to non-profit ownership could have saved \$6 billion of the \$37 billion spent on care at investor-owned hospitals in 2001. Their research, based on financial filings by virtually all U.S. hospitals, found that administration accounted for 24.5% of total costs at non-profit hospitals vs. 34% at for-profits, while payroll costs for clinical personnel was 7% higher at non-profits. Their research proved that investor-owned hospitals charge outrageous prices for inferior care. The for-profits skimp on nurses, but spend lavishly on their executives. ([www.pnhp.org](http://www.pnhp.org))

Dr. Himmelstein has also found that there is a 2% higher mortality rate at for-profit hospitals, resulting in roughly 2,250 more annual deaths than would occur if they were as safe as other facilities. This has led Dr. Himmelstein to the conclusion that for-profit hospitals should be banned.

Research by Robert Cimasi of Health Capital Consultants in St. Louis found that costs in markets with only for-profit hospitals were significantly higher than markets with not-for profit hospitals. His research also found that for-profits provided considerably less charitable care and that not-for profit hospitals in competition with for-profit hospitals were forced to reduce the amount of charitable care that they provided in order to compete with the for-profit system. ([medicalexecutivepost.com](http://medicalexecutivepost.com))

I could go on and on with study after study and they all would report the same conclusion that for-profit hospitals provide inferior care at much higher costs. This is not what we want for healthcare in Detroit. We cannot afford to have the Detroit Medical Center move in this direction because it's far too important to the delivery of healthcare to the poor and indigent of Detroit.

Now I would like to turn my attention to Vanguard Health System. If you want to know what Vanguard does after it buys a hospital, you need to read the recent book *"The Buyout of America"* by Josh Kosman. This book dedicates an entire chapter to Vanguard. Chapter 3 of that book is titled "Doctoring Customer Service." In that chapter, Mr. Kosman reports on what happened at Louis Weiss Memorial Hospital in Chicago after it was purchased by Vanguard.

After Vanguard bought the hospital, they immediately began to lay off staff. First they eliminated unfilled positions, then they did a small round of layoffs, then they did a much larger lay off the following year. In oncology, for example, where chemotherapy treatments were given, the hours of registered nurses were reduced, and nurses were replaced with nursing assistants. This led to a situation that their chief nursing officer described as "worrisome."

Kosman also tells a story of how two years after Weiss was acquired by Vanguard; the U.S. Department of Health and Human Services arrived for a spot inspection. At 2 p.m., with a manager's help, inspectors put an activated infant sensor bracelet on a doll. They wrapped the doll in a blanket and started carrying it out of the labor area, tripping the alarm. No one stopped them. They proceeded to exit down a stairwell. One staff member tried to silence the alarm, and that was the only reaction.

The HHS Centers for Medicare and Medicaid Services was so alarmed by this and other violations that it placed the hospital on conditional accreditation, which is essentially probation. In 2007, Weiss closed its maternity ward.

After Vanguard purchased Phoenix Baptist Hospital in 2000, they started firing support staff and reduced nurses' hours. On a medical surgical floor, for example, staffing was reduced to one nurse for ten patients from one nurse for five patients. It was reported that nurses after the cutbacks spent much of their time filling out documents rather than attending to patients.

Pretty scary stuff when you think about what could happen to the DMC system after Vanguard takes over if they cut staff in a similar manner.

We already know from testimony delivered by DMC nurses at a Town Hall meeting on Safe Patient Care that was hosted by State Representative Coleman Young Jr. in 2009 that DMC is currently grossly understaffed. We heard stories of nurses being forced to care for even more than 10 patients. If Vanguard pushes them to cut staffing even further after they take over, we believe that DMC will become a very unsafe place to go for medical care.

The residents of Southeastern Michigan deserve better than this.

These for-profit hospitals reduce staff so that they can squeeze out profits to pay back the debt that was acquired to purchase the hospital and to pay dividends to its shareholders. They don't reduce costs to put that money back into technology and improved patient care.

Vanguard has promised to invest hundreds of millions of dollars in DMC. How will this investment be financed? By reductions in staffing and patient care?

They have promised not to close any hospitals for 10 years. But will they close needed but costly services like trauma care or obstetrics?

Will they just focus on the services that help them earn a profit as opposed to providing the services that are needed by the patients?

These issues have lead us to conclude that allowing Vanguard to purchase the Detroit Medical Center is not in the best interests of the residents of Michigan. Nothing good can come from this takeover.

Leaders in Detroit and Wayne County are being fooled if believe all this new investment will come without a cost. How can we be sure that as soon as the tax breaks and the commitments end, if not sooner, Vanguard won't turn its back on the poor of Southeastern Michigan?

We ask you, Attorney General Cox, to do the right thing for Detroit and deny this proposed sale of the Detroit Medical Center.

Thank you very much for giving me the opportunity to testify this evening.

August 18, 2010

The Detroit Medical Center (DMC) is a Detroit community asset, a nonprofit health care system whose mission is to serve the community. It is governed by a local board whose responsibility is to guard that asset for the community. Hence, I find it incredible that Mr. Duggan and the board are considering handing over this community resource to a for-profit corporation, Vanguard Health Systems, whose corporate offices are located in Nashville, Tennessee.

My understanding is that the community will not receive any payment from Vanguard. This is highly unusual. When most nonprofit corporations convert to for-profit use, their value is transferred to another entity, such as a foundation, which carries out the charitable purpose for which the original corporation was founded. Vanguard is doing nothing like this for the city of Detroit. Instead Vanguard promises to invest \$800M in the DMC which they will own.

The DMC is the closest thing we have to a public hospital in Detroit. It is where those who are poor and uninsured turn for care. Will this mission continue under Vanguard? They have made a ten-year commitment, but will they own the DCM for ten years? We don't know, and we have no guarantees. With no local governing board, how will the community hold Vanguard accountable for all the promises they have made?

Let's be honest. Vanguard is a for-profit corporation whose primary purpose is to maximize return to its owner which is the Blackstone Group, the world's largest buyout firm. What will happen when the interests of this for-profit corporation conflict with the well-being of DMC patients, staff, and the surrounding community? Will vital, but unprofitable services such as OB and ER be discontinued in order to pay larger dividends? Or will they put people before profits? I doubt it very much.

On a deeper level, the Vanguard-DMC issue is yet another example of a dangerous trend in our country and throughout the world today. More and more, we are seeing public goods turned into private commodities, access to which depends on one's ability to pay. This push to privatization has had a devastating impact on access to vital services such as water, education, and housing, as well as health care.

What is at stake here is nothing less than our humanity. When health care is looked upon as just another commodity to be bought and sold in the marketplace, priorities become skewed and people suffer. We only have to think of the millions in our country who do not have access to adequate health care, especially unprofitable primary care and preventive services.

We desperately need to recover a sense of the common good. We are living in a world that puts a price on everything and values nothing—where everything is for sale to the highest bidder, including the DMC. I don't want to see this happen to health care in Detroit.

Mary Ellen Howard, RSM  
Sister of Mercy, Detroit Resident, & Healthcare Administrator

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## ZixMessage Center

ZixMessage Center Message View

Signed in as florine\_mark@wwgroup.com

**Received:** Aug 17, 2010 04:49:21 PM  
**Expires:** Aug 31, 2010 04:49:21 PM  
**From:** lmouton@dmc.org  
**To:** jbaker4051@aol.com, florine\_mark@wwgroup.com,  
eward@skadden.com, hgray@dmc.org  
**Cc:** cdesmond@dmc.org  
**Subject:** Secure: RE: Attorney General Public Comment Session on  
Wednesday  
**Attachments:** htmlBody.html, attbf6c.jpg

Per your request...some background info.

\* The Children's Hospital of Michigan treats more kids than any other hospital in the state and its pediatric specialists see kids not only from Detroit but virtually every county in Michigan and beyond.

\* Annually, this translates into

- \* Nearly 13,000 admissions
- \* 14,000 surgical procedures
- \* 189,000 outpatient visits
- \* 95,000 Emergency Room visits...Just for children!

\* Market Share:

- \* 78.1% Detroit
- \* 46% Tri-County
- \* 20% Statewide

\* Children's Hospital of Michigan's patient volumes have grown significantly in the past several years with a 7% growth anticipated (nearly 16,000 visits) in total outpatient visits from 2008 through the end of this year. This increase in volume causes unnecessary crowding and patient delays in our specialty clinics and our emergency room.

\* Every time a family takes their child to see the pediatrician they must park in a 14 level parking structure that's nearly always full and then take their kids through one of the busiest children's hospitals in the country to get to their doctor's office. It shouldn't be that hard to see a pediatrician. And CHM is the primary provider of pediatric care in the City of Detroit.

\* From an inpatient perspective, our ICU rooms are not large enough to accommodate families, specialists, equipment, residents and medical students comfortably - it has been decades since these rooms have been updated. Our operating rooms were built to handle 400 surgeries a month and now they see 1,200 pediatric surgeries each month.

\* Becoming a part of Vanguard will enable Children's, a nationally recognized

children's hospital, to update and expand its facilities and equipment/technology and provide more comfort and convenience for all our patients from near and far.

\* Specifically, it will enable us to update and expand space for outpatient specialty care with the addition of the new CHM Pediatric Specialty Center, which will be built directly across Beaubien from Children's. It will also help us update inpatient facilities to better serve the growing needs of families for advanced pediatric specialty care only available in a freestanding children's hospital.

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