



Compliance TODAY

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How do you know if your compliance program is working?

an interview with **Kim Otte**
Chief Compliance Officer, Mayo Clinic

See page 16

25

**Compliance officers
and personal liability:
Are you covered?**

Janice A. Anderson and
Ryan M. McAteer

31

**Billing compliance for
non-physician providers:
Understanding the CMS
billing regulations**

Debbie Bohr

37

**From *if* to *when*:
The prevalence of
ZPIC audits**

Pamela A.
Duncan

41

**Prove it
or
lose it**

Lyndsay C.
Tanner



Kim Otte

Chief Compliance Officer
Mayo Clinic, Rochester, MN

an interview by Jenny O'Brien

Meet Kim Otte

This interview was conducted in late December 2013 by **Jenny O'Brien** (jennifer.obrien@uhc.com), Chief Compliance Officer, United Healthcare in Minneapolis with **Kim Otte**, (Otte.Kimberly@mayo.edu) Chief Compliance Officer at the Mayo Clinic in Rochester, MN.

JO: On behalf of HCCA, thanks for agreeing to do this interview for *Compliance Today*. You have had an interesting career path. Tell us a little about your background and how you made the move from Legal to become the Chief Compliance Officer of Mayo Clinic.

KO: I am responding to these questions on a 10-hour bus trip to Kalamazoo with my daughter's synchronized skating team, so I have lots of time for reflection on this new compliance role! This past year has been so energizing, and the compliance role has given

me an opportunity to come full circle, back to some of my original passions. I have been forced to learn many new professional and business skills and serve Mayo Clinic in a different way.

The constant in my career has been healthcare. I started in a graduate program in Philosophy, focusing on Bioethics. I was in private practice, working for many healthcare sector clients, then went in-house to do public policy and regulatory work at a large HMO. Even the most dry healthcare contract or Medicare regulation is interesting, because of the associated public policy issues. After about 12 years working as a Mayo regulatory attorney, Greg Warner (one of HCCA's founding members) suggested that I consider applying for this position when he retired. He pointed

out the links with being a lawyer, but also the opportunity for a different type of leadership and influence.

JO: Mayo Clinic has a very interesting history. Can you tell us how this history impacts the mission of the organization today and, more importantly, impacts the work you lead as the Chief Compliance Officer for Mayo?

KO: Mayo Clinic has an extraordinarily rich history and culture, rooted in the Mayo brothers as well as the Franciscan Sisters. This is an enduring partnership that created a strong organizational ethic. The primary value—“the needs of the patient come first”—truly comes up at the business table on a daily basis. Employees at every level routinely, out loud, cite to this value. The Integrity and Compliance Office collaborates with many areas of Mayo Clinic in tending to a culture of compliance. This importantly affords us the time, energy, and institutional support to focus on the more structural elements of an effective compliance program.

JO: Is there an aspect of your current role that has been especially surprising to you? And what would you say are the greatest challenges?

KO: I have been surprised on a number of fronts. I worked as an attorney within the Compliance function of a healthcare corporation for more than 15 years, but knew far less about compliance than I thought! First, I am surprised at how much time we spend on non-legal issues. This function is as much about our Code of Conduct, policies, and

organizational ethic as it is about the law. I have worked closely with and learned a lot about Internal Audit and the role they play in a corporation.

I am surprised at the broad scope of the Compliance function. A compliance officer can get a call on virtually any topic, and can end up leading the associated task force, reporting, and follow up. That can be both good and bad, depending on whether it promotes the priorities of an effective compliance program. There is just a lot of gray.

Also, I am surprised by how different the role is from being an attorney in terms of what a compliance officer needs to do after the regulatory or policy question is answered.

The compliance officer must stay at the table and participate in the plan and the ongoing solution. I have learned about change management, project management, and “accountable parties.” Relationship

building and maintenance is essential, and a lot of work. There is an analogy to a chicken and a pig in there somewhere, but I am still working on that one.

JO: What are the biggest challenges to advancing your compliance program?

KO: Our priority for the next phase of maturity for our Integrity and Compliance program at Mayo Clinic is to formalize our structure to be sure that we easily can explain and sustain what we already do well. We need to clearly define our jobs for ourselves and for our organization. We need to clearly document what Mayo Clinic does to effect the seven elements of an effective compliance program.

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Along with everyone in the healthcare industry, we will need to identify priorities and allocate resources wisely. It is not enough to be diligent and earnest. We need to be able to more objectively answer the question, “How do you know your compliance program is working?” We need to use data to do our job more efficiently and to prove what parts of the job are the most valuable.

On the culture of compliance side, we will continue to promote a “just” culture where employees genuinely feel free to speak up to one another, to their supervisors and leaders, and when necessary through the hotline.

JO: Throughout your career you have had the opportunity to review and influence various compliance programs. What does an effective compliance program look like to you?

KO: The government and best practice have really defined this, I think, around the seven elements (or eight if you include risk assessments) of an effective compliance program. I often call this the “easy” part of a compliance program, compared to the culture and ethics side of a culture of compliance. The seven elements are practically a lot of work, but conceptually are not rocket science: Education and policies need to be clear and communicated. Governance and reporting should foster oversight and accountability. Monitoring and enforcement should consistently reinforce compliant behavior.

More philosophically, a compliance program is 100% offensive line. (That’s as far as the football analogy can go. My son has asked me to please not call it a “football outfit.”) We

play entirely at the “going forward” table and need to help lead an organization with that mindset. A good compliance program helps to define what we *should* do, not just what we *can* do. I quickly learned that while “I can defend

that” had its place when I was the lawyer at the table, it is not a phrase appropriate for a good compliance officer.

An effective compliance program by no means equates to a large Compliance Office

in terms of numbers of staff. Compliance is best understood to be a part of every employee’s job and is best done embedded in operations.

One other factor especially important at Mayo is the partnership with physicians. Mayo Clinic is a physician-led organization. The Integrity and Compliance Office, as does every department, has a medical director. Other subject matter areas, such as privacy and revenue, also have physician partners. This is our link to the practice and the patient.

JO: Please share with us the connection you see between compliance and ethics within an organization. What types of tactics have you used to make this link?

KO: We have been lucky to be able to use the ethical culture and very committed employees at Mayo Clinic to fuel the Integrity and Compliance program. When we do education or formal communications, we try to explicitly link with the Mayo Clinic values first. In Privacy education, for example, the testimonial of a colleague/patient about the impact of a breach on her trust was far more motivating than a bullet point list of HIPAA

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provisions. We have tried in our print communications to expressly call out the value that is relevant, as well as the law and policy.

We are continuing to develop partnerships with clinical ethics, professional ethics, and leadership development. We are having some very interesting conversations linking the organizational ethic and the bedside ethic.

JO: Are there any lessons you learned the hard way in your first year in this role?

KO: Quite a few! This is a much higher touch job than I am used to or was born to do. I am really good at researching the Medicare laws and writing an analytical memo. This job requires a *lot* of communication—up, down, and across. I went to an intensive one-week, leadership training course and came back with one sticky note that I put on my computer that simply says “FYI.” I need to do this before and after every day and every meeting.

But one point I would probably emphasize above all others is “assume benign intent.” This is a phrase used often by administrative leaders at Mayo Clinic and is essential to the Integrity and Compliance function. We of course have an obligation to investigate and verify, but the fair approach with any individual employee needs to expressly start with this assumption. Interestingly, this is not only conducive to a fair culture and dialogue, but it is efficient. Trying to tie out every possible negative is not a good use of resources or good will.

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JO: What do you look for if you are hiring a compliance officer?

KO: Measure, expertise, and the ability to influence. By measure, I mean a style in contrast with drama. Expertise might be in law or administration or practice. I do not look for any specific degree or certification, but I do look for a passion for healthcare compliance. The compliance team at Mayo Clinic has varied backgrounds and has earned credibility.

JO: What do you see on the horizon? How are you positioning your compliance strategy to ensure it is aligned with the increasingly complex global health care environment?

KO: Strategically, what is sometimes referred to as the eighth element of an effective compliance program—risk assessment—will be increasingly important for a corporate compliance function. Healthcare will expand to be more electronic, more international, and more population-based. We will have higher volumes of patients, more forums of communication, a lot more data, and changing expectations from employees, patients, regulators, and the public. There will be more applicable regulatory schemes, more risks, increasing complexity, and increasing enforcement. And there will be increasing market competition and fiscal pressure. Maintaining the trust of each stakeholder will remain a priority.

A more formalized risk assessment and management program holds potential to

inform our proactive strategy and help to prioritize resources. Mayo Clinic is maturing its Enterprise Risk Management program, and the Integrity and Compliance Office is completing our first official compliance risk assessment process. We are admittedly new to this more express and coordinated approach to corporate risk management.

I also see on the immediate horizon a great deal of compliance-related data. Compliance will receive more data from other areas like information security, HR, and finance, and Compliance will produce more data through our own efforts. We will, for example soon add a privacy monitoring tool. Information security tools will increasingly produce many hits, both big and small. We will as an organization have the ability to turn over a lot of good rocks. Compliance will need to help pick out the big rocks, consider the order and speed of rock-turning, and be sure the organization can keep up with the rocks that do get turned over.

The healthcare compliance profession should also be sure that we learn from our non-healthcare colleagues. Benchmarking has been invaluable to me this past year, especially hearing from a non-healthcare perspective on topics like risk management and monitoring.

We will also, I expect, need to get smarter about the subject matter area of healthcare quality. As payment links with quality, the regulations and enforcement will increasingly link more with our quality programs.

JO: HCCA has reached more than 9,000 members and the compliance profession continues to grow, while enforcement efforts continue to intensify. What areas of opportunity do you see for HCCA, the government, and the healthcare industry to better collaborate?

KO: We are all aligned in wanting to serve patients efficiently and expertly. For each regulatory scheme or new regulation, we need to

expressly ask one another how it is valuable to the patient and whether it can be simplified. I sometimes daydream about rewriting the fraud and abuse regulations from scratch! I assume the intent behind a regulation is pure, but the implementation is sometimes not practical and can, in fact, compromise our collective credibility. This seems like an area of opportunity for HCCA and our industry. As compliance continues to evolve as a profession, there is increasing opportunity to influence not only within our companies, but outside as well.

JO: HCCA has been focused on providing tools and resources to assist compliance professionals in responding to the high degree of stress and the causes of stress in the profession. What are some mechanisms you use to deal with the stress in your job?

KO: I guess I do not really feel my job is any more stressful than, for example, the medical secretary who is worried about accidentally faxing a patient note to the wrong number, or the nurse practitioner who is behind on documentation. I feel that every employee shares responsibility for the culture, and then I share stress about the elements of a formal compliance program that we are accountable for with a great team of compliance colleagues! I appreciate that the strong culture of compliance at Mayo Clinic makes this job much more peaceful than it could otherwise be.

JO: This is a great transition to my favorite question. Leisure time—usually the best stress reducer. What are some of your favorite hobbies or activities?

KO: Every Friday I look forward to going home to my *People* magazine. I enjoy anything with my family and any form of thrashing around (swimming, running).

JO: Thank you for sharing your thoughts and experiences with us. 📧