

Meet Robert Hussar

Perspective from someone who has played 4 different compliance roles:

- ▶ Compliance Officer
- ▶ Consultant
- ▶ Health Law Attorney
- ▶ State Medicaid First Deputy IG

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Robert Hussar
Counsel, Manatt, Phelps
& Phillips, LLP and
HCCA Board of Directors

an interview by Jenny O'Brien, JD, CHC, CHPC

Meet Robert Hussar

This interview was conducted by **Jenny O'Brien** (jennifer.obrien@uhc.com), member of the HCCA Board of Directors, and took place in June 2012. Jenny is Chief Medicare Compliance Officer, UnitedHealthcare Medicare & Retirement in Minnetonka, MN. **Robert Hussar** may be contacted at rhussar@manatt.com.

JO: Congratulations on your election to the HCCA Board of Directors. You bring a diverse background with many experiences to the table. Please tell us a little about yourself and the path that led you to your interest in serving on the board.

RH: Thanks Jenny. It is an honor to serve on the board and collaborate with you and

the rest of the board members and impressive HCCA staff to advance the interests of the HCCA members.

In a nutshell, while in law school I decided to take an EMT [Emergency Medical Technician] course on the side and was immediately bitten by the health care bug. I decided I would focus on health care law and after law school, I went on to obtain a Masters in Health Systems Management. I spent my days as a health care associate (in the late 1990s) focused on fraud and abuse issues and had the opportunity to serve as a compliance officer—an opportunity I couldn't pass up given my desire to combine my legal background and

interest in health care operations. I've been passionate about compliance ever since and felt my varied background and unique perspective (having worked as compliance officer, consultant, legal counsel, and regulator) would enable me to make a meaningful contribution to the HCCA board.

JO: I wanted to make the point of compliance skill transferability. Your career path, although perhaps unconventional, appears to be a well devised series of graduated moves leading from one sector to the next. Is that the case?

RH: Well, I'm glad it appears that way. In fact, it is largely the result of timely opportunities, a willingness to take a chance, and good luck. I do believe however, that it speaks to the demand for diverse (and sometimes unexpected) types of opportunities available to individuals with a compliance background. I expect this will hold true for the foreseeable future.

JO: Tell us how your prior experience as a compliance officer helped prepare you for your role with the New York Office of the Medicaid Inspector General (OMIG).

RH: Naturally, my role as a compliance officer exposed me to senior management and executive level dealings. But it also taught me a great deal about the frontline, day-to-day operations and challenges involved in providing care to patients (and support to their families) during physically and emotionally trying times. I was able to witness firsthand that, except for very rare exceptions, care and services are provided by skilled and dedicated staff who really are trying to do what is in the best interest of the patient and, most of the time, in accordance within the letter and spirit of the law.

My experience as a health care attorney and as a compliance officer also led me to the following beliefs. First, that given the volume of regulations, the complexity of the delivery systems, and the lack of clarity with many of

the requirements, compliance issues will exist even if an organization hires competent staff and operates a robust and effective program. Second, that compliance is a constant balancing act between resources and responsibilities (both compliance and patient care). And third, that I would be a much more effective regulator if I continued to appreciate the ultimate goal of high-quality providers to fulfill their mission and if I preached my belief of the importance of balancing regulation with reasonableness.

Each of these observations and beliefs prepared me for my role and influenced my service while at the OMIG.

JO: You served in a number of capacities with OMIG. What were some of your greatest challenges as well as your greatest successes?

RH: I joined OMIG in its infancy, believing it would be a once-in-a-lifetime opportunity to shape the policy in a new, highly visible, and critically needed office in New York State (NYS) government. Never did I imagine I would have the opportunity to serve as Acting Medicaid Inspector General or ultimately as Jim Sheehan's First Deputy, responsible for overseeing office operations and rolling out the first-ever state mandated compliance programs for Medicaid providers. Some of the challenges the Office faced included:

1. Convincing providers that the F-SHRP [Federal-State Health Reform Partnership] agreement signed between OMIG and CMS (and specifically the OMIG audit recovery requirements) didn't equate to a quota for recovery purposes;
2. Convincing providers that a lack of documentation is a significant issue (for quality and to support payment), even if the care or services were provided; and
3. Convincing some OMIG colleagues of the challenges associated with providing care and the need to balance regulation with reasonableness.

Fortunately, my days as a compliance officer afforded me some instant credibility with both my former health care colleagues and my co-workers within OMIG, which enabled me to take an informed and pragmatic approach in my oversight responsibilities.

Examples of successes (in my humble opinion) include establishing a new state agency dedicated to combating fraud, waste, and abuse in the NYS Medicaid program; rolling out the first state-mandated Medicaid compliance programs (including convening advisory committees to provide feedback on guidance documents); and implementing a formal self-disclosure protocol.

JO: In your various roles you have had the opportunity to review a number of compliance programs. What does an effective compliance program look like to you?

RH: To me, effectiveness is all about culture. This is evident through accountability (e.g., integrated approach, senior management participation, repayment of overpayments) and the resources devoted to proactive compliance efforts (e.g., program structure, training, open communications, risk assessments, and active auditing).

JO: As the regulatory environment continues to intensify, what can compliance officers do to assist their organizations in meeting the expanding demands and expectations?

RH: Compliance officers can assist their organizations by proactively addressing compliance issues, including staying current with ever-evolving requirements, fostering a

culture of compliance, and diligently following through on identified issues.

JO: Are there certain influences from your legal and consulting background that impact the compliance work you are doing now?

RH: As you might predict, I'm very mindful of the distinctions between the roles of various types of professionals involved in compliance matters, including compliance officers, legal counsel, and consultants and the inherent limitations associated with each.

My practice is a direct reflection of the past roles I have held, including interim compliance services (I was at the Yale New Haven Health System for over a year), effectiveness reviews, CIA negotiation, readiness and implementation, internal investigations and self-disclosure/audit defense, negotiation, and settlement.

JO: You have extensive experience in the area of fraud, waste, and abuse. What advice do you have for compliance professionals working to develop a program?

RH: My best advice for both new and experienced compliance personnel striving to establish or improve a strong compliance foundation is two-fold. First, provide exceptional customer service and do so as a resource to your staff, not as the sheriff. It is crucial to remember that no matter how big a department you have, it will never be enough to find and resolve all of the issues on your own—nor do you want to. To be effective, the compliance officer needs to be approachable and reliable so that issues are brought to his/her attention. Your “customers” should also be able to expect

First, provide exceptional customer service and do so as a resource to your staff, not as the sheriff.

an appropriate response and assistance in a reasonable amount of time.

Second, don't go it alone. Integrate compliance into the routine operations of the provider and insist on department level accountability to establish shared responsibility. Doing so will instantly establish additional compliance champions and resources that will be useful from issue identification to resolution.

JO: What do you see on the horizon? Can you share trends you see developing in the health care enforcement area?

RH: I think the two groups that will see the largest enforcement activity over the next 12 to 24 months are physicians and managed care plans.

I also expect to see a concentrated focus by state and federal governments on compliance effectiveness evaluations in the future. These efforts will build on current initiatives under Medicare Parts C and D Plans and in the NYS Medicaid program, but I anticipate these types of reviews will expand significantly.

JO: You have experience as both a regulator and a compliance officer. What areas of opportunity do you see for HCCA, the government, and the health care industry to better collaborate?

RH: This question really hits home with me. As a compliance officer, I had one particular interaction with the state that really impacted my thinking and approach when I was a regulator. Following an audit of a department of one of the hospitals in our system, I called

the auditor and asked for a copy of their protocols that I could use to proactively monitor that we met all of the billing requirements. Unfortunately the auditor, after checking with his supervisor, declined to share the protocol. To me, that was a missed opportunity and the wrong message to send.

From my perspective, compliance is (or at least should be) a common goal of both providers and regulators, and the opportunities for collaboration are virtually endless. Potential opportunities include regulation and audit protocol/practice development and review; regulator training on provider operations (to give regulators an appreciation of provider

responsibilities and activities, but also to facilitate minimizing unnecessary burdens and disruptions); and the development of compliance related procedures, tools, and systems.

My experience is that regulators often welcome the opportunity to discuss

and proactively address issues with providers in a non-adversarial and collegial manner, but are rarely engaged to do so.

JO: You've been an active HCCA member for a number of years. What are some changes you've seen as the compliance profession has matured?

RH: The level of experience and education among new and seasoned compliance officers has increased dramatically. Undoubtedly, the rapid growth of the industry, as evidenced by the membership numbers in HCCA and SCCE, is another positive advancement. Compliance

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programs are also larger and more sophisticated with dedicated clinicians, educators, privacy personnel, etc. becoming the norm. It has also resulted in cottage industries in the compliance arena, perhaps no better demonstrated than by walking around the vendor displays each year at the Compliance Institute.

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?

RH: Humor and collaboration have been effective means for me to address stress in my professional life. Our roles, by their very nature, require us to address complex and significant issues in stressful situations. How and with whom we solve those problems can make a significant difference in handling the inescapable stress. I have found in my various engagements that working with a reliable team that can not only competently address compliance issues, but also take advantage of appropriate opportunities

to enjoy the lighter sides of some the issues involved and share a laugh, not only makes the immediate scenario more bearable, but also adds to the camaraderie of the team as a whole.

In addition, over the years I've come to develop and rely upon a great network of individuals involved in different capacities in the compliance arena. I bounce ideas off them and share a laugh; both help immensely!

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

RH: Given the amount of time I spend on the road, I spend the vast majority of my "free" time with my wife and four children. I am a sports enthusiast and, for the most part, I get my sports fix by coaching my children in soccer, baseball, and ice hockey. I'll also occasionally sneak away for a run or a round of golf with friends and colleagues.

JO: Thank you, Robert.

RH: My pleasure, thank you Jenny. ☺

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