

FEDERAL MONITORS

The UMDNJ Example

Counsel to the Federal Monitor
Overseeing the University of Medicine &
Dentistry of New Jersey (UMDNJ)

John Inglesino, Esq.
Stern & Kilcullen
Livingston, New Jersey

New Orleans, LA – 9 Sept 2007

Federal Monitors – the UMDNJ Example

Background

- On December 31, 2005, UMDNJ and the U.S. Attorney (D.N.J.) Christopher J. Christie entered into a Deferred Prosecution Agreement (“DPA”)
- The underlying Complaint alleged UMDNJ engaged in a wide-spread scheme to defraud Medicaid
- However, the U.S. Attorney permitted UMDNJ to enter into a DPA with the condition that it accept a Federal Monitor to oversee its operations and conduct investigations

UMDNJ

- Receives over \$250 million from federally and state funded programs annually, not including hundreds of millions in research dollars.
- It is the nations largest health sciences university
 - **Employing over 14,000 people;**
 - **Operating 8 separate schools, including two medical schools, a school of osteopathic medicine, a dental school, a nursing school, a school of public health, a school of biomedical sciences; and a school for health related professionals;**
 - **Owning and operating one of the state’s safety net hospitals serving one of the most un/under insured populations in the nation;**
 - **Providing the most, by far, charity care in the State of New Jersey**

Why Stern & Kilcullen

The TEAM

- The Monitor –
The Hon. Herbert Stern
- John Inglesino, Esq. –
Chief Legal Counselor
to the Monitor
- Lisa Taylor, Esq. –
Health Law Expert
- Richard Hamilton, Esq.-
Investigator &
Government Expert
- Forensic Accounting/
Investigative Team

Why Stern & Kilcullen

- The Team:

- Herbert J. Stern

- Former US Attorney for District of NJ known for his high profile investigations of political figures
- Former federal District Court judge
- Accomplished trial attorney & writer

Pitfalls – Avoiding the long hand of the USA

- The United States Attorney General and numerous District United States Attorneys have declared war on corporate corruption
- Besides the high profile prosecutions (Enron, WorldCom, Tenet, UMDNJ, etc.) thousands of companies are facing requests from the USA for information
- Being proactive is the key to avoiding mandated reforms by the USA or worse.

Being Proactive

- Compliance & Internal Audit working to identify problems
- Diligent and detailed investigations – have good “detectives”
- Complete reporting and transparency – avoid any indication that problems are being hidden
- Hiring outside counsel/investigative team often buys important credibility with the government
- Inform the Board early and often

What we did at UMDNJ

- Conducted over 700 investigative interviews;
- Made over 55 document requests;
- Responded to 297 hotline leads;
- Opened up 56 individual investigative files;
- Reviewed 5 years worth of no-bid contracts and blanket waivers;
- Analyzed 5 years worth of purchase orders;
- Reviewed/approved 188 new bid waiver requests;
- Reviewed reams of documents; and
- Made 7 reports to the US Attorney

What we found at UMDNJ

- We identified over \$400 million in fraud, waste, and/or abusive practices, including
 - Almost \$100 million in cost reporting errors that resulted in overbilling of federal government
 - \$22,607,834 in unauthorized or inappropriate spending
 - \$91,400,000 per year in blanket waiver funds that have virtually no oversight
 - overpayments of \$88,310,929 to vendors without approval

What we found at UMDNJ – cont'd

- Inappropriate/Illegal activity by two members of the Board, a Senior Vice President, a Dean, an Associate Dean, and a State Senator that have resulted in numerous dismissals and several indictments
- UMDNJ paid cardiologists illegal payments of **\$5.7 million** for referrals in violation of federal Stark and Anti-Kickback laws potentially resulting in nearly **\$80 million** in fines and penalties

Reforms Implemented

- Reconstitution of the Compliance Office
- Restructuring of Compensation Policies
- Hiring of a new President, General Counsel, and Chief Compliance Officer
- Reformation of the entire Purchasing/ Materials Management process including reworking of the bid waiver process adoption of comprehensive policies and purchase of new technologies

Reforms at UMDNJ – Five Compliance Principles

- Creation of Chief Compliance Officer
- Creation of Corporate Compliance Office
- Bifurcate Compliance and Internal Audit
- Establish Independent Audit Committee of the Board
- Dedicate Appropriate Financial Resources

Evolution of the Relationship

- At UMDNJ initial tensions between management & the Monitor lead to lost time and adverse inferences by the Monitor/USA
- After new management and the Board began to embrace the relationship UMDNJ benefited from having a partner working towards saving UMDNJ and making it a more proficient enterprise focused on its mission

Lessons Learned

- Address every allegation or compliance concern with a swift response – hire more “detectives”
- Establish comprehensive audit and investigative plans
- Look at restructuring compliance offices
- Ask the Board for more – staff, resources, technology
- Communicate more frequently with the Board – even outside of monthly/quarterly meetings