

## Report on Medicare Compliance Volume 28, Number 26. July 22, 2019 In Wake of Scandal, Former UMMS CCO Says M.D., Not Board Conflicts, Were on 'Risk Radar'

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By Nina Youngstrom

When Christine Bachrach was hired as the “inaugural” compliance officer at the University of Maryland Medical System (UMMS) in 2010, she says she was more or less starting from scratch. She built the compliance program at the large, nonprofit university-based regional health care system—seven elements and then some—but nine years later, Bachrach resigned amid revelations that some board members had contracts with the medical system. According to a June 12 report prepared for UMMS, senior leaders made deals with board members that weren't always competitively bid or declared necessary by the full board, including a consulting agreement with the chair of the board's audit and compliance committee (“Some Board Member Deals With Maryland Health System Violated COI Policy; CCO Resigns,” *RMC* 28, no. 22).

Bachrach wants compliance officers to take notes about her experience. “This was an anomaly,” she tells *RMC*.

One of her realizations is that most compliance officers focus almost exclusively on conflicts of interest with respect to physicians, and conflicts of interest related to nonphysician board members may fall by the wayside. The reason is that physician conflicts pose obvious legal and regulatory risks, including potential Stark Law and Anti-Kickback Statute violations, while board conflicts are more about violating corporate policies. “I don't think conflicts of interest that don't involve a physician have been on anyone's radar,” Bachrach says. “We had done our own work on physician conflicts of interest because we thought that was where the risk was.” Her only regret: not making sure there was better documentation of her questions and the answers provided about UMMS's deals with certain board members.

Bachrach is also worried that compliance officers may sometimes feel stuck between a rock and a hard place. That can take different forms, but she points to a Maryland state law (MD House Bill 1428) enacted in response to the UMMS self-dealing. The state law has many provisions, including mandatory state audits of payments to businesses associated with board members. It also requires the compliance officer to “review the contract or payment and advise the member of the board of directors as to whether the contract or payment is appropriate and consistent with the policies of the medical system corporation and make a recommendation to the board of directors as to whether the contract or payment should be approved or disapproved by the board.” That puts a lot of pressure on the compliance officer, Bachrach says. “How do you judge appropriateness? You have to understand all the details and will have to interview everyone involved in the potential transaction.”

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