

THE UNIVERSITY OF NEW MEXICO
Board of Regents' Quarterly Audit and Compliance Committee Meeting
March 2, 2017 – Meeting Minutes

Members Present: Chairman Jack Fortner, Tom Clifford, Garrett Adcock arrived during open session while in progress (quorum).

Other Attendees: Chaouki Abdallah, Liz Metzger, Duane Arruti, Jeff Gassaway, Amy Wohlert, Kimberly Bell, Chris Vallejos, Francie Cordova, Carla Domenici, Che Nyamboli, Wayne Sullivan, Dennis Webber, Pamina Deutsch, Ella Watt, Purvi Mody, Pamela Pyle, Nicole Dopson, Joe Miera, Josh Lewis (Moss Adams), Steve Keene (Moss Adams), Manu Patel, Chien-chih Yeh, Lisa Wauneka, Victor Griego, Mallory Reviere, Amy O'Donnell.

Chairman Fortner called the meeting to order at 2:23 PM in ROBERTS ROOM, Scholes Hall, UNM.

ACTION ITEMS:

- The Committee approved the meeting agenda and the minutes from the meeting of November 11, 2016.

INFORMATION ITEMS:

- Chairman Fortner stated he cannot attend either of the proposed dates for the next meeting – April 21, 2017 or May 5, 2017. Internal Audit Director Patel stated he will send out proposed new dates. The Chairman stated the other dates for future meetings are fine.
- Chairman Fortner asked for advisor comments. There were no comments.
- Sanjay Bhakta, Deputy State Auditor, and Sarita Nair, Chief Government Accountability Officer and General Counsel from the New Mexico State Auditor's Office, and Josh Lewis from Moss Adams gave a presentation to the Committee regarding a special audit of indigent health care that is statewide, but beginning with UNMH. UNMH has, according to the State Auditor's Office, the most comprehensive data on the subject.

As the presentation began, Garrett Adcock, new Student Regent Appointee, arrived for the meeting. Chairman Fortner stated that he was appointed to fill a vacancy and in his opinion, Regent Adcock is a voting member and can vote.

Ms. Nair stated there are a lot of general misunderstandings about payments and funding for indigent health care, specifically with regard to the changing healthcare landscape. The areas they looked at included UNM Hospital, the UNM Medical Group, and the Sandoval Regional Medical Center. Ms. Nair reported staff were wonderful and cooperative.

There were four objectives: 1) a general layperson's understanding of healthcare finance; 2) address the issue of dedicated revenue and use of Bernalillo/Sandoval county mill levies; 3) costs compared to people served; and 4) research processing of people who have an insurance plan but also qualify for charity care. Chairman Fortner asked for clarification on the use of the term charity care. Ms. Nair replied that they use charity care and UNM Care sort of interchangeably.

The State Auditor's Office found costs for providing indigent care have decreased between 2014 and 2016, but UNMH is actually serving approximately 34% more people. A \$16 million shortfall still exists between what is truly dedicated to indigent healthcare and what is spent. They also found the Hospital was indeed processing people who qualify for charity care even if they have a

form of insurance. If the patients could not afford to pay co-pays and deductibles, they are provided by charity care.

The next steps are that they have required this test work be performed at all public hospitals in New Mexico. They are looking forward to being able to provide statewide data. They are grateful to UNM for providing the test run and to Moss Adams for developing the procedures.

Mr. Lewis presented the technical data to the Committee. Moss Adams had several meetings with the State Auditor's Office to determine what the project should look like when complete, what the procedures would be, and how the project would be structured. It was structured as an agreed-upon procedures engagement, meaning that Moss Adams would not provide an opinion. It is merely procedures performed and exact results. Included are over- and under-funding reports for Bernalillo and Sandoval counties. Also included is information regarding how the costs were determined. They tested the mathematical accuracy of the schedules with no issues found. The funding schedule has three parts – funding of indigent care (dollars coming in), costs, and number of patients receiving indigent care.

They also tested completeness of information with sampling of the cost piece. There are different categories – uninsured patients, patients qualifying under EMSA, etc. They used a sample size of 270. Of those 270, 16 had some documentation missing with regards to determination of qualification (approximately 6 percent). They may have had all but one piece. On the subject of cost of care related to the patient portion of bills (if they are unable to pay the deductible, etc.), the numbers that are recorded as to the cost of providing that charity are actually understated in the report. Chairman Fortner stated Mr. Lewis is using charity care in a different way than Ms. Nair did. Mr. Lewis responded that he is referring strictly to the people that qualify. In this particular case, it is somebody who has a plan but cannot pay a deductible and meets the threshold under UNM Care. Ella Watt, CFO, UNMH, added there are several ways, UNM being the largest. Chairman Fortner asked Ms. Watt if UNM Care has a deductible. She replied that they seek some form of payment. It would be a very small amount, depending on type of service, perhaps five to ten dollars. Additionally, the cost is captured for amounts that include charge-offs. So if a bill for \$1000 has a \$300 charge-off, the cost is captured as \$700. Therefore true costs are understated.

Mr. Lewis stated they did testing around payment of copayments. Of the sampled items, there were 101 transactions that should have a copayment according to policy. Only 19 copayments were collected, although an attempt was made. According to Mr. Lewis, that is not uncommon. Regent Clifford stated what would be really helpful to see how much money is being forgiven, and in each category. Because, for instance, there are people who qualify at 300 percent over poverty level, and that is way over the average income in this state. Ms. Watt stated they are considered charity care so they would not take action to collect, but she agrees that the policy is very generous. Ms. Watt stated she will run the data. For charity care-qualified patients, if there is a bill at the time of service for \$100, and the co-pay is five dollars, they will make an attempt at the payment of the five dollars. If they cannot get that payment, they will write the entire \$100 off. The \$95 was never going to be asked for. Interim President Abdallah asks what happens if they do not pay the copayment at time of service but they do pay it at a later time. Ms. Watt stated they would adjust it accordingly. Mr. Lewis informed the Committee if the money is collected, they made sure it was part of the detail feeding the numbers. The copayments are counted as money received for indigent care. Moss Adams verified that information and found no discrepancies.

Mr. Lewis noted that the ratios of cost to charge differ every year depending on the category where people land. The information here is much more precise than pulling the information off of Medicare cost reports, which is blended differently. Regent Clifford stated that the costs roughly doubled in fiscal year 2016. Mr. Lewis replied that is the shift of patients that are now buying insurance through the exchange. So they are shifting off of the uninsured "bucket" to a different reporting area of charity care. Ms. Watt verified that is indeed the case. Chairman Fortner asked what the reimbursement difference is between what was the Medicare reimbursement and the new exchange information. Ms. Watt replied she did not have that information with her. But if she had to guess, Medicare pays about 30 cents on the dollar on the outpatient side; it's more generous on the inpatient side. Healthcare plans are going to be closer to the Medicaid plans at about 35 to 37 cents on the dollar. Medicaid does not cover all of the costs either. People could have Medicaid coverage as well in this bucket. Not all Medicaid plans are created equal. For instance, there is a Medicaid plan that only covers family preventive care benefits. This plan only covers one free annual exam and birth control for the year. If that particular person needs to be seen for any other reason, they would qualify for UNM Care. That whole visit would be under UNM Care; Medicaid is not going to pay.

Mr. Lewis concluded with discussion about the final item that Moss Adams looked at, which was to compare number of patients to detail provided on the schedule. Again, there is an increase in number of patients, as Ms. Nair pointed out, with costs going down. That is due to the shift from covering 100 percent of the costs to only covering the deductible or copayment portion the patient is unable to pay. Interim President Abdallah noted that even if you add the two categories together, the cost has decreased. Ms. Watt noted that it is important to remember, however, that as stated earlier the numbers do not represent the actual cost of care.

Regent Clifford stated it is a helpful report but it still leaves a lot of questions. He also asked for a glossary of terms. The good news, according to Regent Clifford, is that Moss Adams found compliant results. Mr. Lewis agreed, and said that except for those few that had missing documentation, there were no other errors throughout the report. Regent Clifford asked how much we paid for this audit. The response was \$50,000. He then stated he thinks our staff could do this work. He does not think we need to bring in outside people; we should be able to do it internally, and we should expand on this. It should be a regular, annual report. It does not answer all of the questions the County has.

Regent Clifford stated if he was the County right now and sitting in this meeting, he would say that UNM has policies where it subsidizes care to non-indigent people. Ms. Watt replied everyone has to be indigent. Regent Clifford stated that is where definitions matter. In his mind, if someone is making more than the average income in the state, they are not indigent. The county is unhappy because they would like to know where their money is going. Legally, technically, all it does is support operations of the Hospital. That is not a very satisfying answer to them, and we owe them more. Implicitly, that funding is helping to subsidize this care. Even though it has come down, there is still a \$60 million hole in this report. So, how is that getting filled? Partly with the mill levy. Ms. Watt stated that is correct, so that we can continue to treat all patients. Regent Clifford stated he knows the County is still not happy. They are less happy every time he talks to them. To tell them it is all the statute says is not a very appropriate answer. As a governing body, the Regents need to understand this better. And they need to have better, more thorough discussions with the County rather than just pointing them to the black and white letter of the law. This is a good start, but it is not a complete set of answers.

Mr. Lewis advised the Committee that there is a set of definitions that were not included with this report, but he can provide them. Regent Clifford stated we need an internal report that we update every year. Ms. Watt stated that they used to provide an uncompensated care report that included uninsured care and charity care prior to this that was posted on their website. Uncompensated care is made up of those two pieces. Last year was the first year they did not do that because of this agreed-upon procedures engagement.

Regent Clifford asked about the scope. In what way did the scope of this agreed upon procedures audit go beyond what is done in the annual, external audit? Mr. Lewis replied that charity care gets disclosed in the footnotes but it is not recorded as revenue, similar to how contractual adjustments for insurance companies work. Accounting standards essentially say you don't report the revenue you knew you were never going to get. So they look at the disclosure, assess the disclosure, and tie out to general ledger detail. And they look at control testing over coding of adjustments. This one was much more targeted to dividing it up by county and individually making sure the people who were supposed to be getting charity care were getting it, for those who fall under the high-deductible plans. The people who were getting charity care were qualifying all the way down to a very large sample size. Looking at the individual support for each of those patients, as well as looking at the funding components in terms of how they billed.

Regent Clifford asked if it goes to the question of whether we are complying with statute, complying with the mill levy. What kind of statutory standard are we testing? Mr. Bhakta replied he does not think that is what they are testing. The County was not happy with what was provided by UNM in the past. The County came to the State Auditor's Office and asked them to look at it and asked if they could audit it. The State Auditor's office told the County they did not have the expertise in that area, but UNM agreed to an independent auditor. Regent Clifford asked if it would be a fair paraphrase to say that we are doing what we told the County we are doing. Mr. Bhakta replied yes. Mr. Lewis added that as far as what they have put on this report that is correct.

Chairman Fortner stated he agrees with Regent Clifford that it is a good start, but it is not enough information to satisfy.

By unanimous consent, the meeting went into Executive Session for the reasons stated in the agenda. The meeting went in to closed session at 3:05 PM.

- a. Discussion of draft Internal Audit Reports, and discussions of information subject to attorney-client privilege pursuant RPM 1.2
- b. Discussion of limited personnel matters pursuant to exception at Section 10-15-1.H(2) NMSA (1978);
- c. Schedule of Audits in Process and FY17 Audit Work plan, pursuant to RPM 1.2
- d. Vote to re-open the meeting.

The meeting returned to open session at 4:40 PM, with certification that only those matters described above were discussed in Executive Session.

- Amy Wohlert, Chief of Staff, President's Office, stated that Francie Cordova, Director, Office of Equal Opportunity (OEO), will provide an overview of the operations of OEO per previous request by the Committee. Ms. Cordova reports through Libby Washburn, Chief Compliance Officer, up to Ms. Wohlert. The OEO staff includes a Title IX Coordinator, Heather Cowan, and a

Clery Coordinator, Rob Burford. Ms. Cordova noted they have two very experienced investigators that hold J.D.s. One investigator is a retired A.P.D. Commander and former investigator for the EEOC. Another investigator has over 20 years of high level Human Resources investigations experience. The newest investigator is a 16-year probation officer with the Second Judicial District.

Chairman Fortner asked if the investigators investigate both Clery and Title IX issues. Ms. Cordova replied yes. She stated their office investigates all civil rights complaints. Their authority flows out of Regent and University administrative policies. The policies are all informed by federal and state laws. It is every protected status including age, race, veteran status, sexual orientation, gender identity, religion, etc.; there are 16 protected classes that they investigate claims based on. The bulk of their work is investigations, but that is a portion of what they do.

Chairman Fortner asked for a list of those 16 classes. Ms. Cordova replied she can provide that. Regent Clifford would like to know which acts apply to which ones. Ms. Cordova stated this is an initial overview and whatever they would like more detail on, she would be happy to do. Regent Clifford asked if there is a policy manual he should know more about. Ms. Cordova said they also have an internal document that is over 20 pages long. She will provide the Committee with all of this requested information. Chairman Fortner said that each time Ms. Cordova presents to the Committee, the presentation could be focused on one area, like Title VII, then Clery, etc. Ms. Cordova added that the Regents are the appellate body for some of their findings.

Ms. Cordova stated their case number is growing pretty significantly, in part because they are increasing partnerships and collaborations with the campus community. One of her charges when she came in was to revamp the office in terms of staffing and training outreach. There was a disconnect and a lot of turnover. The work that they do is very stressful.

Chairman Fortner asked for clarification on Title IX and if it only applies to students. Ms. Cordova said it does not only apply to students. The Chairman then asked how long ago the Title IX Coordinator came on board. Ms. Cordova stated it was about 18 months ago. Chairman Fortner decided he should restate the earlier comment and ask that the first presentation be about Title IX. It is such a new field and so difficult to investigate. Ms. Cordova stated these cases are increasing and they are glad people are reaching out to them. They want to prevent it as much as possible through education.

Ms. Cordova informed the Committee that they do a great deal more than investigations. They do all the civil rights training for the campus community. She is the ADA Coordinator for the University, so everything regarding access goes through their office. If someone needs a sign language interpreter or accommodation in the classroom, etc., that flows through her as well. They compile the federally-required Annual Affirmative Action plan for the University. This plan determines if any positions are underutilized for women, minorities, veterans, and individuals with disabilities. This University actually does pretty well in terms of underutilization. UNM has a vendor (national firm Jackson Lewis) that provides the statistics on underutilization. Her area is also key in terms of the Department of Justice compliance. Ms. Wohlert added that UNM's diversity goals are not necessarily the same as the Affirmative Action Plan.

Chairman Fortner inquired as to the makeup of the OEO staff with regard to minorities. Ms. Cordova answered that they have a very diverse staff. There are 11 full time staff. At least six are minorities and they are nearly three-quarters female. There is diversity in terms of sexual

orientation as well. The Title IX Coordinator was previously an investigator at the University of Michigan and then an investigator at UNM. The Clery Coordinator has been with UNM for over 20 years. He was the Dean of Students' Conduct Officer. Ms. Cordova said she believes about half of the staff have undergraduate students attending UNM so there is that investment as well.

Ms. Cordova informed the Committee about what OEO does not do. They do not sanction. They are independent, neutral fact-finders. They are not telling anyone to fire or suspend, etc. That authority lies with others. Students are sanctioned by the Dean of Students. The Dean, Chair or Provost sanctions faculty, and for staff it is Human Resources.

Ms. Cordova provided statistics on the number of trainings they provide. This year they also instituted a mandatory training for all faculty and staff through Learning Central. There was nearly a 99% compliance rate. Ms. Cordova provided data on case load, including types of cases and outcomes. In 2016, almost 500 inquiries came in. Very few come in through the Hotline; it's mostly walk-ins or call-ins, as well as an on-line form or witnessed events. They attempt to resolve a great deal of them informally, and may include a non-punitive educational conference. The goal is to try to change the behavior. It is a very successful practice, as approximately 98% of the cases do not come back. Chairman Fortner asked what happens if a case comes in regarding belittling, or fat shaming for instance. Ms. Cordova stated that it is only jurisdictional to UNM if it is not based on a protected status. Those cases they will typically refer out to other areas. Regent Clifford asked for the data from prior periods to see what is happening as far as resolution. He would actually prefer just to see resolved cases. Chairman Fortner asked to see a breakout of sexual harassment cases by students or by staff. Regent Clifford added a time series is helpful as well to see what the trends are. Ms. Cordova noted a finding can get appealed and any sanction can get appealed as well. Ms. Cordova stated when she comes back the next time, she will present on Title IX as requested.

Regent Adcock informed Ms. Cordova and the Committee members that he is color blind, so he requests that the charts and graphs do not rely heavily on colors.

The Committee unanimously approved the following UNM Hospital audits:

- Hospital Outpatient Coding Audit, Report #2016-04
- Access UNM/PALS, Report #2016-05

The Committee unanimously approved the following UNM Audit:

- UNM Continuing Education and University-Wide Reimbursements Audit, Report #2017-05

The meeting adjourned at 5:12 PM.

Approved:


Audit and Compliance Committee Chairman