

**UNIVERSITY OF WASHINGTON
FACULTY COUNCIL ON FACULTY AFFAIRS**

The Faculty Council on Faculty Affairs met on February 22 at 1:00 p.m., in Mary Gates Hall 420. Chair Dan Luchtel called the meeting to order at 1:03 p.m.

Synopsis:

1. Ramsey Interview

Interview with Dean Paul G. Ramsey

Dean Ramsey visited FCFA to discuss the Medicare Billing investigation/Winn/Houser settlements and related effects on the Medical School faculty. Ramsey introduced two staff members he brought to the meeting: Emily Wong, who serves on the UWP Board, and Frank Vincenzi, Vice Chair of Pharmacology.

As Dean of the School of Medicine and a faculty member since 1978, Ramsey is responsible for administering 1,750 full time faculty and 4,400 clinical faculty. The School of Medicine, Ramsey said, comprises 29 departments (12 basic science, 17 clinical, 1 science/clinical) and operates in a team environment with the University of Washington Medical Center and Harborview Medical Center. Five vice-deans assist Ramsey, he added, in an environment that always strives for shared governance and a culture of consensus, open meetings and open discussion within the strictures required by a professional business organization involved in the practice of medicine.

The mission of the School of Medicine includes teaching, research, and patient care. Ramsey said that the patient care portion of the mission, which falls into the clinical departments, is a very difficult part of faculty life, not just at the UW but at schools across the nation.

Luchtel asked **when and how the Medical School discovered the Medicare billing problem** – what happened, how was it discovered and could anything have been done differently? Ramsey responded that the billing problem was discovered during a billing investigation that began at the end of 1999. Early in this investigation, the Dean's Office realized that this was a criminal investigation – the Federal investigators were not telling the University any specifics of the focus of the investigation. As UW attorneys also began to review documents the government had requested, the over-billing problems came to light. UW attorneys also discovered that the compliance programs in the Medical School, which were thought to be better than average compared to peer programs, were not "up to the task" of dealing with the complexities of the Medicare billing systems. To forestall further errors, the Dean's Office began major changes in the compliance program.

Errors included failure to compare the documentation in the patient's medical record with the bills that were submitted and paid for that patient. Medicare requires that the language in patient charts and bills submitted be completely congruent; Federal investigators found bills where the language describing diagnoses and/or services performed was not the same. However, damaging information about Dr. Winn and Dr. Couser was not immediately forthcoming.

Luchtel asked Ramsey **whether he had seen a letter warning of these same illegal billing practices and whether Ramsey had investigated the charges**. Ramsey said a faculty member who was in the process of resigning came to him in 1998 with a letter outlining "very serious concerns" about the standard of practice related to anesthesia in the hospital operating rooms, and about billing concerns. Ramsey immediately assigned the medical directors to look into the OR concerns; the medical directors worked with the AG's Office on this. In 1998, Ramsey said, he did not have sufficient staff to investigate the billing concerns so he promptly engaged a private law firm to do so. All parties were interviewed and documents were examined, Ramsey said, but there was no evidence to support the staff member's allegations and the matter was not pursued, either by Ramsey or the Federal investigators.

Luchtel asked Ramsey **what he meant when he characterized whistleblower Mark Erickson, who claimed there were systemic problems in the billing area, as having "misunderstood many things and jumped to incorrect conclusions."** Ramsey responded that he did not believe he had so characterized Erickson, so could not define the comments. Ramsey thought perhaps the UW attorneys had commented along those lines.

In retrospect, Ramsey said, the Medical School administration wished they had more robust compliance programs in the 1990's. It was unfortunate that the concerns Erickson brought forward stayed at a lower level of the organization and were not investigated in the way they would be today. Erickson first began raising concerns in 1996 when he was an auditor at CHMC. However, his valid concerns did not reach the person who supervised the practice plan and were not investigated as rigorously, nor were they referred to as high a level, as they would have been in 2001 or later.

Beth Kolko asked **what systemic changes have been made to increase faculty confidence** that their concerns will be heard, and that problems will be investigated.

Ramsey said the UW system had been patterned to address the requirements the Federal government made of the University of Pennsylvania, after they were found to be out of compliance in a similar billing investigation during the 1990s. The UW had professional fee coders determining what to bill, but later learned the fee coders were making an unacceptable level of mistakes. The UW established an independent board to review this process. The board in turn established an independent compliance committee that meets monthly.

Kate O'Neill asked whether the coders were just making mistakes, and therefore Ramsey was saying there was no actual intent to misrepresent what had happened in the patient care process. Did the doctors represent honestly what happened, and the coders just made mistakes?

Ramsey said the doctor records what he or she feels is important for the next doctor reading the chart to know. But all too often, the Federal government wants to see other language in order to pay the bill. The coder has to decipher the doctor's handwriting, understand the terminology, and convert the medical terms to a complex billing number that represents what actually happened. Many things can go wrong – the doctor can see the patient, but not document correctly, or adequately, what happened. A doctor could also document something that was NOT done (this is what Dr. Couser pleaded guilty to doing), and the billing would therefore be fraudulent through no fault of the coder. Ramsey said there were very, very few cases in the investigation – much less than 1% - where either the Federal investigators or UW attorneys questioned the intent of a doctor.

Unintentional errors on the part of the coders could include failing to use the correct billing codes, or using too many billing codes, both of which would generate an incorrect reimbursement. Intentional errors on the part of the fee coders could have included submitting codes for documentation that didn't exist, Ramsey said, and where they knew they were inflating the bill. In the 1990s, coding was a beginning profession, Ramsey said, and there was no education for the coders. There is now a built-in education and certification process.

Ramsey said the Federal Government never pursued any of the practice plans for intent to submit false billings. The vast majority of the faculty and staff were trying to do the right thing, and correctly submitted more than three million documents. This was borne out by the Washington State Attorney General, and the US Attorney General closed the criminal case with a Letter of Declination. US Attorney John MacKay noted the plea agreements of Winn and Couser, but went on to say that the vast majority of doctors and staff at the UW were trying to comply with the difficult coding process required by the Medicare billing regulations. Ramsey said the faculty and staff underwent microscopic scrutiny for four years, and intent was questioned in only a handful of cases resulting in two cases the government chose to pursue.

O'Neill asked Ramsey to describe the systemic changes that would prevent these unintentional mistakes from happening again.

Ramsey said he relies upon a more robust compliance program that assumes that someone will try to do the wrong thing. He has increased the number of avenues for raising concerns, including hotlines to offices and experts who can do internal investigating. The independent review board provides public oversight. There are also multiple attorneys working as full-time counsel for the UWP, and compliance officers who report directly to the directors and boards of their respective organizations. The compliance officers also independently bring concerns to the administrative leadership and senior leadership.

In short, robust compliance means more experts and more money spent on compliance – at present, four million dollars per year are being spent on compliance.

Dina Mandoli asked **what has been done to address the feeling of "besiegement" on the part of faculty members who are trying to comply with all these regulations.** Is there a grassroots perception that faculty have somewhere to turn for help and information, or are they left to deal as best they can with further burdens on their time and academic freedom? There's a clash between the altruistic culture of medicine and the business culture that allows it to survive.

Ramsey acknowledged that faculty in academic medicine do feel "a bit besieged" by the regulatory environment. Everything that is done in 72 training programs is scrutinized and must be fully accredited. Human Subjects reviews, patient safety and Environmental Health and Safety concerns must be addressed. Everywhere faculty turn, there's a rule they are responsible for knowing. The administration is mandated to fostering a culture of service to faculty, and to providing support so they can cope with all this.

To accomplish this, Ramsey said he is attending lots of faculty meetings, department meetings, and hospital meetings and directing his staff to do the same, so they can have better rapport with faculty and staff, and be aware of the state of morale. Frank Vincenzi added that faculty can feel more protected and less besieged, because they know that the army of compliance experts are there to help and protect the faculty, and supply answers to their questions and concerns.

Ramsey said the Medical School has also taken steps to assess career satisfaction for the 1700 faculty and 4400 clinicians, and provide to faculty development and mentoring for faculty members across the disciplines. Morale hit a low about two years ago, and is rebounding.

Luchtel asked about **the 35 million dollar settlement – how did it come about, were faculty consulted about this, have their salaries and other resources been affected by the fines, and could the Dean's fund have been used to pay the fines so the fines would not have affected departments?**

If the case had gone to court, Ramsey said, the University could have been fined \$11,000 for every false billing the Federal investigators found. UW lawyers advised against going to court, and for agreeing to a repayment amount of 20 million dollars plus 15 million dollars in fines. The government leaked the 35 million dollar amount to the press in January, and the UW agreed to the settlement in April.

The elected leaders of the practice plans were heavily involved in the ways and means of the settlement, Ramsey said, and the hospitals agreed to participate. Ramsey said the meetings that led to this solution were well-documented, and included representatives from the School of Medicine, the faculty, department administrators and chairs, boards of trustees of the practice plans, executive directors of the hospitals and the CEO of Children's Hospital. The settlement was presented to the Board of Regents, who approved the plan.

Ramsey said that the rank and file of all organizations received notification, and it was made clear that this was settlement that cut across all segments of the practice plans, since it was in response to "billing errors across all departments at all three hospitals."

Ramsey said that all settlement monies came from departmental reserve accounts, which are savings accounts, and not from current funds flow. These funds were accumulated in the Dean's Fund, from which the settlement was actually paid. There is no separate pool of money from which the settlement could have been paid. Ramsey said he was very surprised to hear this rumor/perception among the faculty. He said every effort was made to explain the settlement, but apparently not everyone paid attention to the information.

When asked **whether individual faculty's UWP bonuses could have been affected by the settlement**, Ramsey said that this could have happened if individual departments that contributed to the settlement had "taxed" bonuses to rebuild their reserve accounts. Some legal fees might have affected salaries. He did not think this was done across the board, but some departments might have done it. Ramsey said that clinical incentives actually increased during the investigation.

Ramsey concluded that more effort needs to be devoted to communicating the terms of the settlement to the faculty, so everyone truly understands what happened. At present, there are actually under-billing issues, because doctors and coders are being overcautious in the wake of the settlement.

Ramsey agreed that every effort should continue to be made to honor faculty governance. He expressed renewed commitment to this principle and committed to redoubled efforts to involve faculty at all levels, and to an open and forthcoming environment.

The meeting was adjourned at 2:30 p.m. *Minutes by Linda Fullerton, Recorder.*

Present: Ceccarelli, Graubard, Hadjimichalakis, Hildebrandt, Luchtel, Wilson, Sjavik, Walker, Cameron, Vaughn
Absent: Kolko, Kirtley, Lydon-Rochelle, Scheuer, Fabien, Roy, Mandoli, Blumenthal, Johnson, Stygall, Parks