

Robust Healthcare Compliance Infrastructure Consulting

Interview conducted by: Lynn Fosse, Senior Editor, CEOCFO Magazine



Nick Merkin - CEO

CEOCFO: Mr. Merkin, what is the concept behind Compliagent Healthcare Solutions?

Mr. Merkin: The landscape of regulatory compliance has changed dramatically for healthcare providers over the last few years. In the past, the burden of compliance and risk mitigation was much lighter. There are many reasons for this, but briefly – although healthcare fraud and abuse regulations, medical privacy laws, and related legislation have long been on the books – healthcare was not yet a government enforcement priority in the way it is today. Additionally, with the advent of “Big Data,” information gathering that used to take government regulators six months to collect now takes sixty seconds. Regulatory compliance violations have gone from playing out in courtrooms to playing out on Excel spreadsheets. Coupling this with the avalanche of private litigation that has concurrently taken place over the last decade, the business rationale for increased focus by healthcare providers on compliance matters has become self-evident. At the same time, creating, implementing, and maintaining a robust compliance infrastructure on an organizational level is an expensive proposition for many healthcare entities. The development and human resource costs necessary to keep up with evolving compliance needs can be overwhelming. Consequently, this was a problem calling out for an innovative and business-focused solution.

And although the founders of the firm all come from a legal background, we quickly realized that the “old school” law firm structure – with its reactive rather than proactive professional service model; with its inability to serve an effective platform for non-attorneys, such as senior level clinical professionals and business analytics experts, who are so essential to the full suite of consulting services that we provide; and with its staggering fees for services – was obsolete and ineffective for what the industry needed. We set out to do things differently. We dispensed with the “memo only” approach taken by so many other professional service providers. Our consultants work directly with our clients’ executives and staff on a daily basis inside our clients’ businesses. We collaborate with our clients to build out robust compliance infrastructure. We don’t simply wait reactively for our clients to call us to resolve a business-ending compliance catastrophe, we proactively identify regulatory risk for our clients before disaster strikes. To use a healthcare-related analogy – although we serve as an emergency room when our clients need us, we’d much rather be in the position of the primary care provider practicing preventative medicine and save our clients a trip to the ER down the line.

CEOCFO: Who would your typical clients be? Would they be more hospitals, more large practices?

Mr. Merkin: We are fairly diverse in terms of the healthcare industries that we serve. We have the highest number of active clients in the long term care sector, such as skilled nursing and assisted living. This is because of the acuity of enforcement and third-party litigation in those areas. We also have clients in the hospital and hospice industry, physical therapy arena, behavioral health organizations, billing companies, substance abuse treatment centers, larger physician practices and surgical centers, as well as other areas. Additionally, because of our early embrace of technology, we are able to efficiently and effectively serve clients nationally, although we are headquartered in California.

CEOCFO: How do you keep ahead of the regulations so that you can advise your clients?

Mr. Merkin: The primary reason that we are so successful in constantly maintaining our expertise and knowledge base industry-wide -- especially in today’s healthcare landscape where new regulations are written and new legal precedents are handed down on a daily basis -- is because we really have a great and talented team of professionals. We have people from many different disciplines within healthcare -- people with hospital administration backgrounds; skilled nursing backgrounds; clinical backgrounds, including a physician; healthcare attorneys; and top notch business and revenue cycle experts. Each of us stays abreast of our own specific areas of knowledge and we are constantly publishing and speaking at conferences and seminars in our own fields of expertise. We are also relentless about intra-firm collaboration, cross-training each other in our skill sets, and sharing knowledge firm-wide. And beyond that, because we serve such a diversity

of clients, we constantly see what providers are doing in different healthcare sectors. Through that, we are able to absorb best practices from a variety of different disciplines within the industry and then use that knowledge for the benefit of our clients and in our work.

CEOCFO: *Would you give us a concrete example of how you are able to weigh user friendliness, regulatory and customer or patient considerations?*

Mr. Merkin: When you give regulatory compliance advice much of what you are doing is trying to balance risk with the costs of compliance, while focusing on patient outcomes. Of course, each one of those elements is important and has to be addressed in a way that appropriately weights the other. To give a specific example, recently we were working on a protocol for physician contracting for a large multistate skilled nursing facility provider client. We needed to put together a protocol that would work fully from healthcare fraud and abuse perspective and minimize regulatory enforcement issues. On the other hand, we needed to make sure that the advice that we were giving was something that would work from a practical “on the ground” perspective – meaning a protocol that also ensured resident care continued to remain paramount and facilitated access to the best quality of care, but that was fiscally realistic on an organizational level. What we came up with is something that we are extremely proud of and which has made an immediate impact on the client’s organization.

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CEOCFO: *There are many companies springing up in healthcare. How do you break through so that they even understand Compliagent exists?*

Mr. Merkin: There are two areas that make us really unique with respect to the competition. One is that you will have a hard time finding any firm that brings through one point of contact so many professionals with diverse backgrounds, experiences and education. As I said, we have MBAs, JDs, nurses, physicians and an alphabet soup of other qualifications and decades of experience under one roof. What I see in terms of other kinds of firms is that they tend to be focused on just one aspect of regulatory compliance advice. It might be the clinical side; it could be billing; it might be HIPAA training. In contrast, we bring points of view ranging from attorneys who have defended governmental enforcement actions and private healthcare industry lawsuits, on one hand; and from former hospital and healthcare facility administrators, on the other hand. In this way, we can anticipate how a compliance recommendation will play out both in the courtroom and in the boardroom. The second difference is that we live by the “teach a man to fish” rule. Meaning that our goal is to empower our clients by partnering with them to build and maintain their own compliance infrastructure. We see engagements through inception, implementation, training, and maintenance and remain involved as our clients need us.

CEOCFO: *Are you surprised at what you find when you are at a facility, when you see some of the steps that maybe the receptionist is doing that are so burdensome to fulfill something simple?*

Mr. Merkin: In our experience, we find that all of our clients truly want to do the right thing. Sometimes the true regulatory difficulty is a lack of understanding of the importance of compliance issues. We can solve that – both on the executive buy-in level and in the area of staff training. Other times, we find that a compliance problem is really a business cycle problem in disguise. We can address those problems too – and often realize cost savings for our clients in the process. From our industry-wide vantage point, we see a lot of recurring problems arising in many different contexts and in many different sectors within the healthcare industry. We’re great at identifying and resolving those kinds of issues because we can propose and implement corrections based on what we learn from all of our clients and from each other within the firm. In this way, we like to think of Compliagent as a bridge and a focal point of communication and innovation across many healthcare sectors.

CEOCFO: *When you are speaking with a prospective new client do they understand? Is there “an aha” moment when they recognize the difference?*

Mr. Merkin: Very often, when we onboard a new client, the first stage of the engagement is something that we call an initial assessment or more colloquially a “gap analysis.” Generally, the client thinks, “Well, there are a few issues I would

like you guys to look at. Maybe you can make some proposals.” Then, in the course of our early work, we invariably say, “Can we take a look at these documents too?”, or “Please let us see this data and talk to these department heads as well.” After that, an engagement that starts off with a narrow scope winds up expanding in ways that are even more effective for our clients. The “aha moment” that you mentioned comes when we uncover areas through our work for increased profitability, better health outcomes, or risk mitigation, that were previously unidentified.

CEOCFO: *What is your geographic reach today?*

Mr. Merkin: Our main office is located in Los Angeles, but we service clients nationally. We value face-to-face contact with our clients. It’s simply the best way to be effective. Our group is nimble and mobile and we can get on the ground at a client site anywhere in the country very quickly. But our technological infrastructure also allows us to do much of our analytical work remotely when necessary and to pass those savings off to our clients.

CEOCFO: *How is business?*

Mr. Merkin: Business is great! Our revenue has increased every quarter since the founding of Compliagent. This last quarter was not only our biggest quarter revenue-wise, it was also the quarter in which we experienced the highest rate of growth ever. We are very proud of that. We are growing both in terms of our geographic reach and industry involvement, and also along with our clients, many of whom are growing alongside us.

CEOCFO: *Are there particular issues or areas that you feel many of your clients do not look at and do not consider?*

Mr. Merkin: The biggest area in which we find room for improvement is the distance between compliance programming in theory and in practice. Many healthcare organizations – particularly large ones – have libraries full of well-intentioned policies and procedures drafted a decade ago and even personnel with compliance-related titles and position descriptions in their organizational charts. The reality on the ground, however, is often different. We find many providers where the culture of compliance impedes the practical application of those “on-the-books” aspirations. This is an area in which we can really be an asset to effect change. Organizational culture can be something that takes time and a real commitment to fix. But it’s always worth the investment -- both because it’s one of the most efficient ways to mitigate risk and because you are going to be left with a healthier business after all the hard work is done.

CEOCFO: *What might be different a year from now at Compliagent?*

Mr. Merkin: We will definitely be a larger organization. We have just added several new consultants and are in the market to hire more. We’re selective and train our new hires intensively, so it’s a process that really forces us to plan strategically and anticipate the market need. We are also continuing to work on geographic expansion. We already have strategic partnerships in place that allow us to have a significant presence in all the major healthcare markets in the U.S. In addition, we are constantly expanding across healthcare industries. One of the benefits of growth is that we are able to attract people with really deep knowledge of important areas in the healthcare industry to our team.

We are also in the beta testing stages of what we anticipate will be industry-disrupting software -- to be released in 2015 -- that will complement our work. Although we are a professional services firm, the technology component of what we do has always been a centerpiece of our strategic planning. It’s an area of the healthcare industry where there is a significant void in the market. There are some products out there that do bits and pieces of regulatory compliance analytics and management, but nothing that’s as comprehensive as what we envision.

CEOCFO: *It is a crowded industry. Why should people choose Compliagent Healthcare Solutions?*

Mr. Merkin: It’s no secret that healthcare compliance is a challenge. It’s a business challenge. It costs money. It is also a healthcare delivery challenge. Among the things that makes us unique as an organization is that we are able to propose and implement rigorous and effective compliance programming to organizations that will also lead to profitability increases and cost savings. In our work, we have learned that compliance red flags are often business red flags and profitability red flags. Just to give you an example, when we look at a compliance data point like the number of admissions from a healthcare provider’s top admitting physician over the course of the year, which is itself a regulatory compliance issue, it’s also a revenue issue. Similarly, when we present to an entity’s governing board the results of an audit of the organization’s use of psychotropic medications and propose a revamping of protocols, that’s a compliance issue, but it’s also a quality of care issue. In this day and age, if a healthcare provider is not paying attention to those metrics – and the hundreds of other metrics we monitor on its behalf -- not only is the corporation’s risk profile at stake, the organization is losing out on revenue. Therefore, our message to our clients is that a solid compliance infrastructure is going to save them money in the long run -- and even increase profitability through compliance analytics.



Compliagent Healthcare Solutions

For more information visit:

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