

# UNIVERSITY OF CALIFORNIA

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE EXECUTIVE VICE PRESIDENT—  
CHIEF FINANCIAL OFFICER

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May 12, 2011

To: Medical School Deans  
Hospital Directors  
Student Health Center Directors

Subject: Professional Liability Program Funding – 2011-12

The Professional Medical & Hospital Liability, General Liability, and Employment Practices Liability actuarial reports are now complete for FY 2011/2012. If you would like to review the reports in their entirety, please visit our website. The reports are located under “Risk Services Only” and requires a login and password. If you do not have the login and password, please contact Kenny Lim at [Kenny.Lim@ucop.edu](mailto:Kenny.Lim@ucop.edu) or 510-987-9591 and he will provide you with the required information.

As a result of our loss prevention and mitigation efforts, the Program is trending in a positive direction with an overall decrease of 2%. Loss prevention continues to be the key to controlling our self-insured and our insured expenses and financial liabilities. The 6% Prescription continues to result in a credit against our liabilities. We encourage you to participate in this program, the Be Smart About Safety Program for both General Liability and Employment Practices Liability (<http://www.ucop.edu/riskmgmt/bsas/>), as well as other loss prevention programs. We have also developed some “Working Smarter” initiatives for the medical centers. These include purchase of the EMMI Solutions license for all of the University medical centers and financial support for the use of Surgicount. Information on these initiatives is attached. If you would like more information about the 6% Prescription program please contact Terri Kielhorn at [Terri.Keilhorn@ucop.edu](mailto:Terri.Keilhorn@ucop.edu) or 510-987-9822 or visit the web site <http://www.ucop.edu/riskmgmt/profliab.html>.

If you have questions please contact myself, Terri Kielhorn, or Karen Vecchi at [Karen.Vecchi@ucop.edu](mailto:Karen.Vecchi@ucop.edu).

Regards,



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Budget Directors  
Campus/Medical Center Controllers  
Planning & Budget Officers  
Accounting Managers  
Hospital/Campus Risk Managers  
Director Lester  
Director Kielhorn  
Risk Manager Vecchi

**PROFESSIONAL MEDICAL & HOSPITAL LIABILITY  
2011/12 EXPENSE ALLOCATION AND FUNDING SCHEDULE**

5/12/2011

		<b>EXPENSE</b>	<b>Up to 6%</b>	<b>EXPENSE</b>			<b>EXPENSE</b>				<b>FUNDING</b>
		<b>Professional Liability<sup>(1)</sup></b>	<b>Prescription Rebate<sup>(2)</sup></b>	<b>Non-Patient General Liability</b>			<b>Employment Practices Liability</b>				<b>Total Funding</b>
				<b>Allocation</b>	<b>BSAS<sup>(3)</sup></b>	<b>Total</b>	<b>Allocation</b>	<b>BSAS<sup>(3)</sup></b>	<b>Non-Litigated<sup>(4)</sup></b>	<b>Total</b>	
<b>Berkeley</b>	Student Health Center	\$ 128,379	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -	\$ 128,379
<b>Davis</b>	School of Medicine	5,608,091	(336,485)	-	-	-	-	-	-	-	5,608,091
<b>Davis</b>	Medical Center	5,608,091	(336,485)	674,000	34,000	708,000	1,534,000	131,000	67,000	1,732,000	8,048,091
	Subtotal	11,216,182	(672,971)	674,000	34,000	708,000	1,534,000	131,000	67,000	1,732,000	13,656,182
<b>Davis</b>	Student Health Center	40,192	-	-	-	-	-	-	-	-	40,192
	Total	11,256,374	(672,971)	674,000	34,000	708,000	1,534,000	131,000	67,000	1,732,000	13,696,374
<b>Irvine</b>	School of Medicine	3,109,323	(186,559)	-	-	-	-	-	-	-	3,109,323
<b>Irvine</b>	Medical Center	3,109,323	(186,559)	294,000	15,000	309,000	320,000	27,000	14,000	361,000	3,779,323
	Subtotal	6,218,646	(373,119)	294,000	15,000	309,000	320,000	27,000	14,000	361,000	6,888,646
<b>Irvine</b>	Student Health Center	34,673	-	-	-	-	-	-	-	-	34,673
	Total	6,253,319	(373,119)	294,000	15,000	309,000	320,000	27,000	14,000	361,000	6,923,319
<b>Los Angeles</b>	School of Medicine	7,084,153	(425,049)	-	-	-	-	-	-	-	7,084,153
<b>Los Angeles</b>	Medical Center	5,744,573	(344,674)	716,000	36,000	752,000	1,487,000	127,000	65,000	1,679,000	8,175,573
<b>Los Angeles</b>	Santa Monica	1,166,407	(69,984)	173,000	9,000	182,000	96,000	8,000	4,000	108,000	1,456,407
<b>Los Angeles</b>	Neuropsychiatric Inst.	173,173	(10,390)	46,000	2,000	48,000	47,000	4,000	2,000	53,000	274,173
	Subtotal	14,168,306	(850,098)	935,000	47,000	982,000	1,630,000	139,000	71,000	1,840,000	16,990,306
<b>Los Angeles</b>	Student Health Center	109,877	-	-	-	-	-	-	-	-	109,877
	Total	14,278,183	(850,098)	935,000	47,000	982,000	1,630,000	139,000	71,000	1,840,000	17,100,183
<b>Merced</b>	Student Health Center	3,988	-	-	-	-	-	-	-	-	3,988
<b>Riverside</b>	Student Health Center	32,807	-	-	-	-	-	-	-	-	32,807
<b>San Diego</b>	School of Medicine	4,264,685	(255,881)	-	-	-	-	-	-	-	4,264,685
<b>San Diego</b>	CSSD	978,646	(58,719)	-	-	-	-	-	-	-	978,646
<b>San Diego</b>	Medical Center	4,264,685	(255,881)	510,000	25,000	535,000	217,000	18,000	9,000	244,000	5,043,685
	Subtotal	9,508,016	(570,481)	510,000	25,000	535,000	217,000	18,000	9,000	244,000	10,287,016
<b>San Diego</b>	Student Health Center	58,674	-	-	-	-	-	-	-	-	58,674
	Total	9,566,690	(570,481)	510,000	25,000	535,000	217,000	18,000	9,000	244,000	10,345,690
<b>San Francisco</b>	School of Medicine	5,957,673	(357,460)	-	-	-	-	-	-	-	5,957,673
<b>San Francisco</b>	Medical Center	4,261,033	(255,662)	310,000	15,000	325,000	877,000	75,000	38,000	990,000	5,576,033
<b>San Francisco</b>	Fresno	2,185,337	(131,120)	-	-	-	-	-	-	-	2,185,337
<b>San Francisco</b>	SF General	2,981,284	(178,877)	-	-	-	-	-	-	-	2,981,284
<b>San Francisco</b>	Langley Porter Institute	34,312	(2,059)	14,000	1,000	15,000	38,000	3,000	2,000	43,000	92,312
	Subtotal	15,419,639	(925,178)	324,000	16,000	340,000	915,000	78,000	40,000	1,033,000	16,792,639
<b>San Francisco</b>	Student Health Center	10,680	-	-	-	-	-	-	-	-	10,680
	Total	15,430,319	(925,178)	324,000	16,000	340,000	915,000	78,000	40,000	1,033,000	16,803,319
<b>Santa Barbara</b>	Student Health Center	69,080	-	-	-	-	-	-	-	-	69,080
<b>Santa Cruz</b>	Student Health Center	36,276	-	-	-	-	-	-	-	-	36,276
<b>GRAND TOTAL</b>		<b>\$57,055,415</b>	<b>\$ (3,391,847)</b>	<b>\$2,737,000</b>	<b>\$ 137,000</b>	<b>\$2,874,000</b>	<b>\$4,616,000</b>	<b>\$393,000</b>	<b>\$ 201,000</b>	<b>\$ 5,210,000</b>	<b>\$ 65,139,415</b>

(1) Based on the "Medical Malpractice Guidelines", a 50/50 split between Medical Center/Affiliates and the School of Medicine is shown above for professional liability except for UCSF.

(2) Professional Liability loss prevention rebate for 2011-12 is a 6% Prescription Premium Rebate program. A description is available on the Risk Services website at <http://www.ucop.edu/riskmgmt/profliab.html>.

(3) BSAS-Be Smart About Safety Loss Prevention Program (Guidelines & Application available at <http://www.ucop.edu/riskmgmt/bsas/>)

(4) Funding to cover Non-Litigated Employment Practices claims.

(5) Total funding of the annual cost for the fiscal year (does not include the potential 6% Prescription Rebate that is granted and approved based upon meeting program criteria).

## EMMI: REDUCING CLAIMS BY IMPROVING INFORMED CONSENT



### BACKGROUND / PROBLEM STATEMENT

Lack of informed consent and failure to appreciate known risks of procedures and treatment plans leads to patient dissatisfaction and is an underlying issue for many malpractice cases. Even if a physician has advised the patient of the risks, often documentation of the informed consent is lacking. Healthcare organizations struggle with improving patient communication – the challenges include ensuring the communication is done at the right educational level and uses terms the patient understands. Additionally, there is the issue of ensuring the communication of risks and benefits were explained to and understood by the patient and the patient’s family. The University of California has incurred liability and defense costs of \$5,268,043 over a five-year period in cases in which informed consent has been identified as a primary loss prevention issue. In addition to these costs, the University has suffered indirect expenses relating to these cases.

The EMMI Solution is an online system that helps patients and their families understand their diagnosis and treatment plans and options. Their program uses interactive media to engage patients.

### THE CHARGE / GOAL

Encourage the use of EMMI to improve patient communication, patient satisfaction and reduce malpractice issues related to informed consent.

### SUCCESSES

The EMMI Solution has assisted hospitals in obtaining a return on investment. Highlights of successes include:

- Measured “statistically significant” improvements in Press Ganey scores at The Methodist Hospital in Houston.
- Measured a 16% increase in HCAPS “overall rating of hospital” at Banner Estrella in Arizona.
- Measured a .7 day length of stay reduction at the University of Pittsburgh Medical Center
- Reduced surgical cancellation rates by two thirds at the Beaumont system in Michigan.
- Reduced call volume by 28% in bariatric surgery practices.
- Improved procedure attendance rates by 20% in the Gastroenterology Department at the University of Chicago hospital.

- Secured insurance discounts for hospital insurance captives from 3 large insurers: Beasley, Endurance and Allied World.
- Reduced OB malpractice claims by ½ at Nebraska Methodist Hospital.
- Over 2 million access codes have been provided to patients with only 8 claims from that patient population – none of these claims made it to court.

For the three (3) UC sites currently using EMMI, more than 87% of patients surveyed (UCLA 87%, Fresno 94%, UCSD 100%) indicated that EMMI covered risks they were not previously aware of. Between 82% and 97% of patients at these same sites (UCLA 82%, UCSD 87%, Fresno 97%) responded that EMMI answered questions that they would have called their doctor to discuss.

### CHALLENGES

Implementation challenges include the following:

- Contract development and rollout
- Introduction of new technology and altering workflow
- Education of physicians and staff to ensure patients are provided the data
- Physician and staff buy-in to the EMMI Solution.

### INITIAL INVESTMENT

The initial direct implementation costs for the UC system without discount would be \$304 per licensed bed if an enterprise license was purchased for all UC medical centers licensed beds (assuming the number exceeds 1,000 beds). These costs can be further reduced by capping the fees at a certain point if UC licenses over 2,000 beds assuming a systemwide contract.

### FISCAL RESULTS, CURRENT AND ANTICIPATED

By improving documentation and communication of risks of procedures, it is expected that the University of California professional liability program could have several millions of dollars related to direct costs of malpractice litigation. In addition, the indirect costs related to malpractice could also be avoided.

### CURRENT ACTION AND NEXT STEPS

Next steps will be to develop the 6% Prescription for next fiscal year to include a premium rebate and grant fund incentives to encourage all locations to implement the EMMI program.

### CONCLUDING STATEMENT

Improving documentation of informed consent discussions can assist greatly in the defense of malpractice cases. Improving the communication with the patient, the patient and family understanding of the procedures and the risks and alternatives, and improving patient satisfaction, can also contribute to reducing malpractice costs and can also have additional financial return on investment for the University.

## NO THING LEFT BEHIND: IMPLEMENTATION OF SURGICOUNT



### BACKGROUND / PROBLEM STATEMENT

Failure to maintain an accurate sponge count resulting in retained sponges is a common medical error that can cause patient harm, adverse publicity, and time and expense in litigation and with licensing body investigations and penalties. Despite national standards for sponge-counting the task is error prone for multiple reasons. Use of a data-matrix-coded system technology such as SurgiCount Safety Sponge System, has helped UCSF avoid retained sponge cases since 2007. Mayo Clinics similarly noted they were able to eliminate retained sponges over an 18 month research period.<sup>1</sup>

Although many retained sponges are detected in the early postoperative period, reports of retained sponges causing chronic symptoms or incidentally being found years to decades after the index operation occur. Retained sponges are associated with significant morbidity (small-bowel fistula, obstruction, visceral perforation, reoperations to remove the object) and, on occasion, death. Although the counting procedures may be well-designed and nearly universally performed, the counting task is error-prone because it is performed in a discontinuous fashion throughout a complex procedure with multiple interruptions, competing demands and tasks, and possibly numerous participants.

In addition to the potential for significant harm to patients caused by retained objects and the resulting claims of medical negligence, retained foreign bodies are considered to be “never events” by the Centers for Medicare & Medicaid Services (CMS) and CMS will not pay for surgery to remove the retained sponge. The events are also reportable events to the California Department of Public Health (CDPH). CDPH may impose administrative penalties.

The University of California medical centers have, over the course of 3 years, reported approximately 41 cases involving retained foreign bodies (not limited to sponges) to the CDPH. In addition, from January 1, 2006, through December 31, 2010, there have been 18 malpractice cases involving retained sponges. The total incurred for these cases is \$1,492,015.24 as of December 31, 2010. Involved clinicians may be reported to their California licensing body which can take action against clinicians involved in such cases.

### THE CHARGE / GOAL

In spring 2007 the SurgiCount technology was implemented at UCSF with the goal of eliminating retained sponges in surgical and obstetrical cases.

### SUCCESSES

Following implementation of the SurgiCount system, UCSF noted no retained sponge cases until February 2010; this case was due to a nurse failing to adhere to established procedures.

### CHALLENGES

Implementation challenges included the following:

- Introduction of new technology and altering workflow
- Providing uninterrupted time for sponge counts
- Audit sustainability
- Troubleshooting scanners
- Scanning last 2 sponges on the field
- Assertiveness training for nursing staff
- Lack of interface with PICIS OR Manager (operating room management system)

### INITIAL INVESTMENT

The initial direct implementation cost for UCSF was \$120,000 capital investment to purchase 50 scanners. In addition, sponge costs increased from \$1.50 per sponge pack to \$8.00 per pack. Other costs included policy revision, training of over 300 staff at 3 sites, assertiveness training for the nurses, and audits of sponge count procedures. According to SurgiCount, the incremental spend to implement their program throughout UC was estimated to be \$1,368,000.

### FISCAL RESULTS, CURRENT AND ANTICIPATED

UCSF was successful in avoiding cases of unidentified retained sponges from implementation in 2007 until the fall of 2010, thus avoiding costs related to malpractice cases and CDPH investigations and imposed administrative penalties. SurgiCount estimated net savings to the UC system at \$7,502,000. Assuming a more conservative savings of malpractice costs plus 2 times indirect costs, less increased implementation expenses, savings could amount to \$3,108,000 over a five year period.

### CURRENT ACTION AND NEXT STEPS

Next steps will be to develop the 6% Prescription for next fiscal year to include a premium rebate and grant fund incentives to encourage all locations to implement the SurgiCount system.

### CONCLUDING STATEMENT

Implementation of SurgiCount has helped UCSF improve patient safety and avoid costs related to retained sponges. Implementation of this technology by other University of California medical centers could save malpractice expenses, and other costs including lost staff productivity due to root cause analysis, depositions, and related investigations.

<sup>1</sup> *Using a Data-Matrix-Coded Sponge Counting System Across A Surgical Practice: Impact After 18 Months*, Cima, et. al., The Joint Commission, Feb 2011, Vol. 37, Number 2.