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April 10, 2009

The Honorable Dave Jones
Member of the Assembly
State Capitol, Room 6005
Sacramento, California 95814

Dear Assembly Member Jones:

On behalf of the University of California (UC), I am writing to respectfully advise you of our “oppose unless amended” position on AB 542 (Feuer). UC owns and operates academic medical centers (AMCs) at the Davis, Los Angeles, Irvine, San Diego, and San Francisco campuses, all of which will be impacted by AB 542. While UC and its AMCs are supportive of the bill’s laudable intent, we believe that the bill in its current form penalizes providers in instances where the adverse event could not be prevented. Moreover, because the method for assessing the financial penalty is not yet developed in the bill and the process for determining this offset is left to members of a committee, at some future date, in some cases representing those who might benefit financially from a calculation that may be construed as punitive, we are concerned about our ability to model the bill’s impact. This uncertainty will make it even more difficult to adequately plan for our sixteen healthcare professional schools, and other programs that we operate, in order to fulfill our tripartite mission of education, research, and complex care for the medically vulnerable of California.

Patient safety is the highest priority at UC and we embrace programs that help us improve patient outcomes. To that end, we believe that the bill can be amended to incent the development of effective safety programs throughout California, while also accounting for the unfortunate fact in healthcare that sometimes adverse events occur even when there has been no material deviation in the standard of care. Indeed, while the intention of AB 542--to expand reporting and enact non-payment policies for adverse events--is a noble one, it includes a list of events that are not all preventable, and have not been fully vetted to account for unintended consequences, including the continued instability of our healthcare infrastructure, and safety net.

The UC Medical Centers certainly agree that expenses should be borne by the provider for procedures on the wrong patient, the wrong limb, the wrong procedure, or when a foreign object is inadvertently left in the patient during a procedure.

UC also agrees that hospitals should not accept payment for preventable Hospital Acquired Conditions (HACs), as implemented by the Centers for Medicare and Medicaid (CMS).

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HACs, clearly defined by CMS, lead to a negative consequence of care resulting in an unintended injury or illness, and are generally accepted nationwide, and have gone through an extensive vetting process. CMS has identified these events as being reasonably preventable by employing evidence-based guidelines.

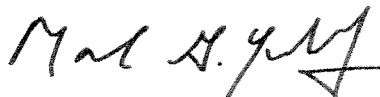
UC believes that the offset in payment for care rendered for HACs as defined by CMS, as applied by both commercial and public payers in California, should proportionally approximate the diminution in pay that CMS will be withholding in the federal Diagnosis-Related Group (DRG) system for similar adverse events. CMS has already undertaken a thorough process for vetting the list of events to be included in the non-payment list as well as the financial offset, so that the CMS non-payment program will provide the appropriate incentives, but will not unduly punish healthcare providers, and therefore the underlying health-care infrastructure, including our safety net hospitals, caring for our most vulnerable patients.

UC hospitals are committed to patient safety and to providing high quality patient care. UC greatly appreciates the leadership of Assembly Member Feuer in bringing together interested parties and we are committed to working with Assembly Member Feuer and his staff, and other stakeholders to develop a nonpayment policy that will create the appropriate incentives to improve patient outcomes. Consequently, while the University is opposed to AB 542, unless the bill is amended to narrow the events and conditions covered in the bill, and to remove provisions that unduly penalize health care providers for circumstances beyond their reasonable control, we are committed to working with Mr. Feuer on these issues.

Should you have any questions, please do not hesitate to get in touch with Manager of Health Policy for Health Sciences & Services Terry J. Leach, who can be reached at (510) 587-6241, or Associate Vice President of Clinical Services Santiago Muñoz, who can be reached at (510) 987-9062.

With best wishes, I am,

Sincerely,



Mark G. Yudof
President

cc: The Honorable Mike Feuer
Members, Assembly Health Committee
Interim Provost Lawrence Pitts
Executive Vice President Katherine Lapp
Senior Vice President Daniel Dooley
Senior Vice President John Stobo
Associate Vice President Steve Juarez
Associate Vice President Santiago Muñoz
Manager Terry Leach
Legislative Director Angela Gilliard