USF Health

USF Health - Morsani College of Medicine
GME POLICY & PROCEDURE

Title: Professional Liability Insurance Policy	GME-211
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Scope: Applies to all University of South Florida Morsani College of Medicine ("USF MCOM") residents and fellows ("Residents") in Accreditation Council for Graduate Medical Education ("ACGME") accredited and non-accredited/non-standard programs.

Background: As a member of the USF MCOM, Residents are provided with professional liability protection by the USF Self-Insurance Program ("SIP"). All Residents are provided with legal defense and protection through SIP for any non-criminal action brought against them and/or USF regarding their care of a patient in the course and scope of the residency. **SIP does not provide professional liability coverage during any moonlighting activities**. This coverage is claims made coverage and extends beyond the time period of the residency. It provides protection to Residents for claims brought after the residency arising out of professional services rendered in connection with employment at USF. With claims made coverage, tail coverage is unnecessary at the conclusion of your residency.

USF Residents are theoretically protected from liability by the doctrine of sovereign immunity. The doctrine of sovereign immunity provides that a University physician is an agent of the state and can only be sued in a lawsuit through the University Board of Trustees ("BOT") unless a Resident acts with "willful, wanton or reckless disregard" for the safety of a patient. § 768.28, Florida Statutes. Thus, in those instances where sovereign immunity protects a Resident from liability, the claim should be against USF BOT, not the Resident personally. Despite the fact that individual physicians should not be named in lawsuits, physicians are often still named as parties to lawsuits. However, if that occurs, counsel assigned by SIP will work diligently to get a physician dismissed from a lawsuit as expeditiously as possible. [Please note that each claim in which a Resident's care of a patient is at issue will appear on the Resident's "claims history," whether or not the Resident is formally named in a lawsuit.]

Policy: In connection with the protection provided by SIP, Residents have certain significant responsibilities, including full compliance with the SIP staff and SIP committee in the investigation, defense, and settlement of claims. Moreover, it is essential to the proper operation of SIP that Residents give immediate notice when they become aware of any event which may expose themselves and SIP to any loss or when they become aware of a claim or lawsuit against them. Timely notice enables the SIP to gather information while it is still "fresh" and arrive at an early determination of the merits of the claim or possible claim. If early notification to SIP occurs, steps can be taken immediately to prevent a future claim. Often, that opportunity is lost if SIP does not learn about adverse events until they become the subject of a claim.

Acceptance of Documents: Residents and program administrators may be personally served with various legal documents, including summons and complaints (lawsuits) or personal subpoenas which are related to house staff activities. If you receive such documents, please contact the USF General Counsel Office for advice at 813-974-2131 or http://generalcounsel.usf.edu/contact-us.asp. When time is critical, please hand-deliver to CGS 301 or transmit the document by facsimile (813-974-5236).

Procedure

Responsible Party	Action
Resident	Provides prompt notice of a reportable incident to the SIP Office at (813) 974-8008. Guidelines for reportable incidents follows.

SIP should be contacted immediately if:

- You are served with a summons and Complaint in a lawsuit involving medical negligence or if you receive a "Notice of Intent to Initiate Litigation"
- You are served with or otherwise receive any notice of a claim or potential claim
- You have received a subpoena to give testimony at a deposition, trial or hearing
- You believe there could be a potential claim against you based on a bad outcome or other information, such as a patient telling you he or she intends to sue you
- You are served with or otherwise receive a NICA petition or other document related to NICA (Florida's Birth Related Neurological Injury Compensation Plan)
- You receive any notification regarding impending action or investigation by the Florida Department of Health or Board of Medicine

Notification to SIP is imperative so that SIP can appoint counsel to protect both the Resident physician and the University's interest.

Additionally, the following are considered "reportable" and should be reported to the Program Director and to the SIP office (813) 974-8008, even if the Resident physician feels he or she did nothing wrong in the course of caring for the patient:

- Death – unexpected or unexplained;
- Paralysis, paraplegia or quadriplegia;
- Spinal cord injury;
- Nerve injury or neurological deficit;
- Brain damage;
- Total or partial loss of limb, or loss of the use of a limb;
- Sensory organ or reproductive organ loss or impairment;
- Injury which results in disability or disfigurement;
- Any injury to the mother or baby associated with birth;
- Any patient injury resulting from defective or malfunctioning medical paraphernalia;
- Any injury to anatomy not undergoing treatment;
- Any claim by a patient or family member that a patient has been medically injured;
- Any assertion by a patient or family that no consent for treatment was given;

- Any increase in morbidity due to misdiagnosis;
- An unanticipated iatrogenic injury

The Self-Insurance Program staff works to protect University physicians. Any attitude other than full cooperation could jeopardize physicians and the Self-Insurance Program. Further information may be obtained from:

- USF Self-Insurance Program 12901 Bruce B. Downs Boulevard MDC 43 Tampa, Florida 33612 Office (813) 974-8008 | Fax (813) 974-8114
  usfsip@health.usf.edu

SIP Office	Establishes incident reporting procedures. Reviews all incidents for the purposes of evaluating the loss potential of each. Upon a determination that an incident exposes the SIP to a potential loss, establishes an investigation file and initiates an investigation. Establishes a Claims Management Committee to review all potential and active claims protected under the SIP. Establishes a claims file for all incidents which expose the SIP to an indemnity or expense loss. Posts a provisional reserve for presentation to the SIP Council for approval or revision. Ensures Claims Management Committee reviews all claims for the purpose of identifying risk factors which may be subject to avoidance or reduction by the appropriate risk management techniques and makes recommendations to eliminate or reduce the frequency of patient injury incidents. Contracts with an attorney or attorneys to provide legal defense for parties and risk protected by the SIP in accordance with the SIP's Memorandum of Protection.

APPROVED:



Senior Associate Dean, Graduate Medical Education/DIO

Effective: 01/01/1999

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