

3364-10-16 Professional liability claims reporting and management.**(A) Policy statement**

The university of Toledo (“UT”) will promptly report all professional liability claims for UT and the university of Toledo physicians (“UTP”), that meet the criteria outlined in this policy, to the university of Toledo insurance program (“insurance program”). UT and UTP will promptly provide information related to actual or potential claims as required by this policy to the office of legal affairs, health science campus (“office of legal affairs”).

(B) Purpose of policy

To assure that all professional liability claims and anticipated potential professional liability claims of UT and UTP are appropriately managed to improve quality of care, reduce the financial impact to both UT and UTP and are properly reported to the insurance program for insurance coverage.

(C) Scope

This policy applies to all UT employees, residents and students and to all UTP practitioners (collectively “staff”).

(D) Procedure**(1) Classification of claims****(a) Class three claims:**

Lawsuits – summons and complaints served, regardless of court in which the action was filed.

(b) Class two claims:

(i) One hundred eighty-day letters (Ohio) or notices of intent (Michigan) that give notice of consideration of suing; or requests from patient, family or legal representative for medical records where the request form indicates that the party is considering filing a lawsuit; or

- (ii) Any written demands for compensation by patient, family or legal representative.
- (c) Class one adverse events (potential claims): Procedures or treatments that are not yet class two or class three claims and which may meet the following criteria:

 - (i) The event has resulted in an unanticipated death or major permanent loss of function, not related to the natural course of the patient's illness or underlying condition, including but not limited to unexpected deaths or unexpected outcomes of a serious nature:

 - (a) Unanticipated neurological, sensory or systemic deficits: including but not limited to brain damage, spinal cord injury, paralysis or nerve injury, organ failure or sepsis;
 - (b) Severe burns, including but not limited to thermal, chemical, radiological or electrical, resulting in extensive hospitalization and/or skin grafting;
 - (c) Severe internal injuries, lacerations, infectious processes, foreign body retentions, or sensory or reproductive organ injuries;
 - (d) Substantial disabilities, including fractures, amputations or disfigurements;
 - (ii) Any outcome that is classified as a sentinel event (per rule 3364-100-50-38 of the UT medical center (sentinel events/adverse events)) and requires a root cause analysis to be performed.

(2) Reporting of claims to UT

- (a) Any staff who has knowledge of a claim or potential claim, regardless of where the medical care was provided, is to report it to the office of legal affairs.
 - (i) Immediately hand deliver a copy of any lawsuit summons and complaint in which the staff, UT or UTP may be involved to the office of legal affairs the same day it is received.
 - (ii) Forward a copy of any one hundred-eighty-day letter/notice of intent to the office of legal affairs within two days.
 - (iii) Forward a copy of any written demand for compensation or information regarding a verbal demand to the office of legal affairs within two days.
- (b) If it is a potential claim as described above, follow the sentinel events/adverse events rule (3364-100-50-38) to report the event to the administrator on-duty as well as complete an on-line patient safety net event report (occurrence report). The office of legal affairs will be notified of the potential claim through the sentinel event/adverse event communication process.
- (c) If a claim or potential claim involves staff at non-UT facilities, the office of legal affairs will advise that facility's legal department and seek their collaboration in claims management as deemed necessary.

(3) Management of claims

- (a) If the claim is a lawsuit (class three claim):
 - (i) The office of legal affairs and risk management will:
 - (a) Prepare a claims file and enter the claim in the claims database with initial information and provide any subsequent updates in

information, reserves, defendants, settlements, dismissals, or other relevant information.

- (b) If the suit involves UTP or a UTP insured, inform the UTP chief financial officer and any UTP insured named in the action of the suit and provide them with a copy of the summons and complaint, if they were not the ones who originally received the documents.
- (c) Immediately impound any paper medical record in accordance with UTMC policy 3364-100-50-35 (impounded medical records).
- (d) Within a reasonable time period, retrieve any related occurrence reports and related documents, such as root cause analysis, relevant to the event. If the event may meet criteria of a sentinel event, follow policy 3364-100-50-38 (sentinel events/adverse events).
- (e) Within a reasonable time period following the receipt of the lawsuit, have an initial review of the medical record and preliminary interviews conducted with staff who are involved in the case; develop a case summary with an initial summary and assessment of the event.
- (f) Within ninety days, or as records become available, present the case summary to the standard of care committee for review and determination of standard of care issues.
- (g) Ensure that reserves are set by the claims management committee, if appropriate per rule 3364-10-04 of the Administrative Code,

following the determination by the standard of care committee.

- (h) Reserves may be established for involved parties, even though not specifically named as a defendant.
- (i) Select defense legal counsel if the matter is not handled by the court of claims defense section.
- (j) Coordinate litigation with defense legal counsel.
- (k) Coordinate with risk management to develop and prepare loss run reports from the claims database as needed. Month-end reports will be submitted to the insurance program broker.
- (l) Collaborate with defense legal counsel in quarterly reporting on any significant changes in the status of litigation to the claims management committee.
- (ii) Defense legal counsel will:

 - (a) Collaborate with and report no less than quarterly to the office of legal affairs regarding the status of case management and defense strategy.
 - (b) Involve and collaborate with necessary parties in settlement discussions as required by the applicable policies.
 - (c) Report, as necessary, to the office of legal affairs any major discoveries or changes in defense strategies that could affect the reserve and/or outcome of the case.

(b) If claim is a one hundred-eighty-day letter, notice of intent or a written demand for compensation by patient, family or legal representative (class two claim):

(i) Office of legal affairs and risk management will:

(a) Prepare a claims file and enter the claim in the claims database with initial information and provide any subsequent updates in information, reserves, defendants, settlements, dismissals, or other relevant information.

(b) If the claim involves UTP or a UTP insured, inform UTP executive director and any UTP insured addressed in the claim of the correspondence and provide them with a copy if they were not the ones who originally received the documents.

(c) Immediately impound any written medical record in accordance with UT medical center policy 3364-100-50-35 (impounded medical records).

(d) Within a reasonable period of time, retrieve any related occurrence reports and other documents, such as root cause analysis, relevant to the event. If the event may meet the criteria of a sentinel event follow policy 3364-100-50-38 (sentinel events/adverse events).

(e) Within a reasonable time period following the receipt of a class two claim, have an initial review of the medical record and preliminary interviews conducted with staff who are involved in the case; develop a case summary with an initial summary and assessment of the event. If the case did not

take place at a UT facility and records are not available, then a partial case summary is completed.

(f) Evaluate whether there is enough information or the event rises to the level of concern where it should be presented to the standard of care committee for its review. Present the case summary to the standard of care committee for review and determination of standard of care issues.

(g) Ensure that reserves are set by the claims Committee, if appropriate per rule 3364-10-04 of the Administrative Code, following the determination by the standard of care committee.

(h) Reserves may be established for involved parties, even though not specifically named as a defendant.

(i) Coordinate with risk management to develop and prepare loss run reports from the claims database as needed. Month-end reports will be submitted to the insurance program broker.

(c) If the claim is a potential claim (class one claim):

(i) Office of legal affairs and risk management will:

(a) Retrieve any related occurrence reports and other documents, such as a root cause analysis relevant to the event.

(b) If an event may meet the criteria of a sentinel event but was not previously identified as such, communicate with quality management to determine if it had previously been reported and whether a root

cause analysis had been done or should be done.

- (c) If a root cause analysis is not being done by quality management, conduct an initial review of the medical record and make an initial assessment of the event.
- (d) Following the review, determine whether the event should be reported on the loss run for insurance purposes and if there is a need to impound any written medical records at this time.
- (e) Determine the nature of the potential claim and evaluate its validity, its potential of evolving into an actual claim. Evaluate whether there is enough information or the event rises to the level of concern where it should be presented to the standard of care committee for its review.
- (f) Coordinate any claims management strategy or resolution with the claims management committee, if appropriate, per rule 3364-10-04 of the Administrative Code.

(4) Office of legal affairs contact information:

- (a) Phone number: 419-383-4577
- (b) Fax number: 419-383-3896
- (c) Mail stop ("MS"): MS one thousand one hundred six

(5) Confidentiality: All committee minutes, assessments, reports and other documents concerning the reporting and management of claims are considered confidential as attorney work product and peer review.

Effective: 10/29/2018

CERTIFIED ELECTRONICALLY

Certification

10/18/2018

Date

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