

**THE UNIVERSITY OF TEXAS
SYSTEM**



**PROFESSIONAL
MEDICAL LIABILITY
BENEFIT PLAN

HANDBOOK**

FY 2017-2018

This handbook summarizes coverage, exclusions, and responsibilities under The University of Texas System Professional Medical Liability Benefit Plan (Plan) and is to assist you in reporting incidents or claims. Coverage is subject to the terms, conditions, and limitations of the approved Plan and the interpretations thereof by the Board of Regents of The University of Texas System and/or the Plan Administrator.

All questions pertaining to the operation of the Plan should be referred to the Vice Chancellor and General Counsel (Administrator) or the Deputy Plan Administrator.

Daniel H. Sharphorn
Vice Chancellor & General Counsel
The University of Texas System
210 West Seventh Street
Austin, TX 78701
(512) 499-4462
dhsarphorn@utsystem.edu

Allene D. Evans
Senior Associate General Counsel and Managing Attorney, Health Law
Deputy Plan Administrator
Office of General Counsel
The University of Texas System
210 West Seventh Street
Austin, TX 78701
(512) 499-4630
aevans@utsystem.edu

PLAN LIAISONS

Questions pertaining to participation in the Plan may be directed to the following Plan liaisons who function as the directors of professional liability/risk management of the respective institutions. All incidents, notices of health care liability claims, and lawsuits should also be reported to the Plan liaison or designated risk manager.

The University of Texas at Arlington

John Hall
Vice President for Administration and Campus
Operations
P.O. Box 19119
Arlington, TX 76019-0119
(817) 272-2102 Fax (817) 272-5805

The University of Texas at Austin

Patricia A. Ohlendorf, JD
Vice President for Legal Affairs
Department of Legal Affairs
PO Box R
Mail Code G4800
Austin, TX 78713
(512) 471-1241

Jamie Shutter
Director, University Health Services
P.O. Box 7339
Mail Code A3900
Austin, TX 78713
(512) 475-8349 Fax (512) 471-0898

The University of Texas at Dallas

Tim Shaw
University Attorney
Office of Administration, Room 2.412
800 West Campbell Road, AD35
Richardson, TX 75080
(972) 883-5291 Fax (972) 883-2212

The University of Texas at El Paso

Andrea Cortinas
Executive Director
Legal Affairs, room 403
500 West University Avenue
El Paso, TX 79968
(915) 747-5056

The University of Texas at Rio Grande Valley

Karen E. Adams, J.D.
Chief Legal Officer
2102 Treasure Hills Blvd
Harlingen, TX 78550
(956) 296-1416 (direct)

The University of Texas at San Antonio

Beth Wichman, M.D.
Executive Director of Student Health Services
6900 N. Loop 1604 West
RWC 1.500
San Antonio, TX 78249-0684
(210) 458-4142 Fax (210) 458-4151

The University of Texas Southwestern Medical Center

Joan Porter, J.D.
Director, Medical Risk Management
Office of Vice President for Legal Affairs
5323 Harry Hines Boulevard
Dallas, TX 75390-9172
(214) 648-6905 Fax (214) 648-6914

Cecilia Montoya, R.N.
Risk Manager
Office of Vice President for Legal Affairs
5323 Harry Hines Boulevard
Dallas, TX 75390-9172
(214) 648-6903 Fax (214) 648-6914

The University of Texas Medical Branch at Galveston

Carolee A. King, J.D.
Senior Vice President & General Counsel
Office of Legal & Regulatory Affairs
Suite 6.100 Administration Building
301 University Boulevard
Galveston, TX 77555-0124
(409) 772-1904 Fax (409) 772-5064

The University of Texas Health Science Center at Houston

Melissa Pifko, J.D.
Vice President & Chief Legal Officer
P.O. Box 20036
7000 Fannin
Houston, TX 77225-0036
(713) 500-3268 Fax (713) 500-3275

Catherine R. Thompson, R.N., M.P.H.
Healthcare Risk Manager
P.O. Box 20036
7000 Fannin
Houston, TX 77225-0036
(713) 500-3268 Fax (713) 500-3275

The University of Texas Health Science Center at San Antonio

Jack C. Park, J.D.
Chief Legal Officer
7703 Floyd Curl Drive
San Antonio, TX 78229-3900
(210) 567-2020 Fax (210) 567-3869

Kathy Geoghegan, R.N., B.S.N.
Director of Risk Management & Loss Prevention
7703 Floyd Curl Drive, Rm 344AAB
San Antonio, TX 78229-7837
(210) 567-2019 Fax (210) 567-3869

PLAN LIAISONS cont...

**The University of Texas M. D.
Anderson Cancer Center**

Steven R. Haydon, J.D.
Vice President and Chief Legal Officer
Legal Services – Unit 1674
P.O. Box 301407
Houston, TX 77230-1407
(713) 745-6633 Fax (713) 745-6029

Holly Rumbaugh, J.D.
Managing Legal Officer
Legal Services – Unit 1674
P.O. Box 301407
Houston, TX 77230-1407
(713) 745-6633 Fax (713) 745-6029

**The University of Texas Health Science
Center at Tyler**

Terry Witter,
AVP/Chief Legal Officer
11937 US Highway 271
Tyler, TX 75708-3154
(903) 877-7704

INTRODUCTION

The University of Texas System Professional Medical Liability Benefit Plan (Plan) provides medical liability insurance for certain health care providers of The University of Texas System (System). This booklet contains general information regarding eligibility for coverage, covered claims, exclusions from coverage and limits of coverage.

ELIGIBILITY

The Plan provides liability indemnity for medical liability claims to its participants, subject to the terms and conditions of the Plan as approved by the U.T. System Board of Regents. "Plan Participant" includes:

1. Staff physicians and dentists appointed to the faculty of an institution of the System;
2. Residents and fellows enrolled at a U.T. medical or dental institution or school and participating in a patient-care program of the System;
3. Staff physicians and dentists appointed to the faculty of a medical school or hospital of the System on a part-time or volunteer basis who either devote their total professional service to such appointments or provide services to patients by assignment from the department chair;
4. Medical students, when participating in an approved patient-care program under the direct supervision of a faculty member;
5. Medical doctors employed in student health services at an institution of the System; and
6. System institutions against which a liability claim is made that arises from the treatment or lack of treatment by any of the above Plan Participants.

COVERED CLAIMS

A "medical liability claim" is a claim or a cause of action alleging treatment or lack of treatment that departs from accepted standards of medical care which proximately results in the injury or death of a patient.

In order to qualify as a "covered claim" the medical liability claim must arise from the participant's employment, official duties, or training with the System. Treatment rendered in the performance of these official duties must occur within the United States, its territories or possessions, or Canada. For "medical liability claims" arising from treatment rendered in any other foreign country, however, specific additional international coverage must have been purchased and specific conditions of participation must be met. Note: For international coverage, lawsuits must be filed in the United States.

“Disciplinary and Licensing Actions” which are covered include any disciplinary, licensing, or similar administrative proceeding brought against a participant by the Texas Medical Board or Texas State Board of Dental Examiners that arises from a covered activity, except where a potential conflict of interest exists between the Participant and The University of Texas System or its institutions with regard to a potential or pending employment or administrative matter. In certain circumstances, out of state disciplinary proceedings may also be covered.

Coverage of participants for Disciplinary and Licensing Actions is limited to legal representation of the participant by an attorney in a proceeding brought against the participant by the Texas Medical Board or Texas State Board of Dental Examiners that arises from a covered activity.

Coverage provided by the Plan is on an occurrence basis, meaning that a participant is covered for all claims and lawsuits that arise from treatment, regardless of when the claim or lawsuit is filed.

EXCLUSIONS FROM COVERAGE

A complete list of exclusions is contained in the Plan document maintained by the Plan Administrator. The following is a partial list of coverage exclusions for medical liability claims as well as disciplinary and licensing actions:

1. Injury arising out of any illegal, dishonest, fraudulent, criminal or malicious act or omission;
2. Any claim or lawsuit based upon the violation of a state or federal law;
3. Injury arising out of any sexual conduct of the participant;
4. Injury caused while the participant is acting under the influence of alcohol or drugs;
5. Any claim or lawsuit arising from actual or alleged discrimination based upon race, religion, color, sex, national origin, age, or handicap against a patient or employee;
6. Property damage;
7. Punitive or exemplary damages;
8. Any claim or lawsuit arising out of professional services which occur after the termination of the faculty appointment, residency, or medical student status with the System;
9. Any claim or lawsuit arising out of professional services billed for by the participant but not deposited in a System institution practice plan, trust-affiliated foundation or certified not-for-profit corporation as approved by the Board;

10. Any claim or lawsuit arising out of professional services performed for professional fees, salaries, or other compensation by a participant outside of their employment, appointment or enrollment with the System.

LIMITS OF LIABILITY OF THE PLAN

These limits apply unless lower liability limits are set by law, in which case the lower limits apply:

Annual Policy Aggregate:	\$30,000,000
Staff Physician:	\$500,000 per claim / \$1,500,000 annual aggregate
Resident:	\$100,000 per claim / \$300,000 annual aggregate
Medical Student:	\$25,000 per claim / \$75,000 annual aggregate

Per Incident Limitation: Liability is limited to \$2,000,000 per claim, regardless of the number of the claimants or physicians involved in an incident.

For an additional premium, medical students may be eligible for additional coverage when enrolled in an approved “externship” outside of the State of Texas.

For an additional premium and upon meeting specific criteria, physicians may be covered while providing medical services internationally on behalf of UT System.

For an additional premium and upon meeting specific criteria, physicians may be eligible for additional levels of coverage for approved out of state medical services.

Limitation on Disciplinary and Licensing Actions: Up to \$25,000 in costs and expenses incurred in connection with the investigation and defense of a single disciplinary and licensing action brought against the participant, unless there is a discretionary determination of necessity to exceed this limitation up to \$35,000; and up to \$100,000 for all such proceedings during an annual enrollment period.

RESPONSIBILITIES OF THE PARTICIPANT

Procedure for Reporting Incidents

Any incident that is not consistent with the routine operation of a hospital or clinic or the routine care of a particular patient should be reported to the U.T. health institution Plan liaison or designated risk manager, who will request a written report on behalf of the institution’s Professional Liability Review Committee and the Office of General Counsel.

Written reports requested by the institutional Plan liaison on behalf of the Office of General Counsel and the institution’s Professional Liability Review Committee are prepared in anticipation of litigation and are confidential under the privileges accorded to attorney-client communications and peer review committee investigations. Participants should

inform their department chair that they are reporting an incident to the Plan liaison. However, **NO WRITTEN NARRATIVE REPORTS** should be given to the department chair because the institutional Professional Liability Review Committee comprised of clinical chairs or their deputies, will request and review all narrative reports in order to conduct a confidential medical peer review of the incident. Reports of incidents involving a resident insured by an affiliated teaching hospital's liability coverage will be referred to the hospital risk manager's office.

Procedure for Reporting a Notice of Claim or Lawsuit

For your own protection and to comply with the conditions of this Plan, all written notices of claims or legal actions must be reported promptly. Time is of the essence in the proper disposition of any claim or legal action and **FAILURE TO NOTIFY** the Office of General Counsel via the Plan liaison or designated risk manager may **JEOPARDIZE YOUR COVERAGE**.

1. Whenever a participant receives notice of a health care liability claim or is served with a citation and petition the following steps should be taken **IMMEDIATELY**:
 - a. Inform the department chair or deputy of the receipt of a notice of a health care liability claim or lawsuit.
 - b. Proceed immediately with all legal papers to the Plan liaison or designated risk manager at your institution (see List of Plan Liaisons above) who will forward all documents to the Office of General Counsel. The Office of General Counsel, assisted by the institution's Professional Liability Committee, Plan liaison and risk manager, will investigate the claim.
 - c. Refer all further inquiries by the patient or his attorney to the Office of General Counsel via the Plan liaison or risk manager.

2. If a participant who is no longer employed by the System or enrolled in the Plan receives a notice of health care liability claim or citation and petition regarding an alleged incident that occurred while the participant was covered under the Plan, the participant should take the following steps:
 - a. Advise the Plan Liaison or designated risk manager by telephone of such notice, or citation and petition. The Plan Liaison or designated risk manager will immediately contact the Office of General Counsel.
 - b. As soon as possible, all legal documents should be forwarded to the Office of General Counsel via the Plan Liaison or designated risk manager.

Once a notice of claim is received or a lawsuit is filed, the participant, upon request of the institutional Professional Liability Committee and the Office of General Counsel may be asked to complete a narrative report.

Upon receipt of a citation and petition served upon a participant, the Office of General Counsel will select a defense attorney to represent the participant in the lawsuit. All legal

fees and expenses are paid by the Plan and are not deducted from the limits of liability coverage of a participant.

SETTLEMENT DECISIONS

The Administrator of the Plan (Vice Chancellor and General Counsel), has the ultimate authority to settle a claim or lawsuit, subject to additional approvals required by the Board of Regents. It is, however, the practice of the Office of the General Counsel to include the participant in any discussions of settlement of a claim where payment will require a written report to be made to the National Practitioner Data Bank.