



MEMORANDUM

September 10, 2019

To: Whom It May Concern
From: Daniel H. Sharphorn
Subject: Insurance and Indemnification of The University of Texas System

The following information accurately summarizes the current state of affairs with respect to certain insurance and indemnification matters governing the academic and health institutions of The University of Texas System.

The University of Texas System is composed of 14 institutions, as well as UT System Administration. As an agency of the State of Texas, The University of Texas System is precluded from granting full indemnity in an agreement with another entity. This preclusion has two bases, the first of which is the Texas Constitution. Primarily, Article 3, Sections 50-52, of the Constitution generally provide that the State has no power to give, lend, or pledge the credit of the State to any person, association, or corporation.

The second basis for the preclusion is the doctrine of sovereign immunity, which, although abrogated in other states, continues to be the rule in Texas. A governmental unit, such as a University of Texas System institution, is immune from suit and liability unless the State (i.e. the Legislature) consents to the suit. *Dallas Area Rapid Transit v. Whitley*, 104 S.W.3d 540, 542 (Tex. 2003). Legislative consent to suit, whether expressed by statute or otherwise, must be given in clear and unambiguous language. Tex. Gov't Code § 311.034; *University of Texas Medical Branch v. York*, 871 S.W.2d 175, 177 (Tex. 1994).

Employees of The University of Texas System are provided workers' compensation insurance coverage under a self-insured, self-managed program as authorized by the Texas Labor Code, Chapter 503.

The University of Texas System purchases automobile liability insurance for all University-owned, -hired and non-owned vehicles with limits of at least \$250,000 per person and \$500,000 per accident for bodily injury and \$100,000 for property damage. As discussed below, these damage limits are set by statute. The University of Texas System retains the right to self-insure automobile liability in the future if it is deemed to be in its best interest.

Because of the doctrine of sovereign immunity, The University of Texas System, an agency of the State of Texas, does not purchase general liability or employer's liability insurance for alleged torts committed by its employees who act within the scope of their employment, except in limited circumstances. However, the Texas Tort Claims Act ("the Act"), Chapter 101 of the Texas Civil Practice and Remedies Code, does provide a limited waiver of sovereign immunity for claimants



who make tort claims under its provisions. These claims fall into two general areas: (i) injuries arising out of use of publicly owned motor vehicles and motor-driven equipment, and (ii) injuries arising out of conditions or use of property.

The University of Texas System's liability under the Act is limited. Under the Act, liability in cases of personal injuries or death is limited to a maximum amount of \$250,000 per person and \$500,000 for each single occurrence. The maximum amount of liability for injury to or destruction of property is \$100,000 for each single occurrence.

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