



RISK SERVICES TODAY

Letter from the Editor

September, 2005

Welcome to the first issue of *Risk Services Today*. We hope this newsletter will serve as a communication tool to inform you of risk management issues, whether it be trend developments, best practices, successfully implemented programs, case reviews (win or lose), unique risks others may not think about, helpful hints on reducing the cost of risk, or what's new in Risk Services. We would like to reach beyond local campus and medical center risk management offices because in reality it's up to everyone to be aware of and help control the risks in the University environment: "Everyone is a Risk Manager".

The Office of the President, Office of Risk Services would like to introduce you to the University's Chief Risk Officer, Grace Crickette. She is new to the University and her featured article will lead you on a path to reduce the cost of risk.

A new addition to our office is Director of Environmental Health and Safety (EH&S) Joe Adams, who will provide you with an introduction to EH&S at the University. The primary goal of EH&S is loss prevention because when you prevent an accident from happening "everyone wins".

Other features in this issue include:

- Implementation of a successful program at UC Davis Health System emphasizing that our employees are the most important customers – a best practice brought to you by Risk Management. Maybe this can work at your location as well
- An ongoing concern for employers is Workers' Compensation fraud – a waste of monetary and administrative resources. The key to fighting fraud is timely communication.
- A synopsis of a case recently taken to trial – yes, the University can be successful in taking cases to trial even when up against the toughest opponent. And when successful, the plaintiff may be ordered by the court to pay the University.

We're also introducing a new Aon service team to help answer your questions about insurance requirements and certificate of insurance issues. Their services are being provided in response to requests for assistance needed in this area. We encourage you to use the services of this new Aon team.

If you have programs and success stories to share, something of interest happening in your Risk Management world, or suggestions for future articles, please send them to the newsletter editor.

Until the next issue,

Cindy Low, Editor
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The Cost and Rewards of Risk

By Grace M. Crickette



Every day we make choices in our personal and professional lives that involve risk. We usually associate risk as being negative; something that could go wrong - a choice with a downside. Often, the biggest risk that we take is the decision not to do something and then we have a missed opportunity. Taking on the role of Chief Risk Officer at the University required personal and professional risks: leaving a job I had enjoyed for over 13 years, moving my family to a new city, going from operating in the private sector to the public sector. With great risk comes great reward, and although it has only been 9 months since my arrival, I am certain I made the right choice and I'm grateful for the opportunity I have here at UC.

UC is constantly in motion, choices are being made, and risk is inherent in everything the University does or does not do. As the Chief Risk Officer my goal is to:

- Create a risk aware culture.
- Formally bring consideration of risk into strategic decision-making.
- Develop a center of excellence for managing risk, drawing on the expertise of highly-skilled individuals throughout the University.

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"Does the University ever try cases or do we just settle?"

Risk Services manages and funds the defense of employment practices liability claims. Employment practices claims are claims or lawsuits alleging wrongdoing that University employees or applicants of employment bring against the University. These claims can be difficult. Often each side is extremely polarized; each believing that their view of the case is right.

Risk Services is often asked, "Does the University ever try cases?" The short answer is "yes." Sometimes we win and sometimes we lose. We learn how to improve our services and operations from all cases.

Below, you will find a synopsis of a case recently taken to trial where the University prevailed.

The law firm of Gordon & Rees, LLP recently earned a defense verdict in a sexual orientation, age discrimination and retaliation lawsuit. Californian politician and nationally prominent plaintiff's attorney Angela Alioto represented the plaintiff, a prominent physician who had been employed at UC for over 20 years. The plaintiff claimed that beginning around 1994 he began experiencing

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University ever try cases *continued from front*

discrimination for both his age and sexual orientation and retaliation for complaining about discrimination. He sued the Regents of the University of California as well as the chairman of his department and several other professors.

The plaintiff alleged that he had been demoted, passed over for promotion and subjected to an unfair investigation, all due to the discriminatory actions of his superiors. He argued that when he complained about unfair treatment, he was transferred to a less desirable job where he earned less money. UC contended that its actions were necessary and based appropriately on the plaintiff's repeated abusive behavior towards staff and physician subordinates, which

included yelling and name calling. UC argued that the plaintiff acted abusively when the job became stressful, so the chairman transferred him to a less stressful environment in which he could be monitored more closely.

The plaintiff claimed more than \$400,000 in lost wages and his settlement demand never fell below \$1,000,000. After 17 days of trial, the jury returned a verdict in favor of the University. The Court denied a motion for new trial and ordered that plaintiff pay UC's court costs (approximately \$10,000) which were successfully recovered.

If you have any questions about Employment Practices claims, please contact Cheryl Lloyd at 510-987-9289 or cheryl.lloyd@ucop.edu

Fraud in the Workers' Compensation Arena

By Hugh Parker, Director of Workers' Compensation and Disability Management, UC Davis Health System

Shane Cole, Regional Claim Manager, Octagon Risk Services



Taking time off the crutches for a round of golf.

Workers' Compensation fraud remains an ongoing concern for all employers doing business in the State of California. It affects employers from every segment of the business community, and the University of California is no exception. Fraudulent claims waste both monetary and administrative resources.

During Fiscal Year 2002-03 the California Department of Insurance recorded 3,544 suspected fraud case referrals, with 660 of those cases being prosecuted by local District Attorneys. These efforts represented approximately \$55,000,000 in chargeable fraud, although the actual number of fraudulent cases is thought to be greater.

Keys to successful prosecution of fraud cases include timely notice of the suspected fraud, coordinated and timely gathering of supporting evidence and clear direction to the local District Attorney responsible for prosecution. The ability to prove that the applicant is lying to obtain benefits is crucial to the successful prosecution of a suspected fraud case. This requires that supporting evidence (video

tape, deposition, etc.) be obtained within approximately the same time frame that the applicant makes a false statement intended to obtain benefits that would not otherwise be due.

Workers' Compensation fraud can take the form of employee (applicant) fraud, employer (premium) fraud, and medical provider fraud. Applicant Workers' Compensation fraud includes, but is not limited to:

- Working in an unreported second job while collecting Workers' Compensation temporary disability benefits.
- Providing false information to the employer, insurance company, or physician(s) to secure Workers' Compensation benefits.
- Staging an accident/injury to secure Workers' Compensation benefits.
- Providing false and/or incomplete disability information to the hiring authority during a pre-employment physical examination.

In 2002, the University of California Davis Health System (UCDHS) Chief Executive Officer Robert Chason and Human Resources Executive Director Gloria Alvarado requested that the Workers' Compensation Unit and Octagon take an aggressive approach to rooting out suspected fraud cases. Mr. Chason also requested that the Workers' Compensation Unit publish periodic fraud information in the UCDHS Workers' Compensation Supervisors Update newsletter as an informational item and potential deterrent. We believe this publication has captured the attention of many at UCDHS.

By way of example, consider a recent success story. The employee in question suffered an accepted injury resulting in temporary disability. The employee failed to disclose secondary employment that would have eliminated this employee's entitlement to temporary disability benefit. Based on excellent communication between the Workers' Compensation unit and Octagon Risk Services, an investigation was undertaken and the secondary employment was fully

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Best Practice: Professional Liability Coordination

Customer Service Comes First

At UC Davis Health System (UCDHS), we consider our employees our most important customers. Their satisfaction with our services is a priority to us. In order to make this principle of customer service a reality we implemented the Professional Liability Coordination Meeting process in November 2003. This was founded on the belief in the importance of including the employee in the litigation process early on. We also understood that failure to involve the employee early in the process of litigation could negatively impact the defense of the case.

Coordination Meeting participants include the involved or named employee(s), defense counsel, the University's third party claims administrator (Octagon Risk Services, Inc.), and UCDHS Risk Management staff. After a brief discussion by Risk Management as to the purpose of the meeting, defense counsel has an opportunity to speak to the attorney-client privilege and how to protect it and to discuss the allegations as outlined in the complaint. Additionally, this is a perfect opportunity to discuss the employee's obligations in relation to the lawsuit, e.g., making oneself available for depositions and perhaps trial, being responsive to requests for information, etc. Risk Management staff also provide an overview of the Claims Allocation process at the Coordination Meeting.

The employee is provided contact information for Risk Management staff, defense counsel, Octagon Risk Services, and select UC Office of the President staff. Documents on deposition

and trial testimony as well as legal terms are provided to the employee. Copies of these documents were provided to our defense counsel panel and all gave a thumbs-up to including the documents in the employee's packet.

After the Coordination Meeting the UCDHS employee is kept informed regarding the case through regular updates by the assigned Risk Management Analyst. We initially provided these notices quarterly and recently changed to every 6 months as we found there was often little new information to provide quarterly. If something substantial develops during the time period between updates, however, we provide the information at that time. The information is brief and usually very general in nature. Assigned defense counsel is copied on all written communication.

We find the updates to be very useful as customer service tools and use this process in all our cases, whether or not they are litigated. Once an employee is identified as potentially responsible in a claim or suit, the employee is contacted by Risk Management and provided regular updates from then until the date the case is closed.

We have a future goal of asking the employee to complete an evaluation form at the conclusion of a case in order to assess our customer service.

Please contact Kathy Rowe at 916-734-2161 or kathleen.rowe@ucdmc.ucdavis.edu if you want additional details on this program.

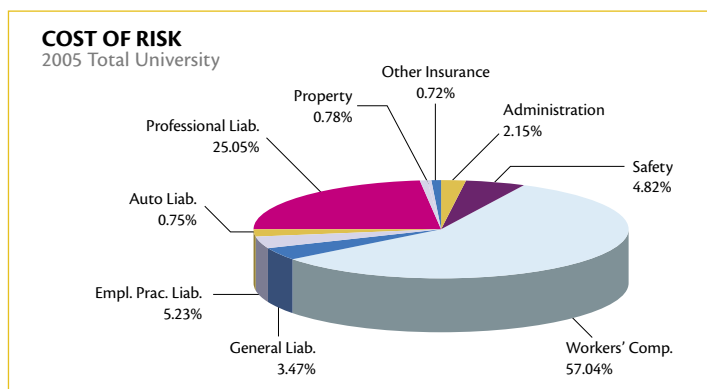
Cost and Rewards *continued from front*

- Communicate to stakeholders and be an advisor to other executives and managers.

In the last 9 months, I have spent most of my time away from my desk and out at the locations learning about the University, meeting with a variety of people representing many different disciplines, and listening to and working with many talented risk management and healthcare professionals to develop strategies to reduce the cost of risk.

As you can see, injuries to our employees make up the most significant part of our risk, and the cost reflected in the Cost of Risk chart only tells part of the story. A recent Liberty Mutual poll shows that for every \$1 spent on direct costs related to an accident, there are another \$3 to \$5 worth of indirect costs – putting the actual cost of an accident with direct medical and compensation costs of \$15,000 at somewhere between \$45,000 and \$75,000. Most entities polled by Liberty Mutual said that they saved at least \$3 for every \$1 their company spent on workplace safety. OSHA's Office of Regulatory Affairs reports savings of \$4 to \$6 for every \$1 invested in safety.

The Office of Risk Services is working with local EH&S Directors, Occupational Health Practitioners, and Workers' Compensation Managers to implement a variety of local and system-wide strategic initiatives to reduce costs and create a safer workplace including:



Be Smart About Safety, a program focused on preventing employee injuries which includes a web based library of best practices on safety to be launched later this year.

Claims Closure, a variety of initiatives focused on resolution of existing Worker's Compensation claims.

Incident Reporting, a process to track and gather information on minor industrial injuries which includes determining causation and identifying actions to prevent injuries going forward.

We look forward to bringing you more information about our programs in future issues of this newsletter. We welcome all readers to visit our website at <http://www.ucop.edu/riskmgmt/welcome.html> to learn more about our initiatives and department.

Introduction to Environmental Health and Safety

The Environmental Health and Safety (EH&S) programs at the University of California campuses, medical centers, Division of Agriculture and Natural Resources, and national laboratories are a major effort, which includes over fifteen hundred employees working in numerous disciplines. The largest EH&S departments, located at the national laboratories, have in excess of one thousand personnel, while the smallest department, at UC Merced, has only three employees. Their programs and areas of responsibility vary by location. UC San Diego is the only centralized department with all EH&S and Risk Management functions under one director.

The EH&S function is unique because it interfaces on a daily basis with the entire university community, faculty, staff, students, visitors, and the surrounding communities. The global mission is to provide a safe, healthy, and environmentally responsible place for people to work, learn, visit, and live. The primary focus must be on loss prevention because when we can prevent the accident from happening everyone wins.

The EH&S departments are the primary contact for local, state and federal agencies to inform the university communities of regulatory requirements and to perform related compliance functions. Requests for information, training, regulatory interpretation and applicability, approval of potentially hazardous procedures, resolution of safety problems, surveillance, and monitoring are all functions handled by the EH&S departments. They serve as the workplace safety consulting resource and are working partners in advisory groups such as the Chemical Safety Committee, Radiation Safety Committee, Animal Use and Care Committee, Biological Safety Committee, and numerous other administrative and research committees. It is always their responsibility to provide recommendations on how to safely accomplish any mission the university undertakes.

If you have any questions about EH&S programs, please contact Joe Adams at 510-987-0170 or joe.adams@ucop.edu

Fraud *continued from page 2*

discovered. The employee refused to concede the facts in deposition.

A suspected fraud case referral was made to the District Attorney's office, and the employee was recently convicted for illegally receiving Workers' Compensation benefits. The employee received a 120-day jail sentence, four years probation, and has been ordered to pay \$37,500 in restitution to the University.

The most effective tool in fighting workers' compensation fraud is timely communication. By sharing information between the claim administrator, the workers' compensation department, and the treating doctor, the likelihood that suspected fraud will be discovered and submitted for potential prosecution is greatly increased.

Aon Service Team

Office of the President, Office of Risk Services, is proud to present to you a newly formed Aon Service Team to assist with all those questions you may have about certificates of insurance and insurance requirements for independent contractors, consultants, vendors, other service providers, commercial tenants, or other non-University entities.

The initial Aon Service contact will be **Suzanne Ryan** for all insurance inquiries other than construction. **Mimi Lee** will be the contact for insurance inquiries relating to construction.

These services should be coordinated through local Risk Management offices who will contact the Aon Service Team.

Initial Contact Person

Suzanne Ryan

suzanne_ryan@ars.aon.com
Suzanne will be your main contact person. Direct all vendor insurance inquiries other than construction to her. Suzanne will obtain the required information from Aon specialty sources and respond to the UC inquiry originator.

415-486-7259



Susan Weinstein

susan_weinstein@ars.aon.com
Susan will administer the program by assisting Suzanne when needed and will act as backup should Suzanne or Rhonda be unavailable. Contact Susan for copies of written materials or changes in UC contact information.

415-486-7373



Rhonda Rayha

rhonda_rayha@ars.aon.com
Rhonda is the manager of the program. She will consult with Suzanne and Susan on a regular basis to fine-tune and direct the program where needed. Rhonda will be available for questions or requests from UC staff should Suzanne be unavailable.

415-486-7570



Contact Person for Construction

Mimi Lee

mimi_lee@ars.aon.com
Mimi will be your main contact person for insurance inquiries relating to construction. Mimi will answer or obtain answers from the Aon Construction Services Group and respond to UC inquiry originator.

415-486-7569



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