YOUR SUMIT MALPRACTICE COVERAGE

Insured Physician’s Guide to Risk Management and SUMIT Insurance Coverage
The Mission of Stanford University Medical Indemnity and Trust Insurance Company (SUMIT) is to provide world-class insurance and risk services to the Stanford University Medical Center (SUMC), which consists of the Stanford School of Medicine, Stanford Hospital & Clinics, Lucile Packard Children's Hospital, its employees, and physicians.

SUMIT's vision is to be the world's leading healthcare captive insurance company.

The SUMIT mission and vision are achieved by organizing and focusing on three structural pillars—insurance management and policyholder services, risk management services, and claims and litigation management.

DISCLAIMER: This document provides only a brief description of SUMIT coverage. This document is not the insurance policy or a guarantee of insurance coverage. The insurance program provisions, including any applicable exclusions and conditions, will govern.

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Dear SUMIT Insured,

We are pleased to provide you with this Physician’s Guide to Risk Management and SUMIT Insurance Coverage, which describes the insurance program available to all insured physicians through the Stanford University Medical Indemnity and Trust Insurance Company (SUMIT). This guide also explains the variety of services offered by SUMIT’s Risk Management team to our insured physicians.

Over the past several years, SUMIT has enhanced the insurance program we offer our physicians. Some recent accomplishments which benefit our physicians include:

• coverage limits well beyond those typically provided in the private setting;
• comprehensive tail coverage when a physician leaves Stanford or retires at no additional cost to the insured physician;
• an early offer/mediation program that can be used in cases where liability is clear and early resolution is desirable for both the patient and the physician;
• 24/7 risk management phone consultation service.

SUMIT medical malpractice premiums have remained stable over the past several years and are consistently less than local benchmark rates. Favorable premium rates are achieved through proactive patient safety efforts, aggressive claims management, and meticulous management of the risk financing portfolio.

SUMIT views each and every physician as a valued partner in our mutual commitment to manage safety throughout the organization and to promote patient and worker safety at Stanford University Medical Center. This guide will provide you with basic information regarding SUMIT, the services offered by your SUMIT Risk Management team, and the comfort of knowing where to turn and who to contact should a question ever arise. Always remember we are always by your side, and help is just a phone call away!

Sincerely,

Jeffrey F. Driver, JD
Executive Vice President, SUMIT
Chief Risk Officer, SUMC
If you have any questions regarding our Insurance Management and Policyholder services, please contact a member of our team at: (650) 723-6824 ext. 1 or e-mail riskmanagement@stanfordmed.org.
INSURANCE MANAGEMENT AND POLICYHOLDER SERVICES

The SUMIT medical malpractice insurance program provides our insured physicians with comprehensive insurance coverage that offers unique benefits and services. Our Insurance Management and Policyholder services team is dedicated to providing our insureds with the best coverage available. From careful planning of your medical malpractice coverage to convenient and helpful policyholder services, the SUMIT Insurance Management and Policyholder services team is available to assist you with all your questions regarding your SUMIT insurance coverage.
SUMIT Organization

SUMIT is an insurance company that provides medical malpractice and general liability insurance to the Stanford Hospital & Clinics, Lucile Packard Children’s Hospital, and The School of Medicine, their employees, faculty physicians, adjunct clinical faculty, postgraduate fellows, and residents. Management of the company, including claims and litigation, is overseen by SUMIT Risk Management.

The insurance company supports the SHC and LPCH Risk Management Alliances, which are designed to foster collaboration and partnership between physicians and the hospitals. Each Alliance has separate financial accounts ensuring it is responsible only for its own assets and liabilities. Each Alliance is also responsible for setting and enforcing its own strategic risk management goals, which can include proactive risk assessments of high-risk areas, establishing and overseeing best practices within the Alliance, determining premium allocations for each Alliance member, and paying premiums and expenses. Each Alliance acts as an advisory council responsible for achieving SUMIT goals and responsibilities, and includes physician insureds from every corner of the SUMC enterprise.

Type and Amount of Coverage

SUMIT offers claims made professional liability insurance for physicians. Claims made coverage means that the coverage tracks to the date that the claim is actually made by the patient rather than the date of treatment. The program defines a claim as when the physician receives a written demand, notice of a lawsuit, or involvement in an incident which may give rise to a suit or demand for payment. The program in place at the time the claim is first reported is the program that will provide coverage to a covered claim.

Prior to September 1, 2005, SUMIT provided occurrence coverage, which meant that coverage ties to the date of treatment and not when the actual claim or lawsuit was filed.

The amount of coverage available is as required by SHC and LPCH Medical Staff Bylaws and Rules and Regulations. The program also provides for coverage associated with fines and penalties levied as a result of non-willful/knowing violations of the Emergency Medical Treatment and Active Labor Act (EMTALA) or other certain relevant California regulations and also provides for the defense of accusations from the California Medical Board.
Who is Covered?

In order to be covered by the SUMIT insurance program, a faculty physician must:
1. be a member of the medical staff of either SHC or LPCH
2. be employed by the School of Medicine
3. have a faculty appointment at the School of Medicine

The following categories of physicians are covered by the SUMIT program: faculty physicians, adjunct clinical faculty (only when performing Stanford assigned duties), postdoctoral fellows, and residents for activities performed within their designated scope of duties.

What Activities are Covered?

SUMIT generally covers only services provided on behalf of SHC or LPCH and where payment is traceable through the hospital billing and accounting systems. Generally, SUMIT covers any patient care rendered under the scope of the physician’s employment or faculty appointment. If the physician will be providing patient care at a non-SHC or LPCH facility pursuant to his/her employment, coverage may be provided by that institution instead of SUMIT. Insurance coverage is available for such services worldwide, but generally practice outside SHC, LPCH, or designated affiliated institutions must meet certain requirements to be covered, and coverage must be pre-approved by SUMIT Risk Management. If you have a question about your personal coverage, please contact the SUMIT Insurance Management and Policyholder services team at (650) 723-6824 ext. 1.

The program also provides coverage for clinical involvement with clinical trials, instructional and supervisory training, peer review, credentialing, quality assessment review, and services as a medical director or other physician administrative duties on behalf of the hospitals.

SUMIT does not provide coverage for any activities that are contrary to the law, such as acts of sexual abuse or molestation, for examples.

Allied health professionals, including nurses and physician assistants, are covered for the hospital where they are employed. SUMC volunteers and medical students are covered by SUMIT as well.

The SUMIT insurance program is issued on behalf of the hospitals, faculty practice groups, and the School of Medicine. While policies are not issued to individual physicians, certificates of insurance are issued as evidence of coverage, upon request.
What Activities are Not Covered?

Moonlighting outside of SHC or LPCH is not covered; however certain moonlighting engagements within SUMC may be covered with written pre-approval from SUMIT Risk Management. Medical school research and/or clinical activities unrelated to SUMC would not be covered by SUMIT unless a special exception has been approved in advance and in writing. Any clinical activity to be conducted outside of SUMC should be reviewed with the Senior Associate Dean for Academic Affairs in the School of Medicine as well as SUMIT Risk Management to ensure that appropriate approval and malpractice coverage is obtained for such activities.

SUMIT covers services provided on behalf of SHC or LPCH and where payment is traceable through the hospital billing and accounting systems.

Volunteer activities outside of SHC/LPCH, charitable activities, activities outside the country, away rotations during residency, and activities where no income is being generated on behalf of SUMC may not be covered by SUMIT. Such activities should be reviewed with SUMIT Risk Management in advance to determine whether coverage is available. SUMIT will provide coverage for Good Samaritan acts in which an insured physician is involved with emergency treatment at the scene of an accident, medical crisis, or disaster and acts without remuneration. If you are involved in such an activity, you should contact SUMIT Risk Management after the event. Certain activities, such as participation in the Free Clinics, are covered through specific arrangements with the School of Medicine.

If you have a question about whether an activity is covered, please contact the SUMIT Insurance Management and Policyholder services team for a coverage decision prior to engaging in the activity. SUMIT Risk Management will require written approval of the Senior Associate Dean for Academic Affairs.
and the relevant department chair to approve malpractice coverage requests that are not addressed above. Please complete an insurance request form which is available on the SUMIT Risk Management Web site located on both the Stanford Hospital & Clinics and Lucile Packard Children’s Hospital intranet or by contacting the SUMIT Insurance Management and Policyholder services team at (650) 723-6824 ext. 1. If coverage is not available through SUMIT, it is advisable that you ask for coverage through the sponsoring institution or event organizer.

Physician Departure/Retirement: Tail Insurance

SUMIT insured physicians who leave the SUMC organization will continue to be covered after their departure for claims made within the course and scope of their employment while at SUMC and covered by the SUMIT insurance program, subject to the terms, conditions, and exclusions of the program. Any claims arising from actions performed within the physician’s scope of duties during the period of employment from September 1, 2005 to the date of exit are covered under SUMIT’s tail provisions which are paid for by the physician’s sponsoring organization. All claims arising from the date of initial employment until September 1, 2005, are covered by the occurrence coverage form that was provided until that time.

No coverage is provided for any claim arising from services rendered after an individual leaves the SUMC organization.

Certificates of Insurance

If you need evidence of insurance coverage, you may request a certificate of insurance by completing a Malpractice Letter Request form available on the SUMIT Risk Management intranet Web site located on both the Stanford Hospital & Clinics and Lucile Packard Children’s Hospital intranet. You may also request a form from your Director of Finance and Administration (DFA).
Questions

If you have any questions regarding our Risk Management services, please contact a member of our team at:
(650) 723-6824 ext. 96 or e-mail riskmanagement@stanfordmed.org.
SUMIT’s Risk Management service team is dedicated to providing clinical risk management services, promoting proactive patient safety efforts, and reducing malpractice risk across the SUMC enterprise. Our goals are to be proactive and partner with medical and hospital staff to identify opportunities for risk management solutions.

This team provides 24/7 clinical risk management services and is available to all insured physicians who may have questions about how to handle a dissatisfied patient, manage a concerning outcome, address a medical error, or have a question about a hospital policy. The team is also responsible for analyzing clinical risks from claims and other sources to identify potential vulnerabilities in your practice, designing preventive solutions, and offering helpful and effective risk management educational programs and publications.
24/7 Phone Consultation Services

The SUMIT Risk Management service team is available to SUMIT insured physicians and staff around the clock to provide risk and claims advice, including providing guidance to SUMIT insured physicians involved in a concerning outcome. You can contact us at (650) 723-6824 or call the page operator and ask to page the risk manager on call.

When to Contact Risk Management

Although SUMC’s primary goal is to provide the best medical care to patients, there are times when patients experience unanticipated outcomes. SUMIT believes early review and risk management involvement in unexpected outcomes helps promote patient safety and ensures timely, effective, and proactive resolution of potential issues and claims. Early notification also prompts timely review to preserve any evidence, interface with the patient and/or family, and

**Early review and risk management involvement in unexpected outcomes promotes patient safety and ensures timely, effective and proactive resolutions.**

document facts. Stanford Hospital & Clinics and Lucile Packard Children’s Hospital policies and procedures require staff and physicians to notify SUMIT Risk Management immediately of certain events as described below. In addition to these events that must be reported, we encourage you to report any events that have resulted in an unanticipated patient outcome with serious injury or death, or that have resulted in any outcome of which you are concerned. We also advise that you report any medical treatment issue that has the potential to result in a claim, threat of legal action, or demand for compensation. You should also contact us if you receive legal documents related to hospital business (subpoenas, summons, and complaints), or are contacted by an attorney or government agency regarding a patient care issue.
Mandatory Adverse Reporting Law

As of July 1, 2007, California law SB 1301 requires SUMC hospitals and clinics to report to the California Department of Public Health certain events within five days of detection. The following events must be reported to the SUMIT Risk Management service team immediately. Further guidance about what types of events are to be reported is available in the SHC Event Reporting policy in the administrative manual of the hospitals and in the Event Reporting brochure available on the SUMIT Risk Management intranet site. Reportable events include:

**SURGICAL EVENTS**
- Surgery on wrong body part, wrong patient, wrong surgical procedure
- Retention of a foreign object
- Death during or up to 24 hours after induction of anesthesia after surgery of a normal, healthy patient

**PRODUCT OR DEVICE EVENTS**
- Death or serious disability associated with the use of a contaminated drug or device
- Death or serious disability related to device malfunction
- Death or serious disability from an intravascular air embolism

**PATIENT PROTECTION EVENTS**
- Infant discharged to wrong person
- Death or serious disability related to the disappearance of a patient who does not have capacity
- Patient suicide or serious disability resulting from attempted suicide

**CRIMINAL EVENTS**
- Care ordered by unlicensed physician, nurse, or other provider
- Abduction of patient
- Sexual assault of patient on the grounds of the hospital
- Death or serious injury to staff or patient from a physical assault that occurred on hospital premises

**ENVIRONMENTAL EVENTS**
- Death or serious disability from electric shock
- Wrong gas administered to patient
- Death or serious disability from a fall in the hospital
- Death or serious disability associated with the use of restraints
CARE MANAGEMENT EVENTS
• Death or serious disability from a medication error
• Death or serious disability from a hemolytic reaction due to administration of ABO incompatible blood or blood products
• Maternal death or serious disability associated with labor and delivery in a low risk pregnancy
• Death or serious disability directly related to hypoglycemia whose onset occurred in the hospital
• Death or serious disability resulting from the failure to identify and treat hyperbilirubinemia in neonates during the first 28 days of life
• Stage 3 or 4 ulcer acquired after admission
• Death or serious disability due to spinal manipulative therapy

THE CATCH ALL
• Any adverse event or series of events that cause the death or serious disability of a patient, staff, or visitor

Risk Management Reporting

In addition to the events above which are required by the mandatory adverse reporting law, the SUMIT Risk Management service team should also be notified of any of the following events.

HOSPITAL ACQUIRED CONDITIONS
• Foreign object retained after surgery
• Air embolism
• Blood incompatibility
• Stage 3 and 4 pressure ulcers
• Falls and trauma
  – Fractures
  – Dislocations
  – Intracranial injuries
  – Crushing injuries
  – Burns
  – Electric shock
• Manifestations of poor glycemic control
  – Diabetic ketoacidosis
  – Nonketotic hyperosmolar coma
  – Hypoglycemic coma
  – Secondary diabetes with ketoacidosis
  – Secondary diabetes with hyperosmolarity
• Catheter-associated Urinary Tract Infection (UTI)
• Vascular catheter-associated infection
• Surgical site infection following:
  – Coronary Artery Bypass Graft (CABG)—mediastinitis
  – Bariatric surgery
    ◦ Laparoscopic gastric bypass
    ◦ Gastroenterostomy
    ◦ Laparoscopic gastric restrictive surgery
  – Orthopedic procedures
    ◦ Spine
    ◦ Neck
    ◦ Shoulder
    ◦ Elbow
• Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE)
  – Total knee replacement
  – Hip replacement

ADDITIONAL REPORTABLE EVENTS
• Unexpected deaths—suicides, sudden cardiopulmonary arrest (with or without successful CPR)
• Unanticipated neurological, sensory and/or systemic deficits, brain damage, permanent paralysis including paraplegia and quadriplegia, partial or complete loss of sight or hearing, kidney failure or sepsis
• Birth-related injuries—maternal or fetal death, anesthesia-related injuries, Apgar scores at 5 minutes below 5, any infant resuscitation, fractures or dislocations
• Severe burns—thermal, chemical, radiological, electrical
• Severe internal injuries—lacerations of organ, infectious process, foreign body retention, sensory organ or reproductive organ injury
• Substantial disability—fractures, amputation, disfigurement

Education Programs
At a time when fewer healthcare organizations are investing in education and training, SUMIT is committed to reducing risk to our physicians and staff by offering a variety of educational and training opportunities. From in-person and on-site training to online courses and publications, our staff is available to provide you with the resources and tools you need. Our staff continuously tracks and monitors the latest trends to develop relevant, practical, and useful training content.
Our SUMIT Risk Management service team holds a wide variety of advanced degrees and professional designations associated with risk management; together, we offer more than 100 years of combined experience in the field. We are available to provide tailored and effective educational programs for your practice area.

**Electronic Risk Management Advisory (ERMA) Newsletter**

In addition to our educational programs, our ERMA newsletter keeps SUMIT insureds aware of key developments in their disciplines as well as risk management efforts throughout both hospitals. ERMA is published quarterly and is distributed via e-mail; it is also available on the SUMIT Risk Management Web site located on both the Stanford Hospital & Clinics and Lucile Packard Children’s Hospital intranet.

**E-Learning**

We also offer SUMIT physicians the opportunity for elective and voluntary online education. We have developed a partnership with Advanced Practice Strategies (APS), an industry leader in medical risk management education. APS applies years of experience in the courtroom to the development of educational tools and instructional programs. Through this partnership, we provide CME credit to our physicians while providing cutting-edge education. With APS e-Learning, staff and physicians can work at their own pace, allowing you to fit education and training into your busy schedule. These online education programs (available in early 2009) are available on the SUMIT Risk Management Web site located on both the Stanford Hospital & Clinics and Lucile Packard Children’s Hospital intranet.

**EMMI Patient Education Program — Managing Patient Expectations and Helping Your Patients Understand Medical Information**

Communication failures between patients and physicians have been identified as a primary cause of patient dissatisfaction and one of the key factors in the majority of medical malpractice claims. SUMIT has partnered with EMMI Solutions to provide an educational tool so patients can better understand complex medical information and procedures. SUMIT believes this online education system will help our patients and families make better decisions, enhance their understanding of procedures, manage expectations about their procedure and outcomes, and enhance communication with their physicians.
Using a unique blend of audio and visual learning techniques, EMMI provides patients with step-by-step commentary in English and Spanish on various procedures. Currently there are more than 100 EMMI programs covering a wide variety of procedures and conditions, such as cardiac bypass surgery, pediatric and adult anesthesia, and obstetric procedures. A complete listing of EMMI programs is available by contacting the SUMIT Risk Management service team at riskmanagement@stanfordmed.org.

Proactive Risk Assessments and Training Simulations

In collaboration with our physician leaders, SUMIT constantly reviews risk management data to identify potential vulnerabilities and set strategic risk management goals. As a direct result of this process, SUMIT has sponsored proactive practice assessments of high-risk disciplines and provides funding for SUMIT insured practitioners to undergo simulation training at the Center for Advanced Pediatric Training (CAPE) and the Stanford Center for Immersive Simulation Learning (CISL) in the areas of obstetrics and postoperative surgery complication management. If you are interested in a practice assessment or simulation training, additional information is available on the SUMIT Risk Management Web site located on both the Stanford Hospital & Clinics and Lucile Packard Children’s Hospital intranet.

In-situ Simulation to Uncover Accidents Waiting to Happen

SUMIT and CISL have partnered to provide in-situ simulation that can be implemented outside of a laboratory environment where clinical care is actually delivered.

This pioneering approach promotes “stress-testing” clinical care at the sharp-point so that accidents waiting to happen (latent errors) can be revealed and prevented through system improvements before they ever reach a patient and potentially cause harm.

If you identify a clinical area that could benefit from in-situ simulation, contact SUMIT Risk Management at (650) 723-6824 ext. 96.
Questions

If you have any questions regarding our Claims and Litigation Management services, please contact a member of our team at:

(650) 723-6824 ext. 94 or e-mail riskmanagement@stanfordmed.org.
The SUMIT Claims and Litigation service team is responsible for managing professional and general liability claims. We know that being involved in a medical malpractice claim or lawsuit is stressful and time consuming. Our team of skilled attorneys is dedicated to providing you with a vigorous defense should you be involved in a claim or litigation, and we will work with you to resolve claims at the earliest opportunity. The SUMIT Claims and Litigation service team will be by your side, every step of the way, through the entire legal claim process. We will also assist you through communications with attorneys, help you understand legal documents and processes such as responding to subpoenas, and provide legal representation for you should your deposition be taken.

Communications with Non-Stanford Attorneys and Others
Receipt of Legal Documents: Subpoenas, Summons and Complaints, Notice of Intent
SUMIT Philosophy of Claims Handling
Claims Investigation Process and Management of Litigation
Process for the Early Assessment and Resolution of Loss (PEARL)
Settlement Reporting
Settlement Reporting Appeals Process
Managing the Stress of Litigation
Communications with Non-Stanford Attorneys and Others

Non-Stanford attorneys may contact you to discuss your patient’s treatment. Our recommendation is that you contact the SUMIT Claims and Litigation service team at (650) 723-6824 ext. 94, who will respond to the attorney on your behalf. When calling the SUMIT Claims and Litigation service team, please provide us with the name of the patient, the medical record number, and the name and phone number of the attorney who has contacted you.

If you receive a letter from an attorney’s office requesting a patient’s medical records, please forward such requests to the SHC or LPCH Health Information Management Department (HIMS). If you believe there are potential risk management or liability concerns related to the request for records, please also contact SUMIT Risk Management at (650) 723-6824. The hospitals’ respective HIMS department is responsible for verifying that a patient authorization is valid and for releasing ALL patient records at SHC and LPCH.

You may also be contacted by a patient’s attorney regarding a deposition. A deposition is a formal legal process, with a court reporter present, where you will be asked questions about your patient’s treatment. As a SUMIT insured, the Claims and Litigation service team will provide you with an attorney to guide you through any depositions that relate to care you provided within the scope of your duties as a SUMIT insured.

You may be contacted by a media representative regarding a patient. It is required that prior to responding to any media inquiries both SUMIT Risk Management and either the SHC Marketing and Communications team or the LPCH Department of News & Communications be notified. Please contact the SUMIT Claims and Litigation service team at (650) 723-6824 ext. 94. The SHC Marketing and Communications team is always on-call via internal pager #15226. The LPCH Department of News & Communications can be reached at (415) 607-2629 or internal pager #18873.

Receipt of Legal Documents: Subpoenas, Summons and Complaints, Notice of Intent

A subpoena is an order of the court commanding a person to appear as a witness in a legal proceeding and/or to produce documents. Subpoenas can be issued either by the clerk or deputy clerk of the court, or by an attorney of record in a pending action. A summons and complaint is a legal notice that you are a named party in a civil court action. A notice of intent is an indication that a patient or an attorney may be interested in pursuing a claim or litigation.
Subpoenas and summons and complaints must, by law, be responded to in a very brief time period so timely handling of these documents is essential to protect your interests. If you receive a subpoena or a summons and complaint you should immediately contact the SUMIT Claims and Litigation service team at (650) 723-6824 ext. 94.

With your prior authorization, the SUMIT Claims and Litigation service team can accept service of subpoenas and summons and complaints on your behalf. By signing this authorization, every attempt will be made to have process servers serve the documents at the SUMIT Risk Management office. However, process servers can still attempt to serve you directly, either at home, at work, or through the mail. If you would like to complete this authorization, please contact the SUMIT Claims and Litigation service team by calling (650) 723-6824 ext. 94.

Further guidance can be found in the SHC and LPCH Administrative Manual policy Legal Document Acceptance (Subpoenas and Summons and Complaints). This policy is available in the online administrative manual located on the SHC and LPCH intranet Web sites.

**SUMIT Philosophy of Claims Handling**

Should you be involved in a claim or litigation, SUMIT is committed to providing you with the best possible defense and protection. Either in-house or outside counsel will be provided for you. We will work directly with you during the review and investigation of the matter and will seek your opinion on possible expert reviews. You will be informed if an evaluation reveals that the matter should be resolved. SUMIT will always seek your agreement to the decision to settle.

We are proud to report that the majority of cases brought against SUMIT insureds end in direct dismissal of the physician from the litigation, dismissal of the matter without any payment, or payment of an amount that fairly reflects the facts and values of the case.

**Claims Investigation Process and Management of Litigation**

When a new claim is made against a physician or the hospitals, the SUMIT Claims and Litigation service team will begin an investigation into the matter. The investigation involves gathering facts, interviewing caregivers, reviewing documentation such as the patient’s medical record, and securing evidence. In addition, the investigation may involve obtaining an internal and/or external medical review.
The claims process involves coordination of multiple departments, including guest services/patient relations, the Office of the General Counsel at Stanford University, and the Quality Improvement departments of the hospitals to ensure timely resolution of the matter.

In claims involving litigation, skilled counsel from SUMIT’s defense panel will be assigned to defend you and/or the hospitals. Throughout the litigation process, the SUMIT Claims and Litigation service team provides direction, oversees defense counsel, and assists in facilitating expeditious and effective resolution of the matter.

Should you be involved in a claim or litigation, SUMIT is committed to providing you with the best possible defense and protection.

Process for the Early Assessment and Resolution of Loss (PEARL)

Where an investigation has determined that human or system error contributed to an unexpected outcome, the SUMIT Claims and Litigation service team will work closely with you and/or your staff to communicate with your patient and/or their representative to seek a resolution of any potential claim at its earliest possible opportunity. Additional information about the PEARL program can be found in our PEARL brochure in the appendix of this guide or by contacting (650) 723-6824 ext. 94.

Settlement Reporting

Federal and state regulations require that SUMIT report certain types of settlement payments. According to those regulations, a report may be necessary for any settlement that works to your “benefit,” which would include any settlement that relieves you of the risk of further litigation or trial of the settled
matter. The Federal regulations require that SUMIT send a report to the National Practitioner Data Bank (NPDB) regardless of the dollar amount or whether the payment was made pursuant to a settlement or trial verdict. California state law requires that SUMIT report any settlement in excess of $30,000, or an arbitration amount or civil judgment in any amount for any claim alleging injury or death due to the physician’s negligence.

SUMIT recognizes that our duty to report can create concern for you as a medical practitioner. As stated previously, the majority of cases brought against SUMIT insureds end in direct dismissal of the physician, and/or dismissal of the entire matter, without any payment. Only a very few cases resolved by SUMIT will have settlements that fall within the state and federal reporting requirements.

If you are involved in a claim or litigation, you will be informed whether there are reporting requirements related to your particular case. If a report is required, you will be given opportunity for input and review of the content before the report is forwarded to the appropriate government agency. Unless there has been a specific legal admission of fault related to the settlement (an extremely rare event), the report will not contain any admission of liability related to your medical care and will state that settlement has been reached primarily due to the uncertainties inherent in our judicial system.

**Settlement Reporting Appeals Process**

If you have questions about the content of the proposed report, SUMIT has designed a multi-level appeal process to give you additional opportunity to discuss your concerns and suggest changes. SUMIT recognizes the knowledge and value that you bring to the reporting process and welcomes and encourages your input before any report is made.

**Managing the Stress of Litigation**

SUMIT recognizes the litigation process is stressful and can trigger a wide range of emotional responses. The SUMIT Claims and Litigation service team is available to prepare you for what to expect, help ease anxiety, and offer support throughout the entire process. To help you manage the stress of potential litigation, additional resources are also available to our insured physicians.

The Stanford Faculty and Staff Help Center (FshC) provides professional, confidential, brief counseling to the faculty and staff of Stanford University,
Stanford Hospital, Lucile Packard Children’s Hospital, Menlo Medical Clinic and SLAC. Spouses, domestic partners, and children under 23 are also eligible for these services. Please contact the FSHC at (650) 723-4577 or online at http://www.stanford.edu/dept/helpcenter/.

The Physician Well-Being Committee promotes and supports the well-being of the medical staff and physicians-in-training to protect patient welfare, improve patient care, and improve medical staff functioning. The committee develops programs to assist in recognizing and reducing stress, and will make a referral to an external counseling resource for providers and their families. The composition of the well-being committee is outlined in the medical staff bylaws of Stanford Hospital & Clinics and Lucile Packard Children’s Hospital. Further information regarding the Physician Well-Being Committee is available online at: https://medicalstaffservices.stanfordhospital.com/MSS/WellBeing-Committee/default.
Process for the Early Assessment & Resolution of Loss (PEARL)
To Our SUMIT Insured Community:

Your medical malpractice and general liability insurance coverage is provided by the Stanford University Medical Indemnity and Trust Insurance Company (SUMIT), a wholly owned captive insurance company of the Stanford Hospital & Clinics and the Lucile Packard Children’s Hospital at Stanford.

SUMIT has for many years provided an alternative to commercial insurance by offering competitively priced malpractice and general liability coverage on excellent terms. Another advantage of SUMIT’s program is the manner in which SUMIT provides immediate and ongoing confidential consultation to our insureds when a concerning unanticipated medical outcome is identified.

When a concerning unanticipated medical outcome is identified, just one telephone call to SUMIT Risk Management begins a thorough guided process when responding to an unanticipated medical outcome or medical error. We call this consultation service PEARL—The Process for Early Assessment and Resolution of Loss.

PEARL allows for early analysis and appropriate immediate and long-term interventions following an unanticipated medical outcome. This in turn helps your patients and their families recover from situations involving unanticipated medical outcomes. This process also helps you manage such situations proactively and consistent with SUMIT procedures.

We encourage you to read the attached guidance and call upon us if you would like to confidentially discuss and receive advice on any patient of yours for whom you are concerned about an unanticipated medical outcome.

You can call your PEARL Risk & Claims Advisor at (650) 723-6824.

Jeffrey F. Driver, JD
Executive Vice President, SUMIT
Chief Risk Officer, SUMC
WHAT IS SUMIT’S POLICY FOR RESPONDING TO INCIDENTS INVOLVING PREVENTABLE UNANTICIPATED OUTCOMES OR MEDICAL ERROR?

The Stanford Hospital & Clinics, the Lucile Packard Children’s Hospital at Stanford, and Stanford University Medical Indemnity and Trust Insurance Company (SUMIT) provide caregivers and hospital managers around-the-clock telephonic risk and claims advice when there is an incident involving preventable unanticipated outcomes or medical error. The policies and procedures in place allow for appropriate disclosure to patients of a problem or unanticipated outcome, although it is not recommended that fault be assigned until there is a thorough review of the matter.

In cases that involve preventable unanticipated outcomes, SUMIT recommends apologies be made to the patient, that physicians and caregivers relay what lessons have been learned from the incident, and in certain cases—and only with the approval of SUMIT Risk Management—early offers of compensation may be made in order to resolve patient and family needs and/or loss.

*In the case of patients under the age of 18, the term “patient” includes the patient, as appropriate, and the patient’s legal representative. For example, the patient’s parent or legal guardian.
WHY DISCLOSE PREVENTABLE UNANTICIPATED OUTCOMES AND MEDICAL ERROR TO PATIENTS?

In 1999, the world of medicine forever changed. That was the year the Institute of Medicine published “To Err is Human,” a study reporting that between 44,000 and 98,000 people die each year because of preventable medical error.\(^1\) While some experts balked at these numbers, many others thought they were conservative. Indeed, in July 2006, the IOM released another report stating that at least 1.5 million Americans are injured or killed each year because of medication errors, 400,000 of which occur in hospitals. The cost of these medication errors is a staggering $3.5 billion annually.\(^2\)

Accrediting and professional organizations were quick to respond to these reports. The Joint Commission now requires patients and their families “to be informed about the outcomes of care, treatment, and services that have been provided, including unanticipated outcomes.” In addition, sometimes it is required that such incidents are reported to the California Department of Public Health and/or other accrediting agencies.\(^3\)

The communication in which a patient and/or family is informed of an unanticipated outcome is referred to as a disclosure. Disclosure of unanticipated outcomes includes communicating adverse outcomes, even those that are preventable.
Professional organizations such as the AMA, ACP, and ANA have issued opinions stating that disclosures are ethically mandated, and several states (including California) have passed laws requiring disclosure to patients.\textsuperscript{4, 5} Late in 2006, the National Quality Forum—an organization that develops consensus standards for health care delivery—added disclosure to its list of safe practices.\textsuperscript{6} The NQF safe practices are evidence-based practices and reflect the consensus of quality experts such as the Joint Commission, the Institute of Healthcare Improvement, and the Centers for Medicare and Medicaid Services. Disclosure is here to stay.

Many institutions base their disclosure programs on the maxim “it’s the right thing to do.” For example, in 2006 the Harvard Hospitals published a consensus report on disclosure. The report acknowledged the existence of empirical evidence to support the practice but stated that “Our primary justification is moral. We are committed to full disclosure because it is the right thing to do.”\textsuperscript{7}

**SUMIT’S PHILOSOPHY—PROCESS FOR THE EARLY ASSESSMENT AND RESOLUTION OF LOSS (PEARL)**

SUMIT agrees that disclosure to patients of problems or errors in connection with their care is the right thing to do. Yet we believe that disclosure is much more than an ethical communication: It is also essential to informed consent.
A patient must be informed of all the facts regarding their health, including unanticipated outcomes, even those that the patient might not yet know. Only the fully informed patient can be truly self determining.

SUMIT embraces and expands upon these disclosure principles in its early-offer program known as the Process for the Early Assessment and Resolution of Loss (PEARL). Ours is a principle-based policy, one that promotes transparency, integrity, fairness, and healing. It is also smart business practice.

OUR RATIONALE FOR PEARL

Studies show that patients want to be told of all outcomes regarding their care, even those that are adverse and unanticipated.⁸ Research also shows that physicians, too, want to disclose errors but often do not do so because of concerns about litigation, loss of peer respect, and a lack of training in disclosure strategies.⁹ Yet it is here that a paradox emerges.

Recent anecdotal and empirical research shows that disclosure has the capacity to transform patient responses to error. In 1997, the University of Michigan instituted a proactive disclosure-like program. Patients were told of all unanticipated outcomes, and when those outcomes were a result of preventable error, the provider apologized and the University offered fair compensation. Seven years later, the number of pending lawsuits at the University of Michigan was down by 50 percent, expenses were also cut in half, and the money put on reserve to settle lawsuits was reduced by two-thirds.¹⁰
These kinds of results have been reported in nonmedical environments as well. In 1991, the machine manufacturer Toro was spending more than $17 million/year in claims. Then it instituted a proactive policy of transparency. By 2004, Toro was paying $4.3 million/year. Toro has not tried a case since 1994.\textsuperscript{11}

Disclosure saves more than money—it also saves lives. Many errors are a result of a systems failure. When errors are brought into the open there is an opportunity to learn how the error occurred so that corrective steps can be taken—this prevents other patients from being similarly harmed. Yet it is not only patients whose lives are saved by disclosure. Physicians who believe they have erred are at a much higher risk for addiction, suicide, and burnout.\textsuperscript{12} Disclosure allows the physician the opportunity to tell the truth, apologize for the harm caused, and see that the patient is fairly accommodated. This process restores integrity and trust—with oneself, the patient, and peers.

**SUMIT RECOMMENDED DISCLOSURE METHODS**

SUMIT recommends that all outcomes—anticipated, unanticipated, preventable, or not—be disclosed to the patient in an empathetic manner.
These events often create physical, psychological, and emotional distress for our patients. Even when the outcome is a known complication, it is still distressing to the patient. Therefore, you should always communicate unanticipated outcomes with transparency and empathy.

Disclosure is different when the unanticipated outcome was preventable. In this circumstance, more than empathy is required. A patient who suffers preventable harm is entitled to full disclosure, apology, compensation, and a conversation about lessons learned—what will be different so that others are not similarly harmed.

It is especially for this patient, and the provider involved in the event, that PEARL was designed. The sooner we know about the event, the sooner we can intervene and help resolve it. This is partnership in patient care.

Make no mistake. We know disclosing this kind of outcome in the way we suggest is hard. Yet ours is a values-based policy—and a smart business practice. Research shows that partial apologies (I’m sorry you are suffering) actually exacerbate conflict and interrupt negotiation. The full apology we endorse (I’m sorry you are suffering because of this error) invites resolution.
A recent study showed that in the aftermath of injury more than 70 percent of cases settle if the party causing the harm offers a full apology and a fair accommodation. In contrast, only 35 percent of cases settle if a partial apology is offered. Of course, you should not apologize and say the adverse outcome was caused by a preventable error unless it has been determined that is the case.

The ethical argument for disclosing a preventable, unanticipated outcome in this way is equally compelling. Research shows that one of the most important factors contributing to forgiveness is accountability on the part of the party causing harm. Forgiveness facilitates reconciliation and resolution, and that heals.

There is, then, a difference in disclosing a preventable unanticipated outcome from a known complication or an outcome that is not preventable. You should always disclose with transparency and empathy. When the event was preventable, work with your risk and claims management advisor to couple the disclosure with a full apology, a discussion of compensation, and a conversation about lessons learned. When you don’t know whether or not the event was preventable, remember that disclosures are sequential communications. Communicate what you know now and promise to communicate again when you know more. Often further investigation changes the initial impression. When it comes to apology, we follow the maxim “better late than early.”
The PEARL Steps

What to DO . . .

BEFORE you initiate a disclosure communication regarding any preventable unanticipated outcome or any outcome that you are concerned about—follow these four steps:

1. Stabilize the patient
2. Take all actions necessary to promote the safety of that patient and others similarly situated
3. Call us 24/7 at (650) 723-6824 as soon as steps (1) and (2) are complete, but not later than four hours after the unanticipated event
4. Proceed with documenting a record of the patient’s care after speaking to your PEARL Risk & Claims Advisor

We will assign you a PEARL Risk & Claims Advisor to help you help your patient, including how to handle the disclosure of the unanticipated outcome and other appropriate communications around apology, compensation, and lessons learned. For your personal use, record the name and phone number of your PEARL Risk & Claims Advisor and communicate only with him or her unless instructed otherwise.
The PEARL Steps

What NOT to Do . . .

DO NOT jump to conclusions. What may appear to be a medical error may in fact not be an error, but a complication. Avoid communicating that an error has occurred until it is certain that an error has in fact occurred. Your PEARL Risk & Claims Advisor will help you determine if the event involved an error and how to communicate with your patient.

DO NOT blame or accuse others. It is often quite difficult to initially understand the cause of an unanticipated outcome. What may appear to be a simple explanation often is multifaceted and may require a more complex understanding.

NEVER make promises or an offer to waive hospital/physician bills or make any offer of compensation without the express permission of your PEARL Risk & Claims Advisor.

Call us at Any Time . . .

We all err. We all make mistakes. This is why we developed PEARL — to help you and your patient when he or she has suffered a preventable unanticipated outcome. We are committed to early intervention and resolution.

We stand by you 24/7. Call us anytime at (650) 723-6824.
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3. JOINT COMM’N ON THE ACCREDITATION OF HEALTHCARE ORGS., HOSPITAL ACCREDITATION STANDARDS 147 (Standard RI 2.90) (2007) and CAL. HEALTH & SAFETY CODE. 1279.1, et. seq.


5. The states are Pennsylvania, Nevada, New Jersey, Florida, Oregon, California, and Vermont. Pennsylvania was the first state to statutorily require disclosure. For an example of one statute see, PA. STAT. ANN. Tit. 31, Sec. 1303.308 (2002).


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14. Taft, supra, note 13 at 66; See also Roy F. Baumeister et al., The Victim’s Role, Grudge Theory and Two Dimensions of Forgiveness, in DIMENSIONS OF FORGIVENESS 82, 93 (Everett L. Worthington ed., 1998); Wilmot and Hocker, supra note 13.

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THE PROCESS FOR EARLY ASSESSMENT AND RESOLUTION OF LOSS (PEARL)

Stanford Hospital & Clinics, Lucile Packard Children’s Hospital at Stanford, and Stanford University Medical Indemnity and Trust Insurance Company (SUMIT) provide caregivers and hospital managers around-the-clock telephonic risk and claims advice when there is an incident involving preventable unanticipated outcomes or medical error. PEARL allows for early analysis and appropriate immediate and long-term interventions following an unanticipated medical outcome.

The PEARL Steps: What to DO . . .

BEFORE a disclosure communication is initiated regarding any preventable unanticipated outcome or any outcome that you are concerned about, follow these four steps:

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2. Take all actions necessary to promote the safety of that patient and others similarly situated
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THE PROCESS FOR EARLY ASSESSMENT AND RESOLUTION OF LOSS (PEARL) – continued

The PEARL Steps: What NOT to Do . . .

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We stand by you 24/7. Call us anytime at (650) 723-6824.
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