**UC** **RIVERSIDE: AUDIT & ADVISORY SERVICES**

Date: April 10, 2024

To: Deborah Deas, Vice Chancellor for Health Sciences & Dean

School of Medicine

Subject: UC Health Affiliations Systemwide Audit

Ref: R2023-05

We have completed the UC Health Affiliations Systemwide audit in accordance with the University of California, Riverside Audit Plan. Our report is attached for your review.

We will perform a follow-up audit scheduled for early 2024. We will assess the remediation of the identified internal control deficiencies described in detail in this report.

We appreciate the cooperation and assistance provided by you and your staff. Should you have any questions concerning the report, please do not hesitate to contact me.

Gregory Moore

Director

cc: Chief Compliance and Privacy Officer, Paul Hackman

Principal Counsel for Health, Victor Ortiz

Associate Dean for Graduate Medical Education, Robby Gulati

Interim Director Contracts, Ashley Richardson

Principal Health Sciences Contracts Analyst, Eileen Kahaner

UNIVERSITY OF CALIFORNIA AT RIVERSIDE

AUDIT & ADVISORY SERVICES

AUDIT REPORT R2023-05

UC HEALTH AFFILIATIONS

April 10, 2024

Approved by:

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Ricardo Pardo Gregory Moore

Associate Auditor Director

**UC RIVERSIDE**

**UC HEALTH AFFILIATIONS**

**AUDIT REPORT R2023-05**

**April 10, 2024**

1. **MANAGEMENT SUMMARY**

Based upon the results of work performed within the limited scope of the audit, we observed some areas noted below that need enhancement to strengthen internal controls and/or effect compliance with University policies and procedures. These issues are noted in the Observations (Section III):

1. Observation III.A – Rationale Elements for an Affiliation
2. Observation III.B – Affiliations Checklist Process
3. Observation III.C – Local Documented Procedures

These items are discussed below. Minor items that were not of a magnitude to warrant inclusion in the report were discussed verbally with management.

1. **INTRODUCTION**

University of California, Riverside (UCR) Audit & Advisory Services (A&AS), as part of a systemwide effort performed an audit to assess UCR’s progress implementing Regents Policy 4405: Policy on Affiliations with Healthcare Organizations that Have Adopted Policy-Based Restrictions on Care. A&AS performed this audit of UC Health Affiliations using the standard audit program developed for the systemwide audit.

A&AS developed this report based on information gathered from the audit. It provides findings and a set of corresponding recommendations to address these findings.

* 1. **OBJECTIVE AND SCOPE**

**Objective:** The objective of this audit was to evaluate the University's progress implementing the requirements in Regents Policy 4405 and the accompanying interim systemwide policy.

**Scope:** The scope of this audit included an evaluation of the design and implementation of the processes and controls that have been implemented to date to facilitate compliance with Regents Policy 4405 and accompanying interim systemwide policy, including verification of required agreement language for any new affiliation agreements and existing affiliation agreements that have been amended as of the timing of audit fieldwork[[1]](#footnote-1). The final deadline to amend all agreements subject to Regents Policy 4405 was December 31, 2023. Accordingly, The systemwide Office of Ethics, Compliance and Audit Services (ECAS) will conduct a follow up audit after this deadline to verify that all applicable agreements have been appropriately amended and to verify that management has appropriately remediated the internal control deficiencies and opportunities for improvement identified in this interim audit.

The areas of focus of this audit included and assessment of processes, controls and documentation associated with the following policy requirements:

* Due diligence, review, and approval of affiliation agreements
* Required contract language
* Communication to UC patients, faculty, staff, and trainees
* Processes for receiving, evaluating, and resolving complaints or grievances
* Processes for transferring patients that require restricted services
* Annual report to the Regents Health Services Committee
* Joint clinical advisory committee

The following areas were out of scope for this audit and deferred to the planned follow up audit:

* Monitoring and reporting on quality of care
* Termination of non-compliant agreements
  1. **BACKGROUND**

In July 2021, the Board of Regents approved Regents Policy 4405: Policy on Affiliations with Healthcare Organizations that Have Adopted Policy-Based Restriction on Care[[2]](#footnote-2), which governs affiliations between health care organizations that have policy-based restrictions on care and the University, including University of California Health’s academic health centers and health professional schools. The Regents Policy requires that UC providers at affiliates with restrictive policies are able to offer patients a choice in reproductive and other types of care; expands and protects the options for UC providers and patients at covered affiliates; and gives UC providers and patients ways to address barriers to providing the full spectrum of evidence-based care. The Regents Policy and an accompanying systemwide policy providing more detailed implementation direction are intended to protect the ability of UC clinicians and trainees working at those organizations to provide evidence-based, appropriate care to all patients.

The full text of Regents Policy 4405 is as follows:

1. Advancing the University's Public Mission. Prior to approving or executing any new or renewed affiliation with a health organization that has adopted policy-based restrictions on care (a "covered organization"), the sponsoring location must: (i) document the rationale for the affiliation, including any anticipated benefits or risks to the University's education, research, and service missions and to the broader patient community; and (ii) verify that access to policy-restricted services such as abortions, contraception, assisted reproductive technologies, gender-affirming care, and end of life care will be maintained or improved as a result of the affiliation. Under no circumstances may such an organization be granted responsibility or authority to operate or manage any University facility or program on behalf of the University.
2. Documenting Adherence to University Policies and Standards in all Affiliation Agreements. Agreements with covered health organizations must recite the University's role as a public entity and commitment to non-discrimination and evidence-based care; and must require all parties to comply with all federal and state anti-discrimination laws, including Cal. Civ. Code § 51 (prohibiting discrimination on the basis of sex [including pregnancy and childbirth as well as gender, gender identity, and gender expression], race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status), and to offer any procedure or service they choose to provide at their respective facilities or through their respective employees on a non-discriminatory basis. The University may not enter agreements with provisions that purport to require the University or its personnel or trainees to enforce or abide by policy-based restrictions on care including, but not limited to, religious directives, or that include any "gag clauses" interfering with their ability to counsel all patients on their treatment options. The University must retain the option to terminate such agreements if the University determines in its sole discretion that continued performance would be incompatible with its policies or values or that the affiliate has breached its promises to not restrict University providers' freedom to advise, refer, prescribe, or provide emergency items and services without restrictions, including any necessary items and services to any patient for whom referral or transfer to another facility would risk material deterioration to the patient's condition.
3. Strengthening Patient and Provider Protections. Each University location contracting with healthcare organizations that have adopted policy-based restrictions on care must develop and implement a process to inform UC patients, faculty, staff, and trainees: (i) about such restrictions at sites to which they may be referred or assigned; (ii) that such referrals or assignments are voluntary; and (iii) and that information about alternative sites for care, practice, and training will be provided upon request. Each location must also develop a process to transfer patients who need restricted services to a UC or other location where the services can be provided. Processes for receiving, evaluating, and resolving complaints or grievances must also be developed and implemented.
4. Ensuring Reporting and Transparency. Each University location (including the Office of the President with respect to systemwide or multi-campus agreements) must provide an annual report to the Regents Health Services Committee: (i) listing all new or renewed arrangements with covered organizations; (ii) summarizing complaints or grievances received from patients, students, faculty, and staff, as well as their resolution; (iii) providing quality monitoring data consistent with systemwide quality guidelines; and (iv) reporting on any identified noncompliance with the above standards. The first report, due in June 2022, must list all current arrangements with such institutions[[3]](#footnote-3).
5. Implementation and Accountability. The President shall issue a systemwide policy to implement these requirements after consultation with the chancellors and representatives of the Academic Senate and UC Health. One year after implementation of that policy, the Office of Ethics, Compliance, and Audit Services shall conduct an audit of an appropriate sample of then-current contracts with covered affiliates to ensure their compliance with such policy. Thereafter, the frequency and scope of audits shall be determined by ECAS in consultation with the chairs of the Audit & Compliance Committee and the Health Services Committee. The University shall not enter into any new affiliation that fails to meet these requirements after July 1, 2021; any existing affiliation that does not meet these requirements must be amended to comply with this policy or phased out no later than December 31, 2023.

NO RIGHT OF ACTION

This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the University of California or its Board of Regents, individual Regents, officers, employees, or agents.

On September 22, 2021, the Office of the President issued an interim systemwide policy to implement the requirements of Regents Policy 4405 (Interim Policy: Affiliations with Certain Healthcare Organizations[[4]](#footnote-4)). The purpose of this policy was to establish standards for affiliation with organizations with policy-based restrictions on care that protect and advance the University’s values, as well as its commitment to inclusion, diversity, equity, and accountability, and ensure such affiliations do not compromise the University’s commitment to evidence-based care for all patients.

To promote complete and consistent application of the policy requirements at each location, UC Health convened a working group comprised of representatives from each UC health center. This group coordinated with sub-groups, committees, leadership, and individuals at each location to implement and operationalize measures within the policy.

* 1. **INTERNAL CONTROLS AND COMPLIANCE**

As part of the review, internal controls were examined within the scope of the audit.

Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the achievement of objectives in the following categories:

* Effectiveness and efficiency of operations
* Reliability of financial reporting
* Compliance with applicable laws and regulations

Substantive audit procedures were performed during the months of April 2023 through June 2023. Accordingly, this evaluation of internal controls is based on our knowledge as of that time and should be read with that understanding.

1. **CRITERIA AND OBSERVATIONS** 
   1. **Rationale Elements for an Affiliation**

**Criteria:** In accordance with UC Regents Policy 4405 – Affiliations with Healthcare Organizations that have Adopted Policy-Based Restrictions on Care and UC Interim Presidential Policy – Affiliations with Certain Healthcare Organizations, prior to approving or executing any new or renewed affiliation with a health organization that has adopted policy-based restrictions on care (a “covered organization”), the sponsoring location must document the rationale for the affiliation, including: (1) any risks and anticipated benefits to the University’s education, research and service missions; (2) any risks and anticipated benefits to the broader patient community; and (3) the consequences of not proceeding with the affiliation.

**Condition:** During our testing of eight sampled contracts, we identified five contracts with documented rationale for the affiliation as part of the checklist review process. However, the contracts did not specifically document all required rationale elements for the affiliation as follows:

* Two contracts did not specifically document rationale for (2) any risks and anticipated benefits to the broader patient community and (3) the consequences of not proceeding with the affiliation.
* Three contracts did not specifically document rationale for (3) the consequences of not proceeding with the affiliation.

In addition, SOM Contracts and Compliance has revised and implemented an updated checklist to include the policy-required elements as mandatory, distinct data fields.

* 1. **Affiliations Checklist Process**

**Criteria:** In accordance with UC Regents Policy 4405 – Affiliations with Healthcare Organizations that have Adopted Policy-Based Restrictions on Care and UC Interim Presidential Policy – Affiliations with Certain Healthcare Organizations, any new or renewed affiliation with a health organization that has adopted policy-based restrictions on care (a “covered organization”) must be submitted with accompanying documentation of the rationale and impact to the Chancellor or designee for review and approval prior to execution.

**Condition:**  During our testing of eight sampled contracts, we identified five contracts submitted to the Chancellor designee with the required completed checklist and accompanying documentation of the rationale for review and approval. However, the checklists and accompanying documentation of the rationale were not submitted to the Chancellor designee for review and approval prior to execution of the contracts as follows:

* One contract with an affiliation checklist signed and approved on June 6th, 2023, and a contract effective date of July 1st, 2022.
* One contract with an affiliation checklist signed and approved on August 25th, 2022, and a contract effective date of July 8th, 2022.
* Two contracts with an affiliation checklist signed and approved on June 6th, 2023, and a contract effective date of May 4th, 2023.
* One contract with an affiliation checklist signed and approved on June 6th, 2023, and a contract effective date of February 2nd, 2023.

In addition, SOM Contracts and Compliance is currently in the process of implementing an updated workflow process for all policy-based affiliates to ensure that the affiliation checklist and addendum are fully executed before the agreement is signed.

* 1. **Local Documented Procedures**

**Criteria:** Locations are required to implement the requirements in UC Regents Policy 4405 and the accompanying UC Interim Presidential Policy. Local documented procedures to address the location’s implementation requirements for certain requirements in UC Regents Policy 4405 should be developed for the following:

* Patient transfers
* Contracting with healthcare organizations with policy-based restrictions on care
* Complaints escalation process for patients, faculty/staff, and trainees, including, but not limited to, how the complaint will be identified, escalated, and resolved
* Communicating out guidance on currently covered affiliations and/or, as necessary, updates to the list of covered affiliates to all appropriate parties responsible for compliance requirements

**Condition:** During our audit procedures, we noted local documented procedures have been developed to address the following requirements from UC Regents Policy 4405:

* Patient transfers
* Contracting with healthcare organizations with policy-based restrictions on care

However, we noted local documented procedures have not been developed to address the following requirement from UC Regents Policy 4405:

* Communicating out guidance on currently covered affiliations and/or, as necessary, updates to the list of covered affiliates to all appropriate parties responsible for compliance requirements

Furthermore, we noted local documented procedures have not been developed specific to the following requirement from UC Regents Policy 4405 as UCR was relying upon existing local procedures:

* Complaints escalation process for patients, faculty/staff, and trainees, including, but not limited to, how the complaint will be identified, escalated, and resolved

In the follow-up audit scheduled for early 2024, A&AS will assess the remediation of these identified internal control deficiencies.

1. In anticipation of expected changes to the systemwide policy, the scope of this audit did not include affiliations with public organizations, such as Veteran affairs and Indian Health Services. [↑](#footnote-ref-1)
2. <https://regents.universityofcalifornia.edu/governance/policies/4405.html> [↑](#footnote-ref-2)
3. UC Legal has interpreted this requirement to mean current arrangements that have been amended or negotiated to be in compliance with policy. [↑](#footnote-ref-3)
4. <https://policy.ucop.edu/doc/5000698/AffiliationHealthcareOrganizations> [↑](#footnote-ref-4)