

**UNIVERSITY OF CALIFORNIA, SAN FRANCISCO  
AUDIT & ADVISORY SERVICES**

**John Muir Physician Network Regional Co-Development Agreement  
Berkeley Outpatient Center (BOPC) Post Contract Implementation**

**Project #21-051**

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University of California  
San Francisco

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**SUBJECT: Berkeley Outpatient Center (BOPC) Post Contract Implementation**

As a planned internal audit for Fiscal Year 2021, Audit and Advisory Services (“A&AS”) conducted a review of the governance and operational processes over select terms of the Co-Development Agreement between John Muir Health (JMH) and University of California San Francisco Health System (“UCSF”). The purpose of this review was to assess the adequacy of processes in place to comply with select terms of the Co-Development Agreement between JMH and UCSF to jointly operate the BOPC.

Our services were performed in accordance with the applicable International Standards for the Professional Practice of Internal Auditing as prescribed by the Institute of Internal Auditors (the “IIA Standards”).

Our review was completed and the preliminary draft report was provided to department management in December 2020. Management provided their final comments and responses to our observations in March 2021. The observations and corrective actions have been discussed and agreed upon with department management and it is management’s responsibility to implement the corrective actions stated in the report. In accordance with the University of California audit policy, A&AS will periodically follow up to confirm that the agreed upon management corrective actions are completed within the dates specified in the final report.

This report is intended solely for the information and internal use of UCSF management and the Ethics, Compliance and Audit Board, and is not intended to be and should not be used by any other person or entity.

Sincerely,

Irene McGlynn  
Chief Audit Officer  
UCSF Audit and Advisory Services



## EXECUTIVE SUMMARY

### I. BACKGROUND

As a planned audit for Fiscal Year 2021, UCSF Audit & Advisory Services completed a review of the governance and operational processes over select terms of the Co-Development Agreement between John Muir Health (JMH) and University of California San Francisco Health System (“UCSF”) entered into as of July 1, 2018.

Berkeley-Oakland is the initial geographic area (Initial Subregion) in which JMH and UCSF propose to share funding and branding of John Muir Physician Network (JMPN) Adult Primary Services pursuant to the Co-Development Agreement. The Berkeley Outpatient Center (BOPC) is the first adult primary care joint venture within the Initial Subregion.

The BOPC offers convenient primary care, specialty care, and lab and imaging services in the East Bay, and represents an expansion of ongoing collaborations between JMH and UCSF.<sup>1</sup> In addition, JMH and UCSF formed the joint venture company, BayHealth, which is leading development of outpatient initiatives, such as the BOPC and IT integration efforts between the organizations, and additionally supports the infrastructure needs of the Canopy Health care network.

As per the Co-Development Agreement, the percentage split of the losses is to be set prospectively,<sup>2</sup> with an annual process based on the first nine months data of the calendar year that would be used to set the percentage split of the losses for the following calendar year. The loss percentage split for the calendar year 2020, based on the first nine months of the calendar year 2019, was 50.6% for UCSF and 49.4% for JMH.

As UCSF Health creates these new relationships with other hospitals and physician groups, there are inherent risks in the early stages of the development of these affiliations. Some of these risks may include but are not limited to regulatory risks, contractual risks, management of the diverse interests of the investors, voting rights and practices of Board members, and compliance with terms and conditions of the agreements that may not be a priority of the Board members in exercising their fiduciary duties.

### II. AUDIT PURPOSE AND SCOPE

The purpose of the review was to assess the adequacy of processes in place to comply with select terms of the Co-Development Agreement between JMH and UCSF to jointly operate the BOPC. The scope of the review covered governance and operational processes to meet the financial requirements as described in the Co-Development Agreement.

Procedures performed as part of the review included a review of the Co-Development Agreement to identify key financial compliance requirements; interviews and

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<sup>1</sup> These include serving as co-founders of Canopy Health, a network of more than 5,000 doctors, dozens of care centers and numerous renowned local hospitals spanning seven Bay Area counties

<sup>2</sup> After the initial split of 50% for both UCSF and JMH through December 2019

walkthroughs with key UCSF personnel to identify processes in place to meet the financial requirements as described in the Co-Development Agreement including patient data extraction for loss allocation, quarterly reports and annual financial statements. For more detailed steps, please refer to Appendix A.

Work performed was limited to the specific activities and procedures described above. As such, this report is not intended to, nor can it be relied upon to provide an assessment of compliance beyond those areas specifically reviewed. Fieldwork was completed in November 2020.

### III. **SUMMARY**

Based on work performed, governance and operational processes have generally been put in place to meet the financial requirements of the Co-Development Agreement. UCSF and JMH teams worked collaboratively to mutually agree upon the patient report parameters to ensure consistent interpretation of the language in order to write two data extract reports, utilizing the same definitions and parameters. Meetings and decisions reached by this collaborative effort have been well documented. Since the Co-Development Agreement is a new affiliation effort, the governance and oversight processes are still evolving.

The review identified opportunities for improvement in processes related to operationalization of the Co-Development agreement, written approval of patient data, and supporting documentation for monthly expenses. The specific observations from this review are listed below as well as in Section IV.

1. Operationalization of the Co-Development Agreement took significant time due to lack of clarity on key contract language regarding subregion loss allocation.
2. There is insufficient detail or supporting documentation provided to validate monthly direct and indirect expenses or quarterly invoices received from JMH.
3. Annual financial statement provided as required by the Co-Development Agreement does not contain sufficient information.
4. The Co-Development Agreement does not have an audit clause.

Additionally, opportunities for improvements were identified relating to timely monthly accrual information and formalization of approval processes.

**IV. OBSERVATIONS AND MANAGEMENT CORRECTIVE ACTIONS (“MCA”)**

<b>No.</b>	<b>Observation</b>	<b>Risk/Effect</b>	<b>Recommendation</b>	<b>MCA</b>
1.	<p><b><i>Operationalization of the Co-Development Agreement took significant time due to lack of clarity on key contract language regarding subregion loss allocation.</i></b></p> <p>During the review, it was noted that UCSF and JMH personnel spent a considerable amount of time evaluating data extraction requirements for the subregion loss allocation percentage split calculation. Due to this, the loss allocation percentage split for calendar year 2020 using data from calendar year 2019, was not finalized until June 2020.</p> <p>There was ambiguity and/or lack of clarity on key contract terms (e.g., patient definitions) in the Co-Development Agreement around subregion loss allocation, which is key to administering the joint venture. This led to the delay in extraction of patient data needed in calculating the subregion loss percentage split.</p> <p>Several meetings between UCSF and JMH were held to ensure consistent interpretation of the contract language in order to agree on two data extract reports (one from UCSF and one from JMH), utilizing the same definitions and reporting parameters.</p>	<p>Untimely operationalization of contracts increases the risk of not identifying issues with non-compliance of the contract terms and conditions.</p>	<p>Management should include finance during the contract drafting stage and solicit feedback before contract is finalized.</p>	<p>Management has been making changes to further this; for example, adding a COO for affiliates.</p> <p>Management will also consider having Audit review contracts before it is implemented.</p> <p><b>Target Date:</b> Complete</p> <p><b>Responsible Party:</b> UCSFJV Strategy</p>
2.	<p><b><i>There is insufficient detail or supporting documentation provided to validate monthly direct and indirect expenses or quarterly invoices received from JMH.</i></b></p> <p>On a monthly basis, JMH sends a excel worksheet to UCSF containing total direct and indirect expenses to be accrued. There are no additional details or supporting documentation provided with the worksheet, limiting visibility into what the expenses are and their appropriateness.</p> <p>Additionally, UCSF receives a quarterly invoice from JMH which contains the amount owed by UCSF. The invoice provides year to date revenue and expense (direct and indirect) totals. No further details or supporting documentation is provided to validate the expenses.</p>	<p>Without details or supporting documentation to validate expenses, the risk of unapproved or unallowable expenses increases and limits the ability to provide reasonable assurance that financial</p>	<p>As part of the monthly accrual process, UCSF should obtain sufficient details and supporting documentation to validate expenses. Management should work with Legal to ensure that information requested does not violate anti-</p>	<p>Management will continue to have conversations with JMH for obtaining supporting documentation.</p> <p><b>Target Date:</b> Ongoing</p> <p><b>Responsible Party:</b> UCSFJV Strategy</p>

No.	Observation	Risk/Effect	Recommendation	MCA
	<p>In the absence of any details or supporting documentation, the Finance Manager at UCSF does a trend analysis on the expenses. If there is a huge variance in expenses from prior month then the Finance Manager follows up with JMH to obtain explanations for the variance.</p>	<p>transactions are valid.</p>	<p>competitive requirements.</p>	
<p>3.</p>	<p><b>Annual Financial Statement provided as required by the Co-Development Agreement does not contain sufficient information.</b></p> <p>During the review, it was noted that the annual financial statement received by UCSF for calendar year 2019 did not contain sufficient information. The annual financial statement was similar to the quarterly invoices received by UCSF and contained high level summarized revenue and expense data. There was no other information provided. As per the Co-Development Agreement: "JMPN shall also produce a distinct year-end Statement of Operations and Statement of Terminal Liabilities for each Designated Subregion within one hundred twenty (120) days of the end of each calendar year (collectively, the "Annual Financial Statements)".</p>	<p>Non-compliance with the Co-Development requirements increases the risk of financial errors and/or other errors and omissions not being identified promptly.</p>	<ul style="list-style-type: none"> <li>• Management should follow up with JMPN and ensure that annual financial statement is received timely.</li> <li>• Management should ensure sufficient information is provided for major expense categories with the Annual Financial Statement</li> </ul>	<p>As noted in MCA 2, Management will continue to have conversations with JMH and set expectations on what is needed.</p> <p><b>Target Date:</b> Ongoing</p> <p><b>Responsible Party:</b> UCSFJV Strategy</p>
<p>4.</p>	<p><b>The Co-Development Agreement does not have an audit clause.</b></p> <p>The Co-Development Agreement does not have a Right to Audit Clause. It is best practice to include a Right to Audit Clause in contracts. A Right to Audit reserves UCSF's right to audit if ever it is determined there is a need to do so.</p>	<p>Not having a Right to Audit clause in the contract prevents UCSF from auditing the contract.</p>	<p>When feasible Management should consider putting Right to Audit clause in contracts.</p>	<p>Management will schedule a meeting with JMH to begin conversation about adding Right to Audit Clause in the Co-Development Agreement.</p> <p><b>Target Date:</b> March 31, 2021</p> <p><b>Responsible Party:</b> UCSFJV Strategy</p>

V. IMPROVEMENT OPPORTUNITES

<u>No.</u>	<u>Observation</u>	<u>Risk/Effect</u>	<u>Recommendation</u>
1.	<p><b><i>The monthly accrual file is not received timely from JMH.</i></b></p> <p>On a monthly basis, JMH sends a excel worksheet to UCSF containing total direct and indirect expenses to be accrued. The file is received two days before UCSF's month end processing deadline. This does not give enough time for UCSF to review and ask follow up questions.</p>	<p>By not receiving the monthly accrual file timely increases the risk of inadequate or no review in order to meet the processing deadline.</p>	<p>Management should work with JMH to establish an expected timeframe on receiving the monthly accrual file on a timely basis.</p>
2.	<p><b><i>There is currently not a structured approval process in place for the patient data file sent to Bay Health.</i></b></p> <p>In order to determine the loss allocation percentage split between UCSF and JMH, a file with unique Medical Record Number (MRN) of patients who had a UCSF Medical Center, Faculty Practice or BCHO visit after the BOPC Primary Care visit during the first nine months of the calendar year is created, including total charges, and sent to Bay Health. Bay Health receives a similar file from JMH and combines the files to calculate loss allocation percentage.</p> <p>During the review it was noted that there was not a structured approval process in place to ensure the patient data file is approved. Approval from UCSF Senior Leadership was obtained via email, however, multiple follow up was needed to get this approval.</p>	<p>By not having a structured approval process increases the risk of missed approvals.</p>	<p>Management should consider formalizing the approval process in DocuSign.</p>

**APPENDIX A**

To conduct our review the following procedures were performed for the areas in scope:

- Interviewed personnel and performed walkthroughs to get an understanding of processes in place to meet the financial requirements as described in the Co-Development Agreement.
- Reviewed the Co-Development agreement and identified key financial requirements.
- Verified whether monthly accrual file was received timely including appropriate supporting documentation.
- Verified that quarterly invoices were received timely including appropriate supporting documentation.
- Determined if the annual financial report is provided as per the Co-Development Agreement.
- Assessed the methodology for patient allocation, including the review and approval process.