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May 2, 2008

Michael Brown
Chair, Academic Council
UC Academic Senate

In Re: Response to the Proposed Revisions to the Code of Conduct for Health Sciences

Dear Michael,

Thank you for the opportunity to review the proposed revisions to the Code of Conduct for Health Sciences. Upon receipt, I asked the Faculty Executive Committees for the School of Medicine (SOM), School of Dentistry (SOD), School of Nursing, and the School of Public Health to opine. Only the SOM FEC responded (responses attached). The Executive Board, which speaks for the Division on such matters, also considered the proposal. The UCLA Academic Senate cannot support the proposal as written. Please allow me to explain.

The SOM FEC and Executive Board raised the question, 'Does the Code of Conduct for the Health Sciences expose a faculty member to double-jeopardy?' Most of the codes are also paralleled elsewhere. Which code takes precedence? Could a faculty member be subjected to multiple disciplinary proceedings, once under the Faculty Code of Conduct, for example, and a second time under the Code of Conduct for Health Sciences? This ambiguity raises a question of jurisdiction. The document would be greatly improved if it would explicitly state, for example, that any Academic Senate member always retains access to the rights and obligations as established by the Faculty Code of Conduct and the Code of the Academic Senate, and that these rights and obligations supersede all others.

The SOM FEC raised the point that 'physicians have a set of moral imperatives that have been set by a number of bodies, their subspecialty societies and the taking of the Hippocratic Oath. These are unmentioned and this can be seen as problematic since it implies that we place the University set above these other covenants' (see attachment).

Both the Board and the SOM FEC are also concerned about the legal repercussions of the proposal. Would a violation of the Code of Conduct for the Health Sciences allow the university administration to withdraw legal support for a faculty member who (perhaps unknowingly or under the direction of a superior) committed the violation during the performance of their job?

Finally, given the concerns raised here as well as UCLA's commitment to most of the expressed conduct values, the UCLA SOM FEC would be eager to be part of a design process where the work of synthesizing the Code with the Code of Conduct within this UCOP umbrella of stipulated values

continues. An arrangement such as this would allow for better customization to local concerns, and ultimately better education and implementation. Both the Executive Board and the SOM FEC believe a local volunteer workgroup could create a much better accepted and understood document within the rubric of the Code's stipulated values. Such an effort would more clearly educate and help structure process and policy related to the document. Such a code, based on the values enumerated in the present document, could also be vetted by UCOP to determine appropriate central compliance.

Thank you again for inviting UCLA to opine. We look forward to working with you and Executive Director Rory Jaffe on future versions of this document.

Sincerely,

A handwritten signature in cursive script, reading "Elizabeth L. Bjork". The signature is written in black ink on a white background.

Elizabeth Ligon Bjork
UCLA Academic Senate Chair

Cc: Maria Bertero-Barcelo, Executive Director, UC Academic Senate
Jaime R. Balboa, Ph.D., CAO UCLA Academic Senate

April 8, 2008

TO: Academic Senate Executive Board

FROM: Nicholas Brecha, Chair SOM FEC

RE: Health Sciences Code of Conduct

Dear Board Members,

The SOM FEC met and discussed the proposed revisions to Health Sciences Code of Conduct at its regular meeting, April 2, 2008. Professor Steadman, FEC vice chair, chaired the meeting.

Prior to discussion, the FEC distributed your 3/5/08 email (with the attachments) to the SOM and Hospital leadership (Dean's office, Hospital CEO and Chair of the Clinical Chairs), General Medical Education Committee, Student Council and to several knowledgeable SOM faculty for their comments on the proposed revisions to the code.

Although I did not attend the meeting, I was told that there was a lengthy and detailed discussion of the proposed revisions to the code. Although the SOM FEC supports the attempt by UCOP to simplify the language of the Health Sciences Code of Conduct, the SOM FEC had serious reservations about the proposed revisions to the code. There was a general sense on the part of the SOM FEC that the code needed additional work in several areas (see emails below). For instance, there are inconsistencies and lack of specificity in the text, and poor use of the language in places (see below; Oppenheim, Colicelli, Sibert). There are concerns about implementation of the code (Korenman, Sibert). Furthermore, there is a concern about due process (Sibert). Finally, in hearing a summary of the meeting I was told that there was a concern that faculty would not fully understanding what they are signing.

Therefore the SOM FEC cannot support the proposed revisions to Health Sciences Code of Conduct as written.

The SOM FEC is willing and committed to revising the Health Sciences Code of Conduct with the UCOP. The SOM FEC believes that by working together, from the beginning of the process, that a better code could be developed that reflects both UCOP and local values, and that there would be greater success in its implementation.

Below are the emails I received:

Professor Korenman:

"I went through the revised code. The code comparison left out the section on reporting violations but it was in the insert of the new draft. I believe that as a statement of principles the new version is a big improvement. I believe that faculty and staff will have no trouble signing it and feeling good about it. However, by leaving out examples, such as found in the initial version, it will be harder to transfer "motherhood" into things I should or should not do. So, we will need a robust and continuing educational process supported by the leadership to ensure implementation of the policy. It would also be of great ethical interest to examine whether these principles are systematically violated in daily conduct of medicine by contradictory regulations, guidelines, or practices."

One additional thing. Some of the activities such as COI reporting and whistleblowing are managed by the campus. It would be appropriate for you to query Roberto Peccei and Ann Pollack about the Code.

FEC Member, Professor Oppenheim

This seems mostly apple pie, but I found two areas to at least discuss.

“Patients may request a service that is not a covered benefit. The service may be provided as long as the patient has been given advance notice that a service is not a covered benefit and has agreed to pay for the services.”

2 issues, not necessarily profound:

(1) We are in the age of rescissions. We have no practical way to know if a service is covered or not, until we do it, and then present the bill.

(2) Interestingly, this clause, to my mind, implies that if a service is not covered, though necessary, we have no obligation to provide the service? This would appear to be against the tenets of medicine. This may be used to embrace bad conduct.

Conflicts of Interest:

I really don't want to go here in view of recent history, but does anyone know what the following means in a practical day to day sense.?

“Adhering to the University's policy as defined in the Compendium of University of California Specialized Policies, including Guidelines and Regulations related to Conflict of Interest and University Health Care Vendor Relations.”

FEC Member, Professor Colicelli

“My main concern is that the document is poorly written (basically at the level of the Daily Bruin). Many sections do not follow parallel structure and there is a tendency to switch from "will" to "must" without explanation. Also, aren't "appropriate" and "medically necessary" redundant when discussing health care? Bill's first point merits some discussion.”

Professor Sibert

Colleagues: We very much appreciate the attempt made by UCOP to simplify the language in this code as well as the useful document comparisons. The Committee believes that the value statements in most instances are laudable and reflect faculty beliefs. However, while applauding these efforts, we remain impressed with the degree to which this document is NOT well aligned with local SOM issues, largely ignores due process and presents significant obstacles in implementation. Further, there are inconsistencies as well as problems in specificity that would make the signing of this document difficult for faculty.

Given our concerns as well as our commitment to most of the conduct values, we would be eager to be part of a design process where we could contain further code work within this UCOP umbrella of stipulated values but allow for better customization to local concerns, better education and implementation. Since our faculty are incurring a potential liability in signing on to this without our ascertaining mechanisms to insure its success, we would suggest that this document be the general framework of each individual campus code but that we construct the

particulars of the code and then have it approved by UCOP for essentials. In some things we will be potentially more focused and pointed and in others we might construct the specific implementation as a set of guidelines.

Specific Notes: It is redundant in many places and departs from being an overall code of conduct to a prescribed set of regulatory specificities. In other words, most codes cite a set of values and a broad accompanying set of examples and interpretations. This one reads like a set of values and a varying specific set of regulatory imperatives including references to statute (like the PRA) that may or may not be linked easily to those values. Some of the prescriptive set, can be seen as patronizing and offputting: do we need to cite plagiarism as a proscribed activity?

Additionally, physicians have a set of moral imperatives that have been set by a number of bodies, their subspecialty societies and the taking of the Hippocratic Oath. These are unmentioned and this can be seen as problematic since it implies that we place the University set above these other covenants.

It is occasionally naive or at least inexact in its language: "We make No distinction in the availability of services; the admission, transfer or discharge of patients....." - well, we do make a distinction in the availability of services that is actually mentioned within the document , i.e. non-covered services.

There are other items that are awkward and difficult to understand.

Respectfully, we believe a local volunteer workgroup could create a much better accepted and understood document within the rubric of the Code's stipulated values. We believe that such an effort would more clearly educate and help structure process and policy related to the document. We think such a code, based on the values enumerated in the present document, could also be vetted by UCOP to determine appropriate central compliance.