



**Medical Service, Research and Development  
Faculty Practice Plan Audit**

**Report No. 21-CF-AEN-04**

**February 22, 2022**

**Office of Audits & Consulting Services**

## EXECUTIVE SUMMARY

### Overall Assessment:

Opportunities exist to fully implement the bylaws as detailed in our report.

**Background:** The UTRGV Medical Service, Research and Development Plan (MSRDP) Faculty Practice Plan (Bylaws) became effective November 2016. The purpose of the School of Medicine (“SOM”) MSRDP Faculty Practice Plan (Practice Plan) is to manage and hold in trust the professional income of School of Medicine faculty members at The University of Texas Rio Grande Valley. The Practice Plan’s goal is to promote excellence in teaching, research, clinical service, and administration through clinical practice and compensation strategies that will contribute to and safeguard the Institution’s continued growth in excellence. The Practice Plan sets forth a general framework for compensating School of Medicine faculty that will attract and retain outstanding faculty by rewarding performance, clinical innovation and productivity, research, teaching, and administrative excellence.

**Objectives:** Determine whether UTRGV implemented its current Practice Plan Bylaws.

**Scope/Period:** Practice Plan governance activities since adoption of UTRGV’s Bylaws.

### Risk Levels Appendix I

<b>Priority</b>
<b>High</b>
<b>Medium</b>
<b>Low</b>

We appreciate the assistance provided by UTRGV’s management and other personnel. We hope the information and analyses presented in our report are helpful.

Risk	Observations Summary
Medium	1. Board chair’s duties and responsibilities have not been executed per Bylaws. As a result, the following have not been formalized: <ul style="list-style-type: none"> <li>• Establishment of annual meeting per Article IV.</li> <li>• Appointment of members to MSRDP Board.</li> <li>• Establishment of quarterly meeting of the MSRDP Board.</li> </ul>
Medium	2. Some committees are not in place or functioning as intended. As a result, committee responsibilities are not carried out as outlined in the Practice Plan Bylaws.
Medium	3. There is no evidence a fee schedule was discussed or approved by the president or president’s designee.
Medium	4. Although a SOM conflict of interest policy has been established, the policy did not receive executive vice chancellor for health affairs and the executive vice chancellor for academic affairs approval. Additionally, UTRGV’s Conflict of Interest and Commitment policy has been in draft form since FY 2016.
Medium	5. A comprehensive faculty compensation plan is not implemented per Bylaws.
Medium	6. Agreements of Participation between Members and the Institution are not executed annually.

Observation Detail	Recommendation	Management Action Plan
<p><b>Article V - The President and Board Chair</b></p> <p>1. <b>(Condition)</b>            UTRGV’s Practice Plan committee structure identifies the president as the chair of the board. Board chair’s duties and responsibilities have not been executed per Bylaws.</p> <p><b>(Criteria)</b>  <b>5.1 Authority.</b> The Bylaws stipulate, “The direction and management of the Plan and the control and disposition of its assets shall be vested in the President or the President’s designee, who shall act as Chair of the Board, subject to the authority of the Executive Vice Chancellor for Health Affairs and/or the Regents, as set forth in these Bylaws and the Regents’ Rules and Regulations, The University of Texas System policies, and Institution policies. The President or President’s designee may approve exceptions to the Plan to meet special teaching, research or clinical service requirements.”</p> <p><b>(Cause)</b>            Misunderstanding of roles and responsibilities of the MSRDP Board.</p>	<p>1. As per the Bylaws, the president should formally appoint a designee to carry out the following functions:</p> <ul style="list-style-type: none"> <li>• Appoint officers and directors to the Board and meet at least quarterly as prescribed in Article IV.</li> <li>• Establish an annual meeting of the members of the plan as prescribed in Article III.</li> <li>• Approve the budget annually and make members aware of the overall budget.</li> <li>• Ensure the overall financial information of the Practice Plan is approved by the Board.</li> </ul>	<p>1. Initiate plan with President and Sr. VP office to formally appoint officers and directors to the Board who will meet quarterly starting in June 2022 and begin planning for annual meeting.</p> <p>Schedule annual in-person meeting with Members of Plan in Fall of 2022.</p> <p>Review budget with members during annual meeting.</p> <p>Initiate Budget and Finance Committee meetings after annual meeting in Fall 2022; begin budget review and budget approval process during FY2023.</p> <p>Budget and Finance Committee will ensure financial information is sent to Board for approval.</p> <p><b>Action Plan owner:</b>            Sr. Associate VP HA EVD</p>

Observation Detail	Recommendation	Management Action Plan
<p><b>(Effect)</b>            Because Article V of the Bylaws is not implemented, certain functions of the MSRDP plan have not been carried out as prescribed in the following Articles of the Bylaws:</p> <ul style="list-style-type: none"> <li>• An annual meeting of the members has not been established. (Article 3.3)</li> <li>• Appoint officers and directors to the Board as set forth in section 4.2 and ensure that all appointees to the Board or committees/subcommittees described in Article VI have the appropriate skill and experience to carry out the duties assigned. (Article 5.1.3)</li> <li>• Board meet at least quarterly, on call of the Chair, or on the written petition of one-half (1/2) of the Board. (Article 4.5)</li> <li>• Although the annual operating budget of the Practice Plan is approved in overall budget by the Board of Regents, the budget is not approved by the MSRDP Board. (Article 6.1.2)</li> <li>• Operational and financial information about the Practice Plan is maintained and documented in Schedule D-6 of the AFR. However, overall financial information regarding the Practice Plan is not approved by the MSRDP Board. (Article 7.1)</li> </ul>		<p>SOM and Chief Medical Officer</p> <p><b>Implementation Date:</b>            Fall of 2022 and throughout FY2023</p>
<p><b>Article VI - Committees</b></p> <p>2. <b>(Condition)</b>            The Bylaws outline committees and their structure. We found some committees of the plan are not in</p>	<p>2. The president or president’s designee should appoint members to the following committees/subcommittees:</p> <ul style="list-style-type: none"> <li>• Executive Committee</li> </ul>	<p>2. Initiate standing committee and subcommittee member selection with President or assigned designee for</p>

Observation Detail	Recommendation	Management Action Plan
<p>place and/or functioning as intended. The following committees/subcommittees are not part of UTRGV’s Practice Plan governance structure.</p> <ul style="list-style-type: none"> <li>• Executive Committee</li> <li>• Budget and Finance Subcommittee</li> <li>• Audit Subcommittee</li> <li>• Faculty Compensation Advisory Subcommittee</li> </ul> <p>Although a compliance subcommittee is part of the governance structure, the subcommittee is not active and not functioning as intended.</p> <p><b>(Criteria)</b>  <b>6.1 Standing Committees and Subcommittees of the Board.</b> The Bylaws stipulate, “Members of the standing committees and subcommittees shall be appointed by the President or President’s designee, in consultation with the Board. The President or President’s designee shall appoint the chair of each committee/subcommittee.”</p> <p><b>(Cause)</b>  The initial MSRDP bylaws are not followed as approved.</p> <p><b>(Effect)</b>  Committee responsibilities are not carried out as outlined in the Practice Plan Bylaws.</p>	<ul style="list-style-type: none"> <li>• Budget and Finance Committee</li> <li>• Compliance, Ethics and Professional Affairs Subcommittee</li> <li>• Audit Subcommittee</li> <li>• Faculty Compensation Advisory Subcommittee</li> </ul>	<p>each committee and subcommittee.</p> <p>Schedule first committee meetings by Fall of 2022 with each committee meeting at least quarterly as required.</p> <p><b>Action Plan owner:</b>  Sr. Associate VP HA EVD  SOM, Chief Medical Officer</p> <p><b>Implementation Date:</b>  Fall 2022</p>

Observation Detail	Recommendation	Management Action Plan
<p><b>Article VIII - Institutional Trust Fund</b></p> <p>3. <b>(Condition)</b>            We received the Financial Assistance and Self-Pay policy, which addresses the fee schedule. The policy became effective March 07, 2017 and is the responsibility of the senior director of clinical administration. The policy was last revised February 26, 2021, and approved by the senior director of clinical administration, assistant vice president of clinical affairs, and the executive vice dean, finance &amp; administration. Additionally, the policy was reviewed by the Medical Executive &amp; Professional Affairs Committee. However, there is no evidence of fee schedule approval by the president, president's designee, or consultation with the board.</p> <p><b>(Criteria)</b>  <b>8.5 Determination of Professional Fees.</b> The Bylaws stipulate, "The Budget and Finance Subcommittee shall prepare a fee schedule, which shall be used for billing purposes, subject to approval by the President or the President's designee, in consultation with the Board. Substantive changes in the fee schedule must be approved by the President or the President's designee. Guidelines for discounting fees, if any, will be developed by the Board."</p> <p><b>(Cause)</b>            A Budget and Finance Subcommittee has not been appointed by the President as chair of the board.</p>	<p>3. Once the president or president's designee appoints members to the Budget and Finance Subcommittee, the subcommittee should prepare a fee schedule for approval by the president or president's designee and after consultation with the Board. Approval of the fee schedule should be documented in the committee minutes.</p>	<p>3. Initiate Budget and Finance Committee meetings in Fall of 2022.</p> <p>Budget and Finance Committee will review current UT Health RGV fee schedule and update as needed. Fee schedule will then be approved by the Board for submission to the president or president's designee for final approval.</p> <p>In consultation with the Board, the Budget and Finance Committee will review and approve the UT Health RGV discount policy and submit to the president or president's designee for approval.</p> <p>Document above actions in committee minutes.</p> <p><b>Action Plan owner:</b>            Sr. Associate VP HA EVD SOM, and Chief Medical Officer</p> <p><b>Implementation Date</b>            Fall 2022</p>

Observation Detail	Recommendation	Management Action Plan
<p><b>(Effect)</b>            An approved fee schedule assures that billing and collecting comply with local, state federal statutes, rules and guidelines.</p>		
<p><b>8.3 Sources of Income</b></p> <p>4. <b>(Condition)</b>            The School of Medicine has an Interaction with Industry/Conflict of Interest policy, which is the responsibility of the "Executive Vice President for Health Affairs". The policy became effective November 04, 2018. While the policy was approved by the president and executive vice president for health affairs and disseminated to all faculty, residents, students, and staff, we found no evidence that the Interaction with Industry/Conflict of Interest policy was approved by the executive vice chancellor for health affairs and the executive vice chancellor for academic affairs. The SOM policy also states that interests should be disclosed as required under the UTRGV policies on Conflict of Interest and Commitment. However, UTRGV does not have a formal HOP policy on Conflict of Interest and Commitment.</p> <p><b>(Criteria)</b>  <b>8.3.3.</b> The Bylaws stipulate, "Payments to Members from pharmaceutical, medical device, biotechnology, or related industries, as well as stipends for serving on boards of directors or advisory boards, shall be addressed in an Institutional or School of Medicine policy</p>	<p>4. The president or president's designee should ensure the Interaction with Industry/Conflict of Interest Policy is approved by the executive vice chancellor for health affairs and the executive vice chancellor for academic affairs.</p>	<p>4. Current policy has been approved by Dean and President. Will re-visit with new Dean SOM by 3/1/2022. Upon approval by the Dean and President, the policy will go to UT System for approval by May 1, 2022.</p> <p>President or designee to present policy for approval by UT System to the following:</p> <ul style="list-style-type: none"> <li>• John M. Zerwas, M.D, UTS Executive Vice Chancellor for Health Affairs</li> <li>• Archie L. Holmes Jr., Ph.D., UTS Executive Vice Chancellor for Academic Affairs</li> </ul> <p><b>Action Plan owner:</b>            Chief Legal Officer and Chief Medical Officer</p>



Observation Detail	Recommendation	Management Action Plan
<p>governing such activities and the receipt of such payments. One or both policy also shall address conflicts of interest, conflicts of commitment with faculty responsibilities related to income from outside professional activities, and the maximum income that the Member can retain from outside professional activities. The policy must be approved by the Executive Vice Chancellor for Health Affairs and the Executive Vice Chancellor for Academic Affairs.”</p> <p><b>(Cause)</b>                      The initial MSRDP bylaws are not followed as approved. The HOP policy on conflict of interest has been in draft form since FY 2016.</p> <p><b>(Effect)</b>                      Lack of a formalized policy may lead to non-disclosure of outside activities and interest.</p>		<p><b>Implementation Date:</b>                      June 2022</p>
<p><b>Article IX – Faculty Compensation</b></p> <p>5. <b>(Condition)</b>                      A comprehensive faculty compensation plan is not adopted by the School of Medicine. The deputy chief legal officer stated that a committee, chaired by the chief medical officer, was working on a compensation plan during the past academic year.</p> <p><b>(Criteria)</b>  <b>9.1 Components of Faculty Compensation.</b> The Bylaws stipulate that “The Institution’s Faculty</p>	<p>5. The president or president’s designee should ensure that a faculty compensation plan is developed and adopted.</p>	<p>5. Document current approach to Faculty compensation by 6/1/22</p> <p>Task the Faculty Compensation Advisory Subcommittee and the Executive Committee to adopt a comprehensive faculty compensation plan and include methodology for continued transparency by Fall of 2022.</p>



Observation Detail	Recommendation	Management Action Plan
<p>Compensation Plan (“Compensation Plan”) is a separate document that describes a process to compensate faculty performance and maintain and enhance faculty excellence in support of patient care, education, and research. The Compensation Plan shall be comprised of three major components with subparts as determined by the President or the President’s designee after consulting with faculty as required in section 5.2. The three components are (a) Base Salary, (b) Supplemental Compensation, and (c) Incentive Compensation. The term total compensation refers to the aggregate compensation derived from these three components.”</p> <p><b>(Cause)</b>            The compensation plan was not finalized due to the recent transition in SOM leadership.</p> <p><b>(Effect)</b>            Because a faculty compensation plan is not implemented, methodology to determine a members</p> <ul style="list-style-type: none"> <li>• Base Salary</li> <li>• Supplemental Compensation</li> <li>• Incentive Compensation</li> </ul> <p>may not be consistent.</p>		<p>Plan to be presented and approved by Board in Fall of 2022 and sent to UTS by 12/31/22.</p> <p>President or designee to present policy for approval by UTS.</p> <p>John M. Zerwas, M.D,            UTS Executive Vice            Chancellor for Health            Affairs</p> <p><b>Action Plan owner:</b>            Sr. Associate VP HA EVD            SOM, Chief Medical            Officer, and Chief Legal            Officer</p> <p><b>Implementation Date:</b>            Fall of 2022</p>
<p><b>3.2 Memorandum of Appointment</b></p> <p>6. <b>(Condition)</b>            Agreements are executed at initial appointment, but Agreements of Participation are not executed</p>	<p>6. Establish a process to ensure that all Practice Plan members are identified, membership is kept up to date as changes occur, and all Agreements of</p>	<p>6. SOM Operations team will work with SOM legal to ensure appropriate language is added to Faculty contracts, both new and</p>

Observation Detail	Recommendation	Management Action Plan
<p>annually.</p> <p><b>(Criteria)</b>                      The Bylaws stipulate, “A Memorandum of Appointment and an Agreement of Participation assigning professional income to the Plan shall be executed <b>annually</b> between each Member and the Institution, in a form prescribed by the Executive Vice Chancellor for Health Affairs and are a condition for membership and participation in the Plan. Any delay, error or failure to execute these two documents does not relieve a Member of the requirement that all of his or her professional income shall be assigned to the Plan.”</p> <p><b>(Cause)</b>                      Agreement of participation is executed at initial appointment.</p> <p><b>(Effect)</b>                      Executed agreement of participation on an annual basis assures appropriate credentialing/re-credentialing of all members.</p>	<p>Participation are executed annually.</p>	<p>renewals agreements to document reaffirmation of MSRDP agreement.</p> <p>New MOA format submitted to UTS for approval by May 1, 2022.</p> <p>President or designee to present policy for approval by UTS.</p> <ul style="list-style-type: none"> <li>• John M. Zerwas, M.D, UTS Executive Vice Chancellor for Health Affairs</li> </ul> <p><b>Action Plan owner:</b>                      Sr. Associate VP HA EVD SOM and Chief Legal Officer</p> <p><b>Implementation Date:</b>                      September 2022</p>

## APPENDIX I

### Risk Classifications and Definitions

<b>Priority</b>	High probability of occurrence that would significantly impact UT System and/or UT Rio Grande Valley. Reported to UT System Audit, Compliance, and Risk Management Committee (ACMRC). Priority findings reported to the ACMRC are defined as <i>“an issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.”</i>
<b>High</b>	Risks are considered substantially undesirable and pose a significant level of exposure to UT Rio Grande Valley operations. Without appropriate controls, the risk will happen on a consistent basis. Immediate action is required by management in order to address the noted concern and reduce exposure to the organization.
<b>Medium</b>	Risks are considered undesirable and could moderately expose UT Rio Grande Valley. Without appropriate controls, the risk will occur some of the time. Action is needed by management in order to address the noted concern and reduce the risk exposure to a more desirable level.
<b>Low</b>	Low probability of various risk factors occurring. Even with no controls, the exposure to UT Rio Grande Valley will be minimal. Action should be taken by management to address the noted concern and reduce risk exposure to the organization.

## APPENDIX II

### Methodology

We conducted this audit in conformance with the Institute of Internal Auditor’s International Standards for the Professional Practice of Internal Auditing. Additionally, we conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on our audit objectives. The Office of Audits and Consulting Services is independent per both standards for internal auditors. These standards are also required by the Texas Internal Auditing Act.

## APPENDIX III

### Report Distribution & Audit Team

#### Report Distribution

Dr. Michael B. Hocker, Dean of School of Medicine

Dr. Michael Dobbs, Vice Dean for Clinical Affairs

Mr. Michael Patriarca, Senior Associate VP for Health Affairs and Executive Vice Dean for School of Medicine

UTRGV Internal Audit Committee

UT System Audit Office

Governor's Office

Office of Budget, Planning and Policy

State Auditor's Office

Legislative Budget Board

#### Audit Team

Eloy R. Alaniz, Jr., Chief Audit Officer

Norma Ramos, Director of Audits

Cecilia I. Sánchez, Senior Auditor