

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED REGULATION AMENDMENT**

DATE: April 2, 2009

REGULATION NUMBER AND TITLE: 10.001 Self-Insurance Programs

SUMMARY: Board of Governors' Regulation 10.001 authorizes self-insurance programs for the purpose of providing comprehensive general liability and professional liability insurance for health care and veterinary sciences to university boards of trustees. Each self-insurance program is administered by a council. These councils include the J. Hillis Miller Health Center Self-Insurance Program Council, the J. Hillis Miller Health Center/Jacksonville Self-Insurance Program Council, the USF Health Sciences Center Self-Insurance Program Council, the Florida State University College of Medicine Self-Insurance Program Council, and the University of Central Florida College of Medicine Self-Insurance Program Council. The purpose of the amendment is to provide for the establishment of the Florida International University (FIU) College of Medicine Self-Insurance Program that will be administered by the FIU College of Medicine Self-Insurance Program Council.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO AMEND REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED AMENDMENT TO THE REGULATION: Vikki Shirley, General Counsel

COMMENTS REGARDING THE PROPOSED AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting.

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

10.001 Self-Insurance Programs.

(1) ~~University of Florida (UF) Self-Insurance Program; University of South Florida (USF) Self-Insurance Program, Florida State University (FSU) Self-Insurance Program, and University of Central Florida (UCF) Self-Insurance Program.~~

(a) The University of Florida J. Hillis Miller Health Center Self-Insurance Program, the University of South Florida Health Sciences Center Self-Insurance Program, Florida State University College of Medicine Self-Insurance Program, ~~and the University of Central Florida College of Medicine Self-Insurance Program,~~ and the Florida International University College of Medicine Self-Insurance Program are established for the purpose of providing comprehensive general liability protection, including professional liability protection, for the Board of Governors, the University of Florida Board of Trustees, the University of South Florida Board of Trustees, the Florida State University Board of Trustees, ~~and the University of Central Florida Board of Trustees,~~ the Florida International University Board of Trustees, and other persons and entities as provided by law and as authorized by the Board of Governors, the University Boards of Trustees or the Self-Insurance Programs Councils. The Self-Insurance Programs shall be funded by contributions paid by or on behalf of protected persons and entities. There shall be no funds appropriated to a Self-Insurance Program. The assets of the Self-Insurance Programs shall be deposited outside the State Treasury and shall be used only to pay the administrative expenses of the Self-Insurance Program and any claim, judgment, or claims bill arising out of the activities for which the Self-Insurance Program was created.

(b) The Self-Insurance Programs may not sue or be sued. The claims files of the Self-Insurance Program are privileged and confidential, exempt from the provisions of Section 119.07(1) Florida Statutes, and are only for the use of the Program in fulfilling its claims, underwriting and risk management duties.

(c) The Self-Insurance Programs shall be administered by the following Councils.

1. The J. Hillis Miller Health Center Self-Insurance Program shall be administered by the J. Hillis Miller Center Self-Insurance Program Council. The Council shall consist of the following officers of UF: Senior Vice President for Health Affairs, who shall serve as Chair; the Senior Associate Dean and Associate Vice President for Health Affairs, who shall serve as Vice Chair; the Vice President for Administrative Affairs; the Dean, College of Medicine; the Dean, College of Dentistry; two Gainesville based members of the faculty of the College of Medicine appointed by the Dean, College of Medicine and two Jacksonville based faculty of the College of Medicine, appointed by the Associate Vice President or Health Affairs/Jacksonville; the University of Florida Vice President and General Counsel; and the Self-Insurance Program Director; and such other persons as from time to time may be appointed to the Council by the Senior Vice President for Health Affairs or the President of UF; and if Shands Teaching Hospital and Clinics, Inc. (Shands Hospital), participates in the Self-Insurance Program: the Chief Executive Officer; the Senior VP and General Counsel and three members of the administrative staff of Shands Hospital to be appointed by the Chief Executive Officer, one of whom must be from the Jacksonville campus;

2. The USF Health Sciences Center Self-Insurance Program shall be administered by the USF Health Sciences Center Self-Insurance Program Council. The Council shall consist of the following officers of USF: Vice President for Health Sciences, who shall serve as Chair; two officers of the USF Health Sciences Center as designated by the Vice President for Health Sciences; four members of the faculty of the College of Medicine appointed by the Vice President for Health Sciences;

the USF General Counsel or his/her designee; the Self-Insurance Program Director; and such other persons as from time to time may be appointed to the Council by the Vice President for Health Sciences or the President for USF; and if the H. Lee Moffitt Cancer Center and Research Institute, Inc. participates in the Self-Insurance Program, the Center Director (or his/her designee); and

3. The FSU College Of Medicine Self-insurance Program shall be administered by The Florida State University College of Medicine Self-Insurance Program Council. The Council shall consist of the following officers of FSU: Dean of the College of Medicine, who shall serve as Chair; Associate Dean for Academic Affairs of the College of Medicine; Director of Community Clinical Relations of the College of Medicine; the FSU General Counsel or designee; and such other persons as from time to time may be appointed to the Council by the Dean of the College of Medicine.

4. The UCF College of Medicine Self-Insurance Program shall be administered by the UCF College of Medicine Self-Insurance Program Council. The Council shall consist of the following: Dean of the College of Medicine, who shall serve as Chair; one appointee of the Chair of the UCF Board of Trustees; one appointee of the President; the Provost or designee; the UCF Vice- President for Administration and Finance or designee; the College of Medicine Associate Dean for Administration and Finance; two or more College of Medicine clinical faculty appointed by the Dean; the UCF General Counsel or designee; the Self-Insurance Program Administrator; and such other persons as from time to time may be appointed by the Chair of the Board of Trustees or the President of UCF.

5. The FIU College of Medicine Self-Insurance Program shall be administered by the FIU Self-Insurance Program Council. The Council shall consist of the following officers of FIU: Senior Vice President for Medical Affairs and Dean of the College of Medicine; Executive Associate Dean for Clinical Affairs of the College of Medicine; Executive Associate Dean of Finance and Administration of the College of Medicine; four faculty members appointed by the Dean of the College of Medicine; the General Counsel or his or her designee; and the Self-Insurance Program Administrator; and such other persons as from time to time may be appointed to the Council by the Senior Vice President of Medical Affairs or by the President of FIU.

(d) The power and duties of each council shall be:

1. To administer the Self-Insurance Program in accordance with the laws of Florida, and the regulations of the Board of Governors;

2. To develop and implement a financial expenditure policy that recognizes the unique mission, duties, obligations and fiscal responsibilities of the Self-Insurance Program. The Council's financial responsibility policies shall ensure fiscal responsibility and accountability and, to the maximum extent possible, be consistent with recognized practices of the insurance industry;

3. To propose and submit an annual budget for the Self-Insurance Program through the University Board of Trustees to the Board of Governors;

4. To develop and implement a Memorandum of Protection which shall constitute the Self-Insurance Program's coverage document. The Memorandum of Protection shall contain the insuring agreements, exclusions, and other conditions applicable to persons and entities protected and shall be part of this regulation by reference. The Council may extend by resolution the protections described in the Memorandum of Protection to persons and entities as authorized by statute and establish the levels of liability protections extended to such persons and entities;

5. To contract with an independent casualty actuary to establish funding requirements necessary to maintain the fiscal integrity of the Self-Insurance Program;

6. To appoint the Self-Insurance Program Director who shall carry out the policies and directives of the Council;

7. To receive from the University such administrative and logistical support as the Council may reasonably request and to reimburse the University for the cost of such support;

8. To contract with professional consultants, including attorneys-at-law to represent the persons and entities protected by the Self-Insurance Program and perform services which further the interests of the Self-Insurance Program and perform services which further the interests of the Self-Insurance Program;

9. To establish committees and designate persons as necessary to assist in the performance of its duties, and authorize such committees or persons to act for and on behalf of the Council. In addition to any other committees it may elect to establish, the Council shall establish as a standing committee or committees to conduct investigations and the settlement and defense of claims and actions against protected entities and individuals and to identify risk factors which cause or contribute to such claims and suits and develop and implement risk management programs to reduce or eliminate those risk factors. The Council and such committee or committees shall conduct reviews pursuant to the provisions of Section 766.106, Florida Statutes, and shall be deemed a medical review committee or committees as defined in Section 766.101, Florida Statutes;

10. To participate in internal, local, regional, national and/or internal risk management and loss prevention research programs and to develop risk management and loss prevention programs for use by both protected and non-protected entities under such terms, conditions and reimbursement rates as the Councils may deem appropriate;

11. To purchase excess insurance on behalf of persons and entities protected by the Self-Insurance Program for claims which exceed the level of protection provided by the Self-Insurance Program, including claims bills, to award compensation in amounts which exceed the protection provided by the Self-Insurance Program or by commercial insurance; to assist entities not described in Section 768.28, Florida Statutes, which are authorized and approved as allowed by Florida laws to be protected by the Self-Insurance Program, in the procurement of insurance for losses which exceed the levels of protection provided by the Self-Insurance Program as established by the Council, but the Council is not authorized to purchase such insurance with Self-Insurance Program assets;

12. To participate in other self-insuring mechanisms such as Risk Retention Groups or group captive insurance companies, independently or in association with other compatible entities subject to the approval of the Board;

13. To establish an investment policy consistent with Section 215.47, Florida Statutes, which shall be approved by the Board of Governors, and to maintain an investment account which shall optimize income for the support of the Self-Insurance Program as established by a casualty actuary be used to defray the annual contributions paid into the Program by the entities and persons protected by the Self-Insurance Program;

14. To submit to the Board of Governors for its review an annual post-audit of the Self-Insurance Program's financial accounts conducted by an independent certified public accountant. The annual audit report shall include a management letter and shall be submitted to the Board of Governors for review. Upon request of the Board of Governors the Self-Insurance Program Council or its independent auditor shall provide any detail or supplemental data relative to the operations of the Self-Insurance Program; and

15. To contract with other Self-Insurance Program Councils for the provision of liability protection and administrative, risk management, claims and other related services.

(2) Captive Insurance Companies.

(a) The Council defined in (1)(c)1. is authorized to establish as part of the Board of Governors' Self-Insurance Program a captive insurance company to be named the University of Florida Healthcare Education Insurance Company (HEIC) and the Council defined (1)(c)2. is authorized to establish a captive insurance company to be named the University of South Florida Health Sciences Insurance Company (HSIC). Each captive (HEIC and HSIC) shall be wholly owned by the Board of Governors and established in a domestic or foreign domicile acceptable to the Board of Governors. The Articles of Incorporation and Bylaws of each captive are subject to the prior written approval of the Board of Governors. Each captive shall insure the Board of Governors and the University Board of trustees and may insure any other entity or individual who is authorized by statute to purchase liability protection from a Self-Insurance Program created pursuant to this Regulation.

(b) Each captive shall provide liability protection as authorized by section 1004.24, Florida Statutes. The limits of liability protection to be provided for the Board shall be those described in section 768.28, Florida Statutes, unless otherwise established pursuant to a written endorsement to the insurance policy issued by the captive. The limit of liability protection for insured entities and persons not described in Section 768.28, Florida Statutes, shall be as established by the respective Board of Directors of the captive.

(c) Each captive shall be managed by a Board of Directors.

1. HEIC shall be managed by a Board of Directors, constituted as follows: the Senior Vice President for Health affairs of UF, who shall serve as Chair; the Dean of the College of Medicine; the Senior Associate Dean Jacksonville; the General Counsel of UF; the Self-Insurance Program Director who shall serve as President and Chief Executive Officer; and such persons who from time to time may be appointed by the Senior Vice President for Health Affairs or the President of UF; and if Shands Teaching Hospital and Clinic, Inc. (Shands) is insured, the Chief Executive Officer and three appointees of the Chief Executive Officer one of whom shall be from the Jacksonville campus.

2. HSIC shall be managed by a Board of Directors, constituted as follows: the USF Vice President for Health Sciences of USF (or his/her designee), who shall serve as Chair; two officers of the USF Health Sciences Center as designated by the Vice President for Health Sciences; the Dean of the USF College of Medicine (or his/her designee); the USF General Counsel (or his/her designee); the Self-Insurance Program Director who shall serve as President and Chief Executive Officer; and such persons who from time to time may be appointed to the Board of Directors by the Vice President for Health Sciences or the President of USF; and if the H. Lee Moffitt Cancer Center and Research Institute (Moffitt) is insured, the Center Director of Moffitt or his/her designee.

(d) The Board of Directors of each captive shall carry out the purposes of the entity in compliance with its Articles of Incorporation and Bylaws. The powers and duties of the Board of Directors shall include but not be limited to:

1. To issue policies of insurance protection which shall establish the perils and risks to be protected and the limits of liability protection in excess of those amounts described in Section 768.28, Florida Statutes, to be underwritten by the captive. Such limits of liability protection may supplant or be underwritten by the

captive. Such limits of liability protection may supplant or be in excess of those liability protections provided by the Self-Insurance Program(s);

2. To act as the underwriting committee;
3. To contract with the Self-Insurance Program(s) for administrative, risk management, claims and other related services. The Self-Insurance Program(s) and the captive shall share equitably in the administrative costs of the Self-Insurance Programs;
4. To annually assess and collect premiums from insured entities and individuals. All premium income shall be deposited in accounts and managed pursuant to the captive's administrative and investment policies;
5. To propose and submit an annual budget through the University Board of Trustees to the Board of Governors;
6. To establish an investment policy consistent with section 215.47, Florida Statutes, which shall be approved by the Board of Governors, and to maintain an investment account which shall optimize income for the support of the captive;
7. To transfer any risks protected by the captive to commercial insurers through reinsurance, reciprocal or other risk sharing agreements with similar risk bearers;
8. To contract with an insurance management firm licensed in the selected domicile to serve as to serve as the registered office of the captive and to provide such services within the domicile as may be required by the insurance code or law of the selected domicile;
9. To accept the transfer of any contingent losses and loss reserves from the Self-Insurance Program(s) if requested by the Self-Insurance Council(s);
10. To contract with a casualty actuary, as defined by the insurance code or law of the domicile of the captive, to perform an annual review to recommend premium income levels to safeguard the fiscal integrity of the captive;
11. To provide for an annual audit of the captive's financial accounts by independent certified public accountant approved by the selected domicile and the Board of Directors. The annual audit report shall include a management letter and shall be submitted to the Board of Governors for review.

Authority: Section 7(d), Art. IX, Fla. Const., History—Former BOR Rule 6C-10.01, 1-6-88, 10-15-90, 5-30-93, 3-16-95, 11-27-95, 6-22-06, 9-25-08.