

**MEMORANDUM OF UNDERSTANDING**

A-16-426  
12/6/2016

**BETWEEN THE**  
**UNION OF AMERICAN PHYSICIANS AND DENTISTS**  
**(U.A.P.D.)**

**AND**

**THE COUNTY OF SAN JOAQUIN**

**FOR THE**

**PHYSICIANS BARGAINING UNIT**

**July 1, 2016 – June 30, 2019**

**Physicians Bargaining Unit  
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## **RECOGNITION**

San Joaquin County recognizes the Union of American Physicians and Dentists as the exclusive bargaining representative for the physicians' representation unit.

## **DURATION**

This Memorandum of Understanding (MOU) shall become effective upon ratification by the membership and adoption by the Board of Supervisors and shall remain in full force and effect through June 30, 2019.

### **1. MANAGEMENT RIGHTS**

#### **1.1 Management Rights**

UAPD and the County of San Joaquin recognize that it is the exclusive right of the County except as may be provided otherwise by this Memorandum of Understanding or the Employer-Employee Relations Policy to make all decisions of a managerial or administrative character, including but not limited to:

- (a) Hire, promote, transfer, assign, schedule, classify positions, retain employees, and to suspend, demote, discharge or take disciplinary action against employees.
- (b) Lay off or demote employees from duties because of lack of funds, in the interest of economy, or other legitimate reasons.
- (c) Determine the policies, standards, procedures, methods, means and personnel by which County operations are to be conducted.
- (d) Take whatever actions may be necessary to carry out the mission of the County in situations of emergency.
- (e) Nothing in this Memorandum shall be construed to interfere with the County's right to manage its operations in the most economical and efficient manner consistent with the best interests of all the citizens of San Joaquin County.

#### **1.2 Non-Discrimination**

No employee, or applicant for employment, shall be discriminated against in any aspect of employment because of, age, ancestry, color, creed, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex, or sexual orientation as outlined in Civil Service Rule 20.

Any employee who believes he or she has been harassed or discriminated against because of any of the above reasons, may bring the matter to the attention of the supervisor or may consult with his or her Departmental Equal Employment Opportunity Coordinator. The initial contact should be made as soon as possible, but no later than 60 days after the alleged act of discrimination or harassment occurred.

The Department Equal Employment Opportunity Coordinator shall process the complaint in accordance with Civil Service Rule 20, Section 3, Informal Complaint Process.

San Joaquin County shall comply with the provisions of the Americans With Disabilities Act (ADA). Individuals requesting reasonable accommodation under the ADA shall make a request in writing to their supervisor or manager, supported by medical documentation provided by an approved medical physician. The request shall identify the specific accommodation required and the anticipated duration needed for the accommodation. The manager or supervisor shall meet with the employee to confirm any documentation or verification received, in compliance with the ADA. The manager or supervisor shall respond to the written request in writing within 10 days of receipt of supplemental materials. Any such documentation, which discloses employee medical information, shall be provided directly to the Human Resources' Disability Management Unit. The County ADA Coordinator in Human Resources shall be consulted if any dispute arises in regard to an ADA accommodation.

### 1.3 UAPD Rights

a) Official Representatives and Stewards: The UAPD will have the right to appoint two (2) steward representatives. UAPD shall submit a listing of such employees including their titles and departments and the duties for which they will be responsible. The stewards shall give advance notice to the Physician Director when contacting departmental employees during their duty period. Steward Representatives will be authorized up to three hours release time per complaint at the 1<sup>st</sup> and 2<sup>nd</sup> levels of the complaint process. During a discussion of matter within the scope of this Memorandum of Understanding (MOU), an employee may request that a shop steward be present. A request for release time for the purposes outline above shall be made prior to taking the release time. Such a request shall not be unreasonably denied.

b) FAIR SHARE FEE: UAPD agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in the units for which this Agreement is applicable regardless of whether they are members of UAPD. Subject to the remaining provisions of this section, all covered employees employed on or after the effective date of this Agreement and continuing until the termination of this Agreement, shall as a condition of employment either:

(1) Become a member of UAPD and remain a member for the duration of this MOU, provided that such members may elect to resign from the Union between 120 and 90 days prior to expiration of the MOU; or

(2) Pay to UAPD a fair share fee in an amount which does not exceed the amount of its standard initiation fee, periodic dues, and general assessments.

Prior to collection of agency fees and on an annual basis thereafter, the Union shall notify all bargaining unit members of the Union's expenses, with adequate breakdown of expenses into reimbursable and non-reimbursable areas. If objections are received, the Union shall provide those procedures set forth in the case of *Chicago Teachers Union v. Hudson*.

## BONA FIDE RELIGIOUS EXCEPTION

Any employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. Such employee shall be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to such dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from the following list:

1. St. Mary's Interfaith Dining Room
2. The Women's Center
3. San Joaquin General Hospital Patient Helping Fund
4. Hospice of San Joaquin

Proof of such payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

## SEPARATION FROM UNIT

The provisions of this Agreement shall not apply during periods that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term "separation" includes transfer out of the unit, layoff, and leave of absence with a duration of more than thirty (30) days.

## COMPLIANCE

The County shall report the name of all new represented employees to UAPD within thirty (30) days of their appointment. UAPD shall provide newly represented employees with written materials which describe, at minimum, dues, rights and related representation information.

An employee in or hired into a job classification represented by UAPD shall be provided with an Employee Authorization for Payroll Deduction form by UAPD. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this fair share fee provision and the UAPD dues, fair share fee, initiation fee or charitable contribution required are not received, UAPD may, in writing, direct that the County withhold the fair share fee and the initiation fee from the employee's salary, in which case the employee's bi-weekly salary shall be reduced by an amount equal to the fair share fee. and the County shall pay an equal amount to UAPD.

## FORFEITURE OF DEDUCTIONS

If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by this Agreement, no such deduction shall be made for that period.

## HOLD HARMLESS

The authorization for payroll deductions described in this agreement shall specifically require the employee to agree to hold the County harmless from all claims, demands, suits or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

UAPD shall defend, indemnify and save the County harmless against any and all claims, demands, suits, orders, judgments or other forms of liability that shall arise out of or by reason of, action taken or not taken by the County under this Agreement. This includes not only the County's reasonable attorney fees and costs but the reasonable cost of management preparation time as well. The County shall notify UAPD of such costs on a case-by-case basis.

## RESCINDING FAIR SHARE FEE

This section may be rescinded by a majority vote of the employees in a bargaining unit in accordance with the provisions Government Code Section 3502.5(b). The following is the Fair Share Fee Rescission Procedure agreed to by represented units and UAPD:

1. **TIME FRAMES:** A request for a vote to rescind a fair share fee agreement may be filed no sooner than 90 days and no later than 60 days before the expiration of the applicable Memorandum of Understanding containing the fair share fee agreement.
2. **VALID REQUESTS:** A request for a rescission vote must be accompanied by proof of approval of the request by at least 30% of the employees of the representation unit covered by the fair share fee agreement. Proof of approval shall require:
  - a. valid signatures of individuals who were on payroll and members of the representation unit as of the first pay day date to occur no sooner than 90 days and no later than 60 days before the expiration of the fair share fee agreement with the unit in question. Printed names must accompany the signatures so that signatures may be verified.
  - b. a statement that the intent of the signer is to secure approval for a vote to rescind the fair share fee agreement for the signer's representation unit. Each petition must be for a single representation unit.
  - c. a date beside each signature attesting that the signature has been executed within thirty calendar days prior to the date of submission of the request.

The County Administrator or designee shall verify that the request meets the above criteria.

3. **RESCISSION ELECTION:** If a valid request for rescission has been verified, the County Administrator or designee shall arrange for a secret ballot:

a. Such election shall be conducted by the State Conciliation Services pursuant to its rules.

b. The election shall occur no sooner than 15 days and no later than 45 days following the submission of a valid request by members of a representation unit to rescind fair share fee provisions for their unit.

c. The issue shall be presented to unit members in the form of a question on which to vote yes or no: "Shall the fair share fee provisions of the Memorandum of Understanding for the Physicians Representation Unit be rescinded?"

d. If "yes" is marked by a majority of unit members, the fair share fee provisions shall be rescinded. A majority is defined as 50% plus one of all the eligible members of the unit.

e. The Board of Supervisors shall certify the results of the election.

4. **ELIGIBILITY TO VOTE:** Members of the unit who meet the criteria of 2a above shall be eligible to vote in the rescission election.

5. **ELECTION CHALLENGES:** Unfair election practices or challenges made to the conduct of an election which are not resolved by the State conciliation service during the course of the election shall be filed with the Board of Supervisors. Such challenges or unfair election practice charges shall be heard in accordance with the hearings provisions of Section 8-3(b) of the employer-Employee Relations Policy.

6. **ELECTION COSTS:** Any costs resulting from a rescission election shall be borne by UAPD in accordance with the hold harmless clause of the fair share fee agreement.

## FINANCIAL REPORT

Annually, UAPD shall provide the County with copies of the financial report required pursuant to the Labor Management Disclosure Act of 1959. Such report shall be available to covered employees. Failure to provide such a report within sixty (60) days after December 31 of each calendar year, shall result in the termination of all fair share fee deductions without jeopardy to any employee, until said report is filed.

c) Use of San Joaquin County Facilities. UAPD may be granted the use of County facilities for meetings composed of County employees within the bargaining unit provided space can be made available without interfering with County needs. UAPD shall obtain the permission of the designated County official for the use of such facilities.

d) Bulletin Boards. UAPD has the right to the reasonable use of existing bulletin board space in each building or department at a location agreed upon by the Union and the department, under the following conditions:



Material shall be posted on space as designated.  
Posted material shall bear the name of the Union.  
Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State or County laws.  
Material shall be neatly displayed and shall be removed when no longer timely.

## **2. MALPRACTICE PROTECTION**

The County's obligation to defend and indemnify its officers and employees is prescribed by California Government Code 825 et seq and 995 et seq. The County shall indemnify and defend employees in this bargaining unit in accordance with the applicable law when and if they are sued for errors or omissions (malpractice) within the course of their duties, save and except where the applicable law excuses the County's obligation to defend (e.g. fraud, malice).

## **3. STATE DISABILITY INSURANCE**

Unit members have elected to participate in the State Disability Insurance program. Employees shall purchase State Disability Insurance at their own expense. State Disability Insurance provides weekly benefits in the event an employee is unable to work due to an illness or injury which is not job-related.

## **4. COMPENSATION**

### **4.1 Salaries**

- a) Effective the first full pay period following approval by the Board of Supervisors, all employees shall receive a Cost of Living Adjustment of ± 2.0% of base salary.
- b) Effective the first full pay period following ratification by the Board of Supervisors, and in addition to the adjustment in a) above, market adjustments to base salary for the following specialties listed below either as new base salary or as percentages (additional adjustment as above shall be in addition):

Pediatrics –

With Retirement - \$186,000

Without Retirement - \$210,000

Primary Care -

With Retirement- \$190,755

Without Retirement - \$215,000

Psychiatry\*

With Retirement - \$255,000

Without Retirement - \$300,000

\*For Psychiatry, the increase shown above shall be granted in conjunction with the termination of longevity pay and the restructuring of the Performance Incentive Program as described in this MOU.

ENT	3%
GI	5%
Hematology	5%
Surgery	10%

- c) Effective the first full pay period after July 1, 2017-all employees shall receive a Cost of Living Adjustment of 2%-%.
- d) Effective the first full pay period after July 1, 2018, all employees shall receive a Cost of Living Adjustment of 2% of base salary.
- e) COLA adjustments shall applicable to base salary only

A total compensation survey will be completed approximately April 15, 2019 for discussion for the next bargaining cycle. The total compensation will reflect the employee's pick up of the COLA cost share.

The elements of total compensation upon which any adjustments shall be based shall include base salary, retirement contributions (including social security), health and welfare benefits, and paid time off.

Compensation shall not include payments which may be granted or removed at management discretion or which involve work load issues. The following items will not be included in compensation for purposes of survey comparisons:

- i. Extra shift pay
- ii. Assignment/location pay
- iii. Extra call pay
- iv. Backup pay for call
- v. Administrative pay
- vi. Call at other county agency assignments (e.g. Jail, mental health)
- vii. Performance incentives

#### 4.2 Adjustments to Individual Salaries

The County may, from time to time, propose changes to the salary, including base pay, supplements and incentives, of any represented position or employee. Notice of such proposed changes shall be provided to UAPD in writing. Upon request, but not more than ten (10) working days after notice, the County shall meet and confer with the union to discuss the proposed changes.

Audit of Incentives: The Union may audit or otherwise obtain information concerning the incentive payments.

#### 4.3 Pediatrician Call Pay

The parties agree that Pediatricians shall take up to six (6) call days a month the compensation for which is included in their basic salary. After six calls Pediatricians shall receive shift pay after that at the rates of \$200 per shift for weekday call, \$750 per shift for weekend call, and \$2000 per year for backup call.

#### 4.4. Obstetrician/Gynecologist Additional Hours Pay

Obstetricians and Gynecologists who work in excess of 52 hours in any week, shall be paid additional compensation at straight time rate of \$110 per hour.

#### 4.5 Board Certification Pay

Board certification pay shall be \$20,000 per year, or pro rata for those Physician Specialists who work less than a full year in any twelve month period.

#### 4.6 Base Pay for Obstetricians

Part I Board Certification pay for Obstetricians shall be included as base pay for the purpose of calculating base wage adjustments.

#### 4.7 Board Certification Pay for Addictionology

Board certification pay for Addictionology and the use of related skills at BHS shall be \$1,000 per year, or prorata for those Physician Specialists who work less than a full year in any twelve month period.

#### 4.8 Part Time Physicians

Part time employees shall be those who are regularly scheduled to work less than full time based on the normal scheduling practice for each respective specialty. Special assignments, work in excess of regular schedules and other incidental changes, shall not cause a part time employee to be recharacterized as a full time physician. The County shall implement the part time program by modifying either the hours worked on any scheduled day or the number of scheduled days of work (e.g. a 95% schedule would involve working nineteen (19) days in every twenty (20) scheduled). Supplemental duties, such as call, shall not be impacted as a consequence of part time status.

Management retains the sole and exclusive right to determine which positions are part time and which are full time. Part time employees may petition to increase their regularly scheduled hours to a full time equivalent, approval for which shall be subject to the availability of work and funds.

Physicians who are regularly employed on a part time basis, shall receive compensation, proportionately adjusted to their regular work schedule. Part time employee compensation shall be based on the salary.com survey as described above, exclusive of any employer contributions related to defined benefit or deferred compensation retirement benefits.

#### 4.9 Full Time Physicians Not Enrolled in Retirement

Pursuant to the bylaws of the San Joaquin County Employees Retirement Association (SJCERA), and applicable State law, full time physicians aged 60 or older may voluntarily waive membership in the retirement system. Any physician who makes such a waiver shall be considered a “newly hired employee” for purposes of Government Code section 31552, but only for those purposes and no other employment right or condition shall be affected by that designation.

Full time physicians who waive membership in SJCERA shall have their compensation set based on the salary.com survey as described above, exclusive of any employer contributions related to defined benefit or deferred compensation retirement benefits.

## **5. LEAVES FROM EMPLOYMENT**

### **5.1 Annual Leave**

Each employee of this Unit shall accrue and accumulate annual leave at various rates as set forth below based on length of continuous service of such employee. Annual leave shall be used to provide for paid time off on legal holidays which are normally scheduled work days and for other forms of personal paid leave including, but not limited to, employee development leave.

Less than 2 years 30 days

Two (2) years less than six (6) years 33 days

Six (6) years less than eight (8) years 35 days

Eight (8) years or more 40 days

Employees may carry over a maximum of twenty (20) unused leave days from one fiscal year to the next succeeding fiscal year.

Employees who begin to work after the beginning of the fiscal year shall receive a proration of the annual accrual based on their start work date. Employees who leave prior to the end of the fiscal year shall receive an adjustment in their annual accrual based on their length of service in their final year. Employees who separate during the year and who have used more than their annual accrual, shall have a proportionate adjustment from their final paycheck. Any employee leaving prior to the end of the first full year of employment shall have no vested accrual.

Employees who reach the maximum leave balance, inclusive of any carry over, shall cease to accrue any additional paid time off.

Employees who now are provided with paid legal holidays or other supplemental paid time off benefits established by mutual agreement may continue to receive such benefits. However, in no case shall maximum annual accrual exceed 40 days. Any employee hired after September 24,

2002 shall be limited to the accrual rates as provided in this section, and will not be eligible for additional paid time off.

For Obstetricians/Gynecologists and Anesthesiologists who are in-house when taking call, in any pay period in which a county recognized holiday falls, if the employee works a minimum of 80 hours in that pay period, and takes in-house call the employee's leave accruals shall not be deducted if the employee is not scheduled to work on that holiday. Inversely, if the employee does not work a minimum of 80 hours in the pay period a holiday falls and the employee is not scheduled to work on that holiday, then the employee's annual leave accrual shall be deducted the total number of hours needed to complete 80 hours for that particular pay period. This section shall not affect the paid legal holidays or supplemental paid time off benefits established by mutual agreement defined in the paragraph above.

## 5.2 Bereavement Leave

Regular employees, who suffer a death in their "immediate family", may be allowed to be absent with pay for three (3) scheduled County work days for each family member who dies. Employees must take this leave within a seven consecutive day period and will be paid only for days and hours they were scheduled to work. Immediate family includes the spouse, domestic partner, child, parent, step-child, step-parent, sibling, grandparent, great grandparent, grandchild or great-grandchild of the employee; or child, parent, step-child, step-parent, sibling, grandparent, great grandparent, grandchild or great-grandchild of the employee's spouse or domestic partner.

In addition, employees may use an additional two (2) days of accrued leave for the death of the employee's spouse, domestic partner, parent or child. Such additional leave shall be used within 30 days of the death.

## 5.3 Pregnancy Disability Leave

Pregnancy disability leave without pay shall be granted to employees in accordance with state and federal law.

## 5.4 State Family Leave

In accordance with State law, any employee with more than 12 months of service with the County and a minimum of 1250 hours on payroll in the 12 months prior to the start date of the leave, may take a family care leave of up to twelve (12) weeks or 480 hours in a 12-month period. An employee who takes such family care leave shall be returned to employment in the same or comparable position upon return from said leave.

Family care leave may be utilized in conjunction with the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care placement of the child, for the serious medical condition or illness of the employee, or to

allow the employee to care for a parent, spouse, domestic partner, or child who has a serious health condition.

For the purposes of this Section, the terms “employment in the same or a comparable position”, “child”, “parent”, and “serious health condition” are as defined in Section 12945.2 of the Government Code.

The reasonable advanced notice, scheduling and certification requirements of 12945.2(g), (h), and (i) shall also apply.

An employee who takes family care leave shall be required to use accrued paid leave during such leave. An employee on State Disability Insurance shall not be required to use more leave than is necessary, in conjunction with SDI, to receive a full paycheck.

An employee who takes family care leave in an unpaid status shall be eligible for fringe benefits on the same terms as an employee on any other unpaid leave of absence.

For issues related to illness, this section applies only to medical leaves of absence that meet the definition of a “serious health condition” as defined in Section 12945.2 of the Government Code or Section 29 CFR 825.114 of the Family Medical Leave Act.

#### Federal Family Medical Leave Act

San Joaquin County will comply with the Federal Family Medical Leave Act, maintaining all rights and provisions that are permitted by the Federal Family Medical Leave Act.

This section applies only to medical leaves of absence that meet the definition of a “serious health condition” as defined in Section 12945.2 of the Government Code or Section 29 CFR 825.114 of the Family Medical Leave Act.

#### 5.5 Personal Leave of Absence

Personal leaves of absence may be granted to an employee by the appointing authority.

#### 5.6 Medical Leave without Pay

Medical leave without pay may be granted to employees by the appointing authority. Requests must be submitted with a statement from a California licensed physician stating the nature of the medical condition and the estimated duration of the disability.

#### 5.7 Effect of Unpaid Leave of Absence on Other Leaves

No employee who has been granted a leave of absence without pay shall accrue annual leave during the time of such leave.

### 5.8 Effective of Re-employment on Leave Accrual Rates

Employees who are re-employed within one year of termination of employment will be returned to the same annual leave accrual rate at which they left.

### 5.9 Military Leave

Employees will be eligible for military leave in accordance with federal and state law.

### 5.10 Paid Educational Leave

Paid time off shall be available for CME (Continuing Medical Education) leave for all full-time employees in this unit as described below. CME leave for part-time employees will be prorated. Each employee hired who uses any time earned during the first six (6) months of employment must sign a note which states that he/she will authorize a deduction from his/her last paycheck for the time used if he/she leaves County employment voluntarily within one (1) year of the date of hire.

Time off for continuing medical education shall be by mutual agreement. Unused time shall not be carried over from year to year. Unused time shall have no cash value.

Effective two weeks after final approval of this agreement by the Board of Supervisors –forty (40) hours per year. If contract ratification occurs outside of the fiscal year, any additional award during the fiscal year shall be prorated.

### 5.11 Jury Duty

Any regular employee who is summoned for attendance by any court for jury duty shall be deemed to be on duty and there shall be no loss of base pay, however any jury fees (excluding payment for mileage) received by the employee shall be paid to the county.

## **6. TUITION REIMBURSEMENT**

The County may reimburse a unit member for tuition and related fees paid for taking courses of study in an off-duty status if the subject matter content of the course is closely related to the unit member's present or probable future work assignments. There must be a reasonable expectation that the unit member's work performance or value to the County will be enhanced as a result of the course of study.

Employees shall be reimbursed for up to a total of \$2000 per fiscal year for educational expenses including tuition, travel, lodging, meals and for the fees to maintain their professional license and board certification. Physicians may also use the tuition reimbursement for professional license fees and memberships in professional associations. Employees will also be reimbursed for software; journals; subscriptions; and medical books.

## **7. PERFORMANCE EVALUATIONS**

It is the goal of the parties that each employee shall receive a written performance evaluation at least once a year on the anniversary date of employment. The purpose of the performance evaluation is to review performance for the prior year and to set goals for the next year. The evaluation shall be discussed between the professional employee and the Department Chair. The employee shall be provided a copy of the evaluation, and the original shall be maintained in the employee's personnel file.

The employee may elect to provide a written response to his or her evaluation. The comments by the employee must be completed and submitted within ten (10) working days of the date the evaluation was received by the professional employee. If submitted by the employee within ten (10) working days, the written comments will be attached to the evaluation and maintained in the employee's personnel file.

Performance evaluations are not subject to the complaint procedure except with regard to the requirement for a conference, a written performance evaluation, copy of the evaluation to the employee, placement of the evaluation and any timely rebuttal in the employee's personnel file.

## **8. COMPLAINT PROCEDURE**

A complaint is defined as any dispute that involves the interpretation or application of any provision of the Memorandum of Understanding.

Complaints filed under this Section must be initiated within thirty (30) calendar days from the time the employee knew or had reason to know of the facts giving rise to the complaint.

STEP 1: Any complaint shall be discussed with the employee's immediate supervisor. If the issue is not resolved at the supervisor's level within twelve (12) calendar days from the day of presentation, the issue may be processed to the second step.

STEP 2: If the complaint is not resolved at Step 1 of this procedure, then the complaint may be filed with the Medical Director. The complaint must be in writing and must be filed within twelve (12) calendar days of the response from Step 1 or from the date when such response was due. The complaint must state:

- (1) the specific section of this MOU which is alleged to have been violated;
- (2) the statement of facts comprising the violation;
- (3) the requested remedy.

The Medical Director shall have fifteen (15) working days in which to investigate the issues and respond in writing to the complaint.



STEP 3: Within fifteen (15) working days of the receipt of the written response or date when the written response was due from the Medical Director, the employee or representative may file the complaint with the Health Care Services Director/SJGH CEO. The complaint must be in writing and contain the information specified in Step 2 above. The Health Care Services Director shall have twenty-five (25) working days from receipt of the complaint in which to investigate the complaint and issue a written response.

STEP 4: Within fifteen (15) working days of the receipt of the written response or date when the written response was due from the Health Care Services Director/SJGH CEO or designee, the employee or representative may file the complaint with the County Administrator or designee. The grievance must be in writing and contain the information specified in Step 2 above. The County Administrator or designee shall have twenty (20) calendar days from receipt of the complaint in which to investigate the complaint and issue a written response.

STEP 5: Within fifteen (15) working days of receipt of the Step 4 response, or from the date when written response was due, the complaint may be filed, in writing and containing the information specified in Step 2 above, with the San Joaquin County Board of Supervisors for resolution by means of a hearing, the time and date of which shall be set by mutual agreement of the parties involved. Prior to submission to the Board, the parties may mutually agree to submit the complaint to a third party intervenor for review and recommendation on the resolution of the complaint, in accordance with Section 6 of the San Joaquin County Employer-Employee Relations Policy. The decision of the Board is final and binding.

## **9. TERMINATION OF EMPLOYMENT**

The Director of Health Care Services/Chief Executive Officer of SJGH may release exempt physician employees from employment at any time. Employees shall receive ninety (90) calendar days notice or pay or any combination upon release at the option of management. Physicians shall not be subject to disciplinary suspension.

Employees may elect either to receive severance or appeal. Employees who elect to appeal waive all rights to severance compensation described above.

The employee, with the consent of the union, may request a review of the action to a fact-finding panel in writing. Within fourteen (14) calendar days of the presentation of a written notice of release by the Director/CEO, the exempt physician employee may request that a fact-finding panel be convened to review the facts in support of the action.

Upon receipt of an appeal, a written statement of reasons and facts in support of release will be issued by the Director/CEO. Appeals shall be limited to actions brought by the Director of Health Care Services/CEO, and shall be limited to separations from employment. Release from employment as a result of the revocation of privileges by the Medical Executive Committee is not subject to appeal through this process. Release of employment by the HCS Director/CEO resulting from any modification of privileges other than revocation shall be subject to this appeal process.

Appeals to revocation of privileges are limited to those procedures described in the Medical Staff By-Laws. Pending completion of the appeal process to the Medical Executive Committee, the Director may place the appealing physician in an unpaid leave status. In the case that a physician's privileges are reinstated by the Medical Staff, the employee shall be returned to active employment.

The fact-finding panel shall consist of five (5) physician members. Two (2) members shall be selected by management, two (2) shall be selected by the union, all who are from the Hospital's medical staff. One (1) member shall be a physician who is not a county employee, who has membership in the San Joaquin County Medical Society, and who shall be selected by mutual agreement of the parties. In the absence of mutual agreement the parties shall request a list of at least seven (7) physicians from the San Joaquin County Medical Society, and shall alternately strike names. The panel shall be selected and convened within thirty (30) days of receipt of an appeal. Any costs and fees associated with the non-employee physician will be shared equally by the County and the Union.

All technical or administrative support for the fact-finding panel shall be coordinated through County Human Resources. A representative of the department or county and a representative of the union may participate and act as advocates in the fact-finding process. The panel may receive witness statements, and consider any relevant documents. The panel may conduct proceedings only when all members are present. The panel shall examine the facts and the reasons used as the basis for the decision.

The panel shall issue a written report of its findings to the Director/CEO, which shall be advisory only, within forty-five (45) days of convening. The time for panel selection and reporting of its conclusions may be extended by mutual agreement of the parties.

Any report issued or prepared by the fact-finding panel pursuant to this section shall be used exclusively for the administrative purposes set forth herein, and shall not be binding upon the County, UAPD, or the physician who is the subject of the report, in any judicial or other administrative proceeding for purposes of collateral estoppel or res judicata.

The HCS Director/CEO shall inform the employee and the union of the decision to maintain or modify the decision for termination within ten (10) days of receipt of the report. If the Director/CEO rejects the report of the panel, the employee, with the consent of the Union, may appeal the Director's/CEO's action to the County Administrator or designee. Such appeal shall be filed in writing within ten (10) days of issuance of the Director's/CEO's decision.

The County Administrator may sustain, modify or overturn the action of the Director/CEO. However, the review shall be limited to the Director's/CEO's statement of reasons and report of the fact-finding panel. The action of the County Administrator shall be final.

## **10. BENEFITS**

### **10.1 Retirement**

Every physician employed by San Joaquin County in a regular, full-time position, except those who elected to be excluded pursuant to the rules of SJCERA, shall be enrolled as a member of the San Joaquin County Employees' Retirement Association (SJCERA).

Unless otherwise stated, all statutory references in this section "10.1 Retirement" of this Memorandum of Understanding are to the California Government Code.

#### **10.1(a) Benefit Tiers and Eligibility**

SJCERA Tier 1 - Employees who established and maintain membership in the San Joaquin County Employees' Retirement Association (SJCERA) prior to January 1, 2013, and other eligible employees as defined by law, participate in the defined benefit formula that was in place before January 1, 2013, hereinafter "SJCERA Tier I."

SJCERA Tier II - Employees who establish membership in SJCERA on or after January 1, 2013, who are subject to the provisions of the Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522, et seq.) of Chapter 21 of Division 7 of Title 1 of the Government Code), hereinafter "PEPRA, participate in the defined benefit formula prescribed by PEPRA for these employees, hereinafter "SJCERA Tier II."

#### **10.1 (b) Retirement Formula**

The County shall maintain the defined benefit retirement formula specified in Section 31676.14 (2% at age 55 ½) for General Members of SJCERA Tier I.

General Members of SJCERA Tier II participate in the defined benefit formula prescribed by Section 7522.20 of PEPRA (2.0% at age 62).

An annual cost of living adjustment of up to three percent (3%) shall be maintained in accordance with Section 31780.1 for monthly benefits payable by SJCERA to retired members (Tiers I and II) or their beneficiaries.

#### **10.1 (c) Retirement Age and Service**

The provisions of Section 31672 permitting service retirement for members of SJCERA Tier I at age fifty (50) years with the completion of ten (10) years of continuous service, as adopted by County Resolution R-72-1245, shall be maintained for employees who are members of SJCERA Tier I.

Section 7522.20 permits service retirement for General Members of SJCERA Tier II after five (5) years of service and upon reaching fifty-two (52) years of age.

#### 10.1 (d) Final Compensation Calculation

For employees who are members of SJCERA Tier I, final compensation shall, as authorized by County Resolution R-71-2161 pursuant to Section 31462.1, be the average annual compensation earnable by the member in the twelve consecutive months elected by the member or, if no election is made, immediately preceding the member's retirement.

As required by Section 7522.32, for employees who are members of SJCERA Tier II, final compensation shall mean the highest average annual pensionable compensation earned by the member during a period of 36 consecutive months designated by the member or, if not designated, immediately preceding the member's retirement or last separation from service if earlier.

#### 10.1 (e) Retirement Contributions

Employees' retirement contributions to SJCERA shall be made on a pre-tax basis.

Tier I member contributions as determined annually by the plan actuary pursuant to Section 31621.3 for General Members of SJCERA Tier I and expressed as a percentage of payroll shall be known as the "Basic Member Contribution Rate." Effective the pay period following approval of this agreement by the Board of Supervisors, employees who are members of SJCERA Tier I shall pay the Basic Member Contribution Rate plus effective the first full pay period in April 2016 the applicable increase in that rate as specified in Section 31631.5(a)(1), not to exceed 50% of the normal cost of benefits.

Effective the first full pay period in April 2016 Tier II members shall pay member contributions pursuant to Section 7522.30, which shall be at least 50% of normal cost as determined annually by the plan actuary and expressed as a percentage of payroll. The County shall not pay any of the required member contributions.

#### 10.1 (f) Retirement COLA Cost Share

Notwithstanding Resolution R-75-1592, effective July 1, 2013, in accordance with ~~Government Code~~ Section 31873 the contributions required for the normal cost of post-retirement cost-of-living adjustments shall be shared equally between the County and employees who are members of SJCERA.

#### 10.1 (g) Purchase of Additional Retirement Service Credit

Any employee who is a member of SJCERA and eligible to purchase additional retirement service credit may elect to purchase such service credit in accordance with the provisions of the County Employees Retirement Law, the SJCERA Bylaws, and the policies and procedures applicable to SJCERA members. Any required contributions paid by a member of SJCERA for additional service credit shall become part of the

member's accumulated contributions with SJCERA. Any additional liability assumed by or contributions paid by the County because of an employee's **purchase of** additional service credit shall not become part of the employee's accumulated contributions and shall not be considered compensation for purposes of contributions to or benefits from SJCERA.

Any physician who became a member of SJCERA pursuant to the Russell settlement agreement who is eligible and elects to purchase additional retirement service credit shall offset any payments required from the County because of the employee's additional service credit by signing the County's Agreement for Purchase of Additional Service Credit.

#### 10.1 (h) 401(a) Plan

San Joaquin County shall offer a 401(a) defined contribution plan for full-time UAPD represented employees hired on or after January 1, 2013. The County shall contribute \$5,000 yearly into the tier II employee's 401(a) account. The employee shall contribute 10% of gross salary every pay period not to exceed the IRS limit of \$35,000 per year.

The plan design and conditions shall be in full compliance with IRS regulations.

#### 10.2 Health Insurance Benefit

##### Effective Date of Coverage

The effective date of coverage for new employee members in the health, dental, and vision insurance plans provided employees shall be the first day of the first bi-weekly pay period next following the date of appointment to employment as a contract employee, who, by such contract, is eligible for the stated insurance coverage.

Effective January 1, 2017, or at such later date as determined in the sole discretion of the County, the preceding paragraph becomes inoperative and the following will apply:

The effective date of coverage for new employee members in the health, dental, vision and life insurance plans shall be the first day of the first month next following the date of appointment as a regular employee or as a contract employee who by such contract is eligible for the stated insurance coverage, and the employee's completion and submission of any required enrollment forms and supporting documentation, if required.

##### Health Insurance Options

The County shall provide an option for health insurance coverage for eligible employees and dependents in one of three plans. The three plans shall be:-(1) a Kaiser Plan; (2) a Select Plan; and (3) a Premier Plan. Health plans offered to employees may be either self funded by

the County or fully insured. If any plan is self-funded, a plan document shall be adopted by the Board of Supervisors.

If the County decides to provide health insurance coverage with other than the above health insurance providers, the County shall 1) continue to provide at least two (2) options for health insurance plans for eligible employees and dependents, including, at minimum a PPO and an HMO plan; and 2) at least one of the health providers will be a non-County, fully insured provider.

### Health Insurance Premiums

Effective the first full pay period in January 2013, the County will contribute 80% of the employee-only premium for Select and Kaiser and the employee shall pay 20% of premium. For employees electing the Premier Plan, the County shall contribute at the same coverage level as the Select Plan County contribution and the employee shall pay the difference between the County contribution and the full rate of the Premier Plan.

The County will contribute 80% of the dependent premium (employee plus one, and employee plus family) for Select and Kaiser and the employee shall pay 20% of the premium. For employees electing the Premier plan, the County shall contribute at the same level as the Select plan County contribution and the employees shall pay the difference between the County contribution and the full rate of the Premier plan at each coverage level.

For any new plan options, the County will pay 80% of the premium and the employee shall pay 20% of the premium for employees electing the PPO or HMO plan at all tier levels (employee only, employee plus one, employee plus family). If an expanded PPO plan is implemented, the County shall contribute at the same coverage level as the PPO plan County contribution and the employee shall pay the difference between the County contribution and the full rate of the expanded PPO.

For employees hired after the effective date of this Agreement electing employee-only coverage on the County's HMO or PPO Plan, the County shall contribute 80% of the premium and the employee shall pay 20% of the premium.

For employees electing the Premier Plan, the County shall contribute at the same coverage level as the Select Plan County contribution for employee-only coverage and dependent coverage. Employees will pay the difference between the County contribution and the full rate of the Premier Plan at each coverage level.

For employees electing an expanded PPO Plan, the County shall contribute at the same coverage level as the PPO Plan County contribution for employee-only coverage and dependent coverage. Employees will pay the difference between the County contribution and the full rate of the expanded PPO Plan at each coverage level

### Coverage for Part-Time Employees

Part-time employees who are scheduled to work 41 hours or more in a bi-weekly pay period and may opt to receive the full portion of the County's contribution to health insurance as though they were full time employees.

#### Coverage For Surviving Dependents

Consistent with the Federal Consolidated Omnibus Budget Reconciliation Act of 1986, any County employee who is covered by County-offered health insurance and who dies while employed, whether in paid or unpaid status, their surviving dependents shall be allowed to retain their dependents' coverage, provided that the dependents pay their applicable premium at least one (1) month prior to the premium due date.

### **11. EMPLOYEE PERSONNEL FILES**

Employees shall have the right to review and at their own expense obtain copies of their County personnel files. An employee's representative may inspect the contents of an employee's personnel files upon signed, dated authorization by the employee. Authorization shall be valid for sixty (60) calendar days from the date of signature.

The County reserves the right to withhold from employee review reports of an employee's pre-employment physical examination, records of an employee relating to investigation of possible criminal offense or other legally privileged records.

Employees shall be given an opportunity to read and initial any report to be added to their personnel files, but an employee shall not be required to sign any such report. An employee's signature on a report shall be understood to be acknowledgment of receipt and shall not be construed as agreement or disagreement with its content. If the employee refuses to sign any report, a notation to that effect may be entered on the document. A copy will be provided to the employee upon request.

An employee shall have the right to submit written comments regarding any document in his/her personnel file and to have such comments included in his/her personnel file along with the document.

#### Letters of Reprimand

An employee has the right to request in writing that a letter of reprimand be removed from the employee's personnel file if two years have elapsed from the date of reprimand and there has been no recurrence of the issue contained in the reprimand.

If the reprimand is in the department or division personnel file, the request must be directed to the Director, HCS or designee. If the reprimand is in the central Human Resources Division files, the request must be directed to the Director of Human Resources. The department head or designee, or the Director of Human Resources, whichever is appropriate, shall review the request and, within fourteen (14) calendar days render a decision on the request. The decision of any of the above individuals shall be final.

## **12. INDIVIDUAL CONTRACTS**

The Memorandum of Understanding (MOU) between the County of San Joaquin and the Union of American Physicians and Dentist (UAPD) will be the controlling contract regarding wages, benefits, and terms and conditions of employment. The terms and conditions of the MOU supercedes the individual contracts in any areas of conflict. The parties will meet within thirty (30) days of the adoption of this agreement to review individual contracts to ensure that they are consistent with the MOU.

## **13. LABOR-MANAGEMENT COMMITTEE**

The parties agree to form a labor-management committee. The purpose of the committee shall be to discuss various issues during MOU term, including annual leave accumulation, hours of work for Obstetricians, Gynecologists and Anesthesiologist; premium pay for Psychiatrists who work hours beyond their regular schedule.

## **14. WORK STOPPAGE**

It is mutually agreed and understood that during the period this Agreement is in force and effect the Union will not authorize or engage in any strike, slowdown, or work stoppage. Represented employees are also bound by the above.

## **15. SAVINGS CLAUSE**

If any provision of this MOU shall be held invalid or unenforceable by operation of law or by any court or governmental agency or competent jurisdiction, the remainder of this MOU shall not be affected hereby, and the parties shall enter into meeting and conferring for the sole purpose of arriving at mutually satisfactory replacement for such provision.

## **16. ENTIRE AGREEMENT**

Except as otherwise specifically provided herein, the Memorandum of Understanding (MOU) fully and completely incorporates the understanding of the parties hereto regarding the provisions contained in this MOU. The parties, for the term of this Agreement, do not waive the obligation to negotiate with respect to any practice, subject, or matter within the cope of bargaining not specifically referred to or covered in this Agreement. In the event the County proposes a change in any practice, subject, or matter which is within the scope of bargaining and is not covered by this Agreement, the County will give the Union advance written notice of the proposal and will, upon request of the Union, meet and confer with the Union concerning the proposal.



**17. SUCCESSOR AGREEMENT**

The parties agree that they will commence bargaining for a successor agreement not less than 120 days prior to the expiration of this MOU.

For San Joaquin County:

For UAPD:



Ted Cwiek

1/9/17

Date



Patricia Hernandez

1-09-17

Date

## **SIDELETTER**

### Incentive Pay

#### **OB/Gyn:**

OB/Gyns in the Department shall equally share 60% of net collections (gross collections minus billing fees) from inpatient professional physician charges for obstetrical and gynecological services at SJGH. Incentives shall be paid on a monthly basis, based on the previous months' data.

If the annual net collections from professional physician charges increase by at least 10% then OB/Gyns in the Department shall equally share 65% of net collections (gross collections minus billing fees) from inpatient professional physician charges for obstetrical and gynecological services at SJGH. The 10% increase will be measured by comparing net collections reported in the time period of July 1, 2016 through June 30, 2017 to the time period of July 1, 2015 through June 30, 2016.

If this 10% increase is not achieved by June 30, 2017, then the OB/Gyns will be given the opportunity to increase their share of net collections to 65% if net collections increases by at least 10% in the second year (July 1, 2017 through June 30, 2018) of this MOU.

**Anesthesia:** Anesthesiologists in the Department shall receive 15% of professional fee charges from inpatient clinical work at SJGH. The maximum incentive earned per anesthesiologist per fiscal year (July 1 through June 30) is \$75,000.

If 50% or more of the staff anesthesiologists (on staff on June 30, 2017) earn the maximum incentive from July 1, 2016 through June 30, 2017 fiscal year, then the maximum incentive will increase to \$100,000 for payment in the next fiscal year (July 1, 2017 through June 30, 2018).

If less than 50% of the staff anesthesiologists do not reach the maximum incentive by June 30, 2017, then the opportunity to increase the maximum incentive ceiling will carry over to the second year of this MOU as follows: if 50% or more of the staff anesthesiologists (on staff on June 30, 2018) earn the maximum incentive from the July 1, 2017 through June 30, 2018, then the maximum incentive will increase to \$100,000 for payment in the next fiscal year (July 1, 2018 to June 30, 2019).

Incentives shall be paid on a monthly basis, based on the previous months' data.

**Psychiatry and Child Psychiatry** (out patient staff): The program shall incorporate the County's proposal of 90 100% guaranteed salary. All Psychiatrists shall receive .8% for every 1% above 50% direct service productivity. When combined with salary, the total value of cash compensation shall be capped at 120% of the market median.

Direct Service Productivity = total direct service time

- Total paid time – time off (time off is defined as all annual paid leave taken, all unpaid leave, and release time authorized time to participate in union representation activities.

Current Incentive Pay Programs: By mutual agreement of the parties, changes to the existing incentive pay programs may be conducted during the term of this contract.

For San Joaquin County:

For UAPD:



Ted Cwiek

1/9/17  
Date



Patricia Hernandez

1-09-17  
Date