Minutes of the Faculty Senate of the University of Colorado School of Medicine

March 13, 2012

I. **Welcome:** The meeting was called to order by President Ron Gill, Ph.D at 4:35 PM. Dr. Gill asked any guests and/or members of the media to introduce themselves. There were no guests.

II. **Approval of the Minutes:** The minutes of the February 14, 2012 meeting were approved without comments or corrections.

III. **Dean’s Comments:**
   a. Dean Krugman began his update regarding current searches and affiliate institutions by stating that there are no searches in the Dean’s office at this time. There are other searches on campus:
      • There is a search for a head of the School of Nursing, this is proceeding.
      • The search for a Dean of the School of Public Health is in the negotiation phase. The Provost is in discussion with David Goff, MD, PhD, Professor and Chair of Epidemiology and Prevention at Wake Forest University School of Medicine.
      • The search for a CEO of Denver Health is underway. There was a public comment process. The hope is that this will be completed by September 2012, which is when Patty Gabow leaves.
      • There is a search for the head of the Bioethics Center. Five airport interviews have been conducted.
      • Regarding affiliate institutions, April 30, 2012 will be the first meeting of the Board of the University of Colorado Health System. Members of the Board include Lily Marks and Dean Krugman. Bruce Schroffel is President and Chair of the Board.
      • The Memorial Hospital negotiations are going along. There will be 1-2 months more of negotiations with the city attorney, then this will go to the city council and then to a vote of the people. The earliest vote would be in August; this would need a special election. There were no questions.

IV. **Discussion Items:**
   A. **Update on Faculty Conflict of Interest Committee Procedures** – Steve Lowenstein, MD, MPH, Associate Dean for Faculty Affairs, and John Sohrweid, Radiation Oncology. Steve Lowenstein (SL) began by saying that this whole effort, the ban on gifts, et cetera, was triggered by comments by medical students, by law making, by public pressure, and by changing norms in academic medicine. The Conflict of Interest policy and the Speaker’s Bureau policy are products of the Faculty Senate, and it is important to provide an update regarding how this is working. One year ago the Senate passed a resolution prohibiting Speaker’s Bureau activities occurring on a one time or a recurring basis. Exceptions are made for educational talks, not for marketing. There are three tests when a contract is in review. It will be denied if it focuses
on one product, if it is promotional, or if the presentation is subject to company review. The procedure for this is to submit a request form and a contract. The Committee reviews this and applies the tests above. In nine months 44 applications have been reviewed. Some have been for CME activities, or for academic institutions; these did not require committee review. 17 applications were rejected. This is a 40% disapproval rate.

It is now important to get feedback on process problems, the issue is delay, ambiguity and cross-talk. The faculty member submits a request, and this goes to Cheryl Welch in Faculty Affairs and then to the committee of 5-6 faculty members. Then there are e-mail comments regarding the contract between Rob Shikiar (RS), UPI attorney, and the committee. This process is inefficient. The process is continued until the committee agrees that the issues cannot be fixed, or RS contacts the company and asks them to change to language of the contract. One suggestion is that the contract go to RS first. He knows the precedents set by the committee, that is the principles used by the faculty, and can suggest deletion of phrases or modifications, and work with the company and the faculty member. Then, if the contract is acceptable to UPI, it would go to the committee for review.

This is the proposal, but it is not what the Faculty Senate voted on one year ago. It is important to talk about this policy change, or any other aspect of this. This policy has been rated as a model program by AMSA. Question: If we take the COI committee out of it, what is the purpose of the committee, that is if it goes to RS first? SL: The UPI attorney is working for the committee. He can approve the contract, which the faculty cannot do. The committee is to be faithful to the original intent of the Faculty Senate that the faculty review this. The proposal is to let the attorney review the contracts first, and to let the faculty review this after that.

Comment: President Gill: This does leave a lot up to the UPI attorney. Should there be a mechanism to go from conflict between the UPI attorney and the faculty member to the faculty committee if there is an unresolved dispute? Dean Krugman: Does the SOM put an undue burden on the UPI attorney? Jane Schumaker (JS), UPI: It is a lot of time for him. He does a lot of contracts. SL: We asked him, he said so far it is okay. This is less time for him. JS: It may make sense to find out if the company will make a change or not. Comment: RS is educated now, what if someone else comes in, how will they fill this role? Hari Khoul: Does the committee have a chair? SL: The past-president of the faculty senate is the chair of the COI committee. Ron Gill: There will be a faculty member assigned to each request. If RS can do this, this will save faculty time. Comment: Then why do you have a committee? SL: Rob’s approach is based on the committee’s work. Question: At what level does the UPI level approve this, can the committee change his mind? SL: Yes, we just did this, he had missed something. Having him talk attorney to attorney takes care of some issues in advance.

Question: Does the 40% disapproval reflect the company not being willing to
change? SL: Yes, this is the advantage of Rob Shikiar looking at the request early; there are some common clauses that can be discussed. Comment: This is a legal issue; we say that these are our rules, but it is the lawyer who makes the rules re this. SL: There are some conclusions from this. 1) The committee should meet regularly with Rob Shikiar, UPI attorney, so that he reflects the opinion of the faculty on the committee. 2) If there is an impasse between Rob Shikiar and the faculty member, this should go to the committee. 3) In the beginning of the process, the contract will be assigned to one faculty member on the committee to shepherd this along. Comment: The committee work is irrelevant then. SL: The committee could find something unacceptable; some things could come up that are not quite clear. Rob Shikiar is working for the school, but is not policy setting. Comment: The committee can still reject it even if it is legal. The role of the committee is to say if it acceptable. SL: Right now the legal standard is equivalent to the policy standard.

Comment: There are two tiers, the first is the initial approval, whether it is approved or denied. That is, don't have the attorney fix this if there is no scientific or educational merit. SL: The committee doesn't know this, they cannot review the slides or handouts, they can only review the obligations. The faculty members don't review the content of the talk, such as whether it is evidence based or not. Comment: But your criteria are that it has merit. SL: The criteria are that it must be educational and not promotional; we wouldn't know that it is or is not valid scientifically. The committee would never know that; it would only know if it is promotional or not. We will make these changes and get more feedback another time.

John Sohrweid then briefly discussed the procedure in the department of Radiation Oncology, which is similar, but in which the department chair reviews and approves any outside activity with a written contract. SL: The gap this fills is that it includes the Chair. So there is triaging at the department level. John Sohrweid: Yes, Dr. Gaspar reviews them all. President Gill: This is a model. SL: Yes, but Radiation Oncology is a small department, this is a model for achieving Chair review, but it may not be able to be adopted by every department. Currently there is no role for the Chair; this allows that to occur. Jane Schumaker, UPI: Rob Shikiar requires Chair approval. UPI signs no contracts without the Chair's signature, because it affects their budget.

B. **Overview of SOM Finances and Resources** - Jane Schumaker, Senior Associate Dean for Administration and Finance, Executive Director, UPI, provided an overview of the SOM finances and resources from the perspective of UPI. There are three parts: How do we fund the school? What is funds flow? and The B/S/I compensation plan. The context depicts how nationally medical schools are funded. We are like a private medical school in terms of funding, except with no endowment or philanthropy. We have lots of dependence on faculty research and on clinical dollars. We have a small contribution from the state. The only hard dollars are state and tuition fees. There is pressure on faculty to cover salaries. State appropriations are inappropriate for cross-
subsidy: We can’t use student tuition; we don’t have enough students. Increasing tuition doesn’t make up the gap. We also have an increasing burden on students of the debt they end up with. The state and institutional funds are the financial underpinning for academic entitlements, tenure, guaranteed appointments and tenure.

Jane Schumaker then reviewed the state funding process. The Joint Budget Committee and the Governor propose budgets. These are reconciled in the Long Bill, where there are many pressures, including TABOR and other considerations. This process starts in the winter and goes on until May. The budget then goes to the Colorado Committee on Higher Education and then to the Board of Regents. They allocate funds to the System budget and the three campuses of the CU system, Colorado Springs, Boulder and Denver, which includes the Downtown Campus and the Anschutz Medical Campus. UCD then allocates funds to the schools and programs. Some funds that are generated, including: tuition and fees, Clinical Revenue, UPI Revenue, Research, go directly to Schools and Programs. Other funds, including: State General Funds, Tobacco Funds, and other revenue go to the Central Services and Administration, and Indirect Cost Recovery. In the SOM some funds go directly to the schools, some go to the Deans’ office and then to the Departments. UPI revenue goes to the Departments, Programs and Centers. Restricted funds go directly to the grantee.

Regarding research funding, the days of NIH doubling are over, and the ARRA stimulus funds have ended. The success rate of grants is eroding, and it takes longer to get funding. Fiscal year 2011 awards were 4% less than those in 2010, $333.6 M vs. 344.4 M. NIH success rates by Institutes have decreased over the last 13 years. In 1999, the success rate at NCI was 32%, in 2012 it was 14%. Also the NIH salary cap was decreased so that higher paid faculty get less of their salary covered and the department and the Dean have to make up the difference. There is a change to the indirect cost rate, it will go from 54 – 55.5% over three years. Other revenue comes from affiliated hospital contracts. The SOM staff have many roles, including as medical directors, and these contracts are managed by UPI. SOM faculty members also are involved in Graduate Medical Education. Other sources of income include Gifts and Endowments, and Indirect Cost Recovery. Administrative reimbursement is capped at 26%. This is a challenge, as some administrative costs are not being recovered.

There is a complicated formula for indirect cost recovery (ICR). Allocation of ICR revenue to the SOM is based on a campus-wide distribution formula that is comprised of 2 distinct components (base and incentive). The base component of the formula, assuming positive revenue growth from the prior fiscal year, is equal to 20% of the total ICR revenue generated by SOM in prior fiscal year. The incentive component rewards the SOM for positive growth in total cost recovery revenue over the prior fiscal year. If total indirect cost recovery revenue grows by 5% or more, the SOM incentive is equal to 50% of the incremental revenue. Since 1999, 50% of all indirect cost revenue
distributed to SOM has been earmarked for debt service of the new research facilities on the Fitzsimons campus, approximately 10% of total ICR returned to SOM per formula. Ninety percent of formula dollars received are allocated to departments on a pro rata basis and are then allocated by the Department ICR formula/policy. Ten percent of formula dollars are allocated to the SOM Dean and are used for school wide infrastructure support.

The academic enrichment fund is an important source of revenue. It is a 10% “Dean’s Tax” on all UPI professional fee income (net collections) – and averages 6-7% because of exemptions. It generates approximately $27 million/year. Approximately $253 million has been reinvested in SOM over the past decade and a half. This is invested by the Dean in academic program development or enrichment to enhance the missions of the School. Awards are considered one-time commitments but may be spent over multiple years. No “in-perpetuity” commitments are made.

Clinical revenue is endangered, almost as much as research. Commercial professional fees are under pressure, especially specialty services. Medicare/Medicaid reimbursement will decline, though it will stay at the same rate until 12/12. Expanded Medicaid eligibility has a Pediatric impact; it covers a large percentage of patients and is the poorest payer. Hospital reimbursement is under pressure. There are emerging reimbursement models – pay for performance, bundled payments. There is increased provider accountability for costs and outcomes. MD and hospital consolidation brings increased competition, and systems control referrals. Hospital reimbursement under pressure may impact academic support. Finally, in the next federal budget there are potential cuts to Medicare GME payment (FY14). The bottom line is that we do see an erosion of the clinical margin. The take-away message is that the school is supported by the work of its faculty, that teaching is underfunded, and that clinical and research activities fund this.

UPI is a separate, not-for-profit corporation. It serves the faculty of the SOM. It has an operating agreement with the CU Board of Regents. Its work supports the SOM faculty, especially in the assignment of clinical income, and in collections. All faculty are members. All faculty sign the member practice agreement. Membership is mandatory. All clinical income goes through UPI. UPI is delegated to do billing and contracting by the SOM. It is governed by a Board of Directors and consists of clinical chairs and elected faculty. UPI is an employer of about 500 employees, 350 support billing and collections. UPI employees might work within the department. UPI wants to get the best and retain the best employees. They do billing and collecting of professional fees generated by faculty, capturing fees through coding and charging. They do commercial and third party contracts and managed care credentialing. They review and sign contracts for faculty services/consulting, after department review and approval. UPI has its own health plan, the University of Colorado Health and Welfare Trust, so that employees use their own providers. UPI are part owners in TriWest, a holding company for Tricare. UPI does business development including retaining markets and expanding markets, and
acquiring physicians who would like to join us. UPI is an investor, and owns its own building, 1/3 of this is leased out as a revenue source. This has been used to endow SOM scholarships. UPI took in 400 million dollars last year, part contractual, part fee for service.

In the last portion of her presentation Jane Schumaker discussed the BSI or Base, Supplement, Incentive Compensation Plan. This was adopted by the Faculty Senate in 1995. Others have been interested in this as a model. The base is equivalent to 70% of previous year's mean salary for basic science faculty @ each rank. Base salaries are readjusted annually. The supplement includes merit, administrative activities, service, and is based on funds available, determined annually. Incentives are determined per UPI Bylaws. In FY 2010 – 2011, the Base salary accounted for 28% of expenditures, the supplement 62% and the Incentive 10%. Bylaws dictate incentives, while not guaranteed, can be paid from available department earnings with the following limitations: 10% mandatory reserve, 50% - 90% to be paid as faculty incentive. Incentives must be limited to an amount that, when combined with base salary would be considered “reasonable, fair market” compensation (IRS requirement). Plans must be reviewed/approved by a majority vote of department faculty every five years. All payments are issued via University payroll (UPI does not pay physicians). Departments should include relevant metrics and formula to align incentive pay with internal objectives (wRVU's, call points, collections, profitability, etc).

Jane Schumaker asked for any questions. The first was for the Dean: Do you anticipate salary freezes? Dean Krugman (DK): Every decade has 2-3 years of salary freezes. Ever since we passed B/S/I, we have been exempt from the salary setting process; we fund our own salaries. Most of our raises don’t come from the general fund. Comment: So we are exempt by virtue of clinical activity, but we are bound by politics. DK: We pay more in state payroll tax than we get in the general fund, by $8 million. If they hold salaries down then they don’t stimulate the economy.

The meeting was adjourned at 6:04 P.M.

Respectfully submitted, Renata C. Gallagher, MD, PhD.