MEMORANDUM

August 31, 2004

TO:	THE LOS ANGELES COUNTY CLAIMS BOARD
FROM:	MICHAEL THOMAS, ESQ. Thomas, Donahue, Thomas & Hurevitz, LLP OWEN L. GALLAGHER Principal Deputy County Counsel General Litigation Division
RE:	**Moon Ja Oh, Jung Hoon Oh, Eun Ju Han, Jung Eun Oh v. County of Los Angeles** **Los Angeles Superior Court Case No. PC032662**
DATE OF INCIDENT:	September 4, 2001
AUTHORITY REQUESTED:	$199,000, Plus Assumption of the Medi-Cal Lien Not to Exceed $40,770.59
COUNTY DEPARTMENT:	DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☒ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on October 4, 2004

SUMMARY

This is a recommendation to settle for $199,000, the wrongful death lawsuit brought by Moon Ja Oh (wife), Jung Hoon Oh (son), Jung Eun Oh (daughter), and Eun Ju Han (daughter) for the death of Sun Yook Oh subsequent to his discharge from High Desert Hospital on September 4, 2001. The State, having paid $40,770.59 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County.

LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On July 20, 2001, Sun Yook Oh, a 60-year-old man, was admitted to High Desert Hospital for treatment of an inflammation of the lungs due to an infection caused by a mycobacterium (tuberculosis [TB]).

On July 24, 2001, a diagnostic imaging procedure utilizing sound frequency (ultrasound) of Mr. Oh's abdomen indicated an abnormal mass of tissue on his liver. Although an imaging study generated by computer synthesis of x-ray data (CT scan) confirmed the abnormal mass of tissue, medical personnel were unable to determine whether the abnormal mass was a benign tumor consisting of a mass of blood vessels (hemangioma) or a cancerous growth (neoplasm), and recommended that a small piece of tissue be removed from the abnormal mass for diagnostic examination (biopsy).

On August 30, 2001, Mr. Oh underwent a surgical procedure to remove his gallbladder (cholecystectomy) by a procedure utilizing a tube and optical system inserted through a small incision (laparoscopy), which was performed successfully. During this procedure, medical personnel intended to biopsy the abnormal mass found on Mr. Oh's liver. However, after visually inspecting the abnormal mass on the liver, medical personnel concluded that the abnormal mass was most probably an hemangioma, and not a cancerous neoplasm. Due to a risk of severe bleeding that a biopsy of an hemangioma might produce, a complication which High Desert Hospital was not equipped to treat, a decision was made not to perform a biopsy of the abnormal mass of liver tissue.

On September 4, 2001, Sun Yook Oh was discharged. However, medical personnel failed to schedule follow-up diagnostic studies to confirm that the abnormal mass of tissue identified on Mr. Oh's liver as an hemangioma was not a cancerous neoplasm.

On September 3, 2002, Sun Yook Oh was admitted to Olive View/UCLA Medical Center with complaints of abdominal pain, and a yellowish coloring of the skin tissue (jaundice). On September 9, 2002, Mr. Oh underwent a surgical procedure to biopsy the abnormal mass of tissue on his liver. The results of the biopsy indicated that the abnormal liver mass was a cancerous neoplasm. On September 13, 2002, Mr. Oh was discharged.

Although Mr. Oh underwent treatment for cancer, his condition continued to deteriorate. On January 1, 2003, he died of complications associated with his cancer.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Moon Ja Oh,	
Loss of Future Support	$ 30,000
Loss of Care, Comfort and Companionship (MICRA limit)	$ 62,500
Jung Hoon Oh,	
Loss of Care, Comfort and Companionship (MICRA limit)	$ 62,500
Jung Eun Oh,	
Loss of Care, Comfort and Companionship (MICRA limit)	$ 62,500
Eun Ju Han,	
Loss of Care, Comfort and Companionship (MICRA limit)	$ 62,500
Funeral Expenses	$ 7,473
TOTAL	$287,473

The proposed settlement includes:

Moon Ja Oh,	
Loss of Care, Comfort and Companionship	$ 33,150
Jung Hoon Oh,	
Loss of Care, Comfort and Companionship	$ 33,150
Jung Eun Oh,	
Loss of Care, Comfort and Companionship	$ 33,150
Eun Ju Han,	
Loss of Care, Comfort and Companionship	$ 33,150
Attorneys Fees (MICRA Estimate)	$ 61,400
Costs of Litigation	$ 5,000
TOTAL	$199,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through August 18, 2004, are attorneys fees of $28,638 and $7,999 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)		$199,000.00
County Attorneys Fees and Costs		$ 36,637.00
Medi-Cal Lien		$ 40,770.59
	TOTAL	$276,407.59

EVALUATION

Medical experts will be critical of the failure of medical personnel to schedule follow-up diagnostic studies after September 4, 2001, to confirm that the abnormal mass of tissue identified on Mr. Oh's liver as an hemangioma was not a cancerous neoplasm. This failure fell below the standard of care, and is directly responsible for the results observed here.

We join with our private counsel, The Law Offices of Michael Thomas, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of $199,000, and payment of the Medi-Cal lien in the amount of $40,770.59.

The Department of Health Services concurs in this settlement.

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