

ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK (OPTN)

BYLAWS

These Bylaws govern the structure and operation of the Organ Procurement and Transplantation Network (OPTN). By accepting membership in the OPTN, each Member agrees to comply with all applicable provisions of the National Organ Transplant Act, as amended, 42 U.S.C. 273 *et seq.*; OPTN Final Rule, 42 CFR Part 121; these Bylaws; and OPTN policies as in effect from time to time. The OPTN will conduct ongoing and periodic reviews and evaluations of each Member OPO and Transplant Hospital for compliance with the OPTN Final Rule and OPTN policies. All OPTN Members are subject to review and evaluation for compliance with OPTN policies. All such compliance monitoring is performed using processes and protocols developed by the OPTN Contractor in accordance with the contract with the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA), to operate the OPTN (OPTN Contract).

ARTICLE II

BOARD OF DIRECTORS

- 2.1 Authority.** The OPTN Board of Directors governs the OPTN and is responsible for developing policies and criteria within the mission of the OPTN.
- 2.2 Election/Terms.** Members of the OPTN Board of Directors shall be elected by majority vote of Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, Public Organization Member Electors, Medical/Scientific Member Electors, and Individual Member Electors represented in person or by proxy at each annual meeting of the Members at which a quorum is present. Directors may also be elected at any special meeting of the Members if the Board of Directors is being expanded. Directors shall serve for a term of two years, with exceptions as noted below, which shall begin immediately following the conclusion of the last regular meeting of the Board of Directors prior to July 1 of each calendar year. Members of the Board who are transplant candidates, transplant recipients, organ donors, or family members, or representatives of voluntary health organizations or the general public shall serve for a term of three years. Board members who also hold positions as Officers serve one year terms, with the exception of the Treasurer and Secretary who shall have staggered terms with one another and shall serve two year terms and the Vice President of Patient & Donor Affairs who shall serve for a term of two years. Each voting Transplant Hospital Member, OPO Member, Histocompatibility Laboratory Member Elector, Public Organization Member Elector, Medical/Scientific Member Elector, and Individual Member Elector is entitled to one vote for each Director position to be elected. There shall be no cumulative voting.
- 2.3 Number.** The number of Directors shall be not fewer than 34 or more than 41. There shall be members representing histocompatibility experts; transplant coordinators; OPOs and Transplant Hospitals; voluntary health organizations; non-physician transplant professionals; and representatives of the general public, including, for example, individuals drawn from the fields of law, theology, ethics, health care financing, public health, the social and behavioral sciences, and labor and management unrelated to the field of health care. Approximately 50% of the Directors shall be surgeons or physicians directly involved in transplantation. At least 25% of the Directors shall be transplant candidates, transplant recipients, organ donors, and family members who represent the diversity of the population of transplant candidates, transplant recipients, organ donors, and family members served by the OPTN, including, to the extent practicable, the minority and gender diversity of this population. Transplant candidate, transplant recipient, organ donor, and family member Directors shall be required to certify that they are not employees of, and do not have a similar relationship with, OPOs, Transplant Hospitals, voluntary health organizations, transplant coordinators, histocompatibility experts, or other non-physician transplant professionals. The Board of Directors may, however, waive this requirement for not more than 50% of this category of members. The Project Officer for the OPTN Contract and the Director of the Division of Transplantation, within the Health Resources and Services Administration, HHS, or their designees, shall serve as *ex-officio*, non-voting members of the Board of Directors.
- 2.4 Regions.** There shall be eleven (11) geographic regions in the United States. The current composition of these regions is set forth in Article IX. Changes to this composition shall require approval of the Board of Directors. The Board shall maintain procedures for the election of one "Councillor" and one "Associate Councillor" from each region by vote of the Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, Public Organization Member Electors, and Individual Member Electors for the Region and individuals who both reside in the region and have voting privileges at regional meetings as set forth in this section. The Councillor will serve as the representative of these Members and individuals. The Associate Councillor shall represent the region on the Membership and Professional Standards Committee and act in place of the Councillor during his absence or disability. Unless otherwise directed by the Board of Directors or the President, regional elections shall be completed on or before December 31 of each year and shall be held in accordance with one of the following protocols selected by the incumbent Councillor after consultation with or vote of his region's Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, Public Organization Member Electors, and Individual Member Electors and individuals residing in the region who have voting privileges at Regional meetings as set forth in this section:

- a. There shall be a single slate of nominees for Councillor submitted by Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, the Public Organization Member Elector, the Individual Member Elector, or individuals with voting privileges at regional meetings. The person who receives the second highest number of votes in the election shall be the Associate Councillor; or
- b. There shall be a slate of nominees for Councillor and a separate slate for the Associate Councillor, chosen in either case from nominations submitted by Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, the Public Organization Member Elector, the Individual Member Elector, or persons with voting privileges at regional meetings; or
- c. There shall be a separate slate for Councillor and another slate for Associate Councillor/Councillor-Elect. After one such election, there shall be a slate for a new Associate Councillor/Councillor-Elect, with the incumbent in that position becoming the Councillor automatically. In each case, the slate shall be composed of nominations submitted by Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, the Public Organization Member Elector, the Individual Member Elector, or persons with voting privileges at regional meetings.

The Councillor and Associate Councillor of each region shall be elected for the same term, which shall be either one year or two years, beginning in each case on the date of the annual meeting of the Members following his or her election. The Councillors or Associate Councillors shall not succeed themselves in office. The Councillor from each region shall be responsible, along with the President and the Executive Director, for organizing and coordinating regional activities to carry out purposes of the OPTN. The Nominating Committee in preparing its slate of nominees for election as Director at each annual meeting of Members, shall include as a Director nominee each Councillor who has been elected by the region's Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, the Public Organization Member Elector, the Individual Member Elector, and persons residing in the regions who have voting privileges at regional meetings to serve for a term that includes the year following the upcoming annual meeting of Members, with the goal of assuring to the greatest extent possible that at least one representative of each region will serve on the Board of Directors at all times. A Councillor may be removed from office with or without cause by majority vote of all the region's Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, the Public Organization Member Elector, the Individual Member Elector, and persons residing in the region who have voting privileges at regional meetings, as evidenced by signed ballots presented to the President or the Board of Directors.

Each Transplant Hospital Member, OPO Member, Regional Histocompatibility Laboratory Member Elector, the Regional Public Organization Member Elector, and the Regional Individual Member Elector (other than an Institutional Member or Public Organization Member from a category that is not named in the Charter as amended or restated) who resides in a region shall have one vote on any matter before the region for a vote, including the election of Councillor and Associate Councillor. Any person currently serving on an OPTN standing committee who is a representative of the general public (including, for example, patients and their families, donors, donor families, and individuals drawn from the fields of law, theology, ethics, health care financing, the social and behavioral sciences, and labor and management unrelated to the field of health care) and who is not employed by or on the medical staff of an Institutional Member, Medical/Scientific Member or Public Organization Member also may vote on all regional business. Additionally, one or more representatives of Medical/Scientific Members with principal offices located in a Region may vote on regional business, as determined by and pursuant to such protocols as developed by the respective Regions.

- 2.5 Meetings.** Regular meetings of the Board of Directors shall be held twice each calendar year at a place selected by the Executive Director. One of these meetings shall be held in the Washington, D.C. metropolitan area. The Board may have such other regular or special meetings as it deems necessary. Meetings of Directors may be held in person or by any means of communication by which all Directors may simultaneously hear and speak with one another during the meeting. Any action required or permitted to be taken at a meeting of Directors may be taken by unanimous written consent signed by all Directors. Portions of meetings of the Board of Directors convened to address activities of the OPTN shall be open to the public with the exception of discussions involving confidential matters, which shall be reserved for

closed sessions as appropriate and consistent with applicable laws and regulations. Such confidential matters include OPTN member admission, credentialing, monitoring, or disciplinary matters and matters involving individuals' privacy where disclosure would constitute a clearly unwarranted invasion of personal privacy. Representatives from the Federal government serving on the Board of Directors, or their designees, shall not be precluded from attending such closed sessions of Board meetings.

- 2.6 Notice of Meetings.** Written notice of any regular or special meeting of the Board of Directors shall state the place, date, and time of the meeting and shall be mailed to each Director at the address on file with the Executive Director not fewer than 10 or more than 60 days before the date of the meeting. The Executive Director shall circulate the agenda for each Board of Directors meeting to the Members at least 10 days prior to the meeting in order to promote input from the Members to the Directors. A written waiver of notice signed by a Director, whether before or after the time stated therein, shall be the equivalent of the giving of any notice required herein. A Director who attends a meeting shall be deemed to have had timely and proper notice thereof.
- 2.7 Quorum.** Fifty percent (50%) of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board. A vote of the majority of those present shall be sufficient to transact any business that might come before the meeting, except where different voting requirements are set forth in these Bylaws, and except that an amendment to the Bylaws shall require approval of a majority of all of the Directors. The Principal Officers shall be elected by the Members and not by the Directors.
- 2.8 Committees.** The permanent Standing Committees of the OPTN are defined in Article VII of these Bylaws. The Board may, from time to time, establish and dissolve ad hoc committees for specific purposes, finite functions, or limited periods of time, as the Board deems appropriate.
- 2.9 Conflicts of Interest.** It is the policy of the OPTN to avoid conflicts of interest and the appearance of conflicts of interest. It is recognized that all Board members are directly or indirectly involved in organ donation, procurement and transplantation and that the OPTN benefits from their collective expertise and experience in the development and implementation of OPTN policies. However, issues that involve named institutions or individuals may involve conflicts of interest. Board members are required to disclose their employers and their positions or activities that might provide them with personal or financial interests in the outcomes of matters before the Board of Directors for consideration and to act accordingly. This might include, for example, abstaining from voting on a matter and/or leaving the room for discussion of the matter after offering to provide such information as the Board might request.
- 2.10 Removal from Office.** A Director may be removed from office with or without cause, but only by the Transplant Hospital Members, OPO Members, Histocompatibility Laboratory Member Electors, Public Organization Member Electors, Medical/Scientific Member Electors, and Individual Member Electors at a meeting called and noticed expressly for the purpose of voting to remove him/her.
- 2.11 Relationship of OPTN Board and OPTN Contractor's Board.** The OPTN Board of Directors shall be elected in parallel with and using the same processes as the OPTN Contractor's Board of Directors, resulting in identical memberships, if the OPTN Contract provides for such an arrangement. This will enable the OPTN Contractor to perform tasks required by the OPTN Contract under the governance of the OPTN Board of Directors. Activities of the Board of Directors, while constituted as the OPTN Board, shall be limited to activities of the OPTN (*i.e.*, those activities for which costs are reimbursed under the OPTN Contract). To accomplish this, separate agendas or sections within combined agendas shall identify OPTN versus OPTN Contractor business. The Board of Directors shall convene as the OPTN Board for purposes of conducting OPTN affairs and the OPTN Contractor Board for purposes of conducting OPTN Contractor affairs. Consistent with this framework, OPTN Committees are appointed in parallel with OPTN Contractor Committees and operate under these same procedures.

