

Public Comment Proposal

Rewrite of Bylaws Article II: Board of Directors

OPTN/UNOS Executive Committee

*Prepared by: Gena Boyle
UNOS Executive Department*

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Rewrite of Bylaws Article II: Board of Directors

Affected Policies: Bylaws Article II: Board of Directors, Article III: Nominating Committee, Article IV: Executive Committee, Article VI: Officers, Article IX: Regions
Sponsoring Committee: Executive
Public Comment Period: January 23, 2017 – March 24, 2017

Executive Summary

The OPTN/UNOS Executive Committee is currently reviewing the structure and recruitment process for the OPTN/UNOS Board of Directors. As part of that review, the Executive Committee has identified improvements that are needed in the Bylaws governing the structure and operations of the Board of Directors, the Executive Committee, and the Nominating Committee. The goal of this proposal is to improve transparency about the process for nominating and electing the Board of Directors, filling Director vacancies, and removing voting Directors. The majority of the changes in the proposal seek to better organize and add clarity to Article II: *Board of Directors* and move current sections within the Article to sections more appropriate for the topic. As such, this document contains a crosswalk to help readers track the changes.

Other than changes pertaining to re-organization, the Committee is recommending the following changes:

- Clarify that the maximum number of Board members (42) applies to voting Directors and the OPTN Executive Director and two HHS representatives are not included in that count.
- Clarify that the voting Directors approve the final slate of nominees for the national ballot of the Board of Directors with a majority vote of those present at the meeting.
- Clarify that the Nominating Committee recommends a slate of officers and at-large directors and regions elect an associate councillor that subsequently becomes the nominee for regional councillor (except in rare cases of regional or associate councillor vacancies).
- Allow an officer to serve in more than one position for the unexpired term of another officer vacancy.
- If a vacancy occurs in the office of the president, the vice president will become the president and serve the unexpired portion of the previous president's term + the normal one-year term.
- Add language to require that the regional councillor and associate councillor reside or be employed in the region they represent throughout the entirety of their term in these roles.
- Clarify the Board's options for extending a term and the voting threshold required to do so. In the case of a regional councillor vacancy, the Board will have the option to extend the current regional councillor for up to a year, appoint the associate councillor to serve for three years, or fill the vacancy with a new Director to serve for the unexpired portion of the Director's term.
- Make consistent the voting Directors' authority to fill vacancies and remove voting Directors, and clarify the voting threshold that applies to each action.
- Add language to clarify how vacancies will be filled on the Executive and Nominating Committees.

What problems will this proposal solve?

The Executive Committee is proposing changes to the Bylaws to address multiple issues:

1. The process for nominating and electing Board members is spread out among different sections of the Bylaws and, thus, it is difficult for members of the transplant community to determine how voting Directors (officers, regional councillors, and at-large representatives) are chosen.
2. The Bylaws currently contain what could be construed as conflicting language regarding the Board's ability to extend a voting Director's term.
3. There is not an established, transparent, and consistent process for filling vacancies on or removing Directors from the Board of Directors, the Executive Committee, and the Nominating Committee.
4. The current Bylaws state that officers can only hold one position at a time. This does not provide for any flexibility in instances where an officer vacancy occurs and there is a need for one individual to fulfill the responsibilities of two officers.
5. The Bylaws do not currently contain a requirement that regional or associate councillors reside or be employed in the region they represent throughout the length of their term.

Why should you support this proposal?

These changes establish more transparency in the rules governing the structure, nomination, and election of the OPTN Board of Directors.

How was this proposal developed?

The composition and operations of the OPTN Board of Directors and the Executive Committee are largely influenced by the National Organ Transplant Act (NOTA), the OPTN Final Rule ("the Final Rule"), the OPTN/UNOS Bylaws, and the OPTN Contract. OPTN Bylaws Article II: *Board of Directors* outlines the composition of the OPTN Board of Directors and procedures for voting, meetings, and other operations. Almost all of the requirements in this article are mandated by federal statute and regulation. The OPTN Final Rule contains very descriptive requirements for the Board and Executive Committee, including that:

- Approximately 50 percent of the Board be comprised of transplant surgeons or physicians.
- At least 25 percent of the Board be comprised of transplant candidates, recipients, organ donors, and their family members and these members should represent the minority and gender diversity of this population. [These members shall not be employees of, or have similar relationships with OPO, transplant centers, voluntary health organizations, transplant coordinators, histocompatibility experts, but the Board can waive the requirement for up to 50% of these members.]
- There must be representatives of OPOs, transplant hospitals, voluntary health organizations, transplant coordinators, histocompatibility experts, non-physician transplant professionals, and the general public.
- The Executive Committee must include at least one general public member, one OPO representative, approximately 50 percent transplant surgeons and physicians, and at least 25 percent transplant candidates, recipients, organ donors, and their family members.

The OPTN/UNOS Executive Committee is currently reviewing the structure and recruitment process for the OPTN/UNOS Board of Directors within the framework required in the federal statute, regulations, and contract. In this larger effort, the Executive Committee has been reaching out to different groups for feedback, including the regional and associate councillors, professional transplant and procurement societies and associations, and patient and donor representatives. The Executive Committee established a Board Governance Subcommittee to assess the needs of the Board and review the structure. This subcommittee, along with UNOS staff, have been reviewing Bylaws pertaining to the Board's structure, along with the Executive and Nominating Committees. The goal of these initial changes is to provide

more transparency and clarity regarding the Board's structure and operations. Below is a crosswalk to aid readers in assessing the changes.

The current version of Article II: *Board of Directors* can be accessed on the OPTN website.¹

Current Section 2.1 Composition: This section did not move.

Problems:

- The current version could be interpreted to include HRSA's two Board of Director positions in the overall maximum count.
- The current structure of this section does not describe the full composition of the Board. For example, even though the officers make up 5 members of the Board, there is no mention of them in this article.
- The current Bylaws state that officers can only hold one position at a time. This does not provide for any flexibility in instances where an officer vacancy occurs and there is a need for one individual to fulfill the responsibilities of two officers.

Changes:

- Clarified that the maximum number of Board members applies to voting Directors and that two HRSA representatives and the Executive Director serve on the Board but are not voting members.
- Re-organized this section to describe three types of Board members: Officers, regional councillors, and At-large representatives.
- New language would allow an officer to serve in more than one position for the unexpired term of another officer vacancy.

Current Section 2.2 Election: This section did not move.

Problems:

- Currently, the process for electing different types of Board members is spread out among different sections and articles. This makes it harder to determine how voting Directors are chosen.
- The current process for selecting regional and associate councillors is not transparent in the Bylaws.

Changes:

- The section has been re-organized to describe the differences in the nomination and election process for the three types of Board members.
- Added requirement that the Board approve the final slate of nominees by majority vote of voting directors present.
- Language has been added to clarify that the Nominating Committee recommends a slate for the officers and At-large Directors and typically the associate councillors who have served a two-year term becomes the region's nominee for regional councillor.

Current Section 2.3 Terms: This section did not move.

Problems:

- The current section does not communicate officer terms or whether an officer's term can be extended by the voting directors.
- The current Bylaws do not specify that a regional councillor must reside or be employed in the region they represent for the length of their term.

¹ https://optn.transplant.hrsa.gov/media/1201/optn_bylaws.pdf#nameddest=Article_02

- In the current Bylaws, there appears to be a conflict with the Board's ability to extend a term. There is general language that applies to extending a Director's term for one year, but the option appears to be more limited for regional councillors.

Changes:

- This section has been re-organized to communicate differences in terms among the different types of Board members.
- There is a new requirement for the regional councillor to reside or be employed in the region he/she represents.
- The newly organized section makes clear the Board has different options for extending the term of 1) a regional councillor; or 2) an at-large director.

Current Section 2.4 Regional Representatives (proposed new section 2.4 Vacancies):

Sections moved:

- The first paragraph of 2.4 has been deleted because language in new sections 2.1.B and 9.4 capture this information.
- 2.4. A has been moved to new sections 2.1.B, 2.2.B, 2.3.B, 2.4, 2.5, and 9.4.
- 2.4.B (Associate Councillors) has been moved to Article IX: Regions
- 2.4.C and 2.4.D have been moved to Article IX: Regions
- There is a new section 2.4: *Vacancies*

Problems:

- There is currently not an established and transparent process for filling vacancies on the Board.

Changes:

- The new section 2.4 deals with vacancies and establishes a consistent principle for filling vacancies (with the exception of a vacancy in the office of President).
- If a vacancy occurs in the office of the president, the vice president will become the president and serve the unexpired portion of the previous president's term + the normal one-year term.
- In the case of a regional councillor vacancy, the Board will have the option to extend the current regional councillor for up to a year, appoint the associate councillor to serve for three years, or fill the vacancy with a new Director to serve for the unexpired portion of the Director's term.

New Section 2.5 Removals:

Problems:

- Removal of Directors are handled inconsistently in the current Bylaws. The Board needs the ability to remove any Director, but the threshold for removal needs to be high.

Changes:

- Removals will be handled consistently. The Board can remove any Director with a two-thirds vote.

Current Section 2.5 Meetings (Now re-numbered as 2.6: Meetings)

Problems:

- The current version does not specify how the Board can call a special meeting. It also isn't clear that the Executive Director or the Board President could do this (although this is current practice).
- The current section is written in a passive voice and it isn't clear who is accountable for certain requirements.

Changes:

- New language has been added to clarify that the Executive Director and the Board President can call special meetings. The Board itself can also call meetings with a written request to the Executive Director from a majority of the voting Directors.

- The section has been re-worded into an active v. passive voice

Current Section 2.6 Committees (this section has been deleted).

Problems:

- This section isn't needed. Committees are established in Article VII.

Current Section 2.7 Conflicts of Interest (no changes were made to this section)

Current Section 2.8 Removals (this section has been moved to the new section 2.5).

Current Section 2.9 Relationship of the OPTN and the OPTN Contractor's Board (no changes were made to this section)

Current Section Article III: Nominating Committee

Problems:

- In the current version, it isn't clear that the Nominating Committee is comprised of Board members (with the exception of the past president immediately preceding the past president).
- There is currently not a defined and transparent process for filling a Nominating Committee vacancy.

Changes:

- Clarified that Nominating Committee is comprised of Board members (with the exception of the past president immediately preceding the past president).
- Added a section to the Nominating Committee article regarding vacancies. If an officer vacancy occurs, the newly elected officer will automatically become a Nominating Committee member. If the vacancy occurs with the remaining seven, the President will appoint the replacement (this is how the members of the Nominating Committee are currently populated).

Current Section Article IV: Executive Committee

Problems:

- There is currently not a defined and transparent process for removing an Executive Committee member or filling an Executive Committee vacancy.

Changes:

- A section has been added to the Executive Committee article regarding removals and vacancies.
- Board members can remove members of the Executive Committee with a majority vote of Directors at a meeting. Officers cannot be removed from the Executive Committee unless they are removed from the Board completely.
- If an officer vacancy occurs, the newly elected officer will automatically become an Executive Committee member (because officers serve as ex-officio on the Executive Committee).
- If a vacancy occurs with the remaining five at-large Executive Committee members, they will be elected by their category of representation on the Board.

Current Section Article VI: Officers (did not move)

Problems:

- With the changes made above in vacancy/removals, the officers section would not be consistent with other sections.

Changes:

- Removed all language pertaining to terms and removal of officers, since that is now addressed in Article II.

Current Section Article IX: Regions (did not move)

Problems:

- The current Bylaws do not require the associate councillor to reside or be employed in the region they represent during their term as a representative for the region.
- Some sections that were more appropriate for this Article were located in Article 2: *Board of Directors*. For example, the section regarding regional voting privileges.

Changes:

- There is a new requirement that associate councillors reside or be employed in their regions during their term.
- Sections pertaining to regional voting privileges and regional election procedures are proposed to be located in Article IX: Regions.

How does this proposal impact the OPTN Strategic Plan?

Increase the number of transplants: There is no impact to this goal.

Improve equity in access to transplants: There is no impact to this goal

Improve waitlisted patient, living donor, and transplant recipient outcomes: There is no impact to this goal

Promote living donor and transplant recipient safety: There is no impact to this goal.

Promote the efficient management of the OPTN: These changes establish more transparency in the rules governing the structure, nomination, and election of the OPTN Board of Directors.

How will the OPTN implement this proposal?

This proposal will not require programming in UNetSM.

How will members implement this proposal?

This proposal does not require any actions by OPTN members.

Will this proposal require members to submit additional data?

This proposal does not require additional data collection.

How will members be evaluated for compliance with this proposal?

This proposal does not require any actions by OPTN members.

How will the sponsoring Committee evaluate whether this proposal was successful post implementation?

The Executive Committee will continue to measure the effectiveness of the Board's operations. The Board Governance Subcommittee will continue to assess needs for the Board and determine whether further changes are needed in the Board's structure and operations.

Policy or Bylaws Language

Proposed new language is underlined (example) and language that is proposed for removal is struck through (~~example~~).

1 **Article II: Board of Directors**

2 **2.1 Composition**

3 The Board of Directors must have at least 34 but not more than 42 voting Directors.

4
5 In addition, all of the following individuals serve on the Board of Directors but do not have voting
6 privileges:

- 7
8 ■ Two individuals designated by the U.S. Department of Health and Human Service (HHS)
9 ■ The OPTN Executive Director

10
11 All Directors serve on the Board without compensation.

12 13 **A. Officers**

14 The OPTN Board of Directors include the following officers:

- 15
16 1. President
17 2. Vice president
18 3. Vice president of patient and donor affairs
19 4. Treasurer
20 5. Secretary

21
22 Additional officers may include one or more assistant treasurers and assistant secretaries, who
23 are periodically nominated by the president and elected by the Board of Directors.

24
25 Officers may only hold one position on the Board at a time, except when an officer is appointed
26 by the Board in an additional officer role to fill a vacancy for the unexpired term of another officer.

27
28 Officers must perform their duties according to *Article VI: Officers*.

29 30 **B. Regional Councillors**

31 The Board must include representatives chosen by the voting members and member electors of
32 each of the 11 geographic regions in the United States. The regional councillor serves as the
33 region's representative on the Board of Directors. If the regional councillor is absent from a Board
34 of Directors meeting, the associate councillor may represent the region in place of the councillor,
35 but the associate councillor does not have a vote. The councillor from each region is responsible,
36 along with the president and the Executive Director, for coordinating regional activities to transact
37 the business of the OPTN.
38

39 **C. At-Large Directors**

40 The Board must ensure that At-Large Directors represent the following categories:

- 41
- 42 ■ Transplant physicians and surgeons. Approximately 50 percent of the voting Directors will be
- 43 surgeons or physicians directly involved in organ transplantation or donation.
- 44 ■ Non-physician transplant professionals, including transplant coordinators and individuals
- 45 representing organ procurement organizations (OPOs) and transplant hospitals.
- 46 ■ Histocompatibility professionals.
- 47 ■ Individuals served by the OPTN, including transplant candidates, recipients, organ donors and
- 48 their family members. At least 25 percent of the Directors will come from this category. These
- 49 members should represent the minority and gender diversity of this population.
- 50 ■ Voluntary health organization representatives.
- 51 ■ At least one pediatric specialist
- 52 ■ Non-transplant professionals, including professionals from law, theology, ethics, health care
- 53 financing, public health, social and behavioral sciences, and labor and management unrelated
- 54 to health care.

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56 Directors representing transplant candidates, recipients, donors, and family members are

57 required to certify that they are not employees of, or do not act on behalf of, OPOs, transplant

58 hospitals, voluntary health organizations, transplant coordinators, histocompatibility professionals,

59 or other non-physician transplant professionals. The Board of Directors may, however, waive this

60 requirement for as many as 50 percent of these Directors.

61

62 The immediate past president of the OPTN Board of Directors is a member of the Board for a

63 one- year term following the term as president.

64

65 **2.2 Election**

66 The voting Directors must approve by majority vote of those present a slate of nominees to be included

67 on the national ballot for the annual meeting. All voting Directors are elected by vote of OPTN members

68 with voting privileges and member electors. The OPTN members and member electors vote, either in

69 person or by proxy, at the annual meeting when a quorum is present. Voting Directors may also be

70 elected at any special meeting of the members if the Board of Directors is being expanded, or if a Director

71 must be replaced for any reason.

72

73 Each OPTN member and member elector has only one vote for each Director position.

74

75 **A. Election of Officers**

76 The president and vice president are elected by vote of OPTN members each year. The treasurer

77 is elected in odd-numbered years. The secretary and the Vice President of Patient and Donor

78 Affairs are elected in even-numbered years. For more information, see *Article VI: Officers.*

79

80 **B. Election of Regional Councillors**

81 Each OPTN region must elect an associate councillor, according to *Article 9.4: Regional*

82 *Elections.* Unless otherwise determined by the nominating region, the associate councillor will

83 subsequently become the region's nominee for regional councillor. The regional councillor

84 nominee will be included on the national ballot of candidates for the Board of Directors.

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C. Election of At-Large Directors

Members with voting privileges and member electors will elect At-Large Directors by majority vote at the annual meeting.

2.3 Terms

All Director terms begin on July 1 following the annual meeting to elect the Board of Directors.

A. Officer Terms

The president and vice-president serve one-year terms. The president and vice-president may not serve consecutive terms, except in the case of a vacancy in the office of president. If the vice president becomes president due to a vacancy, the vice president will be eligible for one succeeding one-year term as president.

The treasurer, secretary, and the vice president of patient and donor affairs serve two-year terms. These officers may serve consecutive terms.

The Board of Directors may not extend the term of an officer.

B. Regional Councillor Terms

Regional councillors serve for a term of two years. Regional councillors must reside or be employed in the region they represent at all times during their term.

Regional councillors cannot serve consecutive terms in the regional councillor role, except when appointed by majority of voting Directors to serve for up to one year before or after their term as regional councillor to fill a vacancy in their respective region.

C. At-Large Director Terms

At-Large Directors will serve for a term of two years, with exceptions as noted below.

These At-Large Directors serve three-year terms:

- Transplant candidates.
- Transplant recipients.
- Organ donors.
- Family members of transplant candidates, recipients or organ donors.
- Representatives of voluntary health organizations.
- Representatives of the general public.

The Board of Directors may extend the term of an At-Large Director for one year, by majority vote of all voting directors present at the meeting. An At-Large Director's term may not be extended more than two consecutive times.

128 **2.4 Vacancies**

129 Except in the case of a vacancy in the office of president, the Board of Directors may fill a vacancy by
130 appointing a Director by majority of all voting Directors for the unexpired portion of the Director's term.

131
132 If there is a vacancy in the office of president, the vice president will become president and will serve in
133 that role for the unexpired portion of the term.

134
135 **2.5 Removals**

136 The Board may remove a director for any reason with at least two-thirds vote of all Directors at any
137 regular or special meeting of the Board of Directors.

138
139 **2.6 Meetings**

140 The OPTN Board of Directors will hold regular meetings at least twice each year at a time and location
141 selected by the Executive Director. The OPTN Board of Directors will hold one of these meetings in the
142 Washington, D.C. metropolitan area, which includes Richmond, VA. The Executive Director or the Board
143 President may call other regular or special meetings as it considers necessary. The Board may also call a
144 special meeting with a majority of Directors submitting a written request to the Executive Director.

145
146 The OPTN Board of Directors must ensure that meetings are open to the public. However, the Board of
147 Directors may hold closed sessions for discussions involving confidential medical peer review matters
148 including OPTN membership approval, credentials, monitoring, or disciplinary matters as defined in the
149 OPTN contract. The Board may also hold closed sessions for discussing matters involving individuals
150 where an open meeting would compromise their privacy.

151
152 Representatives from the Federal Government serving on the Board of Directors, or their chosen
153 representatives, will be included in closed sessions of OPTN meetings.

154
155 **A. Notice of Meetings**

156 Approximately two weeks prior to a regular meeting, the OPTN Contractor must provide the
157 Directors written notice, including information on the date, time, place, and agenda for the
158 meeting. The Executive Director must distribute the Board of Directors meeting agenda to OPTN
159 members at least 10 days before the date of the meeting.

160
161 A Director who signs a waiver of notice at any time will be exempt from the requirement of written
162 notice. A Director who attends a meeting is assumed to have had adequate notice of the meeting
163 unless the Director attends only to object that the meeting is not lawfully convened.

164
165 **B. Quorum**

166 Fifty percent of the voting Directors constitute a quorum for transacting business at any meeting
167 of the Board.

168
169 The following Directors do not count toward the quorum requirements specified in these Bylaws:

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 - Individuals serving on the Board of Directors as representatives of the U.S. Department of
 - 172 Health and Human Service (HHS)
 - 173 The OPTN Executive Director

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C. Board Actions

When a quorum is achieved, a majority vote of the voting Directors present is required to act at the meeting. There are two exceptions to the majority requirement:

1. When different voting requirements are defined in the Bylaws.
2. When an amendment to the Bylaws requires approval by a majority of *all* of the voting Directors, not just those present at the meeting.

D. Actions without a Meeting

The Board may take action without a convened meeting if there is unanimous written consent of all voting Directors. In order for actions to be taken without a meeting, all Directors must vote on the action and the vote must be unanimous.

2.7 Conflicts of Interest

It is the OPTN policy that all Directors avoid conflicts of interest and the appearance of conflicts of interest. It is recognized that all Directors 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 certain institutions or individuals may involve conflicts of interest. Directors must disclose employment or activities that might provide personal or financial gain related to the outcomes of matters affecting the OPTN and to act as required to avoid a conflict or the appearance of a conflict of interest. Avoiding conflicts of interest or the appearance of conflicts of interest may require that a Director abstain from voting on a matter or leave the room during discussion of the matter after providing relevant information to the Board.

2.8 Relationship of the OPTN Board and the OPTN Contractor’s Board

When the OPTN contract requires it, the OPTN Board of Directors will be elected in parallel with and using the same procedures as the OPTN Contractor’s Board of Directors, resulting in identical memberships. This enables the OPTN Contractor to perform tasks required by the OPTN contract under the authority of the OPTN Board of Directors.

The Board of Directors will convene as the OPTN Board to conduct OPTN business and the OPTN Contractor Board to conduct OPTN Contractor business. Activities of the Board of Directors, while acting as the OPTN Board, will be limited only to activities and business of the OPTN. To accomplish this, separate agendas or sections within a combined agenda will identify if an item is OPTN business or OPTN Contractor business. Consistent with this process, OPTN Committees are appointed in parallel with OPTN Contractor Committees and operate under these same procedures.

2.1 Composition

The Board of Directors must have at least 34 but not more than 42 Directors. Provided that at least one nomination is received from each category, the Directors will represent the following categories:

- ~~218 ■ Transplant physicians and surgeons. Approximately 50 percent of the Directors will be surgeons or~~
~~219 physicians directly involved in organ transplantation or donation.~~
- ~~220 ■ Non-physician transplant professionals, including transplant coordinators and individuals representing~~
~~221 organ procurement organizations (OPOs) and transplant hospitals.~~
- ~~222 ■ Histocompatibility professionals.~~
- ~~223 ■ Individuals served by the OPTN, including transplant candidates, recipients, organ donors and their~~
~~224 family members. At least 25 percent of the Directors will come from this category. These members~~
~~225 should represent the gender and racial diversity of this population.~~
- ~~226 ■ Individuals representing voluntary health organizations.~~
- ~~227 ■ Pediatric specialists. At least one Director must represent pediatric interests.~~
- ~~228 ■ Non-transplant professionals, including professionals from law, theology, ethics, health care~~
~~229 financing, public health, social and behavioral sciences, and labor and management unrelated to~~
~~230 health care.~~

~~231~~
~~232 Directors representing transplant candidates, recipients, donors, and family members are required to~~
~~233 certify that they are not employees of, or do not act on behalf of, OPOs, transplant hospitals, voluntary~~
~~234 health organizations, transplant coordinators, histocompatibility professionals, or other non-physician~~
~~235 transplant professionals. The Board of Directors may, however, waive this requirement for as many as 50~~
~~236 percent of these Directors.~~

~~237~~
~~238 The immediate past president of the OPTN Board of Directors is automatically a member of the Board.~~
~~239~~

~~240 The Project Officer for the OPTN Contract and the Director of the Division of Transplantation (DoT) of the~~
~~241 U.S. Department of Health and Human Services (HSS), or a representative they designate, serve ex-~~
~~242 officio and do not have a vote on the Board of Directors.~~
~~243~~

~~244~~ **2.2 — Election**

~~245 Directors of the OPTN Board are elected by majority vote of members with voting privileges. The~~
~~246 members vote, either in person or by proxy, at the annual meeting when a quorum is present. Directors~~
~~247 may also be elected at any special meeting of the members if the Board of Directors is being expanded,~~
~~248 or if a Director must be replaced for any reason.~~
~~249~~

~~250 Each voting member has only one vote for each Director position.~~
~~251~~

~~252 The officers will be elected by the voting members, not by the Directors. The treasurer and the vice~~
~~253 president of Patient & Donor Affairs are elected in odd-numbered years. The Secretary is elected in even-~~
~~254 numbered years. For more information, see *Article VI: Officers*.~~
~~255~~

~~256~~ **2.3 — Terms**

~~257 Directors will serve for a term of two years, with exceptions as noted below. Terms begin on July 1~~
~~258 following the election of the Board of Directors.~~
~~259~~

~~260 These Directors serve three-year terms:~~
~~261~~

- ~~262 ■ Transplant candidates.~~

- 263 ~~■—Transplant recipients.~~
- 264 ~~■—Organ donors.~~
- 265 ~~■—Family members of transplant candidates, recipients or organ donors.~~
- 266 ~~■—Representatives of voluntary health organizations.~~
- 267 ~~■—Representatives of the general public.~~

268
269 ~~The Board of Directors may vote to extend the term of any of these Directors and regional councillors for~~
270 ~~one year. A Director's term may not be extended more than two times.~~

271
272 ~~The treasurer, secretary and the vice president of patient and donor affairs serve two-year terms. All other~~
273 ~~officers serve one-year terms.~~

274 275 **2.4—Regional Representatives**

276 ~~There are 11 identified OPTN geographic regions in the United States. For more information about the~~
277 ~~OPTN regions, see *Article IX: Regions* of these Bylaws. Each OPTN region elects a councillor and~~
278 ~~associate councillor through a vote of its members with voting privileges.~~

279 280 **A.—Regional Councillor**

281 ~~The councillor serves as the region's representative on the Board of Directors. Each region~~
282 ~~determines the guidelines for electing councillors. The councillor from each region is responsible,~~
283 ~~along with the president and the Executive Director, for coordinating regional activities to transact~~
284 ~~the business of the OPTN.~~

285
286 ~~Regional councillors are included on the national ballot of candidates for Board of Directors.~~
287 ~~Members then elect the regional councillors at the annual meeting to serve for two-year terms~~
288 ~~that begin July 1 following the election. Councillors cannot serve consecutive terms as~~
289 ~~councillors, except that councillors may be appointed by the Board of Directors to serve for up to~~
290 ~~one year before or after their term as councillor to fill a vacancy in their respective region.~~

291
292 ~~Councillors may be removed from the Board of Directors for any reason by majority vote of the~~
293 ~~region's members, member electors, and individuals with voting privileges. The majority vote~~
294 ~~must be supported by signed ballots presented to the president or the Board of Directors.~~

295 296 **B.—Associate Councillor**

297 ~~Each region determines the guidelines for electing associate councillors. The associate councillor~~
298 ~~represents the region on the Membership and Professional Standards Committee (MPSC). If the~~
299 ~~councillor is absent from a Board of Directors meeting, the associate councillor may represent the~~
300 ~~region and act in place of the councillor, but the associate councillor does not have a vote.~~

301
302 ~~Associate councillors serve on the MPSC for a two-year term that begins July 1 following the~~
303 ~~election. Associate councillors cannot serve consecutive terms as associate councillors.~~

304

305 **C. Regional Elections**

306 Regional elections will be completed on or before December 31 of each year, unless otherwise
307 directed by the Board of Directors or the president. The current councillor, after consultation with
308 or a vote of the region's members, will select one of the following regional election processes:
309

- 310 ■ An election with one slate for councillor and a second slate for associate councillor. The
311 subsequent elections will include only a slate for a new associate councillor, with the current
312 associate councillor automatically becoming the councillor.
- 313 ■ An election with one slate of nominees for councillor and a second slate for the associate
314 councillor
- 315 ■ An election with a single slate of nominees for councillor. The person who receives the most
316 votes is the councillor and the person who receives the second highest number of votes will
317 be associate councillor.

318
319 In all these cases, the slate will be composed of nominations submitted by members, member
320 electors, and individuals with voting privileges.
321

322 **D. Regional Voting Privileges**

323 Members and member electors with voting privileges who reside in a region will have one vote on
324 each OPTN regional matter, including the election of councillor and associate councillor.
325

326 Others who have regional voting privileges may include:
327

- 328 ■ Any interested individual who is currently serving on an OPTN Committee and who is not
329 employed by or on the medical staff of a transplant hospital, histocompatibility laboratory,
330 OPO, medical/scientific or public organization member.
- 331 ■ Representatives of medical/scientific members with principal offices located in a region, as
332 determined by guidelines developed by the region.
333

334 **2.5 Meetings**

335 Regular meetings of the Board of Directors are held at least twice each calendar year at a location
336 selected by the Executive Director. One of these meetings is held in the Washington, D.C. metropolitan
337 area, which includes Richmond, VA. The Board may call other regular or special meetings as it considers
338 necessary. Meetings of Directors may be held in person or by any communication method that enables all
339 Directors to both listen and speak to one another throughout the meeting.
340

341 OPTN Board meetings are open to the public. However, the Board of Directors will hold closed sessions
342 for discussions involving confidential medical peer review matters including OPTN membership approval,
343 credentials, monitoring, or disciplinary matters as defined in the OPTN contract. Matters involving
344 individuals where an open meeting would clearly compromise their privacy will also be reviewed in closed
345 sessions. Representatives from the Federal Government serving on the Board of Directors, or their
346 chosen representatives, are included in closed sessions of OPTN meetings.
347

348 **A.—— Notice of Meetings**

349 Written notice of any regular or special meeting of the Board of Directors must include the date,
350 time and place of the meeting. The notice must be provided to each Director at the address
351 provided to the Executive Director not more than 60 days or fewer than 10 days before the date
352 of the meeting. The Executive Director must also distribute the agenda for each Board of
353 Directors meeting at least 10 days before the meeting, to allow input from the members.

354
355 A Director who signs a waiver of notice at any time will be exempt from the requirement of written
356 notice. A Director who attends a meeting is assumed to have had adequate notice of the meeting
357 unless the Director attends only to object that the meeting is not lawfully convened.

358
359 **B.—— Quorum**

360 Fifty percent of the Directors eligible to vote constitute a quorum for transacting business at any
361 meeting of the Board.

362
363 **C.—— Board Actions**

364 When a quorum is achieved, a majority vote of the Directors present is required to act at the
365 meeting. There are two exceptions to the majority requirement:

- 366
367 1. When different voting requirements are defined in the Bylaws.
368 2. When an amendment to the Bylaws requires approval by a majority of *all* of the Directors, not
369 just those present at the meeting.

370
371 **D.—— Actions without a Meeting**

372 The Board may take action without a convened meeting if there is unanimous written consent of
373 all Directors. In order for actions to be taken without a meeting, all Directors must vote on the
374 action and the vote must be unanimous.

375
376 **2.6—— Committees**

377 The Permanent Standing Committees of the OPTN are defined in *Article VII: Permanent Standing*
378 *Committees* of these Bylaws. The Board may periodically establish and then dissolve ad hoc committees
379 for specific purposes, finite functions, or limited periods of time.

380
381 **2.7—— Conflicts of Interest**

382 It is the OPTN policy that all Directors avoid conflicts of interest and the appearance of conflicts of
383 interest. It is recognized that all Directors are directly or indirectly involved in organ donation, procurement
384 and transplantation, and that the OPTN benefits from their collective expertise and experience in the
385 development and implementation of OPTN policies.

386
387 However, issues that involve certain institutions or individuals may involve conflicts of interest. Directors
388 must disclose employment or activities that might provide personal or financial gain related to the
389 outcomes of matters affecting the OPTN and to act as required to avoid a conflict or the appearance of a
390 conflict of interest. Avoiding conflicts of interest or the appearance of conflicts of interest may require that
391 a Director abstain from voting on a matter or leave the room during discussion of the matter after
392 providing relevant information to the Board.

393

394 **2.8 — Removal from the Board**

395 A Director may be removed from office for any reason, but only by the voting members and member
396 electors at a meeting convened specifically to remove the Director. For more information about meetings
397 of members, see *Article I: Membership* of these Bylaws.

398

399 **2.9 — Relationship of the OPTN Board and the OPTN Contractor's Board**

400 When the OPTN contract requires it, the OPTN Board of Directors will be elected in parallel with and
401 using the same procedures as the OPTN Contractor's Board of Directors, resulting in identical
402 memberships. This enables the OPTN Contractor to perform tasks required by the OPTN contract under
403 the authority of the OPTN Board of Directors.

404

405 The Board of Directors will convene as the OPTN Board to conduct OPTN business and the OPTN
406 Contractor Board to conduct OPTN Contractor business. Activities of the Board of Directors, while acting
407 as the OPTN Board, will be limited only to activities and business of the OPTN. To accomplish this,
408 separate agendas or sections within a combined agenda will identify if an item is OPTN business or
409 OPTN Contractor business. Consistent with this process, OPTN Committees are appointed in parallel
410 with OPTN Contractor Committees and operate under these same procedures.

411

412 **Article III: Nominating Committee**

413 The Nominating Committee will recommend candidates for election as officers and Directors. The Board
414 of Directors will consider the recommendations of the Nominating Committee and may make changes
415 before attaching its final list of nominees to the notice of the annual meeting, or any special meeting
416 called to elect officers and Directors.

417

418 **3.1 Composition**

419 The Nominating Committee is appointed by the president and will have no more than 12 voting members.
420 With the exception of the past president directly preceding the immediate past president, the Nominating
421 Committee will be selected from voting Directors.

422

423 The Nominating Committee will include:

424

- 425 ■ The president
- 426 ■ The Immediate Past president
- 427 ■ The past president directly preceding the Immediate Past president
- 428 ■ The vice president
- 429 ■ The vice president of patient and donor affairs
- 430 ■ One histocompatibility laboratory representative
- 431 ■ One OPO representative
- 432 ■ One transplant coordinator representative
- 433 ■ One patient representative
- 434 ■ One public representative (including organ donors and recipients, family members, or voluntary
435 health organization representatives)

436
437 Two additional Nominating Committee members will be selected from *any* of the following voting
438 Directors:

- 439
440 ■ Regional councillors
441 ■ A thoracic Heart tTransplant Rrepresentative
442 ■ A Mminority Ttransplant Rrepresentative
443 ■ Medical/scientific Organization members
444 ■ At-large Representatives

445
446 The following serve *ex-officio* and do not have a vote on the Nominating Committee:

- 447
448 ■ The Executive Director
449 ■ The U.S. Department of Health and Human Services (HHS) Project Officer for the OPTN Contract
450 and the Director of the Division of Transplantation, or representatives they designate
451

452 **3.2 Vacancies**

453 With the exception of vacancies in officer positions, the OPTN President will appoint Directors to fill
454 vacancies on the Nominating Committee. If the vacancy is an officer position, the newly elected officer
455 will be automatically designated as a Nominating Committee member.
456

457 **3.23 Conflicts of Interest**

458 Nominating Committee members must avoid conflicts of interest and the appearance of conflicts of
459 interest. The Nominating Committee will be held to the same standard as the Board of Directors and will
460 deal with potential conflicts of interest according to *Article 2.7: Conflicts of Interest* of these Bylaws.
461

462 **Article IV: Executive Committee**

463 The Executive Committee, as directed by the president who serves as its Chair, performs the following
464 tasks:

- 465
466 ■ Continues the work of the Board of Directors without the necessity of convening the entire Board.
467 ■ Considers any issues that require expedited action between meetings of the Board of Directors.
468 ■ Provides advice to the Board.
469

470 **4.1 Authority**

471 The Executive Committee can approve two types of actions:

- 472
473 1. Interim actions, which are immediately in effect unless otherwise stated in the resolution and remain
474 in effect until the next Board meeting. The entire Board must approve the interim action at the next
475 board meeting to make it permanent.
476 2. Final actions, which are as binding and enforceable as those approved by the entire Board of
477 Directors, unless the Board specifically limits the Executive Committee from taking the action.
478

479 The president has discretion to defer matters for any reason until they can be considered by the entire
480 Board.

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4.2 Composition

The Executive Committee is composed of no more than 12 individuals selected from the Board of Directors so that the Executive Committee is made up of:

- Approximately 50 percent transplant surgeons and transplant physicians directly involved in transplantation.
- At least 25 percent transplant candidates, recipients, donors and their family members.
- At least one member of the general public.

The Executive Committee includes the following Directors:

1. The president, who serves as the Chair of the Executive Committee
2. The Immediate Past president
3. The Vice-president
4. The Vice-president of Patient and Donor Affairs
5. The Secretary
6. The treasurer
7. ~~The A~~ Minority ~~T~~ransplant ~~P~~rofessional ~~R~~epresentative

Five other members of the Executive Committee are selected so that there is at least one member from each of the following four categories:

1. OPO Representatives
2. Transplant Coordinator Representatives
3. histocompatibility laboratory Representatives
4. Public Representatives (including organ donors and recipients, family members or voluntary health organizations)

The following serve *ex-officio* and do not have a vote on the Executive Committee:

- The Executive Director
- The U.S. Department of Health and Human Services (HHS) Project Officer for the OPTN Contract and the Director of the Division of Transplantation, or a representative they designate

4.3 Selection

The officers of the Board of Directors are automatically designated as Executive Committee members. The remaining five Executive Committee members will be elected by a vote of Directors from the category they will represent. For example, Directors representing OPOs elect the individual who will serve as the OPO representative on the Executive Committee.

4.4 Term

Executive Committee members serve terms of one year, except for those designated members who are officers of the Board of Directors. Officers who are members of the Executive Committee serve for the duration of their term in office.

527 **4.5 Removals and Vacancies**

528

529 With the exception of officers, the Board of Directors may remove a Director from the Executive
530 Committee for any reason with a majority vote of Directors present at a meeting. The Board may only
531 remove an officer from the Executive Committee by removing the officer from the Board as outlined in 2.5
532 Removals.

533

534 If a vacancy occurs, the voting Directors may fill a vacancy on the Executive Committee for the unexpired
535 portion of a term. If the vacancy is an officer position, the newly elected officer will be automatically
536 designated as an Executive Committee member for the unexpired portion of the term. If the vacancy is
537 within the remaining five Executive Committee members, the replacement will be determined by the
538 process outlined in Article 4.3:Selection.

539

540 **4.56 Conflicts of Interest**

541 Executive Committee members will avoid conflicts of interest and the appearance of conflicts of interest.
542 The Executive Committee will be held to the same standard as the Board of Directors and will deal with
543 potential conflicts of interest according to *Article 2.7 Conflicts of Interest* of these Bylaws.

544

545 **Article VI: Officers**

546 The officers of the OPTN are the:

547

- 548 1. President
- 549 2. Vice president
- 550 3. Vice president of patient and donor affairs
- 551 4. Treasurer
- 552 5. Secretary

553

554 ~~Officers are elected at the annual meeting of members and begin their terms on July 1. Officers serve on~~
555 ~~the Board without compensation, and may only hold one position on the Board at a time.~~

556

557 ~~Additional officers may include one or more assistant treasurers and assistant secretaries, who are~~
558 ~~periodically nominated by the president and elected by the Board of Directors.~~

559

560 **6.1 President**

561 The president will preside at all meetings of the members and Directors. ~~The president serves for a term~~
562 ~~of one year, and may not serve consecutive terms.~~

563

564

565 **6.2 Vice President**

566 The vice president is the president-elect of the OPTN and serves as an *ex-officio*, non-voting member of
567 the Membership and Professional Standards Committee (MPSC). If the president is absent, the vice
568 president performs all duties required of the president, as well as any other duties required by the Board
569 of Directors or these Bylaws.

570

571 ~~The vice president serves for a term of one year and may not serve consecutive terms.~~

572

573 **6.3 Vice President of Patient and Donor Affairs**

574 The vice president of patient and donor affairs represents the interests of patients, donors and their family
575 members on the Board of Directors. ~~The vice president of patient and donor affairs serves for a term of~~

576 ~~two years and is elected in odd-even-numbered years. The vice president of patient and donor affairs~~
577 ~~may serve consecutive terms.~~

578
579 **6.4 Treasurer**

580 The treasurer will regularly review the finances of the OPTN, serve as Chair of the Finance Committee
581 and report to the Board of Directors regarding the financial condition of the OPTN at the Board's request.
582 The treasurer must ensure that an annual audit and report of OPTN finances are completed, and provide
583 copies of both to the Directors and Executive Director. The treasurer is also an assistant secretary and
584 has the authority to sign in place of the secretary when the signature of the secretary of the OPTN is
585 required on any document. ~~The treasurer serves a two-year term and is elected in odd-numbered years.~~
586

587 **6.5 Secretary**

588 The secretary attends all meetings of the members and Board of Directors, and keeps the minutes of the
589 business transacted at these meetings. Whenever the signature of the secretary of the OPTN is required,
590 the treasurer or Executive Director has the authority to sign for the secretary. ~~The secretary serves a two-~~
591 ~~year term and is elected in even-numbered years.~~
592

593 **6.6 Assistant Secretaries**

594 One or more assistant secretaries may perform all duties required of the secretary if the secretary is
595 absent for any reason.
596

597 **6.7 Other Duties**

598 The officers of the OPTN will have other powers and duties that are designated to them by the Board of
599 Directors, or as required by law.
600

601 **6.8 Resignation**

602 ~~An officer may resign in writing at any time by giving written notice to the Executive Director. If an officer~~
603 ~~vacancy occurs, the voting Directors may appoint a new officer according to 2.4 Vacancies. The Board of~~
604 ~~Directors will elect a successor at its next meeting to serve until its next annual meeting of Members.~~
605

606 ~~**6.9 Removal from Position**~~

607 ~~An officer may be removed for any reason at any regular or special meeting of the Board of Directors at~~
608 ~~which a quorum is present. Removal must be by a vote of two-thirds of the Directors present.~~
609 ~~The Board of Directors will elect a successor to a removed officer to serve until the next annual meeting~~
610 ~~of the members.~~
611

612 ~~Assistant treasurers and assistant secretaries may be removed by the Board of Directors or the Executive~~
613 ~~Committee for any reason.~~
614

615 ~~**6.409 Conflicts of Interest**~~

616 ~~Officers must avoid conflicts of interest and the appearance of conflicts of interest. Because officers are~~
617 ~~also Directors, they will be held to the same standard for conflicts of interest as the Board of Directors~~
618 ~~according to 2.7: Conflicts of Interest of these Bylaws.~~
619

620 **Article IX: Regions**

621 **9.1 Structure**

622 There are 11 OPTN geographic regions in the United States. The OPTN regions provide a platform for
623 sharing ideas and information about organ procurement and transplantation in a smaller forum. OPTN
624 members belong to the region where their principal office or residence is located. The regions are:

- 625
- 626 **Region 1:** Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Eastern
627 Vermont
- 628 **Region 2:** Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, West Virginia, and
629 the part of Northern Virginia in the Donation Service Area served by the Washington
630 Regional Transplant Community (DCTC) OPO.
- 631 **Region 3:** Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Puerto Rico
- 632 **Region 4:** Oklahoma and Texas
- 633 **Region 5:** Arizona, California, Nevada, New Mexico and Utah
- 634 **Region 6:** Alaska, Hawaii, Idaho, Montana, Oregon and Washington
- 635 **Region 7:** Illinois, Minnesota, North Dakota, South Dakota and Wisconsin
- 636 **Region 8:** Colorado, Iowa, Kansas, Missouri, Nebraska and Wyoming
- 637 **Region 9:** New York and Western Vermont
- 638 **Region 10:** Indiana, Michigan and Ohio
- 639 **Region 11:** Kentucky, North Carolina, South Carolina, Tennessee and Virginia

640

641 **9.2 Meetings**

642 Each region holds at least two meetings per year. The purpose of these meetings is to:

- 643
- 644 ■ Exchange information.
 - 645 ■ Discuss and comment on issues distributed for public comment during the OPTN policy development
646 process.
 - 647 ■ Nominate regional councillors and Associate regional councillors.
 - 648 ■ Address any matters of interest to the region.
- 649

650 Proposals developed at regional meetings are sent to the national Committees for consideration. The
651 Committees, which include representatives from each region, then present the proposals to the Board of
652 Directors for approval or rejection.

653

654 **9.3. Regional Voting Privileges**

655 Members and member electors with voting privileges who reside in a region will have one vote on each
656 OPTN regional matter, including the election of councillor and associate councillor.

657

658 Others who have regional voting privileges may include:

- 659
- 660 ■ Any individual who is currently serving on an OPTN Committee and who is not employed by or on the
661 medical staff of a transplant hospital, histocompatibility laboratory, OPO, medical/scientific or public
662 organization member.
 - 663 ■ Representatives of medical/scientific members with principal offices located in a region, as
664 determined by guidelines developed by the region.
- 665

666 **9.4 Regional Elections**

667 Members, member electors, and individuals with voting privileges in each region will elect a regional
668 councillor and an associate councilor, using one slate for councillor and a second slate for associate
669 councillor. Unless otherwise determined by the region, the subsequent elections will include only a slate
670 for a new associate councillor, with the current associate councillor automatically becoming the councillor.
671

672 **A. Regional Councillor Election**

673 The regional councillor serves as the region’s representative on the Board of Directors. The
674 councillor from each region is responsible, along with the president and the Executive Director,
675 for coordinating regional activities to transact the business of the OPTN. The regional councillor is
676 elected according to Article 2.2.B: Election of Regional Councillors.
677

678 **B. Associate Councillor Election**

679 Each region determines the guidelines for electing associate councillors. The associate councillor
680 serves on the MPSC for a two-year term that begins July 1 following the regional election.
681

682 Associate councillors cannot serve consecutive terms, except when appointed by the OPTN Vice-
683 President to fill an associate councillor vacancy. If the associate councillor is appointed to fill a
684 portion of another associate councillor’s term due to a vacancy, then the associate councillor will
685 be eligible for one succeeding two-year term as associate councillor.
686

687 Associate councilors must reside in or be employed in the region they represent at all times
688 during their term.
689

690 **9.34 Regional Review Boards**

691 *[Subsequent headings and cross-references to headings affected by the re-numbering of this policy will*
692 *also be changed as necessary.]*

#