

Briefing Paper

Rewrite of Bylaws Article II: Board of Directors

OPTN/UNOS Executive Committee

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Rewrite of Bylaws Article II: Board of Directors

<i>Affected Policies:</i>	<i>Bylaws Article II: Board of Directors, Article III: Nominating Committee, Article IV: Executive Committee, Article VI: Officers, Article IX: Regions</i>
<i>Sponsoring Committee:</i>	<i>Executive</i>
<i>Public Comment Period:</i>	<i>January 23, 2017 – March 24, 2017</i>
<i>BOD Meeting Date:</i>	<i>June 5 – 6, 2017</i>

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 councilor 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 25% 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.
- Language has been added to clarify that individuals serving on an OPTN committee who are not employed by a transplant hospital, OPO, or histocompatibility laboratory will have regional voting privileges.

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?

OPTN members will need to ensure that they have the most updated version of these Bylaws.

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 **RESOLVED, that changes to Bylaws (Article II: Board of Directors, Article III: Nominating**
2 **Committee, Article IV: Executive Committee, Article VI: Officers, and Article IX: Regions), as set**
3 **forth below, are hereby approved, September 1, 2017.**
4

5 **Article II: Board of Directors**

6 **2.1 Composition**

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

8
9 The following serve *ex-officio* and do not have a vote on the Board of Directors:

- 10
11
 - 11 ▪ The Executive Director
 - 12 ▪ The U.S. Department of Health and Human Services (HHS) Project Officer for the OPTN Contract
13 and the Director of the Division of Transplantation, or representatives they designate

14
15 All voting Directors serve on the Board without compensation.
16

17 **A. Officers**

18 The OPTN Board of Directors includes the following officers:

- 19
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 - 20 1. President
 - 21 2. Vice president
 - 22 3. Vice president of patient and donor affairs
 - 23 4. Treasurer
 - 24 5. Secretary

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

28
29 Officers may only hold one position on the Board at a time, except when an officer is appointed
30 by the Board in an additional officer role to fill a vacancy for the unexpired term of another officer.

31
32 Officers must perform their duties according to *Article VI: Officers*.
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34 **B. Regional Councillors**

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

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C. At-Large Directors

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

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

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

The immediate past president of the OPTN Board of Directors is a member of the Board for a one-year term following the term as president.

2.2 Election

The voting Directors must approve by majority vote of those present a slate of nominees to be included on the national ballot for the annual meeting. All voting Directors are elected by vote of OPTN members with voting privileges and member electors. The OPTN members and member electors vote, either in person or by proxy, at the annual meeting when a quorum is present. Voting Directors may also be elected at any special meeting of the members if the Board of Directors is being expanded, or if a Director must be replaced for any reason.

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

A. Election of Officers

The president and vice president are elected by vote of OPTN members each year. The treasurer is elected in odd-numbered years. The secretary and the Vice President of Patient and Donor Affairs are elected in even-numbered years. For more information, see *Article VI: Officers*.

84 **B. Election of Regional Councillors**

85 Each OPTN region must elect an associate councillor, according to Article 9.4: Regional
86 Elections. Unless otherwise determined by the nominating region, the associate councillor will
87 subsequently become the region's nominee for regional councillor. The regional councillor
88 nominee will be included on the national ballot of candidates for the Board of Directors.
89

90 **C. Election of At-Large Directors**

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

93

94 **2.3 Terms**

95 All Director terms begin on July 1 following the annual meeting to elect the Board of Directors.
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97 **A. Officer Terms**

98 The president and vice-president serve one-year terms. The president and vice-president may
99 not serve consecutive terms, except in the case of a vacancy in the office of president. If the vice
100 president becomes president due to a vacancy, the vice president will be eligible for one
101 succeeding one-year term as president.
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103 The treasurer, secretary, and the vice president of patient and donor affairs serve two-year terms.
104 These officers may serve consecutive terms.
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106 The Board of Directors may not extend the term of an officer.
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108 **B. Regional Councillor Terms**

109 Regional councillors serve for a term of two years. Regional councillors must reside or be
110 employed in the region they represent at all times during their term.
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112 Regional councillors cannot serve consecutive terms in the regional councillor role, except when
113 appointed by a majority of voting Directors to serve for up to one year before or after their term as
114 regional councillor to fill a vacancy in their respective region.
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116 **C. At-Large Director Terms**

117 At-Large Directors will serve for a term of two years, with exceptions as noted below.
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119 These At-Large Directors serve three-year terms:
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121 ▪ Transplant candidates.

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122 ▪ Transplant recipients.

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123 ▪ Organ donors.

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124 ▪ Family members of transplant candidates, recipients or organ donors.

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125 ▪ Representatives of voluntary health organizations.

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

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132 **2.4 Vacancies**

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

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

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139 **2.5 Removals**

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

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143 **2.6 Meetings**

144 The OPTN Board of Directors will hold regular meetings at least twice each year at a time and location
145 selected by the Executive Director. The OPTN Board of Directors will hold one of these meetings in the
146 Washington, D.C. metropolitan area, which includes Richmond, VA. The Executive Director or the
147 president may call other regular or special meetings as it considers necessary. The Board may also call a
148 special meeting with at least 25 percent of voting Directors submitting a written request to the Executive
149 Director.

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

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

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160 **A. Notice of Meetings**

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

165

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

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170 **B. Quorum**

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

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

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

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.

219 **2.1—Composition**

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

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

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

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243 ~~The immediate past president of the OPTN Board of Directors is automatically a member of the Board.~~

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

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249 **2.2—Election**

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

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

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

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261 **2.3—Terms**

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

264
265 These Directors serve three-year terms:
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- 267 ■ ~~Transplant candidates.~~
- 268 ■ ~~Transplant recipients.~~
- 269 ■ ~~Organ donors.~~
- 270 ■ ~~Family members of transplant candidates, recipients or organ donors.~~
- 271 ■ ~~Representatives of voluntary health organizations.~~
- 272 ■ ~~Representatives of the general public.~~

273
274 The Board of Directors may vote to extend the term of any of these Directors and regional councillors for
275 one year. A Director's term may not be extended more than two times.

276
277 The treasurer, secretary and the vice president of patient and donor affairs serve two-year terms. All other
278 officers serve one-year terms.

279 **2.4 Regional Representatives**

281 There are 11 identified OPTN geographic regions in the United States. For more information about the
282 OPTN regions, see *Article IX: Regions* of these Bylaws. Each OPTN region elects a councillor and
283 associate councillor through a vote of its members with voting privileges.
284

285 **A. Regional Councillor**

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

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

296
297 Councillors may be removed from the Board of Directors for any reason by majority vote of the
298 region's members, member electors, and individuals with voting privileges. The majority vote
299 must be supported by signed ballots presented to the president or the Board of Directors.

300 **B. Associate Councillor**

301
302 Each region determines the guidelines for electing associate councillors. The associate councillor
303 represents the region on the Membership and Professional Standards Committee (MPSC). If the
304 councillor is absent from a Board of Directors meeting, the associate councillor may represent the
305 region and act in place of the councillor, but the associate councillor does not have a vote.

306
307 Associate councillors serve on the MPSC for a two-year term that begins July 1 following the
308 election. Associate councillors cannot serve consecutive terms as associate councillors.

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C. Regional Elections

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

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

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

D. Regional Voting Privileges

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

~~Others who have regional voting privileges may include:~~

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

2.5 Meetings

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

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

353 **A.—— Notice of Meetings**

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

359
360 A Director who signs a waiver of notice at any time will be exempt from the requirement of written
361 notice. A Director who attends a meeting is assumed to have had adequate notice of the meeting
362 unless the Director attends only to object that the meeting is not lawfully convened.

363
364 **B.—— Quorum**

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

367
368 **C.—— Board Actions**

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

- 371
372 1. When different voting requirements are defined in the Bylaws.
373 2. When an amendment to the Bylaws requires approval by a majority of *all* of the Directors, not
374 just those present at the meeting.

375
376 **D.—— Actions without a Meeting**

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

380
381 **2.6—— Committees**

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

385
386 **2.7—— Conflicts of Interest**

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

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

398

399 **2.8 — Removal from the Board**

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

403

404 **2.9 — Relationship of the OPTN Board and the OPTN Contractor's Board**

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

409

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

416

417 **Article III: Nominating Committee**

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

422

423 **3.1 Composition**

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

427

428 The Nominating Committee will include:

429

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

441
442 Two additional Nominating Committee members will be selected from *any* of the following voting
443 Directors:

- 444
- 445 ■ Regional councillors
 - 446 ■ A thoracic Heart tTransplant Rrepresentative
 - 447 ■ A Mminority Ttransplant Rrepresentative
 - 448 ■ Medical/scientific Organization members
 - 449 ■ At-large Representatives

450
451 The following serve *ex-officio* and do not have a vote on the Nominating Committee:

- 452
- 453 ■ The Executive Director
 - 454 ■ The U.S. Department of Health and Human Services (HHS) Project Officer for the OPTN Contract
 - 455 and the Director of the Division of Transplantation, or representatives they designate

456
457 **3.2 Vacancies**

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

461
462 **3.23 Conflicts of Interest**

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

466
467 ***Article IV: Executive Committee***

468
469 **4.2 Composition**

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

- 472
- 473 ■ Approximately 50 percent transplant surgeons and transplant physicians directly involved in
474 transplantation.
 - 475 ■ At least 25 percent transplant candidates, recipients, donors and their family members.
 - 476 ■ At least one member of the general public.

477
478 The Executive Committee includes the following Directors:

- 479
- 480 1. The president, who serves as the Chair of the Executive Committee
 - 481 2. The Immediate Past president
 - 482 3. The Vice-president
 - 483 4. The Vice-president of Patient and Donor Affairs
 - 484 5. The Secretary
 - 485 6. The treasurer

486 7. ~~The A~~ Minority ~~T~~ransplant ~~P~~rofessional ~~R~~epresentative

487

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

490

491 1. OPO Representatives

492 2. Transplant Coordinator Representatives

493 3. histocompatibility laboratory Representatives

494 4. Public Representatives (including organ donors and recipients, family members or voluntary health
495 organizations)

496

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

498

499 ■ The Executive Director

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

502

503

504 **4.5 Removals and Vacancies**

505

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

510

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

516

517 **4.56 Conflicts of Interest**

518 Executive Committee members will avoid conflicts of interest and the appearance of conflicts of interest.

519 The Executive Committee will be held to the same standard as the Board of Directors and will deal with
520 potential conflicts of interest according to *Article 2.7 Conflicts of Interest* of these Bylaws.

521

522 **Article VI: Officers**

523 The officers of the OPTN are the:

524

525 1. President

526 2. Vice president

527 3. Vice president of patient and donor affairs

528 4. Treasurer

529 5. Secretary

530

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

533

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

536

537 **6.1 President**

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

540

541

542 **6.2 Vice President**

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

547

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

549

550 **6.3 Vice President of Patient and Donor Affairs**

551 The vice president of patient and donor affairs represents the interests of patients, donors and their family
552 members on the Board of Directors. ~~The vice president of patient and donor affairs serves for a term of~~
553 ~~two years and is elected in odd-even-numbered years. The vice president of patient and donor affairs~~
554 ~~may serve consecutive terms.~~

555

556 **6.4 Treasurer**

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

563

564 **6.5 Secretary**

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

569

570 **6.8 Resignation**

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

574

575 ~~6.9 Removal from Position~~

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

580

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

583

584 **6.409 Conflicts of Interest**

585 Officers must avoid conflicts of interest and the appearance of conflicts of interest. Because officers are
586 also Directors, they will be held to the same standard for conflicts of interest as the Board of Directors
587 according to 2.7: *Conflicts of Interest* of these Bylaws.
588

589 **Article IX: Regions**

590
591 **9.3. Regional Voting Privileges**

592 Members and member electors with voting privileges who reside in a region will have one vote on each
593 OPTN regional matter, including the election of councillor and associate councillor. Transplant hospital,
594 OPO, histocompatibility, medical/scientific, and public organization member representatives will belong to
595 a region according to the location of the member's principal offices.

596
597 Any individual who is currently serving on an OPTN Committee and who is not employed by or on the
598 medical staff of a transplant hospital, histocompatibility laboratory, OPO, medical/scientific or public
599 organization member will also have regional voting privileges.
600

601 **9.4 Regional Elections**

602 Members, member electors, and individuals with voting privileges in each region will elect a regional
603 councillor and an associate councillor, using one slate for councillor and a second slate for associate
604 councillor. Unless otherwise determined by the region, the subsequent elections will include only a slate
605 for a new associate councillor, with the current associate councillor automatically becoming the councillor.
606

607 **A. Regional Councillor Election**

608 The regional councillor serves as the region's representative on the Board of Directors. The
609 councillor from each region is responsible, along with the president and the Executive Director,
610 for coordinating regional activities to transact the business of the OPTN. The regional councillor is
611 elected according to Article 2.2.B: *Election of Regional Councillors*.
612

613 **B. Associate Councillor Election**

614 Each region determines the guidelines for electing associate councillors. The associate councillor
615 serves on the MPSC for a two-year term that begins July 1 following the regional election.
616

617 Associate councillors cannot serve consecutive terms, except when appointed by the OPTN vice
618 president to fill an associate councillor vacancy. If the associate councillor is appointed to fill a
619 portion of another associate councillor's term due to a vacancy, then the associate councillor will
620 be eligible for one succeeding two-year term as associate councillor.
621

622 Associate councillors must reside in or be employed in the region they represent at all times
623 during their term.
624

625 **9.35 Regional Review Boards**

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

#