Briefing Paper

Rewrite of Bylaws Article II: Board of Directors

OPTN/UNOS Executive Committee

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Contents

Executive Summary 1
What problems will this proposal solve? 2
Why should you support this proposal? 2
    How was this proposal developed? 2
How does this proposal impact the OPTN Strategic Plan? 6
How will the OPTN implement this proposal? 6
How will members implement this proposal? 6
    Will this proposal require members to submit additional data? 6
How will members be evaluated for compliance with this proposal? 6
How will the sponsoring Committee evaluate whether this proposal was successful post implementation? 7

Policy or Bylaws Language 8
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
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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.
RESOLVED, that changes to Bylaws (Article II: Board of Directors, Article III: Nominating Committee, Article IV: Executive Committee, Article VI: Officers, and Article IX: Regions), as set forth below, are hereby approved, September 1, 2017.

**Article II: Board of Directors**

2.1 Composition

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

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

- 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 representatives they designate

All voting Directors serve on the Board without compensation.

A. Officers

The OPTN Board of Directors includes the following officers:

1. President
2. Vice president
3. Vice president of patient and donor affairs
4. Treasurer
5. Secretary

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

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

Officers must perform their duties according to Article VI: Officers.

B. Regional Councillors

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

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

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 a 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.

2.4 Vacancies

Except in the case of a vacancy in the office of president, the Board of Directors may fill a vacancy by appointing a Director by majority of all voting Directors for the unexpired portion of the Director’s term. If there is a vacancy in the office of president, the vice president will become president and will serve in that role for the unexpired portion of the term.

2.5 Removals

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

2.6 Meetings

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

The OPTN Board of Directors must ensure that meetings are open to the public. However, the Board of Directors may 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. The Board may also hold closed sessions for discussing matters involving individuals where an open meeting would compromise their privacy.

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

A. Notice of Meetings

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

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

B. Quorum

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

- Transplant physicians and surgeons. Approximately 50 percent of the 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 gender and racial diversity of this population.
- Individuals representing voluntary health organizations.
- Pediatric specialists. At least one Director must represent pediatric interests.
- 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 automatically a member of the Board.

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

2.2 Election

Directors of the OPTN Board are elected by majority vote of members with voting privileges. The members vote, either in person or by proxy, at the annual meeting when a quorum is present. 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 voting member has only one vote for each Director position.

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

2.3 Terms

Directors will serve for a term of two years, with exceptions as noted below. Terms begin on July 1 following the election of the Board of Directors.
These 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 vote to extend the term of any of these Directors and regional councillors for one year. A Director’s term may not be extended more than two times.

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

### 2.4 Regional Representatives

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

#### A. Regional Councillor

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

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

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

#### B. Associate Councillor

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

Associate councillors serve on the MPSC for a two-year term that begins July 1 following the election. Associate councillors cannot serve consecutive terms as associate councillors.
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.
A. Notice of Meetings

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

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

B. Quorum

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

C. Board Actions

When a quorum is achieved, a majority vote of the 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 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 Directors. In order for actions to be taken without a meeting, all Directors must vote on the action and the vote must be unanimous.

2.6 Committees

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

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 Removal from the Board

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

2.9 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.

Article III: Nominating Committee

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

3.1 Composition

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

The Nominating Committee will include:

- The president
- The Immediate Past president
- The past president directly preceding the Immediate Past president
- The vice president
- The vice president of patient and donor affairs
- One histocompatibility laboratory representative
- One OPO representative
- One transplant coordinator representative
- One patient representative
- One public representative (including organ donors and recipients, family members, or voluntary health organization representatives)
Two additional Nominating Committee members will be selected from any of the following voting Directors:

- Regional councillors
- A thoracic Heart Transplant Representative
- A Minority Transplant Representative
- Medical/scientific Organization members
- At-large Representatives

The following serve ex-officio and do not have a vote on the Nominating 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 representatives they designate

3.2 Vacancies

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

3.2.3 Conflicts of Interest

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

Article IV: Executive Committee

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 Minority Transplant Professional Representative

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

4.5 Removals and Vacancies

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

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

4.56 Conflicts of Interest

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

Article VI: Officers

The officers of the OPTN are the:

1. President
2. Vice president
3. Vice president of patient and donor affairs
4. Treasurer
5. Secretary

Officers are elected at the annual meeting of members and begin their terms on July 1. Officers serve on the Board without compensation, and may only hold one position on the Board at a time.
Additional officers may include one or more assistant treasurers and assistant secretaries, who are periodically nominated by the president and elected by the Board of Directors.

### 6.1 President

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

### 6.2 Vice President

The vice president is the president-elect of the OPTN and serves as an *ex-officio*, non-voting member of the Membership and Professional Standards Committee (MPSC). If the president is absent, the vice president performs all duties required of the president, as well as any other duties required by the Board of Directors or these Bylaws. The vice president serves for a term of one year and may not serve consecutive terms.

### 6.3 Vice President of Patient and Donor Affairs

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

### 6.4 Treasurer

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

### 6.5 Secretary

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

### 6.8 Resignation

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

### 6.9 Removal from Position

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

Assistant treasurers and assistant secretaries may be removed by the Board of Directors or the Executive Committee for any reason.
6.109 Conflicts of Interest

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

Article IX: Regions

9.3. 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. Transplant hospital, OPO, histocompatibility, medical/scientific, and public organization member representatives will belong to a region according to the location of the member’s principal offices.

Any 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 will also have regional voting privileges.

9.4 Regional Elections

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

A. Regional Councillor Election

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

B. Associate Councillor Election

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

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

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

9.35 Regional Review Boards

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