

Notice of OPTN Bylaws Changes

Proposal to Modify the Conflicts of Interests Bylaws

Sponsoring Committee:	Executive Committee
Bylaws Affected:	<i>Bylaws Article 2.7: Conflicts of Interest</i> <i>Bylaws Article 3.3: Conflicts of Interest</i> <i>Bylaws Article 4.6: Conflicts of Interest</i> <i>Bylaws Article 5.3: Conflicts of Interest</i> <i>Bylaws Article 6.9: Conflicts of Interest</i> <i>Bylaws Article 7.7: Conflicts of Interest</i> <i>Bylaws Appendix M.2.B: References to the MPSC Chair</i> <i>Bylaws Appendix M.4: Conflicts of Interests</i>
Public Comment:	Not applicable
Board Approved:	June 8, 2020
Effective Date:	July 1, 2020

Purpose of Bylaws Changes

The OPTN is committed to maintaining credibility and promoting the integrity of the nationwide transplant system by undertaking various measures to avoid conflicts of interests and the appearance of conflicts of interests amongst the people who voluntarily serve on the OPTN Board and OPTN Committees and the other organizations to which they owe a duty of loyalty. While the OPTN maintains a Bylaw defining what constitutes a conflict of interests, it does not have a process detailed in the Bylaws about how to manage situations in which it is unclear or disputed as to whether a Director or Committee member has a conflict. This proposal establishes a process to ensure that conflicts are analyzed and decided in a uniform manner.

Summary of Changes

The Board adopted three substantive modifications to the existing Bylaws: 1) increasing the frequency of required disclosures; 2) codifying the process for handling disputes about whether a conflict exists; 3) clarifying the application of the conflicts of interests Bylaws to OPTN Committee members. The adopted changes also include clerical edits.

Implementation

Volunteers that serve on the OPTN Board of Directors or OPTN Committees will be required to employment or activities that might give rise to a conflict of interests: 1) upon commencement of service on the Board or Committee; 2) annually; 3) prior to every Board or Committee meeting; 4) At any intervening instance in which a potential conflict arises.

Affected Policy Language

New language is underlined (example) and language that is deleted is struck through (~~example~~).

Article 2.7 Conflicts of Interests

It is the OPTN policy that all Directors avoid conflicts of interests~~s~~ and the appearance of conflicts of interests~~s~~. 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 interests~~s~~. Upon commencement of service on the Board, annually, prior to every meeting of the Board, and at any intervening instance in which a potential conflict arises, 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 interests~~s~~. If a Director believes that another Director has an undisclosed conflict of interests, the Director must notify the President of the Board.

Avoiding conflicts of interests~~s~~ or the appearance of conflicts of interests~~s~~ 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. Prior to each Board meeting, the President will notify Directors that have a conflict of interests with issues to be discussed at the meeting, and will advise the Director how to avoid the conflict or the appearance of a conflict.

2.7.1: Disputed Conflicts of Interests

Before the Board considers an issue around which a Director disputes whether a conflict of interests exists, the Executive Committee will convene in closed session. The Director whose potential conflict is in dispute will explain why the Director does not agree there is a conflict or does not agree with the way in which the conflict has been proposed to be avoided. A Director alleging another Director has a conflict will also have an opportunity to explain that position. The Executive Committee will then vote on whether there is a conflict of interests or the appearance of a conflict, and if so, how the Executive Committee believes the conflict should be avoided.

If the Executive Committee believes the conflict of interests is so significant that the only way to avoid the conflict or the appearance of the conflict is to prevent the Director from continuing to serve on the Board, then the Board may consider removing the Director according to Article 2.5: Removals.

Article 3.3 Conflicts of Interests

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

Article 4.6 Conflicts of Interests

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

Article 5.3 Conflicts of Interests

The Executive Director must avoid conflicts of interests and the appearance of conflicts of interests. The Executive Director will be held to the same standard as the Board of Directors and will deal with potential conflicts of interests according to *Article 2.7: Conflicts of Interests* of these Bylaws.

Article 6.9 Conflicts of Interests

Officers must avoid conflicts of interests and the appearance of conflicts of interests. Because officers are also Directors, they will be held to the same standard for conflicts of interests as the Board of Directors and will deal with potential conflicts of interests according to *Article 2.7: Conflicts of Interests* of these Bylaws.

Article 7.7 Conflicts of Interests

All OPTN Committee members must avoid conflicts of interests and the appearance of conflicts of interests. Committee members will be held to the standard for conflicts of interests as described in *Article 2.7: Conflicts of Interests* of these Bylaws. Prior to each Committee meeting, the Chair of the Committee will notify committee members that have a conflict of interests with issues to be discussed at the meeting, and will advise the committee member how to avoid the conflict or the appearance of a conflict. If the committee member disagrees, the committee member can appeal to the Executive Committee. The Executive Committee will deal with the disputed conflict of interests according to *Article 2.7.1: Disputed Conflicts of Interests* of these Bylaws.

Appendix M.2 Representative Terminology Used throughout Appendix M

B. References to the MPSC Chair

References to the MPSC Chair in this *Appendix M* necessarily include the possibility of an MPSC Chair designee. If the MPSC Chair cannot fulfill a duty as required in these Bylaws for any reason, such as unavailability or potential conflicts of interests, then these duties will be delegated to another individual. Selection of an MPSC Chair designee will proceed in the following order until a designee is identified:

1. MPSC Vice Chair
2. MPSC regional representatives, as selected by the OPTN President

Appendix M.4 Conflicts of Interests

The standard for conflicts of interests as described in *Article 2.7: Conflicts of Interests* of these Bylaws ~~The OPTN's Conflict of Interest Policy~~ applies to all OPTN inquiries, deliberations, recommendations and actions during member reviews.