

BYLAWS
of
[NAME OF FOUNDATION]

ARTICLE I
PRINCIPAL OFFICE

The principal office of this corporation shall be located in the County of [Name of County], [Name of State].

ARTICLE II
MEMBERSHIP

This corporation shall have no voting members, but the Board of Directors may, by resolution, establish one or more classes of nonvoting members and provide for eligibility requirements for membership and rights and duties of members, including the obligation to pay dues.¹

ARTICLE III
BOARD OF DIRECTORS

Section 1. Powers. This corporation shall have powers to the full extent allowed by law. All powers and activities of this corporation shall be exercised and managed by the Board of Directors of this corporation directly or, if delegated, under the ultimate direction of the Board.²

Section 2. Number of Directors. The number of directors shall be not be less than nine (9) nor more than twenty (20)³, with the exact number of authorized directors to be fixed from time to time by resolution of the Board of Directors.

Section 3. Qualifications of Directors. It is the intent of these Bylaws that the Board of Directors be broadly representative of the community that is served by this corporation, and that the Board be composed of individuals who reflect the diversity and the full range of health related issues and interests in the community and include an understanding of the communities and individuals intended to benefit from the corporation's activities. Directors shall be selected in order to fulfill the foregoing intent. No individual who is currently a director, officer, employee, or agent of [Name of for-profit company] shall be eligible for service on this Board. No individual who is

currently, or has been within the last five years, a director, officer, employee, or agent of [*Name of nonprofit company*] shall be eligible for service on this Board.⁴

Section 4. Nomination, Election, and Term of Office of Directors. The initial directors of this corporation shall be appointed by the Attorney General through a nominating process in conjunction with the Community Advisory Committee. (as defined in Article IV, Section 3 below). Each year subsequent to the creation of the initial board

of directors, the Community Advisory Committee shall nominate at least three times the number of directors as there are Board positions to be filled. The directors then in office shall elect their successors from the slate of nominees provided by the Community Advisory Committee. Each director shall be elected for a term of three (3) years.

Each director shall hold office until a successor has been elected. No director may serve for more than two full terms. Terms of directors shall be staggered so that approximately one-third of the directors are elected each year.

Section 5. Vacancies. A vacancy shall be deemed to exist on the Board in the event that the actual number of directors is less than the authorized number for any reason. Vacancies may be filled by the remaining directors for the unexpired portion of the term from a list of nominees supplied by the Community Advisory Committee.

Section 6. Resignation and Removal. Resignations shall be effective upon receipt in writing by the Chair, the Secretary, or the Board of Directors of this corporation, unless a later effective date is specified in the resignation. A majority of the directors then in office may remove any director at any time, with or without cause.

Section 7. Annual and Regular Meetings. An annual meeting of the Board of Directors shall be held at least once a year. Annual meetings shall be called by the Chair, or any two directors, and noticed in accordance with Section 9. Regular meetings of the Board of Directors shall be held at such places and times to be established by the Board.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the Chair, or any two directors, and noticed in accordance with Section 9.

Section 9. Notice, Place, and Time of Meetings. Notice of the annual meeting, regular meetings, and any special meetings of the Board of Directors shall be given to each director at least four days before any such meeting if given by first-class

mail or forty-eight hours before any such meeting if given personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means, and shall state the date, place, and time of the meeting.

Section 10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be valid as though taken at a meeting duly held after proper call and notice, if a quorum is present, and if, either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting the lack of adequate notice before the meeting or at its commencement.

Section 11. Quorum. A majority of the total number of directors then in office shall constitute a quorum. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise provided in these Bylaws or in the [*Name of Applicable State Law*]. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 12. Action Without a Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent to such action. Such written consents shall be filed with the minutes of the proceedings of the Board. Such written consents shall have the same force and effect as the unanimous vote of such directors.

Section 13. Telephone and Electronic Meetings. Directors may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment so long as all of the following apply:

- (a) each director participating in the meeting can communicate with all of the other directors concurrently;
- (b) each director is provided with the means of participating in all matters before the Board, including the capacity to propose, or to

interpose an objection to, a specific action to be taken by the corporation; and

- (c) this corporation verifies that (i) a person communicating by telephone, electronic video screen, or other communications equipment is entitled to participate in the Board meeting as a director, or by invitation of the Board or otherwise, *and* (ii) all motions, votes, or other actions required to be made by a director were actually made by a director and not by someone who is not entitled to participate as a director.

Section 14. Standard of Care.

A. General. A director shall perform the duties of a director, including duties as a member of any Board Committee on which the director may serve, in good faith, in a manner such director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- (i) one or more officers or employees of this corporation whom the director believes to be reliable and competent as to the matters presented;
- (ii) counsel, independent accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or
- (iii) a Board Committee upon which the director does not serve, as to matters within its designated authority, provided that the director believes such Committee merits confidence;

so long as in any such case, the director acts in good faith after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

B. Investments. Except with respect to assets held for use or used directly in carrying out this corporation's charitable activities, in investing, reinvesting, purchasing or acquiring, exchanging, selling, and managing this corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of this corporation's capital. No investment violates this section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to this corporation.

Section 15. Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of this corporation.

Section 16. Compensation. The Board of Directors may authorize, by resolution, the payment to a director of a reasonable fee for services, and/or the reimbursement or advance of actual and reasonable expenses incurred as a director, including expenses of attending meetings of the Board and Board Committees.

Section 17. Community Outreach. Throughout the year the Board shall strive to undertake community outreach activities. In consultation with the Community Advisory Committee, the Board shall establish a varied program of community outreach activities designed to assess community needs, encourage participation by communities and individuals that are intended to benefit from this corporation's activities, and listen to, and obtain feedback from, members of the community about this corporation's grantmaking goals and activities. The Community Advisory Committee to the board shall oversee and assess the effectiveness of these activities as provided in Article IV, Section 3. In no way shall the Board absolve itself of this responsibility by delegating it to the Community Advisory Committee.

ARTICLE IV COMMITTEES

Section 1. Board Committees. The Board of Directors may, by resolution adopted by a majority of the directors then in office, create any number of Board Committees, each consisting of two or more directors, to serve at the pleasure of the Board. Appointments to any Board Committee shall be made by any method determined by a majority vote of the directors then in office. Board Committees may be given all the authority of the Board, except for the powers to:

- (a) set the number of directors within a range specified in these Bylaws;

- (b) elect directors or remove directors without cause;
- (c) fill vacancies on the Board of Directors or on any Board Committee;
- (d) fix compensation of directors for serving on the Board or any Board Committee;
- (e) amend or repeal these Bylaws or adopt new Bylaws;
- (f) adopt amendments to the Articles of Incorporation of this corporation;
- (g) amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (h) create any other Board Committees or appoint the members of any Board Committees; or
- (i) approve any merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of this corporation.

Section 2. Advisory Committees. The Board of Directors may establish one or more Advisory Committees to the Board. The members of any Advisory Committee, except the Community Advisory Committee, may consist of directors or non-directors and may be appointed as the Board determines. Advisory Committees may not exercise the authority of the Board to make decisions on behalf of this corporation, but shall be restricted to making recommendations to the Board or Board Committees, and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee.

Section 3. Community Advisory Committee. In addition to other advisory committees, formed pursuant to Section 2 above, there shall be a standing advisory committee known as the Community Advisory Committee. The Community Advisory Committee must be composed of a majority of non-board members. Members of the initial Advisory Committee shall be appointed by *[Insert appropriate state regulator]* through a formal nominating process in consultation with community representatives from the service area of the converting nonprofit corporation and individuals or representatives of uninsured persons and other vulnerable populations and shall reflect the broad and diverse interests of the community served by this corporation.

Community Advisory Committee members shall serve three year terms, with no member serving more than two consecutive terms. Subsequent members shall be appointed by the Board of Directors, and vacancies in the Community Advisory Committee shall be filled by the Board of Directors. The two primary purposes of the Advisory Committee shall be 1) to nominate the initial and subsequent board members of the foundation and 2) to oversee and assess the effectiveness of the board's community outreach activities. The Board and the Advisory Committee shall jointly adopt, and amend from time to time, a mission statement for the Committee. The Board of Directors may delegate additional authority to the Committee and should provide a vehicle to insure community representatives are provided the opportunity to annually review foundation activities. Through an assignment of operating funds or staff support, the Board shall provide the Committee with adequate resources to fulfill this function.

Section 4. Meetings.

A. Of Board Committees. Meetings and actions of Board Committees shall be governed by and held and taken in accordance with the provisions of Article III of these Bylaws concerning meetings and actions of the Board of Directors, with such changes in the content of those Bylaws as are necessary to substitute the Board Committee and its members for the Board of Directors and its members. Minutes shall be kept of each meeting of any Board Committee and shall be filed with the corporate records.

B. Of Advisory Committees. Advisory Committees shall determine their own meeting rules and whether minutes shall be kept.

The Board of Directors may adopt rules for the governance of any Board or Advisory Committee not inconsistent with the provisions of these Bylaws.

ARTICLE V OFFICERS

Section 1. Officers. The officers of this corporation shall be the Board, a Chair, a Secretary, and a Treasurer. The corporation may also have, at the discretion of the directors, such other officers as may be appointed by the Board of Directors. No offices may be held by the same person. The Chair of the Board shall be elected from among the directors of the corporation. Other officers may or may not also be directors.

Section 2. Election. The officers of this corporation shall be elected annually by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. Removal. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board of Directors or by an officer on whom such power of removal may be conferred by the Board of Directors.

Section 4. Resignation. Any officer may resign at any time by giving written notice to this corporation. Any resignation shall take effect on receipt of that notice by such officer or at any later time specified by that notice and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of this corporation under any contract to which the officer is a party.

Section 5. Vacancies. A vacancy in any office for any reason shall be filled in the same manner as these Bylaws provide for election to that office.

Section 6. Chair. The Chair shall preside at all meetings of the Board of Directors, shall be a member of all Board Committees, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 7. Secretary. The Secretary shall supervise the keeping of a full and complete record of the proceedings of the Board of Directors and its committees, shall supervise the giving of such notices as may be proper or necessary, shall supervise the keeping of the minute books of this corporation, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 8. Treasurer. The Treasurer shall supervise the charge and custody of all funds of this corporation, the deposit of such funds in the manner prescribed by the Board of Directors, and the keeping and maintaining of adequate and correct accounts of this corporation's properties and business transactions, shall render reports and accountings as required, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

ARTICLE VI PROHIBITED TRANSACTIONS

Section 1. Loans. This corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer; provided, however, that this corporation may advance money to a director or officer of this corporation or any subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such director or officer so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

Section 2. Self-Dealing Transactions. Except as provided in Section 3 below, the Board of Directors shall not approve, or permit the corporation to engage in, any self-dealing transaction. A self-dealing transaction is a transaction to which this corporation is a party and in which one or more of its directors has a material financial interest, including, but not limited to, the payment of compensation to a director for services as an employee or independent contractor.

Section 3. Approval. This corporation may engage in a self-dealing transaction if the transaction is approved by a court or by the Attorney General. This corporation may also engage in a self-dealing transaction if the Board determines, before the transaction, that (a) this corporation is entering into the transaction for its own benefit; (b) the transaction is fair and reasonable to this corporation at the time; and (c) after reasonable investigation, the Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Board in good faith, with knowledge of the material facts concerning the transaction and the director's interest in the transaction, and by a vote of a majority of the directors then in office, without counting the vote of the interested director or directors.

Section 4. Compliance with Private Foundation Rules. Any provision of these Bylaws or the Articles of Incorporation of this corporation to the contrary notwithstanding, so long as this corporation is deemed to be a "private foundation" as defined in Section 509 of the Internal Revenue Code of 1986, as amended (the "Code"), this corporation:

- (a) shall distribute its income for each taxable year (and principal, if necessary) at such time and in such manner as not to subject this corporation to tax under Section 4942 of the Code;

- (b) shall not approve of, or engage in, any act of self-dealing as defined in subsection (d) of Section 4941 of the Code;
- (c) shall not retain any excess business holdings as defined in subsection (c) of Section 4943 of the Code;
- (d) shall not make any investments in such a manner as to subject this corporation to tax under Section 4944 of the Code; and
- (e) shall not make any taxable expenditure as defined in subsection (d) of Section 4945 of the Code.

ARTICLE VII INDEMNIFICATION AND INSURANCE

Section 1. Right of Indemnity. To the fullest extent allowed by Section [Insert appropriate section of the applicable law], this corporation shall indemnify and advance expenses to its agents, in connection with any proceeding.

Section 2. Approval of Indemnity. On written request to the Board of Directors in each specific case by any agent seeking indemnification, to the extent that the agent has been successful on the merits, the Board shall promptly authorize indemnification. Otherwise, the Board shall promptly determine, by a majority vote of a quorum consisting of directors who are not parties to the proceeding, whether, in the specific case, the agent has met the applicable standard of conduct stated in [Name of law] and, if so, shall authorize indemnification to the extent permitted thereby.

Section 3. Insurance. The Board of Directors may adopt a resolution authorizing the purchase of insurance on behalf of any agent against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, and such insurance may provide for coverage against liabilities beyond this corporation's power to indemnify the agent under law.

ARTICLE VIII GRANTS ADMINISTRATION

Section 1. Purpose of Grants. This corporation shall have the power to make grants and contributions and to render other financial assistance for the purposes expressed in this corporation's Articles of Incorporation.

Section 2. Power in the Board of Directors. The Board of Directors shall have control over grants, contributions, and other financial assistance given by this corporation. The Board shall review requests for funds and shall require that such requests specify the use to which the funds will be put. The Board may establish and authorize a process for staff determination of grants up to a specified amount. At the discretion of the Board, and upon Board acceptance of a review process plan and criteria for decision-making, responsibility for grant application review and determination of awards may be delegated to Board-appointed grantmaking committees.

Section 3. Refusal; Withdrawal. The Board of Directors, in its absolute discretion, shall have the right to refuse to make any grants or contributions, or to render other financial assistance, for any or all of the purposes for which the funds are requested. In addition, the Board, in its absolute discretion, shall have the right to withdraw its approval of any grant at any time and use the funds for other purposes within the scope of the purposes expressed in this corporation's Articles of Incorporation.

Section 4. Accounting Required. The Board of Directors may require that grantees furnish a periodic accounting to show that the funds granted by this corporation were expended for the purposes that were approved by the Board.

Section 5. Restrictions on Contributions. This corporation shall retain complete control and discretion over the use of all contributions it receives. Contributions received by the corporation from solicitations for specific grants shall be regarded as for the use of this corporation and not for any particular organization or individual mentioned in the solicitation. This corporation may accept contributions earmarked by the donor exclusively for allocation to one or more foreign organizations or individuals only if the Board of Directors of this corporation has approved in advance the charitable activity for which the donation was made.

ARTICLE IX
CONFLICT OF INTEREST

Section 1. Adoption and Annual Review. The Board shall adopt a written conflict of interest policy, which it shall review and publish annually.

Section 2. Definition. A duality of interest, conflict of interest, or the appearance of a conflict of interest may exist when a member of the Board, or of any Committee, has a direct or indirect interest in another entity and that entity enters into a transaction with the corporation. Direct or indirect interest includes any legal, equitable or fiduciary interest or position in an entity by a member of the Board or of any Committee, or a member of that person's family. A transaction includes, but is not limited to, the award of grants.

Section 3. Disclosure. Any duality of interest or possible conflict of interest on the part of any member of the Board of Directors, or any member of any Committee shall be disclosed and made a matter of record at the time of election to the Board or appointment to any Committee and maintained through an annual procedure and at the time the interest becomes a matter of Board or Committee action.

Section 4. Participation. No member of the Board, or member of any Committee having a duality of interest or possible conflict of interest in any matter shall be counted in determining the quorum for the meeting. No such member of the Board or a Committee shall be present when the matter is being discussed or voted on. No such member shall use personal influence to determine a decision on the matter.

Section 5. Records. The minutes of the meeting shall reflect that the disclosure was made, that the Board or Committee member abstained and was not present during the discussion and vote, and that a quorum existed not counting such member.

Section 6. Information on Request. The foregoing shall not be construed as preventing such member of the Board or of a Committee, if requested by other members, from briefly stating a position on the matter, nor from answering pertinent questions of other Board or Committee members.

ARTICLE X
MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of this corporation shall end each year on *[Insert]*.

Section 2. Contracts, Notes, and Checks. Except as the Board may generally or in particular case otherwise authorize the execution thereof, all contracts entered into on behalf of this corporation shall be signed by the Chair, and every check draft, promissory note, money order, or other evidence of indebtedness of this corporation shall be signed by the Chair or Treasurer.

Section 3. Annual Reports to Directors. Within 120 days after the end of this corporation's fiscal year, the Chair shall furnish a written report to all directors of this corporation containing the following information:

- (a) the assets and liabilities, including the trust funds of this corporation, as of the end of the fiscal year;
- (b) the principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) the revenue or receipts of this corporation, both unrestricted and restricted for particular purposes, for the fiscal year;
- (d) the expenses or disbursements of this corporation, for both general and restricted purposes, for the fiscal year; and
- (e) any transaction during the previous fiscal year involving \$50,000.00 or more between this corporation (or its parent or subsidiaries, if any) and any of its directors or officers (or the directors or officers of its parent or subsidiaries, if any) or any holder of more than ten percent of the voting power of this corporation or its parent or subsidiaries, if any, and the amount and circumstances of any indemnifications or advances aggregating more than \$10,000.00 paid during the fiscal year to any director or officer of this corporation. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's

relationship to this corporation, the nature of such person's interest in the transaction and, where practicable, the value of such interest.

The foregoing report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of this corporation that such statements were prepared without an audit from the books and records of this corporation.

Section 4. Regular Reports. No less often than semi-annually, the Board shall provide a report to the Community Advisory Committee and the Attorney General which sets forth a list of grants made by the corporation, describes the activities of the corporation during the period, includes a summary of activities and assessment of impact in terms of the purposes of the corporation, and describes the efforts that the corporation has made in the area of community outreach.

Section 5. Amendments. Proposed amendments to these Bylaws shall be submitted in writing to the directors at least four days in advance of the Board meeting at which they will be considered for adoption. The vote of a majority of the directors then in office or the unanimous written consent of the directors shall be required to adopt a bylaw amendment. Any amendment that affects the configuration of the Board of Directors, the qualifications of directors, or the election of directors shall require the prior written consent of the Attorney General.

Section 6. Governing Law. In all matters not specified in these Bylaws, or in the event these Bylaws shall not comply with applicable law, the [Law] as then in effect shall apply.

CERTIFICATE OF SECRETARY

I, _____ certify that I am presently the duly elected and acting Secretary of *[Name of Foundation]*, a _____ nonprofit public benefit corporation, and that the above Bylaws, consisting of _____ pages, are the Bylaws of this corporation as adopted by Board of Directors on _____.

DATED: _____

_____, Secretary

¹ Some states require that there be members, in which case the members can usually be the same as the Board of Directors. As in all cases, these Bylaws should not be prepared without the assistance of legal counsel with knowledge of the laws of the state in which the corporation is to be formed.

² This provision, like all others, must be conformed to the particular state law.

³ This is the range for a Board size that we find to most workable. It provides for enough Board seats to allow for a diverse board that represents the full community. At the same time, the Board is not so large that Board members are discouraged from participating.

⁴ Some states have chosen not to exclude former board members of the converting nonprofit, but have required that individuals from the converting nonprofit's board be considered as candidates along with all other potential board members. They should not be given preference or be automatically given board membership. At all times, new and independent board members must constitute a majority of the foundation board.

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