

**Amended and Restated
BYLAWS
of
End-Stage Renal Disease
(ESRD) # 12 Network
Coordinating Council, Inc.
doing business as
Heartland Kidney
Network**



**AMENDED AND RESTATED
BYLAWS OF
END-STAGE RENAL DISEASE (ESRD) #12
NETWORK COORDINATING COUNCIL, INC.
doing business as
HEARTLAND KIDNEY NETWORK**

ARTICLE I

NAME AND OFFICES

- 1.1 **Name.** The name of the Corporation is End-Stage Renal Disease (ESRD) #12 Network Coordinating Council, Inc., and will do business as "Heartland Kidney Network" (the "**Corporation**").
- 1.2 **Registered Agent and Office.** The initial registered office and the initial registered agent of the Corporation in the state of Missouri shall be as prescribed in the Articles of Incorporation. The registered office and registered agent of the Corporation in Missouri may be changed from time to time by the Board and shall be on file in the office of the Secretary of State of Missouri pursuant to applicable provisions of law.
- 1.3 **Corporate Offices.** The Corporation may have such corporate offices anywhere within and outside the state of Missouri as the Board from time to time may appoint or the business of the Corporation may require.

ARTICLE II

PURPOSES

- 2.1 **Authority.** The Corporation is an organization established to implement Section 1881(c) of the Social Security Act (42 USC 1395nn, as amended by P.L. 95-292) ("**Act**") in the states of Iowa, Kansas, Missouri, and Nebraska (such states, the "**Network**"). Section 1881 extends Medicare coverage to individuals who have End Stage Renal Disease ("**ESRD**") requiring dialysis or transplantation. Liability protection is provided for the Corporation and those persons who are employed by or are in a fiduciary relationship with it pursuant to Public Law 101-239, Section 1157(b) of the Act. Public Law 101-239, Section 1157(b) reads in pertinent part:

No organization having a contract with the Secretary under this part and no person who is employed by, and who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided due care was exercised in the performance of such duty, function, or activity.

The Corporation shall execute the provisions of this and subsequent law and applicable federal regulations in order to coordinate optimal medical care for persons with ESRD within the Network. The right of patients to receive quality care within the Network shall be maintained at all times.

Notwithstanding the foregoing language, the Corporation will not provide direct medical care or services to any individual.

ARTICLE III

NETWORK COUNCIL

- 3.1 **Appointment of Members.** Membership in the Corporation shall be on an institutional basis and is extended to each ESRD facility that is located in the Network and providing ESRD care to residents within the Network (which facilities shall collectively be known as the "**Network Council**"). A facility is defined as a health care unit providing chronic dialysis (defined as having a separate ESRD Medicare provider number) and/or renal transplantation services.

Each Network Council facility (hereafter "**Member**") may appoint one (1) individual to act as such Member's representative and such representative shall have one (1) vote in Network Council deliberations. Each Member may also appoint one (1) individual to act as an alternate to the appointed representative who will have voting rights in the absence of the appointed representative. The representative and alternate representative shall serve until the Member elects to change representation. Where more than one facility location provides ESRD service under one provider number, the facilities using the common provider number shall be considered one Member.

- 3.2 **Liaison Members.** Each of the following will be entitled to appoint one (1) liaison representative to attend meetings of the Network Council: Region VII, HHS; local kidney foundations; and those organizations responsible for the administration of state kidney disease programs. The Patient Advisory Subcommittee of the Medical Review Board, as described in Section 6.1.b.iv(b) hereafter, shall appoint at least one (1) representative to the Network Council (such representative(s) to be a dialysis patient and/or a transplant patient who is a resident of the Network). Other liaison members may be selected by the President as deemed appropriate. Liaison Members shall not be entitled to vote in Network Council deliberations.

- 3.3 **Resignation of Members.** A Member may, at any time, resign in writing to the President of the Corporation. The resignation shall become effective as of the date received.

- 3.4 **Expulsion and Reinstatement of Members.** Membership in the Network Council is a privilege extended to those meeting the provisions of these Bylaws. Members shall, by their acts and conduct, further the objectives of the Corporation. Any Member which fails to do so, or which by their statements or actions cast discredit upon the Corporation, shall be subject to censure, suspension, or expulsion, as determined by a two-thirds (2/3) majority vote of the entire Board of Directors. In the event the Board determines to institute any censure, suspension, or expulsion, the Board shall, through the Secretary of the Corporation, notify the Member involved of the proposed action and the reasons therefore within ten (10) days following the Board's decision. Any Member suspended or expelled may be reinstated by an affirmative vote of a majority of the entire Board. All notifications required to be given herein shall be made by certified mail, return receipt requested.

- 3.5 **Automatic Loss of Membership.** A facility that no longer fulfills the criteria for eligibility as an ESRD facility as determined by the Department of Health & Human Services shall automatically be terminated from Membership in the Network Council.

- 3.6 **Place of Meetings.** All annual and other meetings of Network Council shall be held at the time and at the appropriate place, inside or outside the State of Missouri, that the person or persons

calling the meeting have fixed; provided that if no other place is fixed, any such meeting shall be at the Corporation's principal office.

- 3.7 **Annual Meeting.** A meeting of the Network Council shall be held annually during the month of January at such time and place as determined by the Board (the "**Annual Meeting**"). The purposes of the Annual Meeting shall be to elect the individuals to serve on the Board of Directors as described in Article IV hereafter and the Medical Review Board as described in Article VI hereafter and to transact such other business as may come before the meeting.
- 3.8 **Special Meetings.** Special meetings of the Network Council may be called at any time by the Board or shall be called by the President of the Corporation upon the request of a majority of the Members. Special meetings of the Network Council may be held at such time and place and for such purposes as shall be stated in the notice of the meeting.
- 3.9 **Meeting Notice, Quorum and Voting.**
- a. **Notice.** Notice of Network Council meetings shall be sent by mail or e-mail to all Members not less than fourteen (14) nor more than fifty (50) days in advance of said meeting.
- b. **Quorum and Voting.** Each Member shall be entitled to one (1) vote on all matters coming before the Network Council for consideration. Except as otherwise may be provided by law, the Articles of Incorporation, or these Bylaws, the presence in person of Fifty Percent (50%) of the representatives of the Members entitled to vote at a Network Council meeting shall constitute a quorum. At any meeting at which a quorum is present all issues shall be decided by a simple majority vote of the Member representatives or, in their absence, alternate representatives present. If a quorum is not present at any meeting, including the Annual Meeting, the Member representatives present and entitled to vote shall have the right to adjourn the meeting to a specified date not longer than ninety (90) days after such adjournment. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting which was adjourned.
- c. **Mail and E-mail Voting.** Any action that may be taken at a meeting of the Network Council may be taken without a meeting through consents via mail or e-mail setting forth the proposed action. Such consents shall have the same force and effect as a vote of the Members at a meeting duly held, and the Secretary shall file such consents with the minutes of the meetings of the Network Council. The voting by mail or e-mail shall remain open for ten (10) business days following the date the request for consent to the proposed action is sent to Members absent from the meeting at which the action was proposed.
- 3.10 **Membership List.** An alphabetical listing by state of the names of the Members of the Network Council shall be available for inspection at each Annual Meeting or may be requested by a Member at any time from the Corporation's office.

ARTICLE IV

BOARD OF DIRECTORS

- 4.1 **Powers.** The executive power of the Corporation shall be vested in the Board of Directors ("**Board**") which shall have charge of the property and funds of the Corporation, be responsible for the management of the affairs of the Corporation, and have the power and authority to do and perform all acts and functions consistent with these Bylaws. The Board shall serve as the Board of Appeals for any person or entity who or which is the subject of sanctions from action taken by the

Medical Review Board, as hereafter described (“**MRB**”). In addition, the Board shall have the following duties and responsibilities:

- a. Supervise and be responsible for the performance of the Network's administrative staff in meeting contract deliverables and requirements as well as responding to the Centers for Medicare and Medicaid Services (“**CMS**”).
- b. Supervise and be responsible for the financial operation of the Network, including the Corporation's Internal Quality Control (“**IQC**”) program.
- c. Review and approve the Corporation's Annual Report prior to its submission to the CMS project officer.
- d. Approve any requests for modifications to the Network's contract with CMS that involve any requests for additional funding.
- e. Review and approve any recommendations from the MRB to sanction Network facilities prior to the submission of such recommendations to CMS.

4.2 **How Constituted.** The Board shall consist of a total of fourteen (14) voting members (individually “**Director**” and collectively “**Directors**”). The Board must include at least one (1) nephrologist representative from each state in the Network. The Chair of the Patient Advisory Subcommittee of the MRB and the Chair of the MRB shall serve as two (2) of the fourteen (14) Directors on the Board *ex officio* with vote by virtue of their positions.

4.3 **Election and Term.** The Board shall be elected and serve for terms as set forth below:

- a. Election. The Governance Committee, as hereafter described, shall submit nominations of qualified individuals to the Board from the Corporation's Membership as well as the renal community located within the Network (except for the Board *ex officio* positions with vote held by the Chair of the MRB and the Chair of the Patient Advisory Subcommittee of the MRB), such nominees when elected to the Board to be known as the “**Elected Board Members.**” Each nominee shall submit a curriculum vitae to the Corporation's office for consideration by the Governance Committee. The Governance Committee shall prepare a slate of Elected Board Member nominees giving consideration to individual qualifications and appropriate geographical representation on the Board. An informational summary of all selected nominees shall be prepared and mailed with a ballot to each voting Member representative on the Network Council not later than thirty (30) days prior to the Annual Meeting of the Network Council. The Members shall cast their ballots by mail or e-mail. The deadline for return of all ballots shall be clearly indicated and must be received at the Corporation's Office not later than fourteen (14) days prior to the Annual Meeting of the Network Council. All candidates shall be notified in writing of the election results prior to the next Annual Meeting. All individuals accepting such election to the Board as Elected Board Members will be formally announced at the Annual Meeting and their terms shall commence on the date of such meeting at which their election is announced.
- b. Term. The Elected Board Member Directors shall serve for three (3)-year terms. The Chair of the MRB shall serve on the Board so long as he/she serves as Chair of the MRB. The Patient Representative shall serve a one (1)-year term but may be reappointed for successive terms without limit. The Elected Board Member Directors shall be divided into three (3) classes of four (4) Directors each, with the terms for one of the three classes terminating each year. Each class shall have at least one (1) Director from each state in the

Network, one (1) of whom shall be a nephrologist. At each Annual Meeting of the Network Council, one (1) class of Directors shall be elected. Directors may not be elected to more than two (2) consecutive three (3)-year terms, although the Immediate Past President may serve beyond his or her term limits, *ex officio* with vote, so long as s/he holds such office. The portion of a term resulting from the appointment of a Director to fill the unexpired term of a Director shall not be considered in determining the number of consecutive terms served.

- 4.4 **Vacancies.** The Board shall appoint Directors to fill vacancies occurring on the Board due to the death, resignation, or removal of a Director for the remainder of the term for such Director by a majority vote of the remaining Directors after consulting with the Governance Committee.
- 4.5 **Meetings.** The Board will meet at least two (2) times each year. One meeting shall be immediately following the Annual Meeting. At such meeting, the Directors shall elect the Officers of the Corporation and conduct such other business as may come before the meeting. The Board may determine its own rules of procedures, subject to the provisions of federal and state laws, the Corporation's Articles of Incorporation, and these Bylaws. Special meetings of the Board may be called by the Chair or by any five (5) members of the Board and shall be held at such place as may be designated in the notice. Nothing in these Bylaws shall be construed as prohibiting the holding of meetings by telephone conference or other electronic means by which all Directors may communicate directly with all other Directors. Written notice of any special meeting of the Board shall be delivered not less than five (5) nor more than ten (10) days before the date of the meeting, by mail or by other means of communication including electronic transmission, to each Director. Such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Director at the Director's address as it appears on the records of the Corporation, with postage thereon prepaid, or when sent by electronic means. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.
- 4.6 **Quorum.** A quorum for a meeting of the Board shall be a majority of the full Board. At meetings at which a quorum is present, all issues shall be decided by a simple majority vote of the Directors present.
- 4.7 **Voting.** Each Director, including *ex officio* Directors, shall have one (1) vote on all matters coming before the Board.
- 4.8 **Attendance.** Directors are expected to attend all meetings, and any Director absent from two (2) successive meetings without adequate reason, in the view of the Chair, may be removed as a Director. Should the President determine that a Director vacate his or her position, the Director affected may, within ten (10) days, request a review of the decision by the Board. The decision of the President may be overturned by a two-thirds (2/3) vote of the entire Board with the Director affected being excluded from the vote. Any vacancy created hereunder shall be filled in accordance with Section 4.4.

ARTICLE V

OFFICERS

- 5.1 **Officers.** The Officers of the Corporation shall be a President, President-Elect, Immediate Past President, Executive Director/Secretary, and a Treasurer. All the Officers of the Corporation shall be selected from the members of the Board except for the Executive Director, who shall be

selected and employed by the Board. Two (2) years' prior experience on the Board is a prerequisite for holding an office, other than Executive Director. No individual may hold more than one office at any one time. The Officers of the Corporation shall be elected or appointed as set forth below:

- a. President. The President of the Corporation shall be the immediate past President-Elect who has completed his or her term of office. The President shall chair all meetings of the Board; be the principal officer of the Board; and supervise and control all of the business and affairs of the Corporation, subject to the direction of the Board. The President may sign any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except where execution thereof shall be expressly delegated by the Board or by these Bylaws to some other Officer or agent of the Corporation or as required by law to be otherwise signed or executed. The President shall in general perform all duties incident to the office of the President and such other duties as may be prescribed by the Board from time to time.
- b. President-Elect. The President-Elect of the Corporation shall be selected from the active members of the Board and approved during the first Board meeting following the Annual Meeting. The President-Elect shall perform the duties of the President in the absence or inability of the President to serve.
- c. Immediate Past President. The Immediate Past President shall be the previous President who has last completed his/her term of office. S/he shall serve on the Board as full voting member for the same term as the President and until s/he is replaced by the President at the end of the President's term. The Immediate Past President may serve on the Board during his or her tenure in office even though s/he has exhausted his/her term limits as prescribed in Section 4.3.b.
- d. Executive Director. The Executive Director and Secretary shall hereinafter be collectively referred to as "**Executive Director**." The Executive Director shall be retained by the Board to serve as the chief executive officer of the Corporation ("**CEO**") and shall carry out the duties and responsibilities as determined by the Board and as required by any CMS contract. The Executive Director shall be responsible for hiring and administering the Corporation's staff for the day-to-day operations and activities of the Corporation. The Executive Director shall be responsible for budgeting, financial reporting and financial statements with advice from the Audit/Finance Committee. The Board shall be responsible for the search and selection process for an Executive Director of the Corporation and for the annual evaluation of the Executive Director.

The Executive Director shall also act as the Secretary of the Corporation and all its committees. In such capacity, the Executive Director shall be authorized to sign as the Corporate Secretary and designated agent of the Corporation and shall: (i) keep the minutes of the proceedings of the Network Council and of the Board in one or more files provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of the corporate seal, if any, and the records, minutes and Network Council records of the Corporation; and (iv) keep a register of the current post office address of each Member of the Network; (v) except as the Board shall direct otherwise, execute all contracts on behalf of the Corporation; and (vi) in general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the President or by the Board. The Executive Director shall not have the right to vote on any matter coming before the Network Council, the Board, or any committee of the Corporation. The Executive Director

shall serve at the pleasure of the Board and shall not be subject to any term limits applicable to other Officers. The Executive Director shall be bonded. An exit audit shall be conducted whenever an Executive Director leaves employment of the Corporation.

- e. **Treasurer.** The Treasurer of the Corporation shall serve as Chair of the Audit/Finance Committee. The Treasurer shall: (i) have general charge of the financial books and records of the Corporation; (ii) have charge and custody of and be responsible for all funds of the Corporation; (iii) receive and give, or cause to be given, receipts of monies due and payable to the Corporation from any source whatsoever, and deposit, or cause to be deposited, all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board; and (iv) in general, perform all duties incident to the office of the Treasurer and such other duties as from time to time may be assigned by the President or by the Board. Duties of the Treasurer may be delegated to the Corporation staff as deemed appropriate. The Treasurer shall be responsible for assuring that complete records of accounts are maintained and, with the help of the Audit/Finance Committee, review the financial condition of the Corporation. The Treasurer shall report on the financial condition of the Corporation at the Annual Meeting and the regular Board meetings. The Treasurer shall be bonded.

- 5.2 **Appointed Officers and Agents.** The Board from time to time may also appoint such other officers and agents for the Corporation as it shall deem necessary or advisable. All appointed officers and agents shall hold their respective positions at the pleasure of the Board, and they shall have and exercise such powers and have and perform such duties as shall be determined from time to time by the Board or by an elected Officer empowered by the Board to make such determinations.
- 5.3 **Terms.** All Officers of the Corporation, with the exception of the Executive Director, shall serve for a term of two (2) years or until their successors are duly elected and qualified. No Officer except the Executive Director may serve more than one (1) term of office unless there is not another qualified candidate to fill the position.
- 5.4 **Removal.** Any Officer or agent elected or appointed by the Board and any employee may be removed or discharged by the Board whenever in its judgment the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.
- 5.5 **Duties of Officers May be Delegated.** If any Officer of the Corporation shall be absent or unable to act, or if the Board so elects for any other reason that it may deem sufficient, the Board may delegate some or all of the functions, authority, powers, duties, and responsibilities of any Officer to any other Officer or to any other agent or employee of the corporation or other responsible person.
- 5.6 **Faithful Performance.** If required by the Board, certain Officers of the Corporation shall be bonded in the sum and with one (1) or more sureties satisfactory to the Board, for the faithful performance of the duties of their respective offices, and for the restoration to the Corporation, in the case of death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, or other property of whatever kind in such Officer's possession or control which belong to the Corporation.

ARTICLE VI

COMMITTEES OF THE BOARD

6.1 **Standing Committees of the Board.** Subject to the approval of the Board, the President shall appoint the following Standing Committees (“**Standing Committees**”):

a. Executive Committee.

(i) *Establishment and Purpose.* The Executive Committee shall be established by the Board to fulfill the duties delegated to it by the Board and shall have and exercise all the powers of the Board at such times when the Board is not in session. The Executive Committee shall develop the compensation and benefits package for the Executive Director and assure that such compensation meets requirements of the Corporation’s policies and applicable laws, rules, and regulations governing the compensation of highly compensated employees of tax-exempt entities. The Executive Committee shall develop criteria for performance evaluations of the Executive Director, assure such performance reviews are conducted annually, and determine the criteria for payment of an annual bonus to the Executive Director, if any. The Executive Committee shall use consultants and/or independent market studies of compensation for executives in like circumstances in performing its duties and obligations. The Executive Director and other members of the Corporation’s staff shall not be included in that portion of Executive Committee meetings at which compensation issues are acted upon.

(ii) *Composition and Meetings.* The Executive Committee shall consist of the President, the President-Elect, the Immediate Past President, the Executive Director, the Treasurer, and the Chair of the Medical Review Board. Appointments to the Executive Committee for the named Officers shall coincide with the term of the office so held. The Executive Committee shall meet at the call of the President or the Executive Director. The minutes of its meetings shall be reviewed by the Board and, upon approval by the Board, made a part of the minutes of the next succeeding meeting of the Board. The Executive Committee shall also plan the agenda for any upcoming meetings of the Board.

b. Medical Review Board.

(i) *Establishment and Purpose.* The Medical Review Board shall be elected by the Network Council to fulfill the Corporation’s contract requirements established by the Centers for Medicaid & Medicare Services to oversee and review the care of ESRD patients within the Network and oversee all quality improvement and information management activities of ESRD providers in the Network. The MRB may determine its own rules of procedure subject to the provisions of federal and state laws, the Corporation’s Articles of Incorporation, these Bylaws, and the direction of the Board; provided, however, the MRB’s rules of procedure shall conform to, and at all times include, the Corporation’s contract requirements and rules formulated in regulations concerning ESRD networks as published in the Federal Register by CMS and the Secretary of Health and Human Services. The MRB shall report to the Board at least annually, or as otherwise directed by the Board. In addition, the MRB shall fulfill the following functions:

- (a) Serve as an advisory panel to the Network on the care and appropriate placement of ESRD patients on dialysis in the Network area.
 - (b) Serve as the primary advisory panel for all Network quality improvement activities, including the analysis of local data on the Clinical Performance Measures ("**CPMs**") and for ESRD patient grievances.
 - (c) Assist the Corporation's administrative staff in the development and implementation and evaluation of quality improvement projects.
 - (d) Serve as the clearinghouse for all Network projects by reviewing and evaluating whether Institutional Review Board ("**IRB**") approval or involvement is required in accordance with Office of Human Research Protection regulations.
 - (e) On at least an annual basis, review Network prepared profile reports of facilities based on glomerular filtration rates of patients at their initiation of therapy to ensure the appropriateness of renal replacement therapy.
- (ii) The MRB shall have the authority, pursuant to applicable laws and regulations, to recommend sanction of persons or entities who or which are deemed to exhibit quality of service concerns or are in violation of applicable CMS laws, rules, and regulations. The MRB shall establish rules and procedures assuring procedural due process for those alleged to exhibit quality of service concerns, which rules and procedures shall include the establishment of corrective action plans to correct noted deficiencies and the right of the person or entity alleged to exhibit a quality of service concern to appeal any decision of the MRB to the Board, which Board's decision shall be deemed final.
- (iii) *Composition and Meetings.* The MRB shall be comprised of ten (10) members-at-large, plus one (1) representative from the Forum of ESRD Networks ("**Forum**"). The ten (10) members-at-large shall include persons of the following professional disciplines who are actively engaged in treatment related to ESRD: at least (1) transplant surgeon, two (2) nephrologists, one (1) registered nurse, one (1) ESRD technician, one (1) social worker, one (1) dietician, and one (1) patient representative as selected by the Patient Advisory Subcommittee. All members-at-large shall be qualified to evaluate the quality and appropriateness of care delivered to ESRD patients; provided, however, a MRB member shall not review the ESRD services of a provider in which s/he has a direct financial interest as described in Section 1126(a) and (b) of the Act, has or had any professional involvement, received reimbursement, or supplied goods. The Governance Committee shall poll the Network Council's Members to solicit nominations to the MRB. Nominees shall submit a curriculum vitae to the Corporation's office for consideration by the Governance Committee. The Governance Committee may also propose nominees on its own initiative to ensure appropriate professional representation on the MRB. The Governance Committee shall prepare an informational summary of all candidates to the MRB for submission to the Network Council at its Annual Meeting, and the Network Council shall select members of the MRB from the candidates proposed.

The members-at-large of the MRB shall select from their number a Chair and Vice Chair who shall serve for terms of two (2) years or until their successors are duly

elected and qualified. The Chair shall convene and conduct all meetings of the MRB. The Vice Chair shall succeed the Chair at the end of the Chair's term in office and shall serve as acting Chair in the absence of the Chair. No member of the MRB may be elected to Chair or Vice Chair until they have served at least one (1) year of membership on the MRB. The Chair of the MRB shall serve as an *ex officio* voting member of the Board and the Executive Committee. The MRB shall meet at the call of the Chair. Minutes of the meetings of the MRB shall be submitted to the Board for review and made a part of the minutes of the next succeeding meeting of the Board.

(iv) MRB Subcommittees. The MRB shall establish two (2) subcommittees as follows:

(a) Grievance Subcommittee. The Chair of the MRB shall establish a Grievance Subcommittee which shall meet as necessary to resolve, clarify, and refer grievances regarding peer review, quality oversight, and information management decisions of the MRB. The rules of procedure of the Grievance Subcommittee shall be established by the MRB in accordance with the parameters for MRB rules and procedure outlined in paragraph b.(i) above.

(b) Patient Advisory Subcommittee. The Chair of the MRB shall appoint a Patient Advisory Subcommittee comprised of no fewer than six (6) members, including one (1) member of the Board of Directors, one (1) staff member of the Corporation, and one (1) dialysis patient and/or transplant patient from each of the states comprising the Network. The Patient Advisory Subcommittee shall meet as necessary to review patient resources and recommend patient activities to the MRB. The members of Patient Advisory Subcommittee shall select a Chair and Vice Chair from the ESRD patient members of the Subcommittee. The Chair shall serve as an *ex officio* member of the Board with vote. The Subcommittee shall also select one (1) of its patient members as a voting member of the MRB.

c. Audit/Finance Committee.

(i) Establishment and Purpose. The Audit/Finance Committee shall be established by the Board for the primary purpose of assisting the Board in overseeing (1) the integrity of the Corporation's financial statements, (2) the Corporation's compliance and legal regulatory requirements, (3) the independent auditor's qualifications and independence, (4) the performance of the Corporation's independent auditor, and (5) the Corporation's internal audit and internal controls regarding finance and accounting. Consistent with this function, the Audit/Finance Committee shall encourage continuous improvement of, and foster adherence to, the Corporation's financial policies, procedures, and practices at all levels. The Audit/Finance Committee has the authority to obtain advice and assistance from outside legal, accounting, and other advisors as deemed appropriate to performance duties and responsibilities. The Audit/Finance Committee will report regularly to the Board regarding the execution of its duties and responsibilities.

(ii) Composition and Meetings. The Audit/Finance Committee shall be comprised of the Treasurer plus at least two (2) non-Officer Directors who possess particular expertise in financial and accounting matters as chosen by the President. The President may also appoint one (1) or more non-Director members of the

Committee who possess special expertise in financial matters to serve as independent members of the Committee with vote. The President and Executive Director shall serve on the Audit/Finance Committee without vote. Each Audit/Finance Committee member, other than the President, Treasurer, and the Executive Director, shall be independent and free from any relationship that, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Audit/Finance Committee. The Audit/Finance Committee members shall have a working familiarity with basic finance and accounting practices. Appointments to the Audit/Finance Committee for the named Officers shall coincide with the term of the office so held. The non-Officer Audit/Finance Committee members shall be chosen by the President at the Board meeting immediately following the Annual Meeting and shall serve for terms of one (1) year although they may succeed themselves for an unlimited number of terms. The Treasurer shall serve as the Chair of the Audit/Finance Committee. The Audit/Finance Committee shall meet at least two (2) times annually or more frequently as circumstances dictate. Each regularly scheduled meeting shall conclude with an executive session of the Audit/Finance Committee without the Executive Director or any other members of the Corporation's staff being present and on such terms and conditions as the Audit/Finance Committee may elect.

d. Governance Committee.

- (i) *Establishment and Purpose.* The Governance Committee shall be established by the Board for the primary purpose of assisting the Board in perpetuating the effectiveness of the Corporation through (1) periodic review of the Corporation's Bylaws and developing revisions of the Bylaws for Board consideration; (2) periodic review of Board policies and procedures and developing such necessary revisions for Board action; (3) evaluating Board performance; (4) identifying the qualities and characteristics required for effective governance; (5) identifying, developing, and training effective Directors and Officers; (6) serving as the Corporation's Nominating Committee to nominate candidates for election to the Board, as Officers of the Corporation and to serve as members of the MRB; and (7) overseeing the Corporation's corporate compliance plan and its system of internal controls regarding legal compliance and ethics as established by the Board and the Corporation's staff from time to time.
- (ii) *Composition and Meetings.* The Governance Committee shall be comprised of the President, the Executive Director, and one (1) non-Director representative from each of the states in the Network. Each Governance Committee member, other than the President and the Executive Director, shall be independent and free from any relationship that, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Governance Committee. The non-Director Governance Committee members shall be selected by the President and shall be representatives of ESRD facilities of the states of the Network they represent. Appointments to the Governance Committee for the named Officers will coincide with the term of office so held. The non-Officer and non-Director Governance Committee members shall be chosen by the President and shall serve for a term of one (1) year commencing on the Board meeting immediately following the Annual Meeting and may succeed themselves for an unlimited number of terms. The President shall serve as the Chair of the Governance Committee. The Governance Committee shall meet at least one (1) time annually or more frequently as circumstances dictate. At least once per year,

a meeting shall conclude with an executive session of the Governance Committee without the Executive Director or any other members of the Corporation's staff being present and on such terms and conditions as the Governance Committee may elect.

- 6.2 **Other Committees.** The Board may establish such other Board committees as it deems necessary to accomplish its purposes. The Board resolution creating such committee shall specify such committee's purpose, composition, duration, and reporting responsibility. Such committee shall be chaired by a member of the Board as designated by the President, but may include non-Board members on the committee.
- 6.3 **Quorum and Voting.** A majority of the members of any Standing or other committees shall constitute a quorum. A majority of a quorum shall be required for a committee to recommend action.
- 6.4 **Attendance.** Members of all committees are expected to attend at least Fifty Percent (50%) of their scheduled meetings annually.
- 6.5 **Removal.** A member of any committee may be removed for cause from that committee by the Board upon the recommendation of the Executive Director or President.
- 6.6 **Forum Representative.** A Representative to the Forum shall be appointed by the President of the Board. The Forum Representative must have a minimum of five (5) years' experience membership on the Board. The Forum Representative will serve as the Network representative to the Forum.

ARTICLE VII

CONFLICTS OF INTEREST

In all Corporation business, no Member representative, Director, Officer, or committee member shall vote on any matter that would involve a conflict between the interest of the Corporation and such individual's personal gain. The Corporation shall adopt a Conflict of Interest policy that will be applicable to Members, Directors, Officers, committee members, employees, staff, independent contractors, and agents of the Corporation.

ARTICLE VIII

INDEMNIFICATION

- 8.1 **Indemnification.** The Corporation shall indemnify any person who was or is a party, or is threatened to be made party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a Director, Officer, employee, or agent of the Corporation pursuant to and to the extent allowed by Missouri Revised Statutes, Section 355.461 *et seq.*, and any amendments thereto.
- 8.2 The provisions of this section are intended to facilitate the Corporation's ability to attract and retain qualified individuals to serve as its Directors, committee members, and Officers and, at its request as directors, committee members and officers or in other capacities, for other corporations or enterprises by providing and maximizing the amount of indemnification that the Corporation is permitted to provide to such persons by the Missouri Nonprofit Corporation Act, and such provisions shall be construed accordingly. The provisions of this section do not limit the

Corporation's power to pay or reimburse expenses incurred by a Director, committee member, or Officer of the Corporation in connection with appearing as a witness in a proceeding at a time when the Director, committee member, or Officer has not been made a named defendant or respondent to the proceeding.

ARTICLE IX

FINANCES, PROPERTY AND ADMINISTRATION

- 9.1 The President, together with the Executive Director in his/her capacity as Secretary of the Corporation, shall execute and acknowledge all contracts of the Corporation, and execute other documents necessary for regular business of the organization. The Executive Director is authorized to write corporate checks in amounts approved in advance by the Board. The Board, with advice from the Audit/Finance Committee, shall conduct an annual review to determine the maximum amount allowed for each corporate check to be written by the Executive Director without an additional authorized signature. The President and the Treasurer shall be empowered as the other authorized signators of corporate checks in excess of the amounts authorized for signature by the Executive Director. Any two (2) of the authorized Officers (President, Executive Director, or Treasurer) shall be authorized to sign checks requiring two signatures.
- 9.2 No loans shall be made by the organization to its Members, Directors, committee members, Officers, or employees.
- 9.3 No Members, Directors, committee members, or Officers other than the Executive Director may receive a salary or compensation for routine services to the Corporation. The Board may authorize reimbursement for reasonable and necessary expenses, including travel for the Corporation's business. The Board may also authorize compensation paid to individuals for serving the Corporation in another capacity.
- 9.4 The Board may exercise the full extent of the powers which the Corporation has under Missouri law, as such law exists from time to time, to purchase and maintain reserve insurance against the risks that shall include attorneys' fees, judgments, fines and amounts paid in settlements, and amounts otherwise reasonably incurred on behalf of its Members, Directors, Officers, employees and agents.
- 9.5 The operations of the Corporation will be financed primarily with funds regulated by the Centers for Medicaid & Medicare Services (CMS). The Board shall have authority to obtain additional funds to pursue the purposes for which the Corporation was incorporated through grants from or contracts with private foundations, businesses, corporations, organizations, trusts, individuals or agencies of the federal government, or any state government.
- 9.6 The fiscal year of Corporation shall be July 1 through June 30.
- 9.7 The records and accounts of the Corporation shall be reviewed by an independent certified public accounting auditor annually by an accounting firm independent from the accounting firm handling the Corporation's accounting services. The audit shall be submitted to the Board at its next regular meeting following receipt of the audit report.
- 9.8 Selection of legal and accounting services shall be the prerogative of the Board.

ARTICLE X

AMENDMENT TO BYLAWS

- 10.1 Amendments to these Bylaws may be proposed to the Board. Following the Board's review and approval, the Bylaws shall be presented to the Corporation's Network Council not less than fourteen (14) days prior to being considered and acted upon by the Members. A two-thirds (2/3) majority vote of a quorum of Members comprising the Network Council voting in person at a duly called meeting of the Network Council or by mail or e-mail ballot shall be required to approve amendments to these Bylaws.

ARTICLE XI

DISSOLUTION

Upon the dissolution of the Corporation, the Board shall, after paying or making provision for the payment of all the liabilities of the Corporation, dispose of all the assets of the Corporation exclusively for the purposes of the Corporation in such a manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue law), as the governing Board shall determine. Any such assets not so disposed of shall be disposed of by the District Court of the county in which the registered office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE XII

RULES & REGULATIONS

- 12.1 The Board may adopt any rule, regulation or policy for the benefit of the Corporation, including without limitation, policies relating to fiscal matters, employment, litigation, Codes of Ethics, and document retention. The Board reserves the right from time to time to amend, alter, change or repeal these rules, regulations and policies by a vote of two-thirds (2/3) of the Board members then authorized to serve, at a meeting called for such purpose pursuant to notice or by action by consent of all the Board members then in office without a meeting as provided by statute and in these Bylaws.
- 12.2 **Parliamentary Authority.** The deliberation of the Members', Board, and committee meetings shall be governed by the rules contained in the most current edition of Robert's Rules of Orders unless rules are otherwise specified in the Corporation's Articles of Incorporation, Bylaws or adopted rules.

Developed 12/88
Revised 05/89
Revised 07/90
Revised 03/92
Revised 11/92
Rewritten 05/94
Revised 09/97
Revised 11/06

Amended and Restated 04/07

Amended and Restated and Approved by the Council 03/09