

## **OPTN Board of Directors**

### **Meeting Summary**

**June 25, 2021**

**Conference Call**

**David Mulligan, M.D., President**

**Matthew Cooper, M.D., Vice President**

### **Introduction**

The Board of Directors met via teleconference on 06/25/2021 to discuss the following agenda items:

1. Technical Correction to the 2017 Revisions to Pediatric Emergency Membership Exception Pathway
2. Finance Committee Report

The following is a summary of the Board's discussions.

### **1. Technical Correction to the 2017 Revisions to Pediatric Emergency Membership Exception Pathway**

The UNOS Policy Development Lead presented a technical correction to Appendix L of the OPTN Bylaws. *Establish Pediatric Training and Experience* was approved by the Board in 2015 and included an option to apply for a pediatric emergency membership exception through a prospective process. A 2017 follow-up proposal substituted the "prospective process" for a "retrospective process." There was remaining language that referenced retrospective review that is no longer relevant.

Any changes to bylaws require approval by the Board, so the proposal to the Board is to strike the language and prevent any possible confusion. There is still an opportunity for an interview or hearing for review of the exception results if there is a rejection of the application, which falls into the general bylaw language. There were no questions from Board members.

A motion was made and seconded for the Board of Directors to approve changes to Bylaws L.9.A: Right to an Interview and L.10.A: Right to a Hearing.

By a vote of 100% yes; 0% no; 0% abstained, it was

RESOLVED, that the changes to Bylaws L.9.A: Right to an Interview and L.10.A: Right to a Hearing, as set forth in **Exhibit A**, are hereby approved, effective June 25, 2021.

### **2. Finance Committee Report**

The UNOS Finance Director presented the OPTN FY2022 budget. The OPTN Finance Committee unanimously approved bringing this budget before the Board for a vote. Twenty different OPTN task descriptions were presented, which describe how OPTN time is charged, as well as the different categories. The budget voucher for the end of fiscal year 2022 was broken down by task. Weekly timesheets are done and every individual charges time to a quarter of an hour across different tasks. The breakdown included total hours and direct wages, with the fringe benefit and indirect cost rates built into the contract. The estimated 41.9% benefit rate covers taxes, vacation accruals, etc. included under benefits. Direct travel costs are included as meetings move to in-person in the coming year. Other direct costs include equipments, services, and goods combined with the indirect costs built into

the contract at an estimated 13.5% lead to the total costs of \$63,860,330. With federal appropriation of \$6.5 million, the necessary revenue from OPTN fee structure is \$57,360,330.

The budgeted expenses broken down by OPTN function shows almost two-thirds of the spend comes from Electronic Matching Organs, which is largely IT functions, and OPTN governance, which is contract administration and governance structure. The growth from FY21 to FY22 is almost \$5 million of growth.

Contract modification revenue from the 2021 budget is not needed for 2022. The registration revenue has outpaced the budget in past years, so the hope is to have at least two months of operating spend money in the OPTN operating account. In the past three months, expenses have exceeded the budget, so with the current trajectory of registrations being 63,800, the funding needs are \$55.3 million. This calculates to a total OPTN fee of \$868.

A snapshot of registration fees over the past six years shows fees ranging from \$812 to \$834 when there was a portion of OPTN reserve due to strong performance of registrations. The following years ranged from \$748 to \$794, resulting in a smaller portion of OPTN reserve, so as the expenses are growing by \$5 million for 2022, the fee will go back up to \$868. The fee has increased, but it is not dramatically higher than what it has been in the past.

#### Summary of discussion:

The Board Vice President asked if the OPTN fee breakdown is made public for members to understand the work that goes into the calculation of the fee. In the past, an announcement of the new registration fee has been wrapped in with the June Board meeting. As this is only the second year the budget was discussed with the Board in more detail in a separate meeting, this provides the opportunity to give a clearer explanation to the community of what their funds are supporting. One Board member agreed and recommended that with the changes of the fee in the past, a statement could be made explaining the need for the FY22 fee increase in more detail.

One question was related to the federal contribution to the budget how that is calculated and planned for. The National Organ Transplant Act (NOTA) includes language that limits the annual appropriated funds provided for OPTN activity each year to \$7 million. When HRSA negotiates a contract for OPTN activity, the activities are identified by task and the amount built into the contract. Then the remainder of the budget is determined by the staff and the Finance Committee. Once the Board approves the registration fee, it goes to the Secretary of Health and Human Services for approval.

Another question was whether there will be increases in cost or resources associated with the COVID emergency action regarding amnesty in data submission coming to an end. Staff explained that any costs associated with the emergency action will be handled by each center. If they dedicated staff to handling COVID issues or had to decrease staff, the data entry is more of a workload issue than the receipt of the data. A follow-up question was whether the budget reflects any work deferred from last year. The UNOS Finance Director clarified that UNOS is a mission-oriented organization, so during the pandemic, as services and expenses continued, staff hours were not reduced and the work continued. This is why there is a target is set out to have some cash reserve so that even in bad year, services can continue.

A motion was made and seconded for the Board of Directors to approve the FY 2022 OPTN Operating Budget and increase in the OPTN Patient Registration Fee for FY 2022, effective October 1, 2021.

By a vote of 100% yes; 0% no; 0% abstained, it was

**RESOLVED**, that the FY 2022 OPTN Operating Budget of \$63,860,330, set forth in **Exhibit B** is hereby approved, effective October 1, 2021.

**FURTHER RESOLVED**, that the Board of Directors hereby approves an increase in the OPTN Patient Registration Fee for FY 2022 from \$748 to \$868, effective October 1, 2021.

**FURTHER RESOLVED**, that Policy 3.4.A: Registration Fee shall be amended, as set forth below, effective October 1, 2021.

#### 3.4.A Registration Fee

The registration fee of ~~\$748~~ 868 for the registration of a transplant candidate is authorized by 42 C.F.R. §121.5(c) and OPTN Bylaws Section 1.2(D): Registration Fees.

The President thanked the Board members for their participation and the meeting was adjourned.

## Attendance

- **Board Members**
  - David Mulligan, President
  - Alexandra Glazier
  - Amishi Desai
  - Atsushi Yoshida
  - Cameron Wolfe
  - Denise Alveranga
  - Earnest Davis
  - James Sharrock
  - Joe Ferriera
  - Joseph Hillenburg
  - Keith Willie
  - Leona Kim Schluger
  - Leway Chen
  - Linda Cendales
  - Lisa Stocks
  - Marian Michaels
  - Matthew Cooper
  - Medhat Askar
  - Pamela Gillette
  - Patrick Healey
  - Pono Shim
  - Randee Bloom
  - Robert Goodman
  - Merry Smith
  - Valinda Jones
  - William Bry
  - Frank Holloman, HRSA (Ex-Officio)
  - Chris McLaughlin, HRSA (Ex-Officio)
  - Brian Shepard, UNOS (Ex-Officio)
  - First Name Last Name
- **UNOS Staff**
  - Susie Sprinson
  - Dale Smith
  - Alex Tulchinsky
  - Jason Livingston
  - Rebecca Murdock
  - Tynisha Smith
  - Susan Tlusty
  - Steve Harms
  - Roger Brown
  - Maureen McBride
  - Mary Beth Murphy
  - Liz Robbins Callahan

*Mini-Brief*

# **Technical Correction to the 2017 Revisions to Pediatric Emergency Membership Exception Pathway**

*OPTN Executive Committee  
Exhibit A*

*Prepared by: Rebecca Murdock, JD  
UNOS Policy and Community Relations Department*

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# Technical Correction to the 2017 Revisions to Pediatric Emergency Membership Exception Pathway

*Affected Bylaws:* L.9.A: Right to an Interview  
L.10.A: Right to a Hearing

*Sponsoring Committee:* Executive

*Board Meeting Date:* June 25, 2021

## Background

On December 8, 2020, the OPTN Board of Directors (Board) implemented two proposals related to OPTN pediatric Bylaws: *Establish Pediatric Training and Experience*, approved in December 2015, and *Revise Pediatric Emergency Membership Exception Pathway*, approved in December 2017.

The 2015 proposal included an option for transplant programs that do not have an approved pediatric component to apply prospectively for a pediatric emergency membership exception request.<sup>1</sup> As part of that proposal, language was added in OPTN *Bylaws: Appendix L* establishing the right to an interview and the right to a hearing if the exception request was denied.

The 2017 proposal replaced the prospective exception request process for a retrospective review by the Membership and Professional Standards Committee (MPSC), if deemed necessary.<sup>2</sup> During implementation of these proposals, UNOS staff discovered that the 2017 proposal did not remove the language added to *Appendix L* from the 2015 proposal. The language is moot, since there is no pediatric membership exception request process in policy, so while the holdover language is not impacting any OPTN members, it should be deleted for clarity.

## Proposed Correction

This proposed correction would remove the language in *Appendix L* that was created in the 2015 proposal that provides the member with the opportunity for an interview and hearing if their request for a pediatric emergency membership exception was denied. This language should have been presented for deletion in the 2017 proposal since the reference is no longer operational with the revision to the pediatric emergency membership exception pathways.

If approved, the correction will go into effect immediately.<sup>3</sup> This correction will not require any operational changes other than updates to the OPTN Bylaws posted on the OPTN website.

<sup>1</sup> "Membership Requirements for Pediatric Components for Kidney, Liver, Pancreas, Heart and Lung Transplant Programs", OPTN Draft Membership Requirements, December 2018: [https://optn.transplant.hrsa.gov/media/2785/membership\\_requirements\\_for\\_pediatric\\_components.pdf](https://optn.transplant.hrsa.gov/media/2785/membership_requirements_for_pediatric_components.pdf).

<sup>2</sup> "Revisions to Pediatric Emergency Membership Exception Pathway", OPTN Briefing Paper, December 2017: [https://optn.transplant.hrsa.gov/media/2337/pediatric\\_boardreport\\_201712.pdf](https://optn.transplant.hrsa.gov/media/2337/pediatric_boardreport_201712.pdf).

<sup>3</sup> The OPTN Board of Directors is authorized to clarify this Bylaw pursuant to OPTN Bylaw Article 10.1: Voting Requirements, "The Board of Directors can amend the Charter or Bylaws with a majority vote of all directors." [https://optn.transplant.hrsa.gov/media/1201/optn\\_bylaws.pdf](https://optn.transplant.hrsa.gov/media/1201/optn_bylaws.pdf).

# Bylaw Language

Proposed new language is underlined (example) and language that is proposed for removal is struck through (~~example~~)

## 1 **L.9 Interviews**

2 An interview is an opportunity for the MPSC and member to discuss an ongoing review. During an  
3 interview, the member has the opportunity to present information, including any steps the member has  
4 taken to correct the issue and to address any concerns the MPSC shared with the member prior to the  
5 interview. The MPSC will ask the member questions and will determine an appropriate action based on  
6 the interview findings.

### 8 **A. Right to an Interview**

9 The MPSC or MPSC Chair may offer a member currently under MPSC review one or more interviews  
10 at any time.

11  
12 The member has the right to an interview:

- 14 1. Before the MPSC recommends that the Board of Directors places a member on Probation or  
15 declares a member Not in Good Standing
- 16 2. If the MPSC rejects a member's request for release from Probation or Member Not in Good  
17 Standing
- 18 3. If the MPSC recommends that the Board of Directors rejects a membership application as  
19 outlined in Appendix A: Membership Application and Review
- 20 4. If the MPSC rejects a key personnel change application as outlined in Appendix C:  
21 Membership Requirements for Histocompatibility Laboratories or Appendix D: Membership  
22 Requirements for Transplant Hospitals and Transplant Programs
- 23 5. ~~A pediatric membership exception request is rejected.~~

## 25 **L.10 Hearings**

26 The MPSC will offer hearings to members when the MPSC is considering recommending that the Board  
27 of Directors takes certain actions. Hearings are formal procedures during which the OPTN presents  
28 information explaining the rationale for its recommendation. Hearings are the final opportunity for the  
29 member to present information for the MPSC to consider before the MPSC makes its recommendation  
30 to the Board of Directors.

### 32 **A. Right to a Hearing**

33 The member has the right to a hearing if the member participated in an interview and:

- 34  
35 1. Before the MPSC recommends that the Board of Directors places a member on Probation or  
36 declares a member Not in Good Standing
- 37 2. The MPSC rejects a member's request for release from Probation or Member Not in Good  
38 Standing



Exhibit B

**OPTN FY22 Budget  
Functional Revenue & Expense Statement**

<b>REVENUES</b>	<b>OPTN</b>			
	<b>FY22</b>	<b>FY21</b>	<b>\$ Var</b>	<b>% Var</b>
Registration Revenues				
OPTN Contract Revenue	\$57,360,330	\$52,350,000	\$5,010,330	8.7%
<b>TOTAL REVENUE</b>	6,500,000	6,617,000	(\$117,000)	-1.8%
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	\$63,860,330	\$58,967,000	\$4,893,330	8.3%
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<b>EXPENSES</b>				
Salaries & Benefits	\$44,870,520	\$41,305,822	\$3,564,698	7.9%
Committee Expenses	1,137,230	1,090,688	\$46,542	4.1%
Board Meeting Expenses	301,130	286,786	\$14,344	4.8%
Regional Mtgs. & Forum Exp.	613,530	583,709	\$29,821	4.9%
Travel & Exhibiting	504,240	381,269	\$122,971	24.4%
Purchased Services	2,756,140	2,593,266	\$162,874	5.9%
Purch. Serv. - Building Security & Mgmt	764,540	224,800	\$539,740	70.6%
Postage	46,450	43,970	\$2,480	5.3%
Telephone & Telecom	436,240	379,446	\$56,794	13.0%
Office Supplies/Expenses	208,010	206,564	\$1,446	0.7%
Hardware/Software Maintenance	872,090	895,338	(\$23,248)	-2.7%
Software Subscriptions	1,749,900	1,591,948	\$157,952	9.0%
Depreciation	1,960,000	1,880,000	\$80,000	4.1%
OPTN Indirect Costs	7,640,310	7,503,394	\$136,916	1.8%
<b>TOTAL EXPENSES</b>	\$63,860,330	\$58,967,000	\$4,893,330	8.3%
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<b>OPERATING EXPENSES OVER REVENUE</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
	=====	=====	=====	