

BYLAWS
OF
ENDOWMENT FOR HEALTH, INC.

ARTICLE I
ARTICLES OF AGREEMENT

The name and purposes of this corporation (the "Foundation") shall be as set forth in the Foundation's Articles of Agreement. These Bylaws, the powers of the Foundation and of its Board of Directors (the "Board"), Advisory Council (the "Council"), Directors, Council Members, and Officers and all matters concerning the conduct and regulation of the affairs of the Foundation shall be subject to the Foundation's Articles of Agreement and applicable laws as are in effect and as the same may be amended from time to time.

ARTICLE II
ORIGINS; INDEPENDENCE; MISSION

Section 2.1 Origins

This Foundation was established to receive the net proceeds of the sale of the assets of New Hampshire-Vermont Health Service d/b/a Blue Cross and Blue Shield New Hampshire ("BCBS-NH") to Anthem Insurance Companies, Inc. (together with its affiliates and any successors, "Anthem") in a transaction subject to the provisions of RSA 7:19-b.

Section 2.2 Independence

In accordance with the provisions of RSA 7:19-b, II(f), control of the assets of the Foundation shall at all times remain independent of Anthem.

Section 2.3 Mission

The mission of the Foundation is to improve the health and reduce the burden of illness for the people of New Hampshire - especially the vulnerable and underserved.

In accordance with the provisions of RSA 7:19-b, II(e), the assets of the Foundation shall continue to be devoted to charitable purposes consistent with the historical

charitable objectives of BCBS-NH and the needs of the community which it served. In carrying out those objectives, the members of the Board and the Council and the Officers of the Foundation shall give due consideration to the substantial public input received in connection with the eight public hearings conducted during 1999. Transcripts of those hearings, together with an executive summary thereof, shall be included with the Foundation's permanent records located at its principal office.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1 Powers; Responsibilities; Accountability

3.1.1 The business and affairs of the Foundation shall be managed by the Board, which shall have and may exercise all the powers to which the Foundation may be entitled pursuant to applicable law, the Articles of Agreement and the Bylaws of the Foundation.

3.1.2 The Board shall have ultimate responsibility for the affairs of the Foundation. The Board's role is one of strategic leadership in defining and implementing the vision, mission and core values of the Foundation. It shall adopt policies to ensure the effective stewardship and management of the Foundation's human and financial resources and shall also oversee management's adherence to these policies.

3.1.3 Annually the Board shall appoint a firm of independent certified public accountants to examine and audit the Foundation's accounts. Reports of the annual audit shall be submitted by the Foundation to the Council and, only if required by applicable law, to the Charitable Trust Unit of the New Hampshire Attorney General's Office and to other governmental agencies.

3.1.4 The Board shall be fully accountable to both the Foundation and the community at large for its stewardship of the Foundation and for the accomplishment of the Foundation's charitable mission and purposes.

Section 3.2 Number of Directors

3.2.1 The Board shall from time to time establish the number of persons to serve as Directors, which number shall be not less than 15 and not more than 17. When the Board has established the number of Directors, it shall endeavor at all times to maintain that number of Directors on the Board, but the failure to do so shall not constitute a violation of these Bylaws. The number so established may be changed by resolution of

the Board at any annual, regular or special meeting of the Board; provided, notice for such meeting expressly states that one of the purposes of the meeting is to change the number of authorized Directors; and provided further that the approval of seventy percent (70%) of the entire Board shall be required in order to change the number of authorized Directors.

3.2.2 The membership of the Board shall be elected in accordance with the procedures established in Section 3.4 hereof.

Section 3.3 Term of Service

3.3.1 Directors shall be elected for terms of three (3) years, such terms to be staggered such that one-third of the total number of Directors (or such number as approximates one-third insofar as practicable) shall be elected each year. Directors shall hold office until their qualified successors have been duly elected.

3.3.2 In the interests of Board diversity, no Director shall serve for more than two (2) consecutive terms of three (3) years. Any Director serving for such period shall stand down for a period of at least one (1) year before being eligible to stand for re-election or re-appointment to the Board. Notwithstanding the foregoing, any person elected Chair or Vice-Chair may serve on the Board for an additional three-year term if necessary to complete his or her term as Chair or Vice-Chair. A Director whose term as Vice-Chair expires at the end of his or her second three-year term may, at the end of that term, be elected to a third three-year term if he or she is at the same time elected Chair of the Board.

3.3.3 The term of any Director elected to fill a vacancy prior to the expiration of a term due to death, resignation or other cause shall be for the remainder of the term of the Director whose death, resignation, or other cause created the vacancy. Notwithstanding section 3.3.2, a Director who is elected to fill such a vacancy shall be eligible to serve two (2) full consecutive terms of three (3) years after completion of the original unexpired term.

Section 3.4 Successor and Additional Directors

3.4.1 Successor Directors and additional Directors shall be nominated and elected in accordance with the procedures set forth in this Section 3.4.1. The Board will elect successor and additional Directors from the slate of nominees developed by the Board, after consideration of any names submitted by the Council and other sources.

3.4.2 If the office of any Director is vacant prior to the expiration of his or her term, due to death, resignation or other cause, the remaining Directors by majority vote at a duly-called meeting, may elect a successor from the most currently developed nominee list.

Section 3.5 Compensation for Services

Except as provided in Article IX, Directors shall be precluded from rendering services for compensation to the Foundation in any capacity. However, Directors may be reimbursed for reasonable expenses associated with carrying out their duties as members of the Board in accordance with such policies as may be established by the Board from time to time.

Section 3.6 Removal

A Director may be removed with cause by a vote of a majority of the Directors present and voting at any annual, regular or special meeting (whether present in person or duly represented), provided that the notice for such a meeting of the Directors expressly states that one of the purposes of the meeting is removal of a Director and that a quorum of the Board, excluding the subject director, is present at said meeting.

Section 3.7 Resignation

A Director may resign at any time by delivering written notice of resignation to the Chair of the Board or to the President. Such resignation shall be effective upon receipt of such written notice (unless specified to be effective at a later date) and acceptance thereof shall not be necessary to make it effective unless such notice so states.

Section 3.8 Regular, Annual and Special Meetings

3.8.1 Regular meetings of the Board may be held at such times as the Board may determine.

3.8.2 Special meetings of the Board may be held at any time when called by the Chair of the Board or by at least one third (1/3) of the Board.

3.8.3 An annual meeting of the Board shall be held on a date determined by the Board at such place and time as may be determined by the Chair of the Board or by the Board.

Section 3.9 Notice of Meeting

3.9.1 All meetings of the Board shall be held at the principal office of the Foundation or at such other locations in the State of New Hampshire as shall be specified in the notice of the meeting. Reasonable notice of the time and place of all meetings shall be given by the Chair of the Board or the Secretary. Notice of a regular meeting need not specify the purpose of the meeting, unless otherwise required by law, the Articles of Agreement of the Foundation, or these Bylaws. However, the purposes for which a special meeting is being called shall be set forth in the notice of that special meeting.

3.9.2 Except as otherwise expressly provided herein or required by law, it shall be reasonable and sufficient if written notice to a Director is sent by (a) first class U.S. mail at least five (5) days prior to the meeting, (b) overnight private courier at least forty-eight (48) hours prior to the meeting, or (c) electronic transmission at least forty-eight (48) hours before the meeting, addressed to such Director at his or her usual or last known business or residence address.

3.9.3 Whenever notice of a meeting is required, such notice need not be given to any Director if a written waiver of notice, executed by him or her (or his or her attorney thereunto authorized) before or after the meeting, is filed with the records of the meeting, or to any Director who attends the meeting without protesting the lack of notice prior to the meeting itself or at its commencement.

Section 3.10 Quorum

At any meeting of the Board, a majority of the Directors then in office shall constitute a quorum. Any meeting may be adjourned to a later date or dates by a majority of the votes cast upon the question, whether or not a quorum is present.

Section 3.11 Action by Vote

Each Director shall have one (1) vote. When a quorum is present at any meeting, a majority of the votes properly cast by Directors shall decide any question, unless otherwise provided by law, the Articles of Agreement or these Bylaws. Votes taken during a meeting shall be by recorded roll call vote upon the determination of the Chair or upon the request of any Director.

Section 3.12 Action by Unanimous Consent

Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if the entire Board consents to the action in writing and each of

the written consents is filed with the records of the meetings of the Board. Such consents shall be treated for all purposes as a vote at a meeting.

Section 3.13 Presence through Electronic Means

Directors may participate in a meeting of the Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another at the same time and participation by such means shall constitute presence in person at a meeting.

Section 3.14 Proxies

Directors may vote either in person or by written proxy, which proxies shall be filed before being voted with the Secretary or other person responsible for recording the proceedings of the meeting. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any meeting adjourned to a later date; but the proxy shall terminate after the final adjournment of such meeting.

Section 3.15 Standard of Care

3.15.1 A Director shall perform the duties of a Director, including 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 the Foundation and with such care, including reasonable inquiry, as an ordinary prudent person in a like situation would use under similar circumstances.

3.15.2 The Board shall avoid speculation in connection with the investment, reinvestment, purchase, acquisition, exchange, sale and management of the Foundation's investments, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of the Foundation'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 the Foundation. The Board shall adopt a spending policy consistent with the provisions of RSA 292-B, the Uniform Prudent Management of Institutional Funds Act, which policy shall be subject in all instances to the distribution requirements of Section 4942 of the Internal Revenue Code, or any successor provision. However, without the approval of at least seventy percent (70%) of the entire Board and thirty (30) days' prior written notice to the Director of Charitable Trusts, Charitable Trusts Unit, Office of the New Hampshire Attorney General, the Board shall not authorize the appropriation of funds in any fiscal year in an amount greater than six percent (6%) of the fair market

value of the assets of the Foundation's endowment funds (calculated on the basis of market values determined at least quarterly and averaged over a period of 3 or more years).

Section 3.16 Inspection

Every Director shall have the right to inspect and copy all financial records, governing documents, Board and Committee meeting minutes, and the right to inspect the physical property of the Foundation during business hours.

Section 3.17 Conflict of Interest

Every Director will uphold the Foundation's Pecuniary Benefit Transactions Policy, Section 10.2, and the Conflict of Interest Policy, attached hereto as Appendix A, as each policy may be amended from time to time.

ARTICLE IV

ADVISORY COUNCIL

Section 4.1 Advisory Council

The Foundation shall have an Advisory Council ("Council") consisting of no fewer than twenty (20) nor more than twenty five (25) individuals, whose membership shall reflect the diversity of the State of New Hampshire and diverse healthcare interests, including but not limited to, consumers, healthcare providers, and people affected by lack of access to the healthcare system in New Hampshire.

4.1.1 The Council shall include at least one (1) representative from each of the counties of the State of New Hampshire (10 members).

4.1.2 The Council shall at all times be composed of a majority of individuals who are members of the "general public". For purposes of this Section 4.1.3, an individual is a member of the "general public" unless such individual (1) is a Director, (2) is engaged in the practice of a health care profession, or (3) is an employee, officer or director of an organization that primarily sells health care services.

4.1.3 The Council shall select its own Chair to facilitate contact with the Foundation's Board.

4.1.4 The Council shall elect a Nominating Committee responsible for recommending new candidates to the Council based on criteria set forth in the Nominating Committee's charge. New Council members will be elected by the Council and ratified by the Board of Directors.

4.1.5 No person may serve on the Advisory Council for more than two (2) consecutive three-year terms.

4.1.6 The responsibilities of the Council include the following:

- (a) Identifying suitable candidates for consideration as nominees as members of the Board. The Council may submit the names of those individuals for consideration by the Board no later than April 1 each year;
- (b) Serving as one link between the Foundation and the local communities in an effort to determine local health-related needs; and
- (c) Supporting the Board's efforts to be accountable to the community.

4.1.7 The Board shall report to the Council regularly and shall meet with the Council not less than twice annually at such location(s) within the State of New Hampshire as the Board may determine.

4.1.8 The Board shall provide each member of the Council with the Foundation's Form 990-PF, its audited financial statements, and an annual report.

4.1.9 Every Council member shall have the right to inspect financial reports, governing documents, Board meeting minutes, and the right to inspect the physical property of the Foundation during business hours.

ARTICLE V

QUALIFICATIONS OF MEMBERS OF THE BOARD

Section 5.1 Qualifications

To ensure the membership of the Board is broadly representative of and reflects the depth and diversity of the statewide community it serves, the following principles, qualities and skills shall be taken into consideration in connection with the nomination, election and appointment of candidates for Board membership.

5.1.1 The Board as a whole should be seen by the community it serves, the government, and the broader community as capable, experienced and well able to lead the Foundation.

5.1.2 The membership of the Board should be comprised of Directors with diverse skills and backgrounds to encompass the expertise and perspectives needed by the Board to meet its responsibilities and mission.

5.1.3 The Board shall at all times be composed of a majority of individuals who are members of the “general public.” For purposes of this Section 5.1.3, an individual is a member of the “general public” unless such individual (1) is an employee, officer or director of an organization that primarily sells health care services or (2) is engaged in the practice of a health care profession.

5.1.4 The Board shall at all times have at least five members who are not of the same immediate family or related by blood or marriage.

5.1.5 Each Board member shall be required to execute the Foundation’s conflict of interest policy on an annual basis. A copy of the policy is attached in Appendix A.

ARTICLE VI

BOARD COMMITTEES

Section 6.1 Committees of the Board

The Board may, by resolution adopted by a majority of the Directors then in office, create any committee (not limited to standing, special, or ad hoc), appoint persons to serve as members thereof, and change the composition of the committees. Unless otherwise provided by these Bylaws or restricted by law, each committee shall have members who are Directors; and a majority of any committee shall constitute a quorum. Unless the Board otherwise designates, committees shall conduct their affairs in the same manner as is provided in these Bylaws for the Board.

Section 6.2 Appointment of Chairs and Members of Committees

The Chair of the Board shall appoint members and Chairs of Committees, subject to ratification or amendment by the Board.

Section 6.3 Non-Member Participation in Board Committee Meetings

The Chair of each Committee of the Board may, from time to time, recommend to the Chair of the Board that members of the Council or others be appointed to serve as members of that Committee, for a term to expire at the end of Board's election year; and, except as otherwise provided in these Bylaws, members of the Board shall constitute the majority of the members of any Committee. The Chair of the Board shall either approve or disapprove the recommendation, subject to ratification or amendment by Board. Upon approval by the Chair, the persons nominated shall become members of the Committee and shall fully participate in all Committee deliberations but shall not preside over any Committee meetings.

Section 6.4 Executive Committee

The Executive Committee shall include, at a minimum, the Chair, Vice-Chair, Secretary, Treasurer, and if that individual remains on the Board, the immediate past Chair of the Board of Directors. The Board delegates authority to the Executive Committee to act on behalf of the Board between meetings of the Board when the Executive Committee determines that action prior to the next meeting of the Board is necessary. Action taken by the Executive Committee pursuant to this subsection shall be reported to the Board at its next meeting and included in the minutes of that meeting. The Executive Committee shall not change or adopt any new policies or change policies previously adopted by the full Board.

The Executive Committee shall fulfill the function of a personnel committee. The Board delegates authority to the Executive Committee to set the salary of the President and to approve the President's proposed salary for each subordinate staff member, subject to the Board's approval of the overall budget.

Section 6.5 Governance Committee

The Governance Committee shall be comprised of a Chair, who shall be a Director, and at least three additional members who are Directors or Council Members. The Governance Committee shall review and make recommendations on the Foundation's internal governance structure and operation at least every two years; shall oversee relations between the Board and the Council and the New Hampshire Attorney General's Office; shall ensure compliance with all applicable laws; and shall perform such other duties as may be assigned by the Board.

Section 6.6 Audit Committee

The Audit Committee shall be comprised of a Chair, who shall be a Director, and at least three additional members who are Directors or Council Members. All Audit

Committee members shall meet the independence requirements of the Sarbanes-Oxley Act of 2002. No member shall be an employee of or otherwise compensated by the Foundation. The Audit Committee is responsible for the appointment and oversight of the independent auditor; administering the Conflict of Interest Policy; and such other duties as may be assigned by the Board.

Section 6.7 Finance Committee

The Finance Committee shall be comprised of, at a minimum, the Treasurer and two Directors, at least one of whom shall also be a member of the Investment Committee. The Treasurer shall be the Chair of the Finance Committee. The Finance Committee is responsible for the financial oversight of the Foundation, including the annual budget.

Section 6.8 Investment Committee

6.8.1 The Investment Committee shall be comprised of five or more individuals with significant investment expertise. At a minimum, two of the members will also be Directors. The Investment Committee shall report to the Board on an annual basis, or more frequently if requested by the Board. In carrying out its responsibilities, the Investment Committee and its agents shall act in accordance with the Investment Policy, the provisions of the Foundation's Articles of Agreement and Bylaws, and applicable laws and regulations.

6.8.2. The Investment Committee will establish and follow appropriate procedures for the selection of investment consultants, investment managers and/or custodian banks and will convey to each the scope of their respective authority, the Foundation's expectations, and the requirement of full compliance with the Investment Policy.

6.8.3. The Investment Committee shall discharge its duties in good faith with the care of an ordinary prudent investor in a like position under similar circumstances and in a manner the Committee reasonably believes to be in the best interest of the Foundation.

Section 6.9 Powers and Authority of Committees of the Board

Board committees may be given all the authority of the Board, except for the powers to:

- (a) Elect directors or remove Directors without cause;
- (b) Fill vacancies on the Board or on any Board committee;

- (c) Amend or appeal these Bylaws or adopt new Bylaws;
- (d) Adopt amendments to the Articles of Agreement of the Foundation;
- (e) Create any other Board committees or appoint the members of any Board committee; or
- (f) Approve any merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of the Foundation.

ARTICLE VII

OFFICERS AND AGENTS

Section 7.1 Officers of the Board

The Officers of the Board shall be a Chair, a Vice-Chair, a Treasurer and a Secretary and such other Officers, if any, as the Board may determine. The Board may also have such agents, if any, as the Board may appoint. Except as otherwise provided in this Section 7.1, a person may hold more than one office at the same time.

The Chair, Vice-Chair, the Treasurer, the Secretary, and such other specified Officers of the Board shall be elected by the Board for a term of two years. No Officer other than the Treasurer shall serve consecutive terms, except that if an Officer is elected to serve an unexpired term of his or her predecessor in office, he or she may serve one full term following completion of the unexpired term. The Treasurer may serve up to three consecutive terms. If the Treasurer is elected to serve an unexpired term of his or her predecessor in office, he or she may serve up to three consecutive full terms following completion of the unexpired term. Each such Officer shall hold office until his or her successor is elected and qualified, or until he or she resigns, dies, or is removed from office. Each agent shall retain his or her authority at the pleasure of the Board. If the office of any Officer becomes vacant, the Board may elect a successor to serve the unexpired term.

Section 7.2 Chair of the Board

The Chair of the Board shall be elected by the Board and shall preside at all meetings of the Board of Directors, except as the Board shall otherwise determine and shall have such other powers and duties as may be determined by the Board. The Chair shall not also be the Treasurer, nor shall the Chair serve as President of the Foundation. The Chair shall be elected by a majority of the entire Board.

Section 7.3 Vice-Chair

The Vice-Chair shall have such duties and powers as designated by the Board or the Chair. In the event of the absence of the Chair of the Board, the Vice-Chair shall preside at all meetings of the Board.

Section 7.4 Treasurer

The Treasurer shall oversee the Foundation's financial affairs. The Treasurer shall make at least quarterly reports to the Board, one of which shall be an annual report which shall include an accounting of the funds of the Foundation. The Treasurer shall have such other duties and powers as designated by the Board or the Chair.

Section 7.5 Secretary

The Secretary shall ensure that records of all proceedings of the Board and governance documents are maintained and shall be available at all reasonable times to the inspection of any Director and Council member.

Section 7.6 President and Agents of the Foundation

The Directors shall elect a President and such other agents as they may deem appropriate, if any.

7.6.1 The President shall serve as the chief executive officer/executive director of the Foundation and have general supervision of the business and affairs of the Foundation and shall see that all orders and resolutions of the Board are carried into effect. The President shall also perform such other duties and may exercise such other powers as from time to time may be assigned to him or her by these Bylaws or by the Board. The election of any President shall require the approval of a majority of the entire Board.

7.6.2 At no time shall any person who serves as an employee, or member of the governing board of Anthem Successors and Assigns, or of any New Hampshire or regional Advisory Board to Anthem, simultaneously be eligible for consideration, election or appointment as Director, Officer, President, consultant or as a member of the Foundation's management team, or serve the Foundation in any other paid or compensated capacity.

Section 7.7 Removal

An Officer, the President or any agent may be removed from such capacity with or without cause by a vote of a majority of the entire Board at any meeting at which a quorum is present.

Section 7.8 Resignation

An Officer may resign by delivering a written resignation to the Chair of the Board or to the President. Such resignation shall be effective upon receipt (unless specified to be effective at some later date), and acceptance thereof shall not be necessary to make it effective unless it so states.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 Principal Office

The principal office of the Foundation shall be located at One Pillsbury Street, Concord, New Hampshire 03301.

Section 8.2 Fiscal Year

The fiscal year of the Foundation shall end on September 30 of each year, unless the Board determines otherwise.

Section 8.3 Execution of Papers

Except as the Board may generally or in particular cases authorize the execution thereof in some other manner or consistent with current policy all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted, or endorsed by the Foundation shall be signed by the Chair, the President, Vice Chair, Secretary or Treasurer.

Section 8.4 Governing Law

In all matters not specified in these Bylaws, or in the event these Bylaws shall not comply with applicable law, the laws of the State of New Hampshire as then in effect shall apply.

Section 8.5 Limitations

8.5.1 The Foundation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code, or any successor provision. The Foundation shall comply with all requirements applicable to private foundations in Chapter 42, Subchapter A of the Internal Revenue Code, or any successor provisions.

8.5.2 The Foundation is not organized for pecuniary profit and shall not have any capital stock. No part of the Foundation's net earnings or of its principal shall inure to the benefit of any Director, Officer, Council Member or agent of the Foundation, or any other individual, partnership or corporation; provided that reimbursement for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

8.5.3 On liquidation or dissolution of the Foundation, after provision is made for payment of debts, all property of the Foundation, from whatever source arising, shall be distributed to one or more organizations as are then exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, or any successor provision, whose purpose and mission fulfill as nearly as possible the mission of the Foundation described in the Articles of Agreement and these Bylaws, as the Board shall determine; provided that no such distribution shall be made in a manner inconsistent with the laws of the State of New Hampshire. Any property not so disposed shall be disposed of by the appropriate court of the jurisdiction in which the principal office of the Foundation is located, exclusively to such organization or organizations. Notwithstanding anything to the contrary in this Section 8.5.3, on liquidation or dissolution of the Foundation, its property shall be distributed solely to tax-exempt organizations whose exclusive beneficiaries are the people of the State of New Hampshire.

8.5.4 No substantial part of the activities of the Foundation shall be the dissemination of propaganda, lobbying or otherwise attempting to influence legislation, and the Foundation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 8.6 Nondiscrimination Policy

The policy of the Foundation prohibits discrimination on the basis of age, sex, religion, race, color, creed, sexual orientation, gender identity, genetic information, political affiliation, physical or mental disability, national or ethnic origin, or marital or parental status.

ARTICLE IX
INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 9.1 Indemnification of Officers and Directors

9.1.1 The Foundation may indemnify any person who was or is a party to any 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 or Officer of the Foundation, against expense (including attorney fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding, but only if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Foundation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Subject to the foregoing and to the provisions of 9.1 hereof, the Foundation may indemnify any such person in such circumstances to the fullest extent permitted by law. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of *nolo contendere* or its equivalent shall not of itself create a presumption that the person (a) did not act in good faith and in a manner which he or she reasonably believed to be in the best interests of the Foundation and/or, (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was lawful.

9.1.2 Notwithstanding anything in this Section 9.1 to the contrary, the Foundation shall not indemnify any Director or Officer in connection with a proceeding by or in the right of the Foundation; or in connection with any other proceeding charging improper personal benefit to him or her, whether or not involving action in his or her official capacity, in which he or she was adjudged liable on the basis that personal benefit was improperly received by him or her.

9.1.3 To the extent that a Director or Officer of the Foundation has been wholly successful on the merits in defense of any action, suit, or proceeding referred to in this Section 9.1, he or she shall be indemnified against expenses (including attorney fees) actually and reasonably incurred by him or her in connection therewith to the fullest extent permitted by law.

9.1.4 Expenses (including attorney fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Foundation in advance of the final disposition of such action, suit, or proceeding as authorized in this Section 9.1 if:

- (a) The Director or Officer furnishes to the Foundation a written affirmation of his or her good faith belief that he or she has met the standard of conduct required herein;
- (b) The Director or Officer furnishes to the Foundation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct required herein; and
- (c) A determination in accordance with the terms of RSA 293-A:8.50-58 is made that the facts then known to those making the determination would not preclude indemnification.

The undertakings required by this Section 9.1.4 must be an unlimited general obligation of the Director or Officer, but need not be secured, and may be accepted without reference to financial ability to pay.

9.1.5 The indemnification provided by this Section 9.1 shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, or vote of disinterested Directors, or otherwise, and any procedure provided for by any of the foregoing, both as to action in his or her official capacity and as to action in another capacity (held at the express request of the Foundation) while holding such office, and shall continue as to a person who has ceased to be a Director or Officer and shall inure to the benefit of heirs, executors, and administrators of such a person.

Section 9.2 Insurance

The Foundation may purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Foundation against liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Foundation would have the power to indemnify him or her against such liability under provisions of Section 9.1.

ARTICLE X

CONFLICT OF INTEREST; PECUNIARY BENEFITS POLICY

Section 10.1 Policy Governing Conflict of Interest and Pecuniary Benefits Transactions

The Foundation shall adopt, implement, enforce and regularly review policies and procedures governing conflicts of interest and pecuniary benefits transactions. The policies and procedures shall, at a minimum, meet the requirements of New Hampshire law as then in effect and comply with guidelines established by the Charitable Trust Unit of the Office of the New Hampshire Attorney General. The Foundation's Conflict of Interest Policy in effect as of the date of these Bylaws is attached as Appendix A.

Each Director and Officer shall have an affirmative duty to disclose to the Foundation each transaction with the Foundation that would be a pecuniary benefit transaction (as defined in Section 10.2 hereof) as to that Director or Officer. The Foundation shall enter into pecuniary benefit transactions only in accordance with Section 10.2 and in all cases subject to compliance with the applicable provisions of RSA 7:19-a, as they may exist from time to time.

Section 10.2 Pecuniary Benefit Transactions Policy

10.2.1 Definitions. In this Section 10.2:

- (a) "Financial interest" means an interest in a transaction exceeding \$500 in value for any Director, Officer or Council Member on an annual aggregate basis. An "indirect" financial interest arises where the transaction involves a person or entity of which a director or officer or a member of the immediate family of a Director, Officer or Council Member is a proprietor, partner, employee, or officer.
- (b) "Pecuniary benefit transaction" means a transaction with the Foundation in which a Director, Officer or Council Member of the Foundation has a financial interest, direct or indirect. However, the following shall not be considered as pecuniary benefit transactions:

 - (i) Reasonable compensation for services of employees of the Foundation, and expenses incurred in connection with official duties of a Director, Officer or Council Member;
 - (ii) A benefit provided to a Director, Officer or Council Member or member of the immediate family thereof if:

 - (1) The benefits are provided or paid as part of programs, benefits, or payments to members of the general public; and

- (2) The Foundation has adopted written eligibility criteria for such benefit in accordance with its Bylaws or applicable laws; and
 - (3) The Director, Officer or Council Member or family member meets all of the eligibility criteria for receiving such benefit;
- (iii) A continuing transaction entered into by the Foundation, merely because a person with a financial interest therein subsequently becomes a Director, Officer or Council Member of the Foundation.

10.2.2 Service on Board. Directors and Officers of the Foundation shall serve on the Board only for the charitable purposes of the Foundation. If such Directors or Officers are serving for any other expressed or intended reasons, they shall not serve on the Board.

10.2.3 Pecuniary Benefit Transactions. A pecuniary benefit transaction shall be prohibited unless it is in the best interest of the Foundation and unless all of the following conditions are met:

- (a) The transaction is for goods or services purchased or benefits provided in the ordinary course of the business of the Foundation, for the actual or reasonable value of the goods or services or for a discounted value, and the transaction is fair to the Foundation;
- (b) The transaction receives affirmative votes from at least a two-thirds majority of all the disinterested members of Board, which majority shall also equal or exceed any quorum requirements specified in the Bylaws of the Foundation:
 - (i) After full and fair disclosure of the material facts of the transaction to the Board and after notice and full discussion of the transaction by the Board;
 - (ii) Without participation, voting, or presence of any Director, Officer or Council Member with a financial interest in the transaction or who has had a pecuniary benefit transaction with the Foundation in the same fiscal year, except as the board may require to answer questions regarding the transaction; and

- (iii) A record of the action on the matter is made and recorded in the minutes of the Board;
- (c) The Foundation maintains a list disclosing each and every pecuniary benefit transaction, including the names of those to whom the benefit accrued and the amount of the benefit, and keeps such list available for inspection by members of the Board and the Council. The list shall also be reported to the Director of Charitable Trusts each year in accordance with the Bylaws and applicable law;
- (d) If the transaction, or the aggregate of transactions with the same Director, Officer or Council Member within one fiscal year, is in the amount of \$5,000 or more, the Foundation publishes notice thereof in a newspaper of general circulation in the community in which the Foundation's principal New Hampshire office is located, (or if throughout the state), and gives written notice to the Director of Charitable Trusts, before consummating the transaction. At a minimum, such notice shall state that it is given in compliance with this section and shall include the name of the Foundation, the name of any Director, Officer or Council Member receiving pecuniary benefit from the transaction, the nature of the transaction, and the specific dollar amount of the transaction.

10.2.4 Reporting of Transactions. Every Director, Officer or Council Member or member of the immediate family of such Director, Officer or Council Member, who engages in a pecuniary benefit transaction with the Foundation shall provide copies of all contracts, payment records, vouchers, other financial records or other financial documents at the request of the Director of Charitable Trusts in accordance with N.H. RSA 7:24. All documents so provided may be disclosed to the public for inspection and copying, subject to applicable confidentiality laws.

10.2.5 Loans. The Foundation shall not lend money or property to its Director, Officer or Council Member. Any Director, Officer or Council Member who assents to or participates in the making of any such loan shall be jointly and severally liable to the Foundation for the amount of such loan until it is repaid.

10.2.6 Real Estate. The Foundation shall not sell, lease for a term of greater than five years, purchase, or convey any real estate or interest in real estate to or from a Director, Officer or Council Member without the prior approval of the probate court after a finding that the sale, lease or conveyance is fair to the Foundation. However, this

paragraph shall not apply to a bona fide gift of an interest in real estate to the Foundation by a Director, Officer or Council Member of the Foundation.

10.2.7 Voidable Transactions. A pecuniary benefit transaction undertaken in violation of this Section 10.2 is voidable. The Director of Charitable Trusts may investigate complaints regarding pecuniary benefit transactions and if, after an investigation pursuant to RSA 7:24, the Director determines that a pecuniary benefit transaction is in violation of this Section 10.2, the Director may institute appropriate proceedings under RSA 7:28-f to enforce these provisions.

10.2.8 Declaratory Judgment. Any member of the Board shall have standing to petition, pursuant to RSA 491:22, for a declaratory judgment that one or more pecuniary benefit transactions of the Foundation are void.

10.2.9 Other Transactions. The provisions of this Section 10.2 shall not apply to transactions between the Foundation and its incorporators, members, or other contributors who are not also Directors, Officers or Council Members of the Foundation, provided that such transactions are fair to the Foundation.

ARTICLE XI

GRANTS ADMINISTRATION

Section 11.1 Purpose of Grants

The Foundation shall have the power to make grants and contributions and to render other financial assistance for the purposes expressed in the Foundation's Articles of Agreement.

Section 11.2 Grant Responsibility

The Board shall have control over grant policy and decision-making, and will determine the areas of focus for the Foundation. The Board shall provide to the public annually a list of grant awards made by the foundation.

ARTICLE XII

AMENDMENTS TO THE BYLAWS

Unless otherwise provided, these Bylaws may be amended or repealed, and new Bylaws may be adopted in whole or in part, by the affirmative vote of a majority of the Directors of the Foundation then in office; provided, however, that thirty (30) days notice

of the time and place of the meeting is given by the Chair of the Board or Secretary and the Bylaws of the Foundation may not be amended in a manner inconsistent with the Foundation's Articles of Agreement, applicable New Hampshire law or the requirements for maintaining the Foundation's qualification as a tax-exempt organization for federal income tax purposes. Anything to the contrary herein, any amendment to a provision of these Bylaws which contemplates or requires the approval of the Director of Charitable Trusts and/or the Probate Court shall require the approval of the Director of Charitable Trusts and/or the Probate Court as the case may be.