

**Amendment No. 4 to
Highmark's Form A Regarding the Acquisition of Control of BCNEPA and Subsidiaries**

**TAB B
Amendment No. 1 to Merger Agreement**

Amendment Number 1 to Merger Agreement

This Amendment Number 1 (this "Amendment") to that certain Agreement of Merger (the "Merger Agreement"), dated as of February 18, 2014, by and among Hospital Service Association of Northeastern Pennsylvania d/b/a Blue Cross of Northeastern Pennsylvania, a Pennsylvania nonprofit non-stock corporation ("BCNEPA"), Highmark Inc., a Pennsylvania nonprofit non-stock corporation ("Highmark"), and Highmark Health, a Pennsylvania nonprofit non-stock corporation ("Highmark Health"), is made this 14th day of April, 2015 by and among BCNEPA, Highmark and Highmark Health pursuant to Section 8.9 of the Merger Agreement.

Capitalized terms used but not defined herein shall have the meaning ascribed to such term in the Merger Agreement.

A. Modification to form of Surviving Corporation Bylaws: The Merger Agreement sets forth at Exhibit B thereto the form of bylaws of Highmark to be effective as of the Effective Time, referred to as the "Surviving Corporation Bylaws" in the Merger Agreement, and the parties hereto desire to approve certain modifications to the form of such Surviving Corporation Bylaws as are set forth at Annex A to this Amendment (such modified form, the "Modified Surviving Corporation Bylaws").

B. Clarification with respect to covenants of BCNEPA: Additionally, the Merger Agreement sets forth at Section 3.1(a)(ii) and 3.1(a)(ii)(B) that "BCNEPA and its Subsidiaries shall... (B) comply with each of their respective obligations under each of the Shareholders Agreements, *provided that* Highmark hereby agrees that the operation of FPH and FPLIC in accordance with their respective 2014 annual budgets and business plans, previously approved by the Boards of Directors of each of them, will be in compliance with the applicable Shareholders Agreement." The Closing under the Merger Agreement has not yet occurred as of the date of this Amendment and the parties hereto desire to clarify the provision at Section 3.1(a)(ii)(B) to acknowledge an acceptable manner of compliance with Section 3.1(a)(ii)(B) during 2015 prior to the Closing.

NOW, THEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the parties hereto agree as follows:

1. Surviving Corporation Bylaws: Each of the parties hereto acknowledges and agrees that the form of Modified Surviving Corporation Bylaws set forth at Annex A to this Amendment shall constitute the "Surviving Corporation Bylaws" pursuant to the Merger Agreement for all purposes.

2. Covenant:

a. Section 3.1(a)(ii)(B) is hereby amended and restated in its entirety as follows:

"(B) comply with each of their respective obligations under each of the Shareholders Agreements, *provided that* Highmark hereby agrees that the operation of FPH and FPLIC (x) in accordance with their respective 2014 annual budgets and business plans, previously approved by the Boards of Directors of each of them, will be in compliance with the applicable Shareholders Agreement during 2014 and (y) in accordance with their respective 2015 annual budgets and business plans, previously approved by the Boards of Directors of each of them, will be in compliance with the applicable Shareholders Agreement during 2015."

b. Each of BCNEPA and Highmark acknowledge and agree that the annual budgets and business plans of each of FPH and FPLIC for 2015 have been previously approved by the Boards of Directors of each of them.

3. No other provision of the Merger Agreement is affected by this Amendment. This Amendment is attached to and forms a part of the Merger Agreement. The Merger Agreement and this Amendment shall be read, taken and construed as one and the same instrument.

4. This Amendment may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. Delivery of an executed counterpart of the signature page to this Amendment by facsimile transmission or portable document format (PDF) shall be effective as delivery of a manually executed counterpart.

(Remainder of Page Intentionally Left Blank; Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Number 1 to Merger Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

BCNEPA

HOSPITAL SERVICE ASSOCIATION OF
NORTHEASTERN PENNSYLVANIA D/B/A
BLUE CROSS OF NORTHEASTERN
PENNSYLVANIA

By: [Signature]
Name:
Title:

HIGHMARK

HIGHMARK INC.

By: [Signature]
Name:
Title:

HIGHMARK HEALTH

HIGHMARK HEALTH

By: [Signature]
Name: Karen L. Hanlon
Title: Chief Financial Officer

Annex A

Modified Surviving Corporation Bylaws (attached)

FOURTH AMENDED AND RESTATED
BYLAWS
OF
HIGHMARK INC.

(Effective [_____, ____]¹)

ARTICLE I

Name

1.1 **Name**. The name of the corporation is Highmark Inc. (the "Corporation"). The Corporation may do business under such other names as may be determined by the Board of Directors.

ARTICLE II

Offices

2.1 **Registered Office**. The registered office of the Corporation shall at all times be within the Commonwealth of Pennsylvania at such address as may be established by the Board of Directors.

2.2 **Business Offices**. The Corporation may have business offices at such places permitted by law as the business of the Corporation may require.

ARTICLE III

Members

3.1 **Members**. The members of the Corporation shall consist of two classes, namely (i) Highmark Health, a Pennsylvania nonprofit corporation (hereinafter, the "Corporate Member"); and (ii) the persons who from time to time constitute the Board of Directors (such persons in their capacity as members, the "Director Members"). The Corporate Member shall be the sole voting member of the Corporation on all matters other than matters which are the subject of Section 3.3.1. The Director Members shall be nonvoting members except with respect to the matters which are the subject of Section 3.3.1. In all other respects, the Corporate Member shall have all rights, powers and duties afforded it under these Bylaws and applicable law as a "member" as such term is used in Section 5103 of the Pennsylvania Nonprofit Corporation Law of 1988 (15 Pa.C.S.A. § 5101 *et seq.*), as amended (the "Nonprofit Corporation Law"). A person who ceases to be a director automatically shall cease to be a Director Member.

¹ Insert date of Effective Time

3.2 Meetings and Actions.

3.2.1 To the extent that, as set forth in these Bylaws, any actions may or are required to be taken by Director Members, Board of Director meetings or actions by consent in lieu of such meetings, as the case may be, shall be deemed to be meetings or actions of the Director Members.

3.2.2 The Chief Executive Officer of the Corporate Member shall be entitled to vote on behalf of the Corporate Member in accordance with the authority granted to the Chief Executive Officer of the Corporate Member unless the Corporate Member notifies the Corporation in record form that another officer is authorized to vote on behalf of the Corporate Member.

3.3 Powers.

3.3.1 Powers of Director Members. The sole power and authority of the Director Members, when acting in their capacity as members, shall be to determine the requisites for persons of low income eligible for benefits under the Corporation's health care plans, subject to approval by the Insurance Commissioner of the Commonwealth of Pennsylvania.

3.3.2 Reserved Powers of the Corporate Member. The following rights and powers shall be reserved to the Corporate Member and be exercised in accordance with these Bylaws:

(a) Subject to Section 4.2.1, to determine the number of directors that will comprise the Board of Directors;

(b) Subject to Sections 4.3.1 and 4.4, to elect the directors of the Corporation in accordance with applicable law;

(c) Subject to Section 4.6.2, to remove any of the directors of the Corporation and to replace any such director for the unexpired portion of his or her term in accordance with applicable law;

(d) To amend, repeal, revise or restate the Corporation's Articles of Incorporation and Bylaws or to approve any such amendment, repeal, revision or restatement which may be proposed by the Board of Directors; provided, however, that the Corporate Member shall have no power to amend, repeal, revise or restate this Section 3.3.2 (or any provision of the Corporation's Articles of Incorporation to the same effect), and such Section (or corresponding provision of the Articles of Incorporation) may be amended, repealed, revised or restated only by the Board of Directors as set forth in Section 13.1 of these Bylaws, subject to approval by the Corporate Member, and provided, further, that the Corporate Member shall have no power to amend, repeal, revise or restate Section 4.2, 4.3, 4.4, 4.6, 7.1, 7.6, 7.9.2(b), 13.1 or Article IX insofar as any such Section or Article relates to the rights or duties of the Class A Directors or the NEPA Advisory Board, as applicable, or Section 5.6 at any time prior to

[_____, ____]² without the affirmative approval of a majority of the Class A Directors then in office.

(e) To (1) dissolve, divide, convert or liquidate the Corporation, (2) consolidate or merge the Corporation with or into another corporation or entity, (3) approve the Corporation's sale or other disposition of assets, or its acquisition of assets, in any case whether in a single transaction or series of transactions, where the aggregate consideration exceeds three percent (3%) of the Corporation's consolidated total assets;

(f) To approve the annual consolidated capital and operating plan and budget of the Corporation and its subsidiaries, and any amendments thereto or significant variances therefrom;

(g) To approve the selection and appointment of auditors and the fiscal year of the Corporation and its subsidiaries; and

(h) To give such other approvals and take such other actions as are specifically reserved to members of Pennsylvania nonprofit corporations under the Nonprofit Corporation Law.

Except as otherwise may be required by the Nonprofit Corporation Law or provided in these Bylaws, the Corporate Member shall have the right both to initiate and to approve action in furtherance of such reserved powers, as well as the authority to directly bind the Corporation on such matters. Subject to any provision of the Nonprofit Corporation Law or these Bylaws to the contrary, any action in this regard taken by the Corporate Member shall be sufficient to finally approve and adopt such actions, and no action of the Board of Directors or other governing body or officer with respect to such action shall be necessary with respect thereto.

ARTICLE IV

Board of Directors

4.1 Powers and Duties. Subject to Section 3.3 of these Bylaws, all powers of the Corporation shall be vested in the Board of Directors, which shall have charge, control and management of the property, business, affairs and funds of the Corporation and shall have the power and authority to perform all necessary and appropriate functions not otherwise inconsistent with these Bylaws, the Articles of Incorporation or applicable law. Subject to Section 3.3 of these Bylaws, and without limiting the generality of the foregoing and except as otherwise may be provided in these Bylaws, the Board of Directors shall have full power and the duty:

4.1.1 To set policies and provide for carrying out the purposes of the Corporation;

² Insert fourth anniversary of date of Effective Time

4.1.2 To make rules and regulations for its own governance and for the governance of the committees appointed by the Board of Directors as provided in these Bylaws; and

4.1.3 To adopt and amend from time to time such rules and regulations for the conduct of the business of the Corporation as may be appropriate or desirable.

4.2 Number/Qualifications.

4.2.1 The Board of Directors shall consist of such number of persons as the Corporate Member may determine, but in no case less than twenty-one (21) or more than thirty-six (36) in the aggregate, including the individual then serving as the Chief Executive Officer of the Corporate Member, who shall be a director during his or her term of office (the "Ex-Officio Director"). Until [_____] ³, the Board of Directors shall be divided into two (2) classes consisting of (a) four (4) Class A Directors elected pursuant to Section 4.3 (the "Class A Directors") and (b) all other persons who are members of the Board of Directors (the "Class B Directors") (and references in these Bylaws to the "directors" or the "Board of Directors" without reference to Class A Directors or Class B Directors shall refer to the entire Board of Directors). From and after [_____] ⁴, the Board of Directors shall no longer be divided into classes, and all references in these Bylaws to Class A Directors and Class B Directors shall be deemed to be deleted.

4.2.2 No individual may be elected to the Board of Directors unless the individual is eligible to serve on the Board of Directors pursuant to applicable law, the Articles of Incorporation and these Bylaws. Each director shall be a natural person of at least 18 years of age and a resident of the Commonwealth of Pennsylvania.

4.2.3 At no time shall the Board of Directors be less than 50% subscribers who have coverage under contracts issued by the Corporation and who are generally representative of broad segments of subscribers covered under contracts issued by the Corporation, whose background and experience indicate that they are qualified to act in the interests of such subscribers and who (or whose spouse) does not derive substantial income from the delivery or administration of health care ("Statutory Eligibility Requirements"). If at any time the Board of Directors shall fail to meet the requirements set forth in the preceding sentence, one or more directors who are causing the Board of Directors not to meet such requirements shall cease to qualify to serve as directors in accordance with the following two sentences. The initial director who shall cease to qualify to serve shall be either a Class A Director or a Class B Director (whichever class includes the higher percentage of directors who do not meet the Statutory Eligibility Requirements) selected by the directors of such class, and such director's office shall be deemed to be vacant and shall be filled in accordance with Section 4.4. If, following the application of the process set forth in the preceding sentence, the Board of Directors still shall

³ Insert fourth anniversary of date of Effective Time

⁴ Insert fourth anniversary of date of Effective Time

fail to meet the requirements set forth in the first sentence of this Section 4.2.3, the same process shall be repeated until the Board of Directors shall meet such requirements.

4.2.4 The Class B Directors shall be divided equally into three (3) classes so that one-third (1/3) of the aggregate number of Class B Directors (or as close as practicable to one-third depending on the aggregate number of Class B Directors) may be chosen each year.

4.2.5 The Board of Directors shall be divided between the number of directors who are Lay Directors (as hereafter provided) and the number of directors who are Professional Directors (as hereafter provided) so as to assure as closely as is practicable that seventy-five percent (75%) of the total number of directors are Lay Directors and twenty-five percent (25%) of the total number of directors are Professional Directors; provided that there shall be no requirement that any Class A Director be a Professional Director. The Ex-Officio Director shall be counted in arriving at the number of directors who are Lay Directors or the number of directors who are Professional Directors, as the case may be.

4.2.6 To be eligible to serve as a Professional Director, an individual must be a health service doctor (as defined in 40 Pa.C.S.A. § 6302(a)) (each such person, a "Health Service Doctor") and a party to one or more professional provider contracts with the Corporation.

4.2.7 At least a majority of the directors shall be persons whom the Board of Directors has determined are "independent directors" within the meaning of such term as defined in the listing requirements of the New York Stock Exchange or such other requirements as the Board of Directors may approve ("Independence Requirements"). If at any time the Board of Directors shall fail to meet the requirements set forth in the preceding sentence, one or more directors who are causing the Board of Directors not to meet such requirements shall cease to qualify to serve as directors in accordance with the following two sentences. The initial director who shall cease to qualify to serve shall be either a Class A Director or a Class B Director (whichever class includes the higher percentage of directors who do not meet the Independence Requirements) selected by the directors of such class, and such director's office shall be deemed to be vacant and shall be filled in accordance with Section 4.4. If, following the application of the process set forth in the preceding sentence, the Board of Directors still shall fail to meet the requirements set forth in the first sentence of this Section 4.2.7, the same process shall be repeated until the Board of Directors shall meet such requirements. Notwithstanding anything to the contrary set forth in this Section 4.2.7, considering the unique relationship of the Corporation with providers of health care, a person's status as a Health Service Doctor in and of itself shall not cause such person to be considered to be lacking independence. No director shall be an officer or employee of the Corporation or of any entity controlled by the Corporation.

4.2.8 Any person who is, or ever has been, subject to an order of a court or the Securities and Exchange Commission prohibiting such person from acting as an officer or director of a public company shall not be eligible to serve as a director.

4.2.9 No person who is seventy-five (75) years of age or older may be nominated or re-nominated for election or re-election as a Class B Director. Any Class B

Director who reaches the age of seventy-five (75) shall no longer be qualified to serve as a Class B Director after the next annual meeting of the Corporate Member. There shall be no maximum age restriction with respect to the Class A Directors.

4.2.10 Not less than one-third (1/3rd) of the directors of the Corporation shall be persons who are not officers or employees of the Corporation or of any entity controlling, controlled by or under common control with the Corporation and who are not beneficial owners of a controlling interest in the voting stock of any such entity.

4.3 Election and Term.

4.3.1 The initial four (4) Class A Directors shall consist of persons who are members of the board of directors of Hospital Service Association of Northeastern Pennsylvania d/b/a Blue Cross of Northeastern Pennsylvania ("BCNEPA") immediately prior to the Effective Time (the "Effective Time") of the Merger (the "Merger") contemplated by and defined in that certain Agreement of Merger, dated as of February 18, 2014, among BCNEPA, the Corporate Member and the Corporation (the "BCNEPA Merger Agreement") who have been designated by the BCNEPA board of directors and approved by the Corporate Member in accordance with the terms of the BCNEPA Merger Agreement (and whose election by the Corporate Member as Class A Directors shall be effective as of the Effective Time) (together with their successors in office, the "Class A Directors"). The Ex-Officio Director shall serve as a Class B Director by virtue of the office held. Except as provided in Section 4.4, the remaining directors shall be elected by the Corporate Member.

4.3.2 The initial Class A Directors shall serve for a term of four (4) years or until their successors are elected and have qualified. All Class B Directors, except the Ex-Officio Director, shall serve for terms of three (3) years or until their successors are elected and have qualified. The Ex-Officio Director shall serve as a director for so long as such person serves as the Chief Executive Officer of the Corporate Member.

4.3.3 The Board of Directors shall elect from among the directors an individual to serve as Chairperson of the Board. The Chairperson of the Board shall not be an officer or employee of the Corporation or of any entity controlled by the Corporation. The Chairperson of the Board shall preside at all meetings of the Board of Directors and of the Executive Committee except when he or she is excused from participating and shall perform all duties incident to the office of Chairperson of the Board and such other duties as may be prescribed by the Board of Directors.

4.3.4 If at any time the office of Chairperson of the Board is held by a person who is an officer or employee of the Corporate Member or of any other entity controlling the Corporation, the Board of Directors may elect from among the remaining directors a Lead Director. The Lead Director shall not be an officer or employee of the Corporation or of any entity controlling, controlled by or under common control with the Corporation. The Lead Director shall perform the duties of the office of Chairperson of the Board in the absence of the Chairperson of the Board or when the Chairperson of the Board is excused from participating and such other duties as may be prescribed by the Board of Directors.

4.3.5 The Board of Directors may elect from among the directors a Vice Chairperson of the Board. The Vice Chairperson of the Board shall not be an officer or employee of the Corporation or of any entity controlled by the Corporation. The Vice Chairperson of the Board shall perform the duties of the office of Chairperson of the Board in the absence of the Chairperson of the Board and the Lead Director and such other duties as may be prescribed by the Board of Directors.

4.4 Vacancies. Any vacancy in the Class A Directors caused by the death, resignation or removal of a Class A Director pursuant to Section 4.6.2 or a Class A Director ceasing to qualify to serve as a Class A Director in accordance with the provisions of these Bylaws prior to the expiration of that Class A Director's term shall be filled by an individual designated by the NEPA Advisory Board Representatives (as defined in Section 5.6) and who, subject to the approval of the Corporate Member, is promptly thereafter elected by the Corporate Member. Any vacancy in the Class B Directors caused by the death, resignation or removal of a Class B Director pursuant to Section 4.6.2 or a Class B Director ceasing to qualify to serve as a Class B Director in accordance with the provisions of these Bylaws prior to the expiration of that Class B Director's term and occurring in the interim between annual meetings of the Corporate Member may be filled by an individual elected by the Board of Directors, subject to the approval of the Corporate Member, or by the Corporate Member. Without limitation of the powers of the Corporate Governance and Nominating Committee as set forth in Section 7.9.2, in the event that any Class B Director from the thirteen county northeastern Pennsylvania service area in which the Acquired Business (as defined in the BCNEPA Merger Agreement) is conducted (the "NEPA Service Area") shall cease to serve as a Class B Director for any reason, the NEPA Advisory Board Representatives may make recommendations as to the successors to such Class B Directors, provided that the selection of the successor to each such Class B Director shall be in the discretion of the Corporate Member. The director so elected shall serve the remaining unexpired term of the director so replaced or until his or her earlier death, resignation or removal or ceasing to qualify to serve as a director.

4.5 Meetings.

4.5.1 Annual Meetings. The annual organizational meeting of the Board of Directors for, among other purposes, the election of officers shall be held during the month of April or May of each year or such other date as the Board of Directors may determine, at such time and place as shall be determined by the Board of Directors, without further notice than the resolution setting such date, time and place.

4.5.2 Regular Meetings. Regular meetings of the Board of Directors shall be held not less than four (4) times a year, each at such date, time and place as shall be determined by the Board of Directors, without further notice than the resolution setting such date, time and place.

4.5.3 Special Meetings. Special meetings of the Board of Directors may be called at any time by the Chairperson of the Board, the Lead Director or one-third (1/3rd) of the

members of the Board of Directors, the date, time and place of each such meeting to be designated in the notice calling the meeting. Notice of any special meeting of the Board of Directors shall be given at least forty-eight (48) hours prior thereto and shall state the general nature of the business to be transacted.

4.5.4 Adjournment. When a meeting of the Board of Directors is adjourned, it shall not be necessary to give any notice of the adjourned meeting or the business to be transacted at the adjourned meeting other than by announcement at the meeting at which such adjournment is taken.

4.5.5 Quorum and Voting. Directors constituting a majority of the directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that at least one (1) such director shall be a person who is not an officer or employee of the Corporation or of any entity, controlling, controlled by or under common control with the Corporation and who is not a beneficial owner of a controlling interest in the voting stock of any such entity. Each director shall be entitled to one vote on any matter submitted to a vote of the Board of Directors, and action by the Board of Directors on any matter shall require the affirmative vote of a majority of the directors in office unless a greater proportion of affirmative votes is required by applicable law, the Articles of Incorporation or these Bylaws.

4.5.6 Use of Conference Telephone. Except as the Board of Directors otherwise may determine, one or more persons may participate in a meeting of the Board of Directors or of any committee thereof by means of conference telephone or other electronic technology by means of which all persons participating in the meeting can hear and be heard by each other. Participation in a meeting in such manner shall constitute presence in person at the meeting.

4.5.7 Action by Consent. Any action required or permitted to be approved at a meeting of the Board of Directors may be approved without a meeting if consent or consents to the action in record form are signed, before, on or after the effective date of the action, by all of the directors in office on the date the last consent is signed. The consent or consents shall be filed with the Secretary.

4.6 Resignation/Removal.

4.6.1 Resignation. Any director may resign his or her office at any time upon notice in record form to the Corporation. The resignation shall be effective upon its receipt by the Corporation or at a subsequent time specified in the notice of resignation. Any director who ceases to meet the eligibility requirements contained in applicable law or in these Bylaws to serve as a director forthwith shall resign his or her office, such resignation to be made in record form and to take effect immediately.

4.6.2 Removal. Any Class A Director may be removed only for cause by action of the Corporate Member. Any Class B Director may be removed, with or without cause, by action of the Corporate Member.

4.6.3 Mandatory Offer of Resignation for Retirement or Change in Employment Circumstances. Any Class B Director who retires from active employment or whose employment circumstances change materially from those in effect at the time of his or her election or re-election as a director shall submit promptly to the chairperson of the Corporate Governance and Nominating Committee an offer of resignation from the Board of Directors. Such resignation shall not be effective unless and until accepted by the Board of Directors. The chairperson of the Corporate Governance and Nominating Committee shall cause such offer of resignation to be considered by the Corporate Governance and Nominating Committee and a recommendation to be made to the Board of Directors as soon as practicable concerning the advisability of accepting such resignation.

4.6.4 Effect of Repeated Absences from Meetings. If a director shall be absent from four consecutive meetings of the Board of Directors, including regular meetings and special meetings duly called, the Board of Directors may, in its discretion, declare the office of such director vacated, and a successor shall be elected as provided in Section 4.4 of these Bylaws.

4.7 Conflict of Interest.

4.7.1 Related Party Transactions. No contract or transaction between the Corporation and one or more of its directors, officers or employees, or between the Corporation and any other corporation, partnership, joint venture, trust or other enterprise in which one or more of the Corporation's directors, officers or employees are directors, officers or employees or have a financial interest, shall be void or voidable solely for such reason, or solely because such director, officer or employee is present at or participates in the meeting of the Board of Directors which authorizes such contract or transaction, or solely because any such person's vote is counted for such purpose, if

(a) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors and the Board of Directors in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(b) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the Corporate Member and the contract or transaction is specifically approved in good faith by the Corporate Member; or

(c) the contract or transaction is fair to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors or the Corporate Member.

4.7.2 Determination of Quorum. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors which authorizes a contract or transaction specified in Section 4.7.1.

4.7.3 No Improper Influence. In no event shall a director vote on or otherwise use his or her position as a director to influence any matter on which he or she has a conflict of interest, including, without limitation, on any matter involving payment made or to be made to

him or her, directly or indirectly, for the provision of health care services; provided, however, that any director may vote on matters that affect providers of health care services in general.

4.8 Limitation of Liability. A director shall not be personally liable, as such, for monetary damages for any action taken, or any failure to take any action, unless (a) the director has breached or failed to perform the duties of the director's office as set forth in the Nonprofit Corporation Law; and (b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness. The preceding provisions of this Section 4.8 shall not apply to (x) the responsibility or liability of a director pursuant to any criminal statute; or (y) the liability of a director for the payment of taxes pursuant to federal, state or local law. The provisions of this Section 4.8 shall be deemed to be a contract with each director who serves as such at any time while this Section 4.8 is in effect, and each such director shall be deemed to be so serving in reliance on the provisions of this Section 4.8. Any repeal or modification of this Section 4.8 shall be prospective only and shall not affect, to the detriment of any director, any limitation on the personal liability of a director existing at the time of such repeal or modification.

4.9 Compensation. The Corporate Member may determine the compensation of directors for their services as directors, committees of the Board of Directors or otherwise and also may determine the compensation of persons who are not directors who serve on any committees established by the Board of Directors, subject to Section 5.6.6.

ARTICLE V

Regional Advisory Boards; NEPA Advisory Board

5.1 Establishment. The Corporation shall have a Regional Advisory Board for each of the Corporation's primary service areas as determined by the Board of Directors. Each such Regional Advisory Board shall consist of not fewer than ten (10) or more than twenty (20) persons, who shall be appointed by the Board of Directors. In making appointments to the Regional Advisory Boards, the Board of Directors shall consider the interests of customers, health care professionals, suppliers, creditors and the communities served by the Corporation.

5.2 Purpose and Functions. The purpose and functions of the Regional Advisory Boards shall be determined by the Board of Directors. The Regional Advisory Boards initially shall have the following purposes and functions:

5.2.1 To advise the Corporation on regional advertising, marketing, product development and community initiatives;

5.2.2 To advise the Corporation on matters of public policy and, if requested by the Board of Directors, to advocate the Corporation's position in the community; and

5.2.3 To advise the Corporation on such other matters as may be requested by the Board of Directors.

5.3 Limitations on Authority. The Regional Advisory Boards shall have no authority to direct the activities of the Corporation or to bind the Corporation in any respect and shall at all

times be subject to the powers and prerogatives of the Board of Directors. Nothing in these Bylaws is intended to create in any individual or group of individuals serving on a Regional Advisory Board any rights or duties of a member, director, member of an other body, officer or otherwise pursuant to the Nonprofit Corporation Law.

5.4 Meetings. Meetings of each Regional Advisory Board shall be held at such date, time and place as shall be determined by such Regional Advisory Board, and each Regional Advisory Board may adopt procedures with respect to the conduct of its meetings as such Regional Advisory Board deems to be appropriate and desirable, provided such procedures are not inconsistent with applicable law, the Articles of Incorporation or these Bylaws.

5.5 Compensation. Members of the Regional Advisory Boards shall be entitled to be reimbursed for their reasonable expenses incurred in connection with attendance at meetings of the Regional Advisory Boards and such other compensation for their services as may be determined by the Board of Directors.

5.6 NEPA Advisory Board. Until [_____, ____],⁵ the Corporation shall have an advisory board with respect to the Acquired Business (as defined in the BCNEPA Merger Agreement) (the "NEPA Advisory Board") which shall consist of nineteen (19) persons, the initial members of which shall include the fifteen (15) members (excluding any ex officio member) of the board of directors of BCNEPA immediately prior to the Effective Time (such initial members, or their successors appointed in accordance with these Bylaws, the "NEPA Advisory Board Representatives"), three (3) persons appointed by the Board of Directors, and the person acting as the market president for the NEPA Service Area. In the event that a NEPA Advisory Board Representative shall cease to be a member of the NEPA Advisory Board for any reason, his or her successor shall be appointed by the remaining NEPA Advisory Board Representatives. There shall be no maximum age restriction with respect to members of the NEPA Advisory Board.

5.6.1 The purpose of the NEPA Advisory Board shall be to make recommendations to the Corporation with respect to the annual budget and strategic plan for the Acquired Business; corporate giving in the NEPA Service Area; selection and termination of the market president for the NEPA Service Area; and such other matters as may be requested by the Board of Directors or management of the Corporation. A formal vote of the NEPA Advisory Board, approved by a majority of the members thereof, shall be required to make any such recommendations.

5.6.2 The chairperson of the NEPA Advisory Board shall be selected from among the members of the NEPA Advisory Board, provided that such chairperson initially shall be the person serving as the chairperson of the BCNEPA board of directors immediately prior to the Effective Time. In the event that the person serving as the chairperson of the NEPA Advisory Board shall cease to serve in such capacity for any reason, his or her successor shall be selected by the NEPA Advisory Board Representatives then in office. The chairperson of the

⁵ Insert fourth anniversary of date of Effective Time

NEPA Advisory Board shall be provided with dedicated office space and administrative support at the offices of the Corporation in Wilkes-Barre, Pennsylvania.

5.6.3 The NEPA Advisory Board shall maintain the following committees: Regional Marketing; Health Policy and Government Relations; Charitable Giving; and Nominating. Such committees shall be comprised solely of members of the NEPA Advisory Board and shall have charters governing their powers and duties, which charters shall be approved by the Board of Directors.

5.6.4 The NEPA Advisory Board shall have no authority to direct the activities of the Corporation or to bind the Corporation in any respect and shall at all times be subject to the powers and prerogatives of the Board of Directors. Nothing in these Bylaws is intended to create in any individual or group of individuals serving on the NEPA Advisory Board any rights or duties of a member, director, member of an other body, officer or otherwise pursuant to the Nonprofit Corporation Law.

5.6.5 Meetings of the NEPA Advisory Board shall be held at such date, time and place as shall be determined by the NEPA Advisory Board, and the NEPA Advisory Board may adopt procedures with respect to the conduct of its meetings as it deems to be appropriate and desirable, provided such procedures are not inconsistent with applicable law, the Articles of Incorporation or these Bylaws.

5.6.6 Members of the NEPA Advisory Board shall be entitled to receive cash compensation and health insurance benefits and reimbursement for the reasonable cost of travel to and from meetings of the NEPA Advisory Board, education expenses and incidental expenses incurred in connection with their services as members of the NEPA Advisory Board and committees thereof, in accordance with the compensation practices, health insurance benefit practices and expense reimbursement policy historically applicable to the board of directors of BCNEPA as set forth in the BCNEPA Merger Agreement.

ARTICLE VI

Officers

6.1 Principal Officers; Election. The principal officers of the Corporation shall be one or more President(s) elected by the Board of Directors, and a Treasurer and a Secretary, each of whom shall be elected by the Board of Directors, and such other officers as the Board of Directors may elect and designate as principal officers, which may include one or more Executive, Senior or Corporate Vice Presidents, and one or more Assistant Treasurers or Assistant Secretaries. Each such officer shall hold office for a term of one year (or such other term as the Board shall determine for any office from time to time) and until his or her successor has been selected and qualified or until his or her earlier death, resignation or removal. Any number of offices may be held by the same person.

6.1.1 Other Officers. The Board of Directors may assign to any principal officer or officers the power to appoint other officers, which may include additional President(s)

not elected by the Board of Directors, Vice Presidents (including Executive, Senior and Corporate Vice Presidents), Assistant Treasurers or Assistant Secretaries and other officers or assistant officers of the Corporation and such agents or representatives of the Corporation as any such principal officer determines to be appropriate, who shall hold their offices subject to the discretion of the principal officer appointing him or her.

6.1.2 President(s). The President(s) elected by the Board of Directors shall be responsible for the direct administration, supervision and control of such activities in the management of the Corporation as may be assigned by or pursuant to authority granted by the Board of Directors. The President(s) elected by the Board of Directors shall execute all contracts and agreements authorized by the Board of Directors, except that any such President(s) may delegate to other officers of the Corporation the power to execute contracts in the ordinary course of business or as otherwise may be authorized by the Board of Directors.

6.1.3 Vice Presidents. Each Vice President shall perform such duties as may be assigned by the principal officer appointing him or her or by the Board of Directors.

6.1.4 Treasurer. The Treasurer shall, in accordance with the policies of the Board of Directors, have general charge and custody of and be responsible for all funds and securities of the Corporation, and shall make such reports in such form and manner as the Board of Directors may direct. The Treasurer shall receive and give receipts for monies due and payable to the Corporation and deposit such monies in the name of the Corporation in such banks, trust companies or other depositories as may be selected in accordance with the provisions of these Bylaws. The Treasurer shall keep account of such receipts and deposits and approve expenditures of the Corporation and shall perform all duties incident to the office of Treasurer and such other duties as may be assigned by the Board of Directors.

6.1.5 Secretary. The Secretary shall keep the minutes of the meetings of the Board of Directors and its committees in one or more books provided for that purpose, shall notify members of the Board of Directors of their election, shall see that all notices are duly given in accordance with the provisions of these Bylaws, shall be custodian of the corporate records and of the seal of the Corporation, and shall see that the seal of the Corporation is affixed, when necessary, to all instruments and documents the execution of which has been authorized by the Board of Directors or a committee thereof, shall keep a record of the address of each director, and shall perform all duties incident to the office of Secretary and such other duties as may be assigned by the Board of Directors. In the absence of the Secretary or in the event of his or her inability to act, the Chairperson of the Board shall appoint an individual to discharge the duties of the Secretary.

6.1.6 Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers shall perform such duties as may be assigned by the Secretary or the Treasurer, respectively, or by the Board of Directors.

6.2 Removal of Officers. Any officer of the Corporation may be removed, with or without cause, by the Board of Directors. Any officer appointed by a principal officer may be removed, with or without cause, by the principal officer appointing him or her.

6.3. Bonds. The Board of Directors may require any officer to give bond and security in such sum and with such surety or sureties as the Board of Directors may determine.

ARTICLE VII

Committees

7.1 Standing Board Committees. The Board of Directors shall have an Executive Committee, a Corporate Governance and Nominating Committee, an Audit and Compliance Committee, an Investment Committee, a Diversity and Inclusion Committee and a Personnel and Compensation Committee, and the Board of Directors may establish such other standing committees as it deems to be necessary or desirable (the "**Standing Board Committees**"). All Standing Board Committees shall be comprised solely of directors and shall have charters governing their powers and duties, which charters shall be approved by the Board of Directors. The Board of Directors shall appoint the members and a chairperson and a vice chairperson of each Standing Board Committee in accordance with applicable law. Not less than one-third (1/3rd) of the members of each Standing Board Committee shall be persons who are not officers or employees of the Corporation or of any entity controlling, controlled by or under common control with the Corporation. Commencing [_____] ⁶, each Class A Director shall serve on two (2) Standing Board Committees. The Board of Directors shall appoint at least one Class A Director to each Standing Board Committee not later than [_____] ⁷.

7.2 Term. Except as otherwise provided in these Bylaws, each member of a Standing Board Committee shall continue as such until the next annual organizational meeting of the Board of Directors or until a successor has been appointed as provided in these Bylaws, unless such person resigns, is removed or otherwise ceases to serve on such Standing Board Committee for any reason.

7.3 Special Committees and Program Committees. The Board of Directors may establish one or more special committees of directors ("**Special Committees**") to advise the Board of Directors and to perform such other functions as the Board of Directors determines. The Board of Directors may establish one or more committees, such as a Medical Affairs Committee and a Quality and Safety Committee, which may include directors and persons who are not directors, to assist it with program aspects of the Corporation's operations ("**Program Committees**"). Subject to the provisions of these Bylaws, the Board of Directors may delegate such authority to a Special Committee or a Program Committee as it deems to be appropriate and desirable and as is not prohibited by applicable law. The Board of Directors shall establish the manner of selecting members, chairpersons and vice chairpersons, if any, and the terms of office of the members of each Special Committee and Program Committee. Not less than one-third (1/3rd) of the members of each Special Committee and Program Committee shall be persons who

⁶ Insert three (3) month anniversary of the date of the Effective Time

⁷ Insert three (3) month anniversary of the date of the Effective Time

are not officers or employees of the Corporation or of any entity, controlling, controlled by or under common control with the Corporation.

7.4 Quorum. Except as otherwise provided in these Bylaws or the charter of a committee approved by the Board of Directors, one-third (1/3rd) of the members comprising any committee appointed by the Board of Directors pursuant to these Bylaws shall constitute a quorum for the transaction of business. For such a quorum to exist, at least one (1) such committee member shall be a person who is not an officer or employee of the Corporation or of any entity controlling, controlled by or under common control with the Corporation. The acts of a majority of committee members present at a meeting at which a quorum is present shall constitute the acts of the committee, unless a greater proportion is required by applicable law, the Articles of Incorporation or these Bylaws.

7.5 Action by Consent. Except as otherwise provided in these Bylaws or a charter of a committee approved by the Board of Directors, any action required or permitted to be approved at a meeting of any committee appointed by the Board of Directors pursuant to these Bylaws may be approved without a meeting if a consent or consents to the action in record form are signed, before, on or after the effective date of the action by all of the members of such committee in office on the date the last consent is signed. The consent or consents shall be filed with the Secretary.

7.6 Removal. Any member of a Standing Board Committee, Special Committee or Program Committee may be removed at any time, with or without cause, by the Board of Directors at any regular or special meeting, but without modifying the obligations set forth in the last sentence of Section 7.1.

7.7 Vacancies. Any vacancy in any Standing Board Committee or Special Committee caused by the death, resignation or removal of a director prior to the expiration of that director's term shall be filled by another director appointed by the Board of Directors. The director so appointed shall serve the remaining unexpired term of the director so replaced.

7.8 Executive Committee.

7.8.1 The Executive Committee shall consist of at least seven (7) but not more than twelve (12) directors as the Board of Directors shall determine. The Chairperson of the Board, the Lead Director, if any, and the Vice Chairperson of the Board, if any, shall be members of the Executive Committee, and the Chairperson of the Board shall serve as the chairperson of the Executive Committee. In the absence of the Chairperson of the Board or when the Chairperson of the Board is excused from participating, the Lead Director shall serve as the chairperson of the Executive Committee and, in the absence of the Lead Director, the Vice Chairperson of the Board shall act as such chairperson.

7.8.2 The Executive Committee shall have and may exercise the power and authority of the Board of Directors when the Board of Directors is not in session, except such power and authority as by law, the Articles of Incorporation or these Bylaws may be required to

be exercised by the Board of Directors or the Corporate Member, or as the Board of Directors or the Corporate Member may expressly reserve for itself or delegate to another committee.

7.8.3 Regular meetings of the Executive Committee may be held at such date, time and place as determined by the Board of Directors or the Executive Committee, without further notice than the resolution setting such date, time and place. Special meetings of the Executive Committee may be called at any time by the Chairperson of the Board, the Lead Director or any two members of the Executive Committee, the date, time and place of such meeting to be designated in the notice calling the meeting. Notice of any special meeting of the Executive Committee shall be given at least forty-eight (48) hours prior thereto and shall state the general nature of the business to be transacted.

7.8.4 A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business, and the acts of a majority of the members of the Executive Committee shall be the acts of the Executive Committee.

7.8.5 The Executive Committee shall keep regular minutes of its proceedings and report the same to the Board of Directors at its next regular meeting or when otherwise required.

7.9 Corporate Governance and Nominating Committee.

7.9.1 The Corporate Governance and Nominating Committee shall consist of at least eight (8) directors, comprised as closely as is practicable of seventy-five percent (75%) Lay Directors and twenty-five percent (25%) Professional Directors. None of the members of the Corporate Governance and Nominating Committee shall be officers or employees of the Corporation or of any entity controlling, controlled by or under common control with the Corporation.

7.9.2 In addition to any responsibilities delegated to it by the Board of Directors, the Corporate Governance and Nominating Committee shall be responsible for:

(a) Recommending the candidates to be nominated by the Board of Directors for election as directors at each annual meeting of the Corporate Member;

(b) Subject to Section 4.4, recommending the candidates to be nominated for election as directors to fill any vacancies occurring on the Board of Directors; and

(c) Recommending the candidates for election or reelection as Chairperson of the Board, Lead Director and Vice Chairperson of the Board.

7.9.3 At least fifteen (15) days before each annual, regular or special meeting of the Board of Directors, the Corporate Governance and Nominating Committee shall recommend the requisite number of individuals who satisfy the qualifications established in these Bylaws for election as Class B Directors of the Corporation.

7.10 Audit and Compliance Committee.

7.10.1 The Audit and Compliance Committee shall consist of at least five (5) directors. None of the members of the Audit and Compliance Committee shall be officers or employees of the Corporation or of any entity controlling, controlled by or under common control with the Corporation and none of such members of the Audit and Compliance Committee shall be beneficial owners of a controlling interest in the voting stock of any such entity.

7.10.2 In addition to any responsibilities delegated to it by the Board of Directors, the Audit and Compliance Committee shall be responsible for:

(a) Recommending to the Board of Directors the selection of independent certified public accountants for the Corporation, subject to approval by the Corporate Member; and

(b) Reviewing the Corporation's financial condition and the scope and results of the independent audit and any internal audit of the Corporation.

7.11 Personnel and Compensation Committee.

7.11.1 The Personnel and Compensation Committee shall consist of at least five (5) directors. None of the members of the Personnel and Compensation Committee shall be officers or employees of the Corporation or of any entity controlling, controlled by or under common control with the Corporation.

7.11.2 In addition to any responsibilities delegated to it by the Board of Directors, the Personnel and Compensation Committee shall be responsible for:

(a) Evaluating the performance of the principal officers of the Corporation; and

(b) Recommending to the Board of Directors the selection and compensation of the principal officers of the Corporation.

7.12 Controlled Entities. The Board of Directors may designate the Corporate Governance and Nominating Committee, the Personnel and Compensation Committee and/or the Audit and Compliance Committee to serve as such committee(s) for one or more insurers or other entities controlled by the Corporation.

ARTICLE VIII

Medical Review Committee

8.1 General.

8.1.1 All matters, disputes or controversies relating to the professional health services (as defined in 40 Pa.C.S.A. § 6302(a)) rendered by Health Service Doctors to

subscribers who have coverage under contracts issued by the Corporation, and any questions involving the professional ethics of such persons, shall be considered and determined exclusively by the committee established pursuant to this Article VIII in accordance with the requirements of 40 Pa.C.S.A. § 6324(c) (the "Medical Review Committee") to provide a fair and impartial forum for resolution of all matters, disputes and controversies relating to professional health services and all questions involving professional ethics.

8.1.2 The Medical Review Committee also shall provide a fair and impartial forum to consider and determine any other matters, disputes or controversies which may be submitted to it as set forth in these Bylaws or as may be provided in any written agreement between the Corporation or any one or more entities controlled by the Corporation and any Health Service Doctor or other provider of health care services (all such persons collectively, "Providers").

8.1.3 The Medical Review Committee shall operate independently of the Corporation, and the Board of Directors shall have no authority over the decisions of the Medical Review Committee. Except as otherwise provided in Section 8.7 or in any agreement with a Provider, all decisions of the Medical Review Committee shall be final and binding upon all parties to any matter, dispute or controversy submitted to it.

8.1.4 The Corporation shall, at its expense, provide reasonable resources to the Medical Review Committee to discharge its duties under these Bylaws.

8.2 Medical Review Committee Selection Committee.

8.2.1 The members of the Medical Review Committee, who must satisfy the requirements set forth in Section 8.3, shall be appointed and may be removed as provided in this Article VIII by the Medical Review Committee Selection Committee (the "Selection Committee").

8.2.2 The Selection Committee shall consist of at least five (5) persons, a majority of whom shall be Health Service Doctors, and the balance of whom shall be subscribers who are not Health Service Doctors and who have coverage under contracts issued by the Corporation or an entity controlled by the Corporation. All Health Service Doctors who are members of the Selection Committee shall be parties to one or more professional provider contracts with the Corporation.

8.2.3 No member of the Selection Committee may be a director, officer or employee of the Corporation or of any entity controlled by the Corporation or a member of a Regional Advisory Board or the NEPA Advisory Board, nor may any such person have served on the Medical Review Committee during any part of the two (2) year period immediately prior to his or her appointment to the Selection Committee.

8.2.4 The members of the Selection Committee shall be appointed by the Chairperson of the Board, and each shall hold office for a term of two (2) years.

8.3 Appointment of Medical Review Committee Members; Term; Removal. The Medical Review Committee shall consist of at least eight (8) persons who meet the criteria set

forth in this Section. Any person may submit to the Selection Committee names of prospective Medical Review Committee members; provided, however, that the Selection Committee shall not be bound to appoint any person whose name is so submitted. The Selection Committee shall make appointments to the Medical Review Committee using the following criteria:

8.3.1 A majority of the members of the Medical Review Committee shall be Health Service Doctors, and the balance shall be subscribers who are not Health Service Doctors and who have coverage under contracts issued by the Corporation or an entity controlled by the Corporation. At least seventy-five percent (75%) of the Health Service Doctors who are members of the Medical Review Committee shall be medical doctors or doctors of osteopathy.

8.3.2 All Health Service Doctors who are members of the Medical Review Committee shall be parties to one or more professional provider contracts with the Corporation.

8.3.3 No member of the Medical Review Committee shall be a director, officer or employee of the Corporation or of any entity controlled by the Corporation or a member of a Regional Advisory Board or the NEPA Advisory Board.

8.3.4 At least two-thirds (2/3) of the members of the Medical Review Committee shall have no relationship with the Corporation or any entity controlled by the Corporation, other than as Health Service Doctors who submit claims in the ordinary course of business or as subscribers.

8.3.5 No member of the Medical Review Committee shall have any conflict of interest that would prevent him or her from rendering a fair and impartial decision in matters, disputes or controversies between the Corporation, or, if applicable, any entity controlled by the Corporation, and a Provider; provided, however, that a member may be recused from individual matters, disputes or controversies in the event of any specific conflict of interest with respect thereto.

8.3.6 No Health Service Doctor who is a member of the Medical Review Committee shall have any history of (a) material adverse utilization or claims coding determinations by the Medical Review Committee, or (b) material repayments to the Corporation or any entity controlled by the Corporation resulting from utilization or claims coding reviews.

8.3.7 The Health Service Doctors who are members of the Medical Review Committee shall be broadly representative of the various specialties whose professional health services generally are covered under contracts issued by the Corporation.

8.3.8 Members of the Medical Review Committee must be willing to commit to regular attendance at committee meetings and to devoting adequate time to committee business to permit them to fully understand the committee's work and to give full and fair consideration to all matters coming before the committee.

8.3.9 Each member of the Medical Review Committee shall be appointed for a term of two (2) years and may be removed during his or her term only for cause as determined by the Selection Committee, including, but not limited to, failure to regularly attend committee meetings or to devote adequate attention to committee work.

8.3.10 The Selection Committee shall consider the need for continuity and orderly rotation of members when making appointments or reappointments to the Medical Review Committee.

8.4 Officers of the Medical Review Committee. The Medical Review Committee shall have three officers: a chairperson, a vice chairperson and a secretary, selected as follows:

8.4.1 The Selection Committee shall appoint a chairperson of the Medical Review Committee. The chairperson shall be a member of the Medical Review Committee and shall preside at all meetings of the Medical Review Committee, but shall not vote in any matter being considered by the Medical Review Committee except when necessary to break a tie.

8.4.2 The Selection Committee shall appoint a vice chairperson of the Medical Review Committee. The vice chairperson shall be a member of the Medical Review Committee and preside at meetings of the Medical Review Committee in the chairperson's absence and, when serving in such capacity, shall vote only when necessary to break a tie. The vice chairperson shall also perform such other duties as the chairperson may assign.

8.4.3 The Corporation shall provide one of its employees to serve as secretary for the Medical Review Committee. The secretary's role shall be solely that of administrator, and not that of a member of the Medical Review Committee. The secretary shall keep the minutes of the Medical Review Committee meetings and perform the duties enumerated in Section 8.6 and such other duties as the committee may assign.

8.5 Submission of Matters to the Medical Review Committee. All matters, disputes or controversies relating to professional health services and questions involving professional ethics referred to in Section 8.1 or otherwise required to be considered and determined by the Medical Review Committee shall be submitted in record form to the secretary of the Medical Review Committee. Either the Corporation or a Provider may submit a matter, dispute or controversy relating to professional health services or a question involving professional ethics for consideration and determination.

8.6 Medical Review Committee Proceedings.

8.6.1 The Medical Review Committee shall maintain written procedural guidelines to assure that each Provider receives full, fair and impartial consideration of any matter, dispute, controversy or question presented to the Medical Review Committee.

8.6.2 Only the Health Service Doctors who are members of the Medical Review Committee may vote on any matter brought before the committee.

8.6.3 One-third (1/3rd) of the voting members of the Medical Review Committee shall constitute a quorum for the transaction of business, and the acts of a majority of voting members of the committee present at a meeting at which a quorum is present shall constitute the acts of the committee.

8.6.4 In considering any matter, dispute or controversy relating to professional health services or any question involving professional ethics brought before it, the Medical

Review Committee shall have authority to take any one or more of the following actions (subject to any binding contractual prohibitions or restrictions agreed to in writing by the Corporation or, if applicable, any entity controlled by the Corporation):

(a) Make a referral to any appropriate committee, board or division of any applicable state or local professional society;

(b) Make a referral to an appropriate law enforcement officer or agency of any applicable federal, state or local government if the Medical Review Committee has probable cause to believe that a Provider secured payment for services performed on the basis of material false information submitted with the intention of defrauding the recipient(s);

(c) Make a referral to the applicable state professional licensure board of a Provider;

(d) Render a determination that the Corporation or, if applicable, one or more entities controlled by the Corporation is or is not entitled, in whole or in part, to a refund of fees paid to a Provider;

(e) Render a determination that authorizes the Corporation or one or more entities controlled by the Corporation to collect any refund by withholding future payments due to a Provider; or

(f) Render any such other determination or take any such other action as may be necessary or appropriate.

8.6.5 If a particular matter, dispute or controversy relating to professional health services or a particular question involving professional ethics includes any actual or alleged action or failure to act which would justify denying a Health Service Doctor registration with the Corporation pursuant to 40 Pa.C.S.A. § 6324(a), or the suspension or termination of such registration, the Corporation may request that a hearing be held by the Medical Review Committee in accordance with Section 8.7 to consider such registration status. Such action or failure to act may include by way of example and not limitation:

(a) Violation of the Health Service Doctor's professional provider contract with the Corporation or any regulations of the Corporation for participating providers; or

(b) Violation of any statute with which the Corporation or the Provider is required to comply.

8.7 Proceedings Involving Status of Registered Health Service Doctor.

8.7.1 The procedures set forth in this Section 8.7 apply in all cases where the Corporation has requested pursuant to Section 8.6.5 that a hearing of the Medical Review Committee be held to determine the status of an individual as a registered Health Service Doctor. In any such case, the Corporation shall prepare an appropriate complaint setting forth the allegations against the individual.

8.7.2 The chairperson of the Medical Review Committee promptly shall fix a time, date and place for such hearing of the Medical Review Committee. The applicable Health Service Doctor shall be given at least thirty (30) days notice in record form by the secretary of the Medical Review Committee of the date, time and place of such hearing and shall be furnished with a copy of the complaint.

8.7.3 The Health Service Doctor shall be allowed to file an answer in record form to the complaint, provided such answer is filed with the secretary of the Medical Review Committee at least ten (10) days prior to the hearing. At the hearing (which may be held by means of conference telephone or other electronic technology by means of which all persons participating in the hearing can hear and be heard by each other), such witnesses may be heard and such evidence may be received as is deemed by the Medical Review Committee to be relevant and of reasonable probative value; provided, however, that formal rules of evidence or procedure need not be followed. The Health Service Doctor shall be afforded a reasonable opportunity to be heard before the Medical Review Committee, either in person or by counsel, and to produce evidence and witnesses at such hearing. All testimony shall be recorded and a complete record shall be kept of the hearing.

8.7.4 Promptly following the hearing, the Medical Review Committee shall take whatever action it deems appropriate, based on the evidence and testimony produced at the hearing. If such action involves either the denial of registration as a Health Service Doctor with the Corporation or the suspension or termination of such registration, the matter shall be referred promptly to the Secretary of the Commonwealth of Pennsylvania Department of Health for approval or for such other action as said Secretary of Health may deem appropriate.

8.8 Other Appeals.

8.8.1 The Medical Review Committee also shall serve as the final and binding appeal body for any Provider whose registration as a preferred or similar provider pursuant to any other professional provider contract of the Corporation or, if applicable, one or more entities controlled by the Corporation is rejected, suspended or terminated by the Corporation or such other entity.

8.8.2 Any such Provider may appeal such decision by a submission in record form to the secretary of the Medical Review Committee. The appealing Provider shall be entitled to appear before the Medical Review Committee and to present evidence or argument, but the hearing will not be recorded and the committee's decision will not be referred to the Secretary of the Commonwealth of Pennsylvania Department of Health for approval.

8.8.3 In connection with any such appeal, the Medical Review Committee may consider any:

- (a) Violation of the Provider's agreement(s) with the Corporation or any entity controlled by the Corporation to render health care services or supplies to subscribers;
- (b) Violation of any statute with which the Corporation or the Provider is required to comply;

(c) Violation of any of the regulations or requirements referenced in the Provider's agreement(s) with the Corporation or any entity controlled by the Corporation with which the Provider is required to comply; or

(d) Refusal to adhere to the billing, payment or service benefit provisions of any contract issued by the Corporation or any entity controlled by the Corporation which utilizes the applicable professional provider network in which the Provider has agreed to participate.

8.9 Compensation. Members of the Medical Review Committee and the Selection Committee shall be entitled to be reimbursed for their reasonable expenses incurred in connection with attendance at meetings of the Medical Review Committee or the Selection Committee, as the case may be, and such other compensation for their services as may be determined by the Board of Directors:

ARTICLE IX

Indemnification of Directors, Officers and Others

9.1 Right to Indemnification – General. Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (whether brought by or in the name of the Corporation or otherwise), by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation to the fullest extent now or hereafter permitted by applicable law in connection with such action, suit or proceeding) arising out of such person's service to the Corporation or to such other corporation, partnership, joint venture, trust or other enterprise at the Corporation's request. The term "representative," as used in this Article IX, shall mean any director, officer or employee, including any employee who is a medical doctor, lawyer or other licensed professional, any member of a Regional Advisory Board or the NEPA Advisory Board, or any committee created by or pursuant to these Bylaws, and any other person who may be determined by the Board of Directors to be a representative entitled to the benefits of this Article IX.

9.2 Right to Indemnification - Third Party Actions. Without limiting the generality of Section 9.1, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding 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 Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its

equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

9.3 Right to Indemnification - Derivative Actions. Without limiting the generality of Section 9.1, any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action, suit or proceeding 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 Corporation; except, however, that indemnification shall not be made under this Section 9.3 in respect of any claim, issue or matter as to which such person has been adjudged to be liable to the Corporation unless and only to the extent that the Court of Common Pleas of the county in which the registered office of the Corporation is located or the court in which such action, suit or proceeding was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Common Pleas or such other court shall deem proper.

9.4 Advance of Expenses. Expenses (including attorneys' fees) incurred by any representative of the Corporation in defending any action, suit or proceeding referred to in this Article IX shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the representative to repay such amount if it is ultimately determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Article IX or otherwise.

9.5 Procedure for Effecting Indemnification. Unless ordered by a court, any indemnification under Section 9.1, Section 9.2 or Section 9.3 shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because he or she has met the applicable standard of conduct set forth in such subsections. Such determination shall be made:

9.5.1 By the Board of Directors by a majority of a quorum consisting of directors who were not parties to such action, suit or proceeding;

9.5.2 If such a quorum is not obtainable, or if obtainable and a majority vote of a quorum of disinterested directors so directs, by independent legal counsel in a written opinion;
or

9.5.3 By the Corporate Member.

9.6 Indemnification not Exclusive. The indemnification and advancement of expenses provided by or granted pursuant to this Article IX shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any other provision of these Bylaws, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office shall continue as to a person who has ceased to be a representative of the Corporation and shall inure to the benefit of the heirs and personal representatives of such person.

9.7 When Indemnification Not Made. Indemnification pursuant to this Article IX shall not be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

9.8 Grounds for Indemnification. Indemnification pursuant to this Article IX, under any other provision of these Bylaws, agreement, vote of directors or otherwise may be granted for any action taken or any failure to take any action and may be made whether or not the Corporation would have the power to indemnify the person under any provision of law except as otherwise provided in this Article IX and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the Corporation. The provisions of this Article IX shall be applicable to all actions, suits or proceedings within the scope of Section 9.1, Section 9.2 or Section 9.3, whether commenced before or after the adoption hereof, whether arising from acts or omissions occurring before or after the adoption hereof.

9.9 Power to Purchase Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a representative of the Corporation or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise against any 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 Corporation would have the power to indemnify him or her against such liability under the provisions of this Article IX.

9.10 Creation of a Fund to Secure or Insure Indemnification. The Corporation may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this Article IX or otherwise.

9.11 Status of Rights of Indemnitees. The rights to indemnification and advancement of expenses provided by or granted pursuant to this Article IX shall (i) be deemed to create contractual rights in favor of each person who serves as a representative of the Corporation at any time while such Article is in effect (and each such person shall be deemed to be so serving in reliance on the provisions of such Article), and (ii) continue as to a person who has ceased to be a representative of the Corporation and shall inure to the benefit of the heirs and personal representatives of that person.

9.12 Applicability to Predecessor Companies. For purposes of this Article IX, references to "the Corporation" include all constituent corporations absorbed in a consolidation,

merger or division, as well as the surviving or new corporations surviving or resulting therefrom, so that any person who is or was a representative of the constituent, surviving or new corporation, or is or was serving at the request of the constituent, surviving or new corporation as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article IX with respect to the surviving or new corporation as he or she would if he or she had served the surviving or new corporation in the same capacity. Without limitation of the foregoing, each member, director, officer and employee of each predecessor to the Corporation shall have the same contract rights as are afforded to directors, officers and employees of the Corporation pursuant to Section 9.11.

ARTICLE X

Contracts, Loans, Checks and Deposits

10.1 Contracts. The Board of Directors may authorize any officer or officers or agent or agents to enter into any contract or execute or deliver any agreement or instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

10.2 Loans. The Board of Directors may authorize the borrowing by the Corporation of such sum or sums of money as the Board of Directors may deem to be advisable, and to mortgage or pledge any or all of the real or personal property and any or all of the other available assets of the Corporation in order to secure the payment of the principal amount of any such borrowing and the interest thereon and any and all such other amounts as may become due on account thereof.

10.3 Checks. All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness shall be issued in the name of the Corporation and shall be signed by such officer or officers or agent or agents of the Corporation and in such manner as from time to time shall be determined by the Board of Directors.

10.4 Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may approve.

ARTICLE XI

Notice and Conduct of Meetings

11.1 Notice. Except as otherwise provided in these Bylaws, any notice required to be given to any person under the provisions of any statute or the Articles of Incorporation or these Bylaws shall be given to the person either personally or by sending a copy thereof (a) by first class or express mail, postage prepaid, or courier service, charges prepaid, to the person's postal address appearing on the books of the Corporation or, in the case of directors, supplied by the director to the Corporation for the purpose of notice, or (b) by facsimile transmission, e-mail or other electronic communication to the person's facsimile number or address for e-mail or other electronic communications supplied by the person to the Corporation for the purpose of notice.

11.2 Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute or the Articles of Incorporation or these Bylaws, a waiver thereof that is filed with the Secretary in record form, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed to be equivalent to the giving of such notice.

11.3 Waiver of Notice by Attendance. Attendance of a person at any meeting shall constitute a waiver of notice of such meeting except when a person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

11.4 Procedure. All meetings of the Board of Directors, the committees thereof, the Regional Advisory Boards and the NEPA Advisory Board shall be conducted in an orderly manner with a view to affording full and fair discussion of the matters properly before such meetings.

ARTICLE XII

Miscellaneous

12.1 No Contract Rights. Except as specifically set forth in Sections 4.8, 9.3 and 9.4, no provision of these Bylaws shall vest any property or contract right in any person.

12.2 Corporate Seal. The Board of Directors shall prescribe the form of a suitable corporate seal, which shall contain the full name of the Corporation and the year and state of incorporation.

12.3 Fiscal Year. The fiscal year of the Corporation shall end on such day as shall be fixed by the Board of Directors, subject to approval by the Corporate Member.

ARTICLE XIII

Amendments

13.1 Amendments. These Bylaws may be altered, amended or repealed, or new Bylaws may be adopted, by (a) proposal by the Board of Directors at any meeting of the Board of Directors, subject to approval by the Corporate Member, by the vote of not less than seventy-five percent (75%) of the directors present, but not less than a majority of the directors in office, at any such meeting, provided that notice of any proposed amendment or a summary thereof shall have been given to each director not less than ten (10) days prior to the date of the meeting, and provided, further, that no alteration, amendment, repeal or restatement of Section 3.3.2, 4.2, 4.3, 4.4, 4.6, 7.1, 7.6, 7.9.2(b), this Section 13.1 or Article IX insofar as any such Section or Article relates to the rights or duties of the Class A Directors or the NEPA Advisory Board, as applicable, or Section 5.6 may be made at any time prior to [_____, ____]⁸ without the affirmative approval of a majority of the Class A Directors then in office or (b) except as set forth in Section 3.3.2(e), by the Corporate Member.

⁸ Insert fourth anniversary of date of Effective Time