

**HOTEL-DIEU GRACE HEALTHCARE  
ADMINISTRATIVE BY-LAW**

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**HOTEL-DIEU GRACE HEALTHCARE  
ADMINISTRATIVE BY-LAW**

**BY-LAW: 2020-09-23**

**IT IS HEREBY ENACTED** as a by-law of the Corporation as follows:<sup>1</sup>

**ARTICLE 1 INTERPRETATION AND BACKGROUND**

**1.1 Background**

Hôtel-Dieu Grace Healthcare is a health care community which participates in the healing ministry of Jesus Christ, respecting the sanctity of life, dedicated to the service of the sick and the promotion of health. Hôtel-Dieu Grace Healthcare was founded by the Religious Hospitallers of St. Joseph in 1888, entered into an Alliance Agreement with the Salvation Army on December 1, 1993 to share services with the Salvation Army Grace Hospital, and since 2006, is sponsored by Catholic Health International. The Hospital is recognized as a Roman Catholic Hospital, by the Roman Catholic Diocese of London, Ontario.

**1.2 Definitions**

In this By-Law, the following words and phrases shall have the following meanings, respectively:

- (a) “**Associates**” in relation to an individual means children living in the individual’s household, or the individual’s parents, siblings, spouse, or common law partner, and includes any organization, agency, company or individual (such as a business partner) with a formal relationship to the individual;
- (b) “**Board**” means the board of directors of the Corporation;
- (c) “**By-Law**” means any by-law of the Corporation from time to time in effect, including this by-law;
- (d) “**Catholic Health Partners, Inc.**” or “**CHPI**” means the corporation created by Letters Patent dated April 11, 2001 pursuant to the provisions of the [Canada Corporations Act](#) (Canada) and a Public Juridic Person of Pontifical Right recognized as such by the Roman Catholic Church and with membership currently comprised of: the General Superior, or designate; four (4) Religious Institutes (Congregations), namely the Religious Hospitallers of St. Joseph, The Sisters of Charity of the Immaculate Conception of Saint John, Les Religieuses de Notre-Dame du Sacre-Coeur, La Congregation des Filles de Jesus; and the Chairperson, or designate of the New Brunswick Catholic Health Association and which operates as Catholic Health International;

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<sup>1</sup> See [Public Hospitals Act](#) (Ontario) section 12(1) and [Regulation 965](#) section 4, requiring passage of certain by-laws.

- (e) “**CEO**” means, in addition to ‘administrator’ as defined in section 1 of the [Public Hospitals Act](#) (Ontario), the President and chief executive officer of the Corporation;
- (f) “**Chair**” means the Director elected by the Board to serve as Chair of the Board;
- (g) “**Chair of the Medical Advisory Committee**” means the Physician who is a member of the Active Staff and who chairs the Medical Advisory Committee; has chief of staff function and is appointed by and accountable to the Board for the professional standards and quality of care rendered by the Professional Staff;
- (h) “**CHI**” means Catholic Health International, an operating name of CHPI;
- (i) “**Chief Nursing Officer**” means the senior employee appointed by the process established by the CEO and responsible to the CEO for the nursing functions and practices in the Hospital;
- (j) “**CHI Director**” means the president and chief executive officer of CHI, or a person on the board of CHI designated by CHI;
- (k) “**Code of Conduct**” means the Corporation’s code of conduct;
- (l) “**College**” means the relevant regulatory body, as the case may be, including the College of Physicians and Surgeons of Ontario, the Royal College of Dental Surgeons of Ontario, or the College of Nurses of Ontario;
- (m) “**Conflict of Interest**” includes, without limitation, the following areas that may give rise to a conflict of interest for any Director or Professional Staff member, namely:
  - (i) **Pecuniary or financial interest** – a Director or Professional Staff member is said to have a pecuniary or financial interest in a decision when the Director or Professional Staff member or his/her Associates stands to gain by that decision, either in the form of money, benefit, gifts, favours, gratuities or other special considerations;
  - (ii) **Benefit** – A Director or Professional Staff member is said to have received a benefit when the Director or Professional Staff member or his/her Associates receives any benefit, directly or indirectly, from:
    - A. a supplier to whom the Director or Professional Staff member refers Corporation patients or their patients specimens; or
    - B. a supplier who sells or otherwise supplies any medical goods or services to the Corporation’s patients;
  - (iii) **Undue influence/divided loyalties** – a Director’s participation or influence in Board decisions that selectively and disproportionately benefits particular Departments, and/or services, agencies, companies, organizations, municipal

or professional groups or patients from a particular demographic, geographic, political, socio-economic or cultural group is a violation of the Director's entrusted responsibility to the Corporation's stakeholders at large;

- (iv) **Adverse interest** – a Director or Professional Staff member is said to have an adverse interest to the Corporation or Medical Advisory Committee or its committees when the Director or Professional Staff member is a party to a claim or who represents a party in any capacity, application or proceeding against the Corporation; or
- (v) **Personal relationship** – a Director or Professional Staff member has or may be perceived to have personal interests that are inconsistent with those of the Corporation, creating conflicting loyalties;
- (n) **“Corporate Members”** means the members of the Corporation who are admitted to membership as set out in section 2.1 of this By-Law;<sup>2</sup>
- (o) **“Corporation”** means Hôtel-Dieu Grace Healthcare;<sup>3</sup>
- (p) **“Designated Amount”** means the greater of two million two hundred thousand dollars (\$2,200,000) and an amount equal to two percent (2%) of the gross revenue of the Corporation, as reflected on its most recent audited financial statements, unless otherwise determined by CHI, such determination to be made with no less than sixty (60) days prior written notice to the Corporation;
- (q) **“Director”** means a person who is on the Board;<sup>4</sup>
- (r) **“Disruptive Behaviour/Unprofessional Behaviour”** occurs when the use of inappropriate words, or actions and inactions by a Professional Staff member or Director, interferes with his or her ability to collaborate, or may interfere with, the delivery of quality health care or the safety or perceived safety of others, including patient or workplace safety and /or staff recruitment, retention and the cost of providing health care to patients;
- (s) **“Excluded Person”** means:
  - (i) any person providing supplies or services or their affiliates and any Director, owner, operator, major shareholder, or executive leadership (as well as their formal Associates including parents, siblings, children, spouses and common-law partners) of such person(s) if such person(s):

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<sup>2</sup> Members of the Corporation are parallel to shareholders of a share capital corporation. As a non-share capital corporation, the Corporation has members and not shareholders. Members of the Corporation are in contrast to members of the Board.

<sup>3</sup> The Corporation is an Ontario, non-share capital corporation, incorporated pursuant to the [Corporations Act](#) (Ontario) and having Ontario corporation number 47042. The Corporation has charitable objects and as such is a charitable corporation. It also has registered charity status under the [Income Tax Act](#) (Canada), having charitable registration number 107493439 RR0001.

<sup>4</sup> Directors are the individuals who are typically elected by the Members to the Board but can also be appointed by virtue of their office. This latter type of appointment is referred to as an ex officio appointment. Directors, board members and members of the board are synonymous terms and are in contrast to members of the Corporation.

- A. is under contract with the Corporation;
  - B. has responded to a request for proposals issued by the Corporation in the previous fiscal year; or
  - C. intends to submit a proposal during the term of office of the Director;
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- (ii) any member of the Professional Staff other than the members of the Medical Staff who are ex officio Directors;
  - (iii) any employee other than the CEO and Chief Nursing Officer;
  - (iv) any spouse, common law partner, dependent child, parent, brother or sister of an employee, or member of the Professional Staff;
  - (v) any person who lives in the same household as a member of the Professional Staff or an employee of the Corporation;
  - (vi) any person who is not an individual;
  - (vii) any person who is under eighteen (18) years old;
  - (viii) any person who has been found under the [\*Substitute Decisions Act, 1992\*](#) (Ontario) or under the [\*Mental Health Act\*](#) (Ontario) to be incapable of managing property;
  - (ix) any person who has been found to be incapable by any court in Canada or elsewhere;
  - (x) any person who has the status of bankrupt; and
  - (xi) any person who has been convicted of an indictable offence for which a pardon has not been granted;
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- (t) “**ex officio**” means “by virtue of the office” and includes all rights, responsibilities, and power to vote unless otherwise specified in the By-Law, Letters Patent or Legislation;
  - (u) “**Head Office**” means the place provided for in section 1.1(w);
  - (v) “**Health Ethics Guide**” means the health ethics guide, published by the Catholic Health Alliance of Canada approved by the Permanent Council of the Canada Conference of Catholic Bishops, as may be amended from time to time;
  - (w) “**Hospital**” means the Corporation and/or depending on the context, the hospital facilities located at 1453 Prince Road, Windsor, Ontario and any other hospital facilities operated by the Corporation<sup>5</sup>;

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<sup>5</sup> The Corporation’s facilities at 1453 Prince Road, Windsor, Ontario referred to as the Tayfour Campus Site, have been approved as a public hospital under the [\*Public Hospitals Act\*](#) (Ontario) and classified as a, “Group B”

- (x) “**HSAA**” means the Hospital Service Accountability Agreement entered into between the Corporation and the LHIN;
- (y) “**in camera**” means a meeting that is held in private and is not open to the public;
- (z) “**Legislation**” means relevant statutes and regulations that govern the provision of health care to patients of the Corporation, including without limitation: the [Broader Public Sector Accountability Act, 2010](#) (Ontario), the [Child and Family Services Act](#) (Ontario), the [Corporations Act](#) (Ontario),<sup>6</sup> the [Dentistry Act, 1991](#) (Ontario), the [Excellent Care for All Act, 2010](#) (Ontario), the [Freedom of Information and Protection of Privacy Act](#) (Ontario), the [Health Care Consent Act, 1996](#) (Ontario), the [Health Insurance Act](#) (Ontario), the [Local Health System Integration Act, 2006](#) (Ontario), the [Medicine Act, 1991](#) (Ontario), the [Mental Health Act](#) (Ontario), the [Nursing Act, 1991](#) (Ontario), the [Public Hospitals Act](#) (Ontario), the [Personal Health Information Protection Act, 2004](#) (Ontario), the [Quality of Care Information Protection Act, 2004](#) (Ontario), the [Occupational Health and Safety Act](#) (Ontario), the [Workplace Safety and Insurance Act, 1997](#) (Ontario), the [Regulated Health Professions Act, 1991](#) (Ontario), the [Substitute Decisions Act, 1992](#) (Ontario), and the [Commitment to the Future of Medicare Act, 2004](#) (Ontario) and/or any other applicable law;
- (aa) “**Letters Patent**” means the letters patent of the Corporation and any document or instrument that modifies the letters patent, including letters patent of continuation and supplementary letters patent;<sup>7</sup>
- (bb) “**LHIN**” means a, “Local Health Integration Network” under the [Local Health System Integration Act, 2006](#) (Ontario);<sup>8</sup>
- (cc) “**Medical Advisory Committee**” means the medical advisory committee of the Hospital, appointed by the Board and constituted in accordance with the [Public Hospitals Act](#) (Ontario)<sup>9</sup>;
- (dd) “**Medical Staff**” means those Physicians who are appointed by the Board and who are granted privileges to practice medicine at the Hospital;

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Hospital pursuant to [Public Hospitals Act](#) (Ontario) [Regulation 964](#). There are classifications A-V. Group B hospitals are general hospitals having not fewer than 100 beds.

<sup>6</sup> Note: the [Not-for-Profit Corporations Act, 2010](#) (Ontario) will replace Part III of the [Corporations Act](#) (Ontario) if and when it comes into force. As of the date of this By-law the [Not-for-Profit Corporations Act, 2010](#) (Ontario) is not anticipated to come into force until 2020 at the earliest.

<sup>7</sup> The Letters Patent is the charter or constitution for the Corporation – the document that brought the Corporation into existence. The Corporation was incorporated April 12, 1917. Letters Patent of Continuation were issued June 15, 2012, which among other things, changed the name of the Corporation from, “The Religious Hospitallers of Hotel Dieu of St. Joseph of the Diocese of London” to, “Hôtel-Dieu Grace Hospital, Windsor”. Supplementary Letters Patent were issued October 15, 2013, changing the name of the Corporation from, “Hôtel-Dieu Grace Hospital, Windsor” to, “Hôtel-Dieu Grace Healthcare”.

<sup>8</sup> There are fourteen local health integration networks across Ontario. They are statutory corporations created by the [Local Health System Integration Act, 2006](#) (Ontario) and are responsible for planning, integrating, funding and performance management of local health care, including hospitals. The Hospital is within the Erie St. Clair LHIN and is accountable to the Erie St. Clair LHIN through annual service accountability agreements.

<sup>9</sup> See [Public Hospitals Act](#) (Ontario) section 35 and [Regulation 965](#) section 7.

- (ee) **“Mission, Philosophy and Values”** means the mission, philosophy and values of the Corporation as more particularly set out in sections 1.4 and 1.5 of this By-Law;
- (ff) **“MOHLTC”** means the Minister or Ministry of Health and Long-Term Care;
- (gg) **“Officer”** means an officer of the Corporation such as for examples, Chair, Vice-Chair, Secretary and Treasurer.<sup>10</sup>
- (hh) **“patient”** means, unless otherwise specified, any in-patient or out-patient of the Hospital;
- (ii) **“Patient Safety Indicators”** means the patient safety indicators that relate to any or all of the following: diagnosis of Hospital acquired infections and activities undertaken to reduce Hospital acquired infections or mortality, identified by the MOHLTC as part of their patient safety agenda that hospitals are required to disclose publicly through their public web sites or such other means as the MOHLTC may direct;
- (jj) **“Performance Metrics”** means the Board approved organization performance metrics for the Corporation that provide an overview of its organizational performance in achieving financial, quality, safety, and human resource targets and the integration of the Mission, Philosophy and Values into the operations of the Corporation;
- (kk) **“person”** means and includes any individual, corporation, partnership, firm, joint-venture, syndicate, association, trust, government, government agency or board or commission or authority or any other form of entity or organization;
- (ll) **“Physician”** means a medical practitioner in good standing with the College of Physicians and Surgeons of Ontario;
- (mm) **“Policy”** means the administrative, medical and professional policies of the Corporation;
- (nn) **“Practitioner”** means a Physician, Dentist, or Extended Class Nurse appropriately licensed by their College;
- (oo) **“Privileges”** means the clinical services and involvement in education and research which the Board has granted to a member of the Medical, Dental and Extended Class Nursing Staff;
- (pp) **“Professional Staff”** includes the respective members of the Medical, Dental and Extended Class Nursing Staff to whom the Board has granted privileges to diagnose, prescribe for or treat patients in the Hospital;
- (qq) **“Religious Hospitallers of St. Joseph”** means the Religious Institute (Congregation) of the Religious Hospitallers of St. Joseph as recognized by the Roman Catholic Church;

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<sup>10</sup> Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors and in the case of the President, this is mandated by [Corporations Act](#) (Ontario) section 289(1).

- (rr) **“Secretary”** means the secretary of the Board;
- (ss) **“Stable Patrimony”** means all property including the real or personal, movable or immovable, tangible or intangible property of the Corporation, that, either of its nature or by explicit designation is destined to remain in the possession of its owner for a long or indefinite period of time to afford financial security for the future.
- (tt) **“Subsidiary”** has the meaning given in the [\*Not-for-Profit Corporations Act, 2010\*](#) (Ontario).
- (uu) **“Total Debtload”** means the amount of debt the Corporation is carrying on its books;
- (vv) **“Vice-President, Medical Affairs”** means the Physician employed by the Hospital who reports to the CEO.

### 1.3 Interpretation

This By-Law shall be interpreted in accordance with the following unless the context otherwise specifies or requires:

- (a) all terms which are contained in this By-Law and which are defined in the [\*Corporations Act\*](#) (Ontario) or the [\*Public Hospitals Act\*](#) (Ontario) or the regulations made thereunder shall have the meanings given to terms in such legislation or the regulations made thereunder;
- (b) the use of the singular number shall include the plural and vice versa;
- (c) the use of gender shall include the masculine, feminine and neuter genders;
- (d) any references herein to any laws, by-laws, rules, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto;
- (e) The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law; and
- (f) The footnotes in this By-law are inserted for non-binding explanatory purposes only. They are not to be considered or taken into account for the purposes of construing or interpreting the provisions of this By-law nor shall they be used in any way to clarify, modify or explain the effect of any such provisions.

### 1.4 Mission, Philosophy and Values

The Mission, Philosophy and Values of the Corporation are based on the following beliefs:

- (a) We believe that all persons are created by God and have God-given rights from the moment of conception throughout their life span until death;
- (b) We believe in the values and principles inherent in the Medical-Moral teaching of the Church;

- (c) We believe that in our society the Hospital must fulfill its social, legislated and community obligations, always insisting as a matter of conscience on its place in this pluralistic society to uphold its clearly expressed moral position and corporate rights;
- (d) We believe, in accordance with the principles of Christian justice, that all persons associated with the Hospital should receive recognition of their personal dignity, opportunity for personal development, and where applicable, just monetary compensation;
- (e) We believe that all the resources of the Hospital must be utilized professionally and prudently and according to sound management principles;
- (f) We believe that the personnel of the Hospital should be a community of caring persons who witness God's love to those whom they serve; and
- (g) We believe in and value Christian Stewardship which fosters responsible, ethical management of personnel, material and spiritual resources.

## **1.5 Mission Statement**

The mission statement of the Corporation shall be as follows: Hôtel-Dieu Grace Healthcare serves the healthcare needs of our community, including those who are vulnerable and/or marginalized in any way; be it physically, socially or mentally. As a Catholic sponsored healthcare organization we provide patient-centred care treating the body, mind and spirit. We do this by providing holistic, compassionate and innovative care to those we serve.

## **ARTICLE 2 CORPORATE MEMBERS**

### **2.1 Corporate Members**

The Corporate Members shall be:<sup>11</sup>

- (a) Those individuals who are from time to time directors on the board of directors of CHI; and
- (b) Up to two (2) additional persons admitted as Corporate Members by resolution of the Corporate Members described above in section 2.1(a) of this By-law for a term of one to three years which may be extended at the discretion of the Members. Preference will be given to individuals residing in the catchment area served by the Hospital or who have been associated with the Hospital and have extensive knowledge and understanding of the Hospital.
- (c) If a person ceases to be a director of CHI, his or her Corporate Membership shall terminate. The secretary of CHI shall notify the Corporation's Secretary of any change in its directors.

### **2.2 Required Resignation**

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<sup>11</sup> Generally, the [Corporations Act](#) (Ontario) requires Directors to be Members. However, section 285(3) makes an exception for corporations that operate public hospitals.

Any Member may be required to resign by a vote of three-quarters (3/4) of the Members at an annual meeting or at a special meeting called for that purpose. Any Member required to resign at an annual meeting or at a special meeting call for that purpose shall be given no fewer than fifteen (15) days' notice of the purpose of the meeting and the reasons for the termination. Further, the Member is entitled to be hear orally or in writing at that meeting and no fewer than five (5) days before the termination becomes effective.

### **ARTICLE 3 RESPONSIBILITIES, RIGHTS, AND AUTHORITY OF THE CORPORATE MEMBERS**

#### **3.1 Authority and Responsibility of the Board**

The Corporate Members recognize that the Board has the authority and responsibility to govern and manage the operations of the Corporation in accordance with this By-law, the Letters Patent, and Legislation, save and except for the powers expressed and reserved in section 3.2.

#### **3.2 Reserved Powers of the Corporate Members**

The following matters shall each require either the enactment of a by-law or the passage of a resolution of the Board which, to become effective, shall require the approval by a majority resolution of the Corporate Members:

- (a) change to the Mission, Philosophy and Values;
- (b) removal of Directors pursuant to section 8.4(a)(iii) of this By-law;
- (c) the following transactional matters:
  - (i) real property transactions:<sup>12</sup> purchasing, leasing or otherwise acquiring, alienating, selling, exchanging or otherwise disposing of real property of the Corporation or any right or interest therein having a value in excess of the Designated Amount, provided, however, that for certainty only leases of real property in respect of which any aggregate annual lease payment during the term of such lease (not the underlying property value) exceeds the Designated Amount shall be subject to the approval required by this section 3.2;
  - (ii) borrowing transactions: entering into any borrowing agreements, leases, bonds, debentures, lines of credit or any other debt obligation which results in an aggregate annual debt servicing cost during the term of such agreement exceeding the Designated Amount;
  - (iii) transactions exceeding total debtload: The Corporation shall advise CHI in writing if at any time the Total Debtload exceeds the Designated Amount. During such time that the Total Debtload exceeds the Designated Amount, all

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<sup>12</sup> Note: [Public Hospitals Act](#) (Ontario) section 4(4) also requires Minister approval for the sale, lease, mortgage or other disposal of any land, building or other premises or place or any part thereof acquired or used for the purposes of a hospital.

borrowing transactions described in section 3.2(c)(ii) of this By-law shall be subject to the approval required by section 3.2, whether or not exceeding the Designated Amount;

- (iv) transactions involving Stable Patrimony: alienating, selling, exchanging or otherwise disposing of Stable Patrimony or any right or interest therein;
- (d) electing or appointing or terminating Directors;
- (e) appointing an auditor;
- (f) electing, appointing or dismissing the CEO, Chair, or any interim CEO or Chair;
- (g) except as permitted in any guideline issued by CHI, any proposed integration or merger between the Corporation and any other entity; and
- (h) establishing a subsidiary.

#### **ARTICLE 4 GENERAL MEETINGS**

##### **4.1 Annual and Other Meetings of the Corporate Members**

The annual or any general meeting of the Corporate Members may be called by the Board,<sup>13</sup> chair of CHI, by any two (2) Corporate Members,<sup>14</sup> or by the Chair or the CEO. Any such meeting shall be held at the Head Office or such other place in Ontario and on such day as the notice of meeting specifies provided that the annual meeting must be held between the 1st day of April and the 31st day of July in each year.<sup>15</sup>

##### **4.2 Reports, Statements, and Business to be received at Annual Meetings**

At every annual meeting of the Corporate Members, in addition to any other business that may be transacted, the following shall be presented to the Corporate Members:

- (a) reports of the Chair and the CEO of the Corporation;
- (b) financial statements of the Corporation;<sup>16</sup> and
- (c) report of the Corporation's auditor.<sup>17</sup>
- (d) In addition, the following shall occur:
- (e) Directors shall be elected;<sup>18</sup>
- (f) each Officer as proposed by the Board shall be accepted or rejected;

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<sup>13</sup> See [Corporations Act](#) (Ontario) section 294.

<sup>14</sup> Also see [Corporations Act](#) (Ontario) section 295 which addresses the ability of the Members to requisition a meeting.

<sup>15</sup> See [Corporations Act](#) (Ontario) section 293 relating to timing of annual general meetings.

<sup>16</sup> See [Corporations Act](#) (Ontario) section 97 made operative by section 133(1).

<sup>17</sup> See [Corporations Act](#) (Ontario) section 96 and section 97(3) made operative by section 133(1).

<sup>18</sup> See [Corporations Act](#) (Ontario) section 287.

- (g) the Corporation's auditor shall be appointed;<sup>19</sup> and
- (h) the remuneration for the auditor shall be fixed or alternatively, the Board shall be authorized to fix the remuneration.<sup>20</sup>

## **ARTICLE 5 NOTICE OF GENERAL MEETINGS AND WAIVER OF NOTICE**

### **5.1 Notice**

- (a) Notice of all meetings of the Corporate Members shall be given to each Corporate Member<sup>21</sup> and to each Director and to the Corporation's auditor.<sup>22</sup>
- (b) Any person entitled to such notice may waive such notice in writing either before, at, or after the meeting to which the notice relates. Any person attending and participating in any meeting shall be deemed to have waived notice thereof if notice shall not have been provided to such person, except where such person attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or held.
- (c) For the purpose of section 5.1(a) above, notice shall be given to each person entitled to notice, at least ten (10) days<sup>23</sup> but not more than fifty (50) days before the day on which the meeting is to be held.
- (d) Notice of a general meeting shall state the date, time and place, as well as the general nature of the matters to be considered in sufficient detail to allow a Corporate Member to make an informed decision of whether or not to attend.<sup>24</sup>

### **5.2 Resolution in Lieu of a Meeting**

A resolution in writing signed by all the Corporate Members entitled to vote on that resolution at a meeting of Corporate Members is as valid as if it had been passed at a meeting of Corporate Members.<sup>25</sup>

### **5.3 Error or Omission in Notice**

No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the Corporate Members shall invalidate such meeting or make void any proceedings taken thereat and any Corporate Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken thereat.

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<sup>19</sup> See [Corporations Act](#) (Ontario) section 94 made operative by section 133(1).

<sup>20</sup> See [Corporations Act](#) (Ontario) section 94(6) made operative by section 133(1).

<sup>21</sup> See [Corporations Act](#) (Ontario) section 93(1)(a) made operative by section 133(1).

<sup>22</sup> See [Corporations Act](#) (Ontario) section 96(6) made operative by section 133(1).

<sup>23</sup> See [Corporations Act](#) (Ontario) section 93 made operative by section 133(1).

<sup>24</sup> Content requirements are dictated by common law. For further detail, see, [How to Conduct Board and Members' Meetings of Non-Share Capital Corporations](#).

<sup>25</sup> See [Corporations Act](#) (Ontario) section 298(2).

## 5.4 Adjournment

Any meeting of the Corporate Members may be adjourned to any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment. Such adjournment may be made notwithstanding that no quorum is present.

## 5.5 Chair

The President of CHI shall, if present, be chair of all meetings of Corporate Members. In the absence of the President of CHI, a Corporate Member elected by the Corporate Members present shall act as chair.

## 5.6 Telephone Participation

If all Members present or participating in a meeting consent, a meeting of Members may be held by means of such telephone, electronic or other communication facilities as permit all person participating in the meeting to hear each other simultaneously and instantaneously. Providing that all Members have so consented, a Member participating in such meeting by such means is deemed to be present at that meeting.

## **ARTICLE 6 VOTING AT GENERAL MEETINGS**

### 6.1 Voting of Corporate Members

Each Corporate Member shall have one (1) vote on each motion arising at any annual or general meeting of the Corporate Members. Votes shall be cast by the Corporate Members in person and not by proxy.<sup>26</sup>

### 6.2 Show of Hands

- (a) At all meetings of Corporate Members every question shall be decided by majority resolution of the Corporate Members present, unless otherwise required by law or this By- law.
- (b) Every question shall be decided in the first instance by a show of hands, unless a poll is demanded by any Corporate Member.
- (c) Upon a show of hands, every Corporate Member shall have one (1) vote, and unless a poll is demanded, a declaration by the Chair of the meeting that a resolution has been carried or not carried, and an entry to that effect in the minutes of the Corporation, shall be admissible in evidence as prima facie proof of the fact, without proof of the number or proportion of the votes accorded in favour of or against such resolution.<sup>27</sup>
- (d) A poll may be demanded either before or after any vote by a show of hands by any

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<sup>26</sup> See [Public Hospitals Act](#) (Ontario) section 16 which prohibits members from voting by proxy

<sup>27</sup> See [Corporations Act](#) (Ontario) section 93(1)(f) made operative by section 133(1).

Corporate Member at a meeting.<sup>28</sup> The demand for a poll may be withdrawn, but if a poll is demanded and not withdrawn the question shall be decided by recorded vote, and such poll shall be taken in such manner as the chair of the meeting shall direct, and the result of such poll shall be deemed the decision of the Corporate Members upon the matter in question.

- (e) A motion to elect Directors by acclamation shall require a mover and seconder and one (1) vote cast by the chair of the meeting.

## 6.2 Casting Vote

In case of an equality of votes at any meeting of the Corporate Members, whether upon a show of hands or at a poll, the chair of the meeting shall have a second or deciding vote.<sup>29</sup>

## **ARTICLE 7 QUORUM AT GENERAL MEETINGS**

### 7.1 Quorum of Members

A quorum for the transaction of business at any meeting of Corporate Members shall consist of fifty percent (50%) plus one (1) of the Corporate Members entitled to vote at the meeting.<sup>30</sup>

## **ARTICLE 8 BOARD OF DIRECTORS OF THE CORPORATION**

### 8.1 Composition of the Board<sup>31</sup>

#### (a) Elected

At each annual meeting, there shall be such number<sup>32</sup> of Directors elected by the Corporate Members as from time to time fixed by special resolution.<sup>33</sup> The first term of elected Directors shall be one (1) year, the second a two (2) year term and two subsequent three (3) year terms there after, or until their successors are elected,<sup>34</sup> provided that at least four (4) Directors retire in each year.<sup>35</sup> The Board shall ensure that it recommends at least four (4) nominee directors in each year to the Corporate Members.

#### (b) Ex Officio Voting

The person holding the following positions from time to time shall be ex officio

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<sup>28</sup> See [Corporations Act](#) (Ontario) section 93(3) made operative by section 133(1).

<sup>29</sup> See [Corporations Act](#) (Ontario) section 93(1)(c) made operative by section 133(1), which provides the chair presiding with a second and casting vote in the absence of provision otherwise.

<sup>30</sup> Note: there is no statutory requirement for quorum for Members' meetings. In the absence of any quorum, provision in the letters patent or by-laws at common law, quorum is a majority.

<sup>31</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(1)(a) detailing minimum required by-law provisions.

<sup>32</sup> [Corporations Act](#) (Ontario) section 283(2) requires a fixed number of directors not fewer than three.

<sup>33</sup> See [Corporations Act](#) (Ontario) section 1 for the definition of "special resolution".

<sup>34</sup> See [Corporations Act](#) (Ontario) section 287(4).

<sup>35</sup> [Public Hospitals Act](#) (Ontario) section 10(4) permits rotation of directors providing that at least four directors retire each year and no director is elected for a term of more than 5 years. This provision prevails over [Corporations Act](#) (Ontario) section 287(5).

voting Directors:

- (i) CHI Director
  
- (ii) Patient Family Advisory Council Representatives (2)

(c) **Ex Officio Non-Voting**

The persons holding the following offices from time to time, shall be ex officio be non-voting Directors<sup>36</sup>:

- (i) the CEO;
  
- (ii) the Chief Nursing Officer;
  
- (iii) the Vice-President, Medical Affairs;
  
- (iv) the Chair of the Medical Advisory Committee; and
  
- (v) the President of the Professional Staff Association.

## 8.2 Qualifications of Directors

- (a) No person shall be qualified for election or appointment as a Director if that person is less than eighteen (18) years of age,<sup>37</sup> has the status of a bankrupt<sup>38</sup> or does not have their principal residence in Canada. No person shall be qualified for election or appointment as a Director if that person has been found under the [Substitute Decisions Act, 1992](#) (Ontario) or under the [Mental Health Act](#) (Ontario) to be incapable of managing property,<sup>39</sup> or if that person has been found to be incapable by any court in Canada or elsewhere,<sup>40</sup> or determined to be an ineligible individual as defined in the [Income Tax Act](#) (Canada).<sup>41</sup>

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<sup>36</sup> [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 2(2) prohibits all of the listed offices from being voting Directors.

<sup>37</sup> See [Corporations Act](#) (Ontario) section 286(4). Note [Not-for-Profit Corporations Act, 2010](#) (Ontario) section 23(1)2 provides for the same requirement. As of the date of this By-law the [Not-for-Profit Corporations Act, 2010](#) (Ontario) is not anticipated to come into force until 2020 at the earliest.

<sup>38</sup> See [Corporations Act](#) (Ontario) section 286(5). Note [Not-for-Profit Corporations Act, 2010](#) (Ontario) section 23(1)5 As of the date of this By-law the [Not-for-Profit Corporations Act, 2010](#) (Ontario) is not anticipated to come into force until 2020 at the earliest.

<sup>39</sup> This qualification is as per [Not-for-Profit Corporations Act, 2010](#) (Ontario) section 23(1)3. As of the date of this By-law the [Not-for-Profit Corporations Act, 2010](#) (Ontario) is not anticipated to come into force until 2020 at the earliest.

<sup>40</sup> This qualification is as per [Not-for-Profit Corporations Act, 2010](#) (Ontario) section 23(1)4. As of the date of this By-law the [Not-for-Profit Corporations Act, 2010](#) (Ontario) is not anticipated to come into force until 2020 at the earliest.

<sup>41</sup> Relevant excerpts from the [Income Tax Act](#) (Canada) section 149.1(1) are as follows:

“ineligible individual”, at any time, means an individual who has been

- (a) convicted of a relevant criminal offence unless it is a conviction for which
  - (i) a pardon has been granted and the pardon has not been revoked or ceased to have effect, or
  - (ii) a record suspension has been ordered under the [Criminal Records Act](#) and the record suspension has not been revoked or ceased to have effect,
- (b) convicted of a relevant offence in the five-year period preceding that time,
- (c) a director, trustee, officer or like official of a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for

- (b) Except as provided for within this By-law, or as may be approved by the Corporate Members on recommendation of the Board, no member or spouse of a member of the Professional Staff, and no employee or spouse of an employee of the Corporation shall be eligible for election or appointment to the Board.<sup>42</sup>
- (c) Directors shall be elected on the basis of their skills, interest, personal integrity and their ability to identify with and formally commit themselves to respect and further the Mission, Philosophy and Values of the Corporation. The Board will maintain a competencies matrix<sup>43</sup> to guide recruitment of Directors.
- (d) The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from their positions as such, provided that Directors may be paid reasonable expenses incurred by them in the performance of their duties.<sup>44</sup>
- (e) Excluded Persons are disqualified from being Directors, except as may be permitted in accordance with section 8.2(b) of this By-law.

### 8.3 Term of Office Restrictions

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which the registration of the charity or association was revoked in the five-year period preceding that time,

- (d) an individual who controlled or managed, directly or indirectly, in any manner whatever, a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which its registration was revoked in the five-year period preceding that time, or
  - (e) a promoter in respect of a tax shelter that involved a registered charity or a registered Canadian amateur athletic association, the registration of which was revoked in the five-year period preceding that time for reasons that included or were related to participation in the tax shelter;
- “relevant criminal offence” means a criminal offence under the laws of Canada, and an offence that would be a criminal offence if it were committed in Canada, that
- (a) relates to financial dishonesty, including tax evasion, theft and fraud, or
  - (b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association;

“relevant offence” means an offence, other than a relevant criminal offence, under the laws of Canada or a province, and an offence that would be such an offence if it took place in Canada, that

- (a) relates to financial dishonesty, including an offence under charitable fundraising legislation, consumer protection legislation and securities legislation, or
- (b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association;

<sup>42</sup> This section emphasizes certain of the qualifications included in the definition of Excluded Person as set out in section 1.1(s) of this By-law.

<sup>43</sup> Best practices suggest building a competencies matrix using a three-step process: determine the implications of the organization’s strategic objectives on the board’s required competencies; review and inventory current board competencies (background, skills and experience of each Director); and compare current board competencies to the competencies required pursuant to the strategic plan. The end product is a clearly defined competencies matrix.

<sup>44</sup> This tracks language included in the Letters Patent. Note: generally, directors of charities in Ontario are not permitted to personally benefit from the charity. This extends to being paid as an employee or in any other capacity or having an interest in a contract. In the case of public hospitals, specifically in 2008, the Office of the Public Guardian and Trustee and the Ministry of Health and Long-Term Care issued a joint statement authorizing such remuneration in the case of the chief executive officer, subject to certain conditions.

- (a) Subject to sections 8.3(e) and (f) below, no person may serve as an elected Director for more terms than will constitute nine (9) consecutive or cumulative years of service.
- (b) Subject to section 8.3(e) below, no Director may serve a term for longer than two (2) consecutive years in each role as Chair, Vice-Chair, Treasurer or Secretary.
- (c) The restriction for the term of office in section 8.3(a) above may be extended once only for any one Director for a maximum of one (1) additional year by majority resolution of the Board followed by majority resolution of the Corporate Members.
- (d) The restriction for the term of office in section 8.3(b) above may be extended once only for any one (1) Director for a maximum of one (1) additional year by majority resolution of the Board, followed by majority resolution of the Corporate Members.
- (e) The restriction for the term of office in section 8.3(b) above does not apply to the office of the Secretary when such position is held by the CEO or other employee of the Corporation.
- (f) Where a Director was appointed to fill an unexpired term of a Director such partial term shall be excluded from the calculation of the maximum years of service.

#### **8.4 Vacancy and Termination of Office**

- (a) The office of a Director shall be vacated:
  - (i) in the case of elected Directors, if removed by the Corporate Members by majority resolution at a general meeting of which notice specifying the intention to pass such resolution has been given;<sup>45</sup>
  - (ii) if the Director at any time fails to meet the qualifications set out in section 8.2;
  - (iii) where the Board, in its discretion, declares an elected Director's seat vacant because:
    - A. the Director is absent, without valid explanation, for three (3) consecutive meetings of the Board, or because the Director is absent for one-third (1/3) or more of the meetings of the Board in any twelve (12) month period; or
    - B. the Director knowingly fails to comply with the Legislation, the Letters Patent, the By-Law, or Policies, including without limitation, the Code of Conduct; or
  - (iv) if the Director, by notice in writing to the Corporation, resigns office, which resignation shall be effective at the time it is received by the Secretary of the Board or at the time specified in the notice, whichever is later.
  - (v) if the Director dies.

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<sup>45</sup> See [Corporations Act](#) (Ontario) section 127.2(1).

- (b) In the event the Board removes a Director pursuant to the powers set out in section (iii) above 8.4(a), the Board shall immediately provide written notice to the Corporate Members.
- (c) Director's vacancies shall be filled as follows:
  - (i) In the event a vacancy is created by the removal of a Director in accordance with section 8.4(a)(i) above, then the Corporate Members may (but are not required) by majority resolution elect another individual in her or his stead for the remainder of her or his term.<sup>46</sup>
  - (ii) Otherwise, so long as a quorum of Directors remains in office, such vacancy may (but is not required) be filled by a qualified person elected by the Board, following consideration of the Governance Committee's recommendation, to serve until the next annual meeting, provided such Director's nomination was approved by the Corporate Members.<sup>47</sup> If a quorum of Directors does not remain, the remaining Directors shall forthwith call a meeting of the Corporate Members to fill the vacancy.<sup>48</sup>
  - (iii) If a vacancy is not otherwise filled as per the above, it shall be filled at the next annual meeting whereat, in addition to the election of Directors to fill the vacancies caused by expiry of Directors' terms, the meeting shall elect such additional Directors to fill the unexpired terms created by any vacancies referred to in section 8.4(a) above.

## 8.5 Attendance

Directors and committee members are expected to attend, in person or if all the Directors present at or participating in the meeting consent, by telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously,<sup>49</sup> all Board meetings and all meetings of committees to which they are assigned, but the Board recognizes that Directors may be unable to attend some meetings. Where a Director or committee member fails to attend a minimum of seventy-five percent (75%) of the regularly scheduled meetings, the Chair shall discuss the reasons for the absences with the Director and may ask the individual to resign.

## ARTICLE 9 CONFLICT OF INTEREST

### 9.1 Conflict of Interest

- (a) Any Director who is in any way, directly or indirectly, interested in a contract or proposed contract with the Corporation shall disclose in writing or have entered in the minutes, the nature and extent of the Director's interest in the contract or proposed contract with the Corporation.

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<sup>46</sup> See [Corporations Act](#) (Ontario) section 288(2).

<sup>47</sup> See [Corporations Act](#) (Ontario) section 288(2).

<sup>48</sup> See [Corporations Act](#) (Ontario) section 288(3).

<sup>49</sup> This provision tracks the language of [Corporations Act](#) (Ontario) section 283(3.1). It is possible to prohibit remote participation by including a prohibition in the By-laws. It is recommended that consent be collected by way of a document that Directors be requested to sign upon their election or appointment to the Board.

- (b) The disclosure required by section 9.1(a) shall be made:
  - (i) at the meeting at which a proposed contract is first considered if the Director is present, and otherwise, at the first meeting after the Director becomes aware of the contract or proposed contract;
  - (ii) if the Director was not then interested in a proposed contract, at the first meeting after such Director becomes so interested; or
  - (iii) if the Director becomes interested after a contract is made, at the first meeting held after the Director becomes so interested.
- (c) A Director referred to in section 9.1(a) is not liable to account for any profit made on the contract by the Director or by a corporate entity, business firm or organization in which the Director has a material interest, provided:
  - (i) the Director disclosed the Director's interest in accordance with 9.1(b) or 9.1(e);
  - (ii) the Director has not voted on the contract; and
  - (iii) the interest has been approved by way of a court order.<sup>50</sup>
- (d) A Director referred to in section 9.1(a) shall not vote on any resolution to approve the contract and shall not take part in the discussion or consideration of, or in any way attempt to influence the voting on, any question with respect thereto and shall exit the meeting when the applicable issue is under consideration.
- (e) For the purposes of this section 9.1, a general notice to the Directors by a Director declaring that the person is a director or officer of, or has a material interest in a body corporate, business firm or organization and is to be regarded as interested in any contract made therewith, is a sufficient declaration of interest in relation to any contract so made.
- (f) If a Director believes that they or any Director is in a Conflict of Interest position with respect to any contract, transaction, matter or decision, the Director shall have the concern recorded in the minutes.
- (g) Thereafter, at the request of a Director, the Board shall, after the Director alleged to have a Conflict of Interest has absented himself or herself from the room, vote on whether the Director alleged to have a Conflict of Interest is, in the opinion of the Board, in a Conflict of Interest. If the Board so finds the person in a Conflict of Interest, the Director shall absent himself or herself during any subsequent

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<sup>50</sup> Directors of charities in Ontario are not permitted to have an interest in a contract with the Corporation in the absence of a court order. For information on obtaining a court order see: [Procedures for Obtaining an Order under s. 13 of the Charities Accounting Act](#). Note: this does not apply to the Chief Executive Officer's employment contract, subject to certain conditions, as per a joint statement issued by the Office of the Public Guardian and Trustee and the Ministry of Health and Long-Term Care in 2008. Also note that on July 10, 2017 the Ontario Office of the Public Guardian and Trustee made a proposal to change the law. For details in this regard see: [Proposal Number 17-MAG008](#).

discussion or voting process relating to or pertaining to the Conflict of Interest.

- (h) The question of whether or not a Director has a Conflict of Interest shall be determined by a simple majority of the Board, and such determination shall be final.
- (i) If the Board finds that the Director is not in a Conflict of Interest, the Board will then vote on the contract, transaction, matter or decision and the votes of each Director shall be recorded.
- (j) Every declaration of a Conflict of Interest and the general nature thereof shall be recorded in the minutes of the Board.
- (k) The provisions of this Article are in addition to and prevail over to the extent of any conflict, the conflict of interest policies adopted by the Board from time to time.

## **ARTICLE 10 PROTECTION OF DIRECTORS, OFFICERS AND CORPORATE MEMBERS**

### **10.1 Liability**

Any Director or Officer or Corporate Member of the Corporation shall not be liable for any act, receipt, neglect or default of any other Director, Officer, Corporate Member or employee or for any loss, damage or expense happening to the Corporation through any deficiency of title to any property acquired by the Corporation or for any deficiency of any security upon which any moneys of the Corporation shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person including any person with whom any moneys, securities or effects shall be deposited or for any loss, conversion or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune which may happen in the execution of the duties of such Director's or Officer's or Corporate Member's respective office unless such occurrence is as a result of such Director's or Officer's or Corporate Member's own willful neglect or default.

### **10.2 Indemnification**

- (a) Subject to section 10.2(b) below Every present and former Corporate Member, Director, Officer or individual appointed to a committee of the Corporation, including his or her heirs, executors, administrators, estates, effects and other legal personal representatives, respectively, shall from time to time and at all times, be indemnified<sup>51</sup> and saved harmless by the Corporation, from and against:
  - (i) All costs, charges and expenses whatsoever including without limitation any amount paid to settle an action or satisfy a judgement that such Corporate Member, Director, officer or individual appointed to a committee sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against her or him, for or in respect of any act, deed, matter or

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<sup>51</sup> [Corporations Act](#) (Ontario) section 80 made operative by section 133(1) and section 283(5) set out requirements with respect to indemnification. Further [Charities Accounting Act](#) (Ontario) Regulation 4/01 section 2 sets out additional requirements with respect to indemnification and purchase of directors and officers insurance. For further details see: [Liability Insurance and Special Purpose Trust Funds](#).

thing whatsoever made, done or permitted to be done by her or him, in or about the execution in good faith of the duties of her or his office; and

- (ii) All other costs, charges and expenses that she or he sustains or incurs in or about or in relation to the affairs thereof,
  - (iii) except such costs, charges or expenses as are occasioned by his, her or its own willful neglect or default or that relate to her or his failure to act honestly and in good faith in performing her or his duties.<sup>52</sup>
- (b) The indemnity provided for in section 10.2(a) above shall not apply to any liability which a Corporate Member, Director, Officer or individual appointed to a committee of the Corporation may sustain or incur as the result of any act or omission as a member of the Professional Staff and shall be applicable only if the Corporate Member, Director or Officer, in the case of criminal or administrative action or proceeding that is enforceable by a monetary penalty, had reasonable grounds for believing that his or her conduct was lawful.

### **10.3 Advance of Costs**

The Corporation may advance money to a Director, Officer, Corporate Member or other individual for the costs, charges and expenses of a proceeding referred to in section 10.2. The individual shall repay the money if the individual does not fulfil the conditions of section 10.2.

### **10.4 Insurance**

Subject to the requirements of the [Charities Accounting Act](#) (Ontario),<sup>53</sup> the Corporation shall purchase and maintain insurance for the benefit of an individual referred to in this Article 10 against any liability incurred by the individual:

- (a) in the individual's capacity as a Director, Corporate Member, Officer, or committee member of the Corporation; or
- (b) in the individual's capacity as a Director or an Officer, or in a similar capacity, of another entity, if the individual acts or acted in that capacity at the Corporation's request.

## **ARTICLE 11 MEETINGS OF THE BOARD**<sup>54</sup>

### **11.1 Regular Meetings**

- (a) The Board shall meet at the Head Office at such time, day and place within, as the

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<sup>52</sup> [Charities Accounting Act](#) (Ontario) Regulation 4/01 section 2 prohibits indemnification for liability that relates to a failure to act honestly or in good faith in the performance of duties.

<sup>53</sup> [Charities Accounting Act](#) (Ontario) Regulation 4/01 section 2 sets out additional requirements with respect to purchase of directors and officers' insurance. For further detail, see: [Liability Insurance and Special Purpose Trust Funds](#).

<sup>54</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(1)(a).

Board may from time to time determine. The Secretary shall give notice of the meeting to the Directors if the meeting is to be held at another time or day or at a place other than the Head Office. A meeting of the Board may be held, without notice, following the annual meeting of the Corporation.

- (b) There shall be at minimum of six (6) regular meetings per annum.
- (c) The Board shall meet during the month prior to the annual meeting of the Corporation for the purposes of reviewing and preparing for all the business to be transacted at the annual meeting of the Corporation as specified in section 4.2 of the By-Law.

## **11.2 Special Meetings**

- (a) Notice of meetings, other than regular meetings, shall be given to all Directors at least thirty-six (36) hours prior to the meeting
- (b) The Chair, the Vice Chair or the Chief Executive Officer may call a meeting on less notice by such means as are deemed appropriate provided that notice is given to all Directors and the majority of the Directors consent to the holding of such meeting
- (c) Notice of a meeting of the Board is not necessary if all Directors are present and no one objects to the holding of the meeting, or if those absent have waived notice or otherwise signified their consent to the holding of the meeting.

## **11.3 Procedures for Board Meetings**

- (a) All meetings of the Board and its committees must comply with the Policy respecting open and in camera corporate meetings.
- (b) The declaration of the Secretary or Chair that notice has been given pursuant to this By-Law shall be sufficient and conclusive evidence of the giving of such notice.
- (c) No error or omission in giving notice for a meeting of the Board shall invalidate such meeting or invalidate any proceedings at such meeting and any Director may at any time waive notice of any such meeting and may ratify and approve any or all proceedings.
- (d) Subject to section 11.3(e) below, Board meetings shall be open to the public.
- (e) Every Board meeting shall have an agenda that organizes business items into agenda categories that are appropriate for:
  - (i) the public to be in attendance;
  - (ii) only the Board and its invited guests to be in attendance; and
  - (iii) only the voting Directors to be in attendance.
- (f) Guests may attend the open portion of the Board meetings in accordance with the

Board approved policy on guest attendance.

- (g) Minutes shall be kept for all meetings of the Board.<sup>55</sup>
- (h) The Chair may, immediately before and/or immediately after a regularly scheduled Board meeting, call an “executive session”, at which the non-voting, ex officio Directors may be excluded. Executive sessions are not Board meetings; matters may be discussed but no Board business may be conducted.<sup>56</sup>

#### **11.4 Quorum**

Fifty percent (50%) plus one (1) of the voting Directors shall constitute a quorum for the transaction of business.<sup>57</sup>

#### **11.5 Rules**

The Board may make such rules as it may deem necessary or desirable for the better management, operation, and maintenance of the Corporation, provided however that any such rules shall conform with the provisions of all Legislation, the Letters Patent and this By-law.

#### **11.6 Electronic Participation**

Providing all the Directors present at or participating in the meeting consent, any Director may participate in a meeting of the Board<sup>58</sup> or of a committee of the Board, by means of telephonic or electronic means<sup>59</sup> as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously during the meeting, and a person participating in such a meeting by such means is deemed for the purposes of the [Corporations Act](#) (Ontario) and this By-Law to be present at the meeting.<sup>60</sup> Such person may, if entitled to vote, indicate his/her vote by any means that reasonably conveys the person’s intention to the other meeting participants. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board and of committees of the Board held while a Director holds office.

#### **11.7 Voting**

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<sup>55</sup> See [Corporations Act](#) (Ontario) section 299.

<sup>56</sup> It is the practice to hold executive sessions on a regular basis. Doing so on a regular basis helps to allay concerns that executive sessions are convened only in times of trouble, and in doing so, the benefits of executive sessions can be realized without damaging trust between those who are included and those who are excluded. The potential benefits of executive sessions in this context, include the following: creates a mechanism to strengthen board independence; allows included Directors to speak frankly; and helps to manage conflict of interest considerations in connection with those Directors who are also involved with Hospital operations.

<sup>57</sup> [Corporations Act](#) (Ontario) section 288(1) provides for a minimum allowable quorum of not less than two-fifths of the Board. Note, quorum is calculated on the number of directors a corporation should have – not on the number it actually has.

<sup>58</sup> See [Corporations Act](#) (Ontario) section 283(3.1).

<sup>59</sup> See [Corporations Act](#) (Ontario) section 1 for the definition of “telephonic or electronic means.”

<sup>60</sup> It is recognized that participating by telephonic or electronic means is the exception and every effort must be made to attend and participate in meetings in person.

- (a) No Director shall be entitled to vote by proxy at a Board meeting.<sup>61</sup>
- (b) The business arising at any meeting of the Board established pursuant to this By-Law shall be decided by a majority of votes, unless otherwise required by law, provided that:
  - (i) unless otherwise specified, each Director shall be entitled to one (1) vote at any meeting of the Board;<sup>62</sup>
  - (ii) non-voting Directors shall not count towards quorum;
  - (iii) votes shall be taken in the usual way, by show of hands, orally or by ballot;
  - (iv) in the event of a tie, the motion is lost;
  - (v) after a vote has been taken on any question, the chair of the meeting may require, or any person entitled to vote on the question may demand, a poll thereon. A demand for a poll may be withdrawn at any time prior to the taking of the poll. Upon a poll, each individual present in person and entitled to vote at such meeting shall have one (1) vote and the result of the poll shall be the decision of the Board; and
  - (vi) whenever a vote by show of hands shall have been taken on a question, unless a poll is required or demanded, a declaration by the chair of the meeting that a resolution, vote or motion has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact that without proof of the number or proportion of the votes recorded in favour of or against such resolution, vote or motion.

In the event of a tie, the motion is lost and the Chair shall not be entitled to a casting vote.

## **11.8 Representation of CHI at Board and Committee Meetings**

- (a) The president of CHI, or at the option of the president of CHI a person selected by the board of CHI, shall be entitled to attend each meeting of the Board, including any in camera sessions, and have all rights of a Director, with the exception of the right to vote.
- (b) The president of CHI, or at the option of the president of CHI a person selected by the board of CHI, shall be entitled to attend each meeting of committees of the Board, including any in camera sessions, and have all rights of a committee member, with the exception of the right to vote.

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<sup>61</sup> See [Public Hospitals Act](#) (Ontario) sections 12(6), (7) and (8). These provisions are curious as they suggest that in the absence of them, directors might otherwise be entitled to vote by proxy. However, the common law prohibits directors from voting by proxy as directors have a duty not to delegate decision making. For further detail about this duty see, [20 Questions Directors of Not-for-Profit Organizations Should Ask about Fiduciary Duty](#).

<sup>62</sup> [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 2(2) provides that, the following persons, if on a hospital board, cannot vote: any member of the medical staff, dental staff, extended class nursing staff or midwifery staff; or any employee. This arguably would extend to any executive committee but not other advisory committees of the Board.

- (c) Upon request, the president of CHI shall be sent notice of each meeting of the Board and of the committees of the Board and all materials from time to time sent to the Directors at the same time as the same are sent to the Directors.

## **11.9 Meeting Procedure**

Any questions of procedure at or for any meetings of the Board, or of any committee of the Board that have not been provided for in a Board policy, this By-Law, the Letters Patent or Legislation shall be determined by the chair of the meeting in accordance with Nathan's Company Meetings.

## **ARTICLE 12 RESPONSIBILITIES OF DIRECTORS**

### **12.1 Responsibilities of Directors**

Subject to the reserved powers of the Corporate Members as set out in section 3.2, the Board shall govern and oversee the management of the affairs of the Corporation and may exercise all such other powers and do all such other acts and things as the Corporation is, by Legislation, its Letters Patent, By-laws<sup>63</sup> or otherwise, authorized to exercise and do.<sup>64</sup>

### **12.2 French Language Services Plan**

- (a) The Board of Directors is committed to
  - (i) the active offer of French Language Services
  - (ii) the provision of French Language Services upon request
  - (iii) inclusion of the French Language Services Plan in new Director orientation
  - (iv) endeavor to achieve Francophone representation on the Board of Directors ;
    1. one (1) Francophone per board of 9 or less OR
    2. two (2) Francophones per board of 10 or more

## **ARTICLE 13 OFFICERS**

### **13.1 Officers**

- (a) Officers<sup>65</sup> shall include:<sup>66</sup>
  - (i) the Chair;<sup>67</sup>

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<sup>63</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 2(3)

<sup>64</sup> The governance obligation of the Board stems from the common law. Also see, [Corporations Act](#) (Ontario) section 283(1).

<sup>65</sup> Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors and in the case of the President, this is mandated by [Corporations Act](#) (Ontario) section 289(1).

<sup>66</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(1)(a).

<sup>67</sup> [Corporations Act](#) (Ontario) section 289 requires appointment of a president, referred to as the "Chair" here, who need be a director.

- (ii) one or more Vice-Chairs;
  - (iii) Past Chair;
  - (iv) the CEO; and
  - (v) the Secretary;<sup>68</sup>
  - (vi) and may include any such other officers as the Board may determine. Subject to section 3.2(f), the Officers shall be appointed following the annual meeting of Corporate Members at which the Directors are elected or at such other times when a vacancy shall occur. A person may hold more than one office with the exception of Chair and Vice-Chair.
- (b) An Officer may be removed from office by the Board and, in the case of an Officer to which section 3.2(f) applies, by a vote of three-quarters (3/4) of Corporate Members at a special meeting called for that purpose.

#### **ARTICLE 14 OFFICERS DUTIES**<sup>69</sup>

##### **14.1 Chair**

- (a) The Chair shall be appointed by the Board, subject to the approval of the Corporate Members in accordance with section 3.2(f).
- (b) The Chair shall:
  - (i) preside at all meetings of the Board;
  - (ii) provide an annual report to the Corporate Members in respect of the Corporation's integration of the Mission, Philosophy, Values and Health Ethics Guide into the operations of the Hospital;
  - (iii) meet on an annual basis with the Bishop of the Diocese of London to ensure that the Bishop is kept informed of any developments at the Hospital that affect, or may affect, the catholicity of the Hospital;
  - (iv) ensure that the Board conducts annual evaluations of the Board and CEO's integration of the Mission, Philosophy, Values and Health Ethics Guide in the Board's and CEO's performance of their duties and, generally, in the operations of the Hospital;
  - (v) set a high standard for Board conduct by modelling, articulating and upholding rules of conduct including the Code of Conduct;
  - (vi) intervene when necessary in instances involving breaches of the rules of conduct including the Code of Conduct;

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<sup>68</sup> [Corporations Act](#) (Ontario) section 289 requires appointment of a secretary who need not be a director.

<sup>69</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(1)(a).

(vii) perform such other duties as may be prescribed from time to time by the Board; and

(viii) represent the Corporation at public or official functions.

#### **14.2 Vice-Chair**

- (a) The Vice-Chairs shall be elected from among the elected Directors. The Chair, or failing the Chair, the Board, shall designate which of the Vice-Chairs shall perform the duties of the Chair in the Chair's absence.
- (b) The designated Vice-Chair shall discharge and perform all duties of the Chair in the absence or disability of the Chair, together with such other duties as may from time to time be assigned to the Vice-Chair by the Chair or by the Board.
- (c) The Vice-Chair will Chair a standing committee of the Board.
- (d) In the ordinary course, a Director shall serve as a Vice-Chair before being elected as Chair.

#### **14.3 Past Chair**

The Chair, upon expiration of their term of office, shall serve on the Board for the next ensuing two years as Past Chair. The Past Chair shall be an Ex-officio Director and shall also serve as a member of the Executive Committee.

In the event that the term limit of the individual who is Past Chair shall have expired, the Board of Directors shall have the authority to retain this individual on the Board, in the position of Past Chair, for a term of one year.

- (a) The Past Chair shall be appointed by the Board, subject to the approval of the Corporate Members in accordance with section 3.2(f).
- (b) The Past Chair shall:
  - (i) assist with the appropriate succession of board members;
  - (ii) support the Chair in his/her role, provide continuity to the organization by providing historical context for issues;
  - (iii) perform such other duties as may be prescribed from time to time by the Board

#### **14.4 Secretary**

- (a) The CEO shall be the Secretary unless another person is appointed by the Board.
- (b) The Secretary shall:
  - (i) attend meetings of the Board and meetings of such committees of the Board as the Board may direct, but shall only count towards quorum if he/she is present;

- (ii) keep or cause to be kept a record of the minutes of all meetings;
- (iii) keep or cause to be kept a roll of names and addresses of the Directors;
- (iv) attend or cause to be attended to correspondence;
- (v) prepare or cause to be prepared all reports required by Legislation;
- (vi) be the custodian of all minute books, documents and registers of the Corporation required to be kept by Legislation;
- (vii) be the custodian of the seal of the Corporation;<sup>70</sup>
- (viii) sign such contracts, documents or instruments in writing as require the Secretary's signature;
- (ix) give or cause to be given all notices required to be given to the Corporate Members and to the Directors;
- (x) keep or cause to be kept copies of all testamentary documents and trust instruments by which benefits are given to the use of the Corporation and provide the office of the Public Guardian and Trustee in accordance to the provisions of the [Charities Accounting Act](#) (Ontario);
- (xi) chair the first meeting of the Directors of the Corporation following the annual meeting until such time as the Chair is elected by the Directors;
- (xii) be the custodian of the books of account and accounting records of the Corporation required to be kept by the [Corporations Act](#) (Ontario); and
- (xiii) have such other powers and duties as may from time to time be assigned to the Secretary by the Board.

#### 14.5 CEO

- (a) The CEO may be the Secretary of the Board.
- (b) The CEO shall be an ex officio non-voting Director and, unless otherwise noted, the Board committees but shall only count towards the quorum of the Board committees if he/she is present.
- (c) The CEO shall:
  - (i) be responsible to the Corporate Members, through the Board, for ensuring that the Mission, Philosophy, Values and Health Ethics Guide are integrated into the operations of the Hospital;
  - (ii) be responsible for and accountable to the Board for all aspects of the

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<sup>70</sup> [Corporations Act](#) (Ontario) section 279 provides that a corporation need not have a seal.

Corporation's operations;

- (iii) be responsible to the Board, for taking such action as the CEO considers necessary to ensure compliance with Legislation, the Mission, Philosophy, Values, Health Ethics Guide, the By-Law of the Corporation and the HSAA;
- (iv) submit quarterly:
  - A. reports to the Board in respect of the Performance Metrics;
  - B. certificates certifying that the methodology and data used by management to report Performance Metrics to the Board and federal and provincial agencies appropriately and accurately reflect the Corporation's performance;
  - C. provide leadership to all employees of the Corporation including senior staff; and
  - D. be responsible for the hiring, evaluation, compensation and termination of all members of the Corporation's senior executive team, including without limitation, the Chief Nursing Executive, and all other employees of the Corporation;
- (v) be responsible for the payment of all salaries and amounts due from and owing by the Corporation which fall within the purview and scope of the approved annual budget, or otherwise as may be established from time to time by resolution of the Board;
- (vi) report to the Board any matter about which it should have knowledge that may impact on a decision of the Board;
- (vii) report to the Chair of the Medical Advisory Committee or appropriate Department Chief:
  - A. any oversight of clinical practice of the Professional Staff;
  - B. any failure of a member of the Professional Staff to act in accordance with the Legislation, the Letters Patent, By-Law and/or Rules and Regulations of the Corporation; and
  - C. any patient who does not appear to be making reasonable progress towards recovery or who is not being visited frequently enough by the attending member of the Professional Staff;
- (viii) collaborate with the Medical Advisory Committee in the provision of quality care by the Professional Staff;
- (ix) assure that provision is made for the employee health services as required by the Regulations under the [\*Public Hospitals Act\*](#) (Ontario);
- (x) except in extenuating circumstances, submit quarterly financial statements to

the Board indicating the financial position of the Corporation for the previous most recently completed financial statement. The financial statements shall not be earlier than three (3) months preceding the date of the Board meeting;

- (xi) ensure that the investment policy as established by the Board is in place, and monitor compliance with the policy;
- (xii) submit quarterly certificates to the Board in respect of the previous quarter that all wages owing to employees and source deductions relating to the employees that the Corporation is required to deduct and remit to the proper authorities pursuant to all applicable Legislation, including without limitation, the [Income Tax Act](#) (Canada), the [Canada Pension Plan](#) (Canada), the [Employment Insurance Act](#) (Canada) and the [Employer Health Tax Act](#) (Ontario), have been made and remitted to the proper authorities, and that all taxes collected pursuant to the [Excise Tax Act](#) (Canada) and the [Retail Sales Tax Act](#) (Ontario) have been collected and remitted to the proper authorities;
- (xiii) together with the Chair, represent the Corporation externally to the CHI, community, government, media and other organizations and agencies;
- (xiv) communicate with related healthcare agencies to promote co-ordination and/or planning of local healthcare services;
- (xv) establish an organizational structure to ensure accountability of all departments, services and staff for fulfilling the Mission, Philosophy, Values, and strategic plan of the Corporation;
- (xvi) from time to time approve a process for the participation of the Chief Nursing Executive, nurse managers, and staff nurses, staff and other professionals of the Corporation in decision making related to administrative, financial, operational and planning matters and for the election or appointment of the Chief Nursing Executive, staff nurses or nurse managers and other staff and professionals of the Corporation to those administrative committees approved by the CEO to have a nurse, staff or professional representation; and
- (xvii) have such other powers and duties as may from time to time be assigned to this office by the Board or as are incident to this office.

#### **14.6 Chair of the Medical Advisory Committee**

The duties of the Chair of the Medical Advisory Committee shall be outlined in Professional Staff By-Laws.

#### **14.7 Other Officers**

The powers and duties of all other Officers shall be as the Board may from time to time determine. Any of the powers of an Officer to whom an assistant has been appointed by the Board may be exercised and performed by such assistant, unless the Board otherwise determines.

## **ARTICLE 15 COMMITTEES OF THE BOARD**<sup>71</sup>

### **15.1 Committees of the Board**<sup>72</sup>

- (a) The Board may establish committees from time to time. The Board shall determine the duties of such committees. The committees of the Board shall be:
  - (i) Standing Committees, being those committees whose duties are normally continuous; and
  - (ii) Special Committees, being those committees appointed for specific duties, whose mandate shall expire with the completion of the tasks assigned.
- (b) The functions, duties, responsibilities and mandate of committees shall be provided in the resolution of the Board by which the committee is established or in terms of reference adopted by the Board.
- (c) Unless otherwise provided by by-law or by Board resolution, the Board shall appoint the members and chair of the committee. Each chair of a standing committee shall be a Director. The Board may appoint committee members who are not Directors to all committees of the Board, except the Executive Committee<sup>73</sup> if any, and those persons shall not be entitled to vote unless the Board otherwise provides.
- (d) Procedures at, and quorum for committee meetings, shall be determined by the Chair of each committee, unless established by the Board by resolution or by way of general committee regulations from time to time.
- (e) Unless otherwise provided in the Board resolution or committee terms of reference, the Chair and the CEO shall each be an ex officio member of all committees of the Board.
- (f) The Board shall establish an Executive Committee<sup>74</sup> consisting of not fewer than

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<sup>71</sup> Also see sections 18.1 and 18.2 of this By-law.

<sup>72</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(a) requiring committees of the Board to be addressed in the by-laws.

<sup>73</sup> See [Corporations Act](#) (Ontario) section 70 made operative by section 133(1) which permits only directors to serve on executive committees.

<sup>74</sup> Directors have a duty not to fetter their discretion or delegate decision making. Executive committees are a statutory exception to this duty, hence the reason for their differentiation from other committees which do not have any powers of the Board. See [Corporations Act](#) (Ontario) section 70 made operative by section 133(1) for further detail with respect to establishing an executive committee.

three (3) voting Directors and may delegate to the Executive Committee any powers of the Board, subject to such restrictions, as may be imposed by the Board by resolution. The Executive Committee will oversee the establishment and approval of the Executive Compensation and the Integrated Risk Management and may meet only when decisions are required and all attempts to achieve a quorum of the full Board prior to the date a decision is required have been unsuccessful. The Executive Committee shall fix its quorum at not less than a majority of its members. Any Executive Committee member may be removed by a majority vote of the Board.

- (g) Where a non-voting Director is a member of a committee of the Board, and such committee is authorized to make decisions binding on the Corporation, the non-voting Director shall not vote in respect of such committee decisions, unless the non-voting Director is required by Legislation to be a member of such committee.

## **ARTICLE 16 CONFIDENTIALITY AND PUBLIC RELATIONS**

### **16.1 Confidentiality and Public Relations**

Every Director, Officer, member of the Professional Staff, member of a committee of the Board, employee and agent of the Corporation shall respect the confidentiality of matters brought before the Board, or before any committee or subcommittee of the Corporation. The Chair of the Board is responsible for Board communications and may delegate authority to one or more Directors, Officers or employees of the Corporation to make statements to the news media or public about matters that the Chair determines appropriate for disclosure to the media.

## **ARTICLE 17 PROFESSIONAL STAFF**

### **17.1 Professional Staff**

There shall be a Professional Staff of the Hospital whose appointment and functions shall be as set out in the Professional Staff by-law of the Corporation.

## **ARTICLE 18 MATTERS REQUIRED BY THE *PUBLIC HOSPITALS ACT* (ONTARIO)**

### **18.1 Committees and Programs Required by the *Public Hospitals Act* (Ontario)**

The Board shall ensure that the Corporation establishes such committees and undertakes such programs as are required pursuant to the *Public Hospitals Act* (Ontario) and Legislation, including a Medical Advisory Committee, a quality committee, a fiscal advisory committee, an occupational health and safety program, a health surveillance program and an organ and tissue donation program.

### **18.2 Fiscal Advisory Committee**

The CEO shall appoint the members of the fiscal advisory committee required to be

established pursuant to the regulations under the [Public Hospitals Act](#) (Ontario).<sup>75</sup>

### **18.3 Chief Nursing Executive**

The CEO shall ensure there are appropriate procedures in place for the appointment of the Chief Nursing Executive.<sup>76</sup>

### **18.4 Nurses and other Staff and Professionals on Committees<sup>77</sup>**

The CEO shall from time to time approve a process for the participation of the Chief Nursing Executive, nurse managers, and staff nurses, staff and other professionals of the Corporation in decision making related to administrative, financial, operational and planning matters and for the election or appointment of the Chief Nursing Executive, staff nurses or nurse managers and other staff and professionals of the Corporation to those administrative committees approved by the CEO to have a nurse, staff or professional representation.

### **18.5 Retention of Written Statements<sup>78</sup>**

The CEO shall cause to be retained for at least twenty-five (25) years, all written statements made in respect of the destruction of medical records, notes, charts and other material relating to patient care and photographs thereof.

### **18.6 Occupational Health and Safety Program<sup>79</sup>**

- (a) There shall be an occupational health and safety program for the Corporation,<sup>80</sup> which shall be reviewed at least once a year (or more frequently if necessary) and revised in light of current knowledge and practice.
- (b) The program referred to in section 18.6(a) shall include practices/procedures with respect to:<sup>81</sup>
  - (i) a safe and healthy work environment in the Hospital, including, without limitation, the prevention of Disruptive Behaviour/Unprofessional Behaviour;
  - (ii) the safe use of substances, equipment and medical devices in the Hospital;
  - (iii) safe and healthy work practices in the Hospital;
  - (iv) the prevention of accidents to persons on the premises of the Hospital; and
  - (v) the elimination of undue risks and the minimizing of hazards inherent in the

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<sup>75</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 5.

<sup>76</sup> Also see section 4.1(a)(viii) of this By-law.

<sup>77</sup> Also see section 4.1(f) of this By-law.

<sup>78</sup> See [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 21.

<sup>79</sup> [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(d).

<sup>80</sup> [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(d).

<sup>81</sup> [Public Hospitals Act](#) (Ontario) [Regulation 965](#) section 4(d).

Hospital environment including without limitation, the risks to staff relating to the Patient Safety Indicators.

- (c) The person designated by the CEO to be in charge of occupational health and safety in the Corporation shall be responsible to the CEO for the implementation of the occupational health and safety program.
- (d) The CEO shall report to the Board, as necessary, on matters in respect of the occupational health and safety program.
- (e) The Corporation shall, in consultation with the Joint Health and Safety Committee or health and safety representative (if any), develop, establish and provide training and educational programs in the relevant health and safety measures for employees and Professional Staff.

## **ARTICLE 19 BANKS AND SIGNING OFFICERS**

### **19.1 Execution of Documents and Signing Officers**

- (a) Either the Chair or a Vice-Chair of the Board together with either the CEO or the Chief Financial Officer shall sign on behalf of the Corporation and affix the corporate seal to all contracts, agreements, conveyances, mortgages and other documents, for which Board approval is required.
- (b) The Board may authorize signing officers on behalf of the Corporation, additional to or other than as provided in section 20.1(a), and will institute and effect such internal audit procedures as it shall determine in consultation with the auditor of the Corporation.

### **19.2 Banking and Borrowing<sup>82</sup>**

- (a) The Board shall designate the bank or banks in which the monies of the Corporation shall be deposited, or in which any stocks, bonds or other securities of the Corporation shall be placed for safekeeping.
- (b) The Board is authorized, without further authorization of the Corporate Members, for and in the name of the Corporation, but subject to section 3.2, to:
  - (i) borrow money on the credit of the Corporation;
  - (ii) issue, reissue, sell, pledge or hypothecate debt obligations of the Corporation;
  - (iii) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and

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<sup>82</sup> [Corporations Act](#) (Ontario) section 59 made operative by section 133(1) addresses the passing of borrowing by-laws requiring a 2/3rds confirmation vote at a meeting of the Members.

- (iv) charge, mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation,
- (v) provided that except where the Corporation borrows on the security of its real or personal property, its borrowing power shall be limited to borrowing money for current operating expenses.<sup>83</sup>

## **ARTICLE 20 GENERAL**

### **20.1 Head Office**

The head office of the Corporation shall be as determined from time to time by the Board of the Corporation subject to relevant legislation.<sup>84</sup>

### **20.2 Corporate Seal**

The seal of the Corporation shall be in the form impressed hereon.<sup>85</sup>

### **20.3 Financial Year**

Unless otherwise ordered by the Corporate Members, the fiscal year shall be from April 1 to March 31 of the year following.<sup>86</sup>

### **20.4 Auditor**

- (a) At the annual meeting, the Corporate Members shall appoint an auditor,<sup>87</sup> considering the recommendation of the Board. The auditor shall hold office until the next annual meeting of the Corporation, and shall audit the financial statements for report to the Corporate Members. The auditor shall not be a Director, employee of the Corporation, or a partner or employee of any such person, and shall be duly licensed under the [Public Accounting Act, 2004](#) (Ontario).
- (b) The auditor shall from time to time report to the Board and shall make any recommendations as are appropriate.
- (c) The auditor shall prepare financial analyses and other reports as required by the Board or CEO, and/or by the Corporate Members.

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<sup>83</sup> The Ontario Public Guardian and Trustee currently requires inclusion of certain special provisions in letters patent, including one that restricts borrowing to current operating expenses except where on security of real or personal property. The Corporation's letters patent include the required special provisions, including the borrowing related provision.

<sup>84</sup> The Letters Patent provide that the head office shall be in Windsor, Ontario. See [Corporations Act](#) (Ontario) section 277 for further detail with respect to changing head office location.

<sup>85</sup> [Corporations Act](#) (Ontario) section 279 provides that a corporation need not have a seal.

<sup>86</sup> Note, before year end can be changed Canada Revenue Agency approval is required. Details with respect to changing year end are available on Canada Revenue Agency's website under the heading, [Asking for a Fiscal Period-End Change](#).

<sup>87</sup> See [Corporations Act](#) (Ontario) section 94 made operative by section 133(1).

- (d) The person or firm appointed as auditor for the Corporation shall be “independent” of the Corporation, its affiliates and its Directors and officers as is established by all relevant legislation for the Corporation, and shall be a member in good standing of an institute or association of accountants incorporated by or under an act of the legislature of a province of Canada and meet any qualifications under an enactment of a province for performing any duty that the person is required to perform under the relevant sections of the relevant legislation.
- (e) The auditor shall have all the rights and privileges as set out in relevant legislation and shall perform the function as prescribed therein.

## **ARTICLE 21 NOTICES**

### **21.1 Notice**

- (a) Whenever under the provisions of the By-laws notice is required to be given, unless otherwise provided, such notice may be given in writing and delivered or sent by prepaid mail, by facsimile transmission or by electronic mail addressed to the Director, Officer, individual appointed to a committee, Director or auditor at the postal address, the facsimile number or electronic mail address, as the case may be, as the same appears on the books of the Corporation.
- (b) Notwithstanding the foregoing provisions with respect to mailing, in the event that it may be reasonably anticipated that, due to any strike, lock out or similar event involving an interruption in postal service, any notice will not be received by the addressee by no later than the third (3rd) business day following the mailing thereof, then the mailing of any such notice as aforesaid shall not be an effective means of sending the same but rather any notice must then be sent by an alternative method which it may reasonably be anticipated will cause the notice to be received reasonably expeditiously by the addressee.
- (c) Any person entitled to receive any such notice may waive such notice either before or after the meeting to which such notice refers.
- (d) Time frames for notice shall be counted exclusive of the day of sending the notice and the day for which notice is given.

## **ARTICLE 22 AMENDMENT OF BY-LAW**

### **22.1 Amendment**

- (a) The Board may pass or amend the By-Law of the Corporation from time to time.<sup>88</sup>
- (b) Where it is intended to pass or amend the By-Law at a meeting of the Board, written notice of such intention shall be sent by the Secretary to each Director not less than ten (10) days before the meeting.

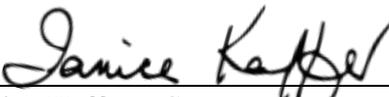
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<sup>88</sup> See [Corporations Act](#) (Ontario) section 129(1).

- (c) Where the notice of intention required by section 22.1(b) above is not provided, any proposed By-Law or amendments to the By-Law may nevertheless be moved at the meeting and discussion and voting thereon deferred to the next meeting, for which no further notice of intention need be given.
- (d) Subject to sections 22.1(e) below, a By-Law or an amendment to a By-Law passed by the Board has full force and effect:
  - (i) from the time the motion was passed; or
  - (ii) from such future time as may be specified in the motion.
- (e) A By-Law or an amendment to a By-Law passed by the Board shall be presented for confirmation at the next annual meeting or to a special general meeting of the Corporate Members called for that purpose. The notice of such annual meeting or special general meeting shall refer to the By-Law or amendment to be presented.
- (f) The Corporate Members at the annual meeting or at a special general meeting may confirm the By-Law as presented or reject or amend it, and if rejected it thereupon ceases to have effect and if amended, it takes effect as amended.<sup>89</sup>
- (g) In any case of rejection, amendment, or refusal to approve a By-Law or part of a By-Law in force and effect in accordance with any part of this section, no act done or right acquired under any such By-Law is prejudicially affected by any such rejection, amendment, or refusal to approve.

**Passed by the Board: November 25, 2020**

  
\_\_\_\_\_  
Brian Payne – President (Chairperson)

  
\_\_\_\_\_  
Janice Kaffer, - Secretary

**Unanimously approved, ratified, sanctioned and confirmed by the Corporate Members of the Corporation: January 20, 2021**

\_\_\_\_\_  
[insert] – President

\_\_\_\_\_  
[insert] – Secretary

<sup>89</sup> See [Corporations Act](#) (Ontario) section 129(2).