

**AMENDED & RESTATED
BYLAWS
ROSWELL PARK
CANCER INSTITUTE
CORPORATION
BUFFALO, NEW YORK**

Adopted: June 26, 2015

ARTICLE 1 - THE CORPORATION

Section 1.1. Name and Corporate Existence.

The name of the Corporation is Roswell Park Cancer Institute corporation (the "Corporation"). The Corporation was formed by the State of New York pursuant to the Roswell Park Cancer Institute corporation act, Chapter 5 of the Laws of 1997, as amended (the "Act"). The Corporation is a public benefit corporation under the Public Authorities Law of the State of New York (the "Public Authorities Law"). In order to provide for the orderly implementation of the Act, the Corporation's Board of Directors (the "Board"), therein provided, have adopted these Bylaws. To the extent that there is or may be any conflict between the provisions of these Bylaws and the Act (as the same may be amended from time-to-time), the provisions of the Act shall prevail.

Section 1.2. Offices.

The principal office of the Corporation shall be in the City of Buffalo, County of Erie, State of New York. The Corporation may also have offices at such other places within or without the State of New York as the Directors may from time-to-time determine, or the business of the Corporation may require.

Section 1.3. Corporate Mission.

The Mission of the Corporation is *To Understand, Prevent and Cure Cancer*. The Corporation shall operate for the State of New York the Roswell Park Cancer Institute, a public hospital and medical research center which is a National Cancer Institute-designated comprehensive cancer center (the "Institute"), to provide medical research, education and health care services for the benefit of the residents of the State of New York. The purposes of the Corporation shall be:

- 1.3.1. To plan, develop, establish, organize, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain, operate and manage all types of in-patient and out-patient health facilities and programs for the delivery of acute medical, surgical, research, education and preventive health and medical care services, provided that the Corporation shall have first obtained all approvals or consents required by law;
- 1.3.2. To perform all of the functions and purposes enumerated in Chapter 5 of the Laws of 1997;
- 1.3.3. To do any other act or thing incidental to or connected with the foregoing purposes or in the advancement thereof which in the opinion of the Board of Directors is justified and can be supported by the facilities, personnel, funds, or other resources that are, or can be made, available, but not for the pecuniary profit or financial gain of any of its members, directors, officers or any private person;
- 1.3.4. To have such other purposes as are now or may hereafter be authorized by the State legislature.

ARTICLE 2 - BOARD OF DIRECTORS

Section 2.1. Authority and Duties.

All the affairs, property, business, planning, operation, and policies of the Corporation shall be under the charge, control, and direction of the Board of Directors. The Board of Directors shall:

- 2.1.1. Contract with the State of New York (the "State") to operate, manage, superintend and control the Institute, including establishing, collecting, and adjusting fees, rentals, and other charges in connection with the use of or for the services provided by or in such health facility, subject to the terms and conditions of any contract, lease, sublease or other agreement with the State;
- 2.1.2. Provide health and medical services for the public, directly or by agreement or lease with any person or firm or private or public corporation or association, provided such services are provided only on the recommendation of a licensed physician, meet generally accepted standards of professional practice, are provided by a practitioner who is a member of the medical staff of the Institute (the "Medical Staff"), and comply with all applicable rules and regulations, and make internal policies governing admissions and health and medical services;
- 2.1.3. Appoint a President of the Corporation, who shall hold office at the pleasure of the Board;
- 2.1.4. Ensure the implementation of written criteria for the selection, appointment, and reappointment of the Medical Staff as required by law and regulations;
- 2.1.5. Appoint a Medical Director who shall be responsible for directing the Medical Staff organization;
- 2.1.6. Maintain a record of all Board of Directors and committee proceedings which reflects all business conducted, including findings, conclusions, and recommendations;
- 2.1.7. Make such rules and regulations necessary or useful for implementing the purposes of the Corporation;
- 2.1.8. Have general superintendence, management, and control of the Corporation and of its buildings, grounds, officers, employees, and patients, and of all matters relating to its governance, discipline, contracts, and fiscal concerns;
- 2.1.9. Oversee the financial affairs of the Corporation, including the development of and approval of the budget of the Corporation, so as to provide for resources adequate to maintain satisfactory standards of personnel and facilities for all services which the Corporation renders;
- 2.1.10. Participate in programs of orientation and continuing education which address such topics as: the mission, roles and responsibilities of the Board of Directors, patients' rights, goals and operations of the organization, goals and operation of the hospital's Quality Assurance Program and Corporate Compliance

Programs;

- 2.1.11. Select the members of the Roswell Park Cancer Institute Merit Board in accordance with §3556 of the Public Authorities Law.
- 2.1.12. Establish a committee of the Board responsible for inspections of and investigations within the Institute, as well as fraud and abuse investigations, to be known as the Corporate Compliance Committee, as described in more detail in Article 5, Section 5.7 of these Bylaws. The Corporate Compliance Committee shall not include the President of the Corporation or the Commissioner of Health.
- 2.1.13. Adopt by resolution comprehensive guidelines for the disposition of property in accordance with Title 5-A of the Public Authorities Law.

Section 2.2. Number and Selection of Directors, Chairperson.

The Board of Directors shall be comprised of fifteen (15) voting Directors, as follows: seven (7) Directors appointed by the Governor, two (2) Directors appointed by the Majority Leader of the Senate, two (2) Directors appointed by the Speaker of the Assembly, one (1) Director appointed by the Minority Leader of the Senate, one (1) Director appointed by the Minority Leader of the Assembly, and the Commissioner of Health and the President of the Corporation, each *ex-officio*. The Chairperson of the Board of Directors shall be appointed by the Governor, and, subject to the requirements of the Public Authorities Law, shall serve a term of three years unless required to serve longer by the Governor. The President of the Corporation shall not serve as Chairperson. Except for the *ex-officio* members of the Board, a majority of the remaining members of the Board of Directors of the Corporation must be independent members of the Board, as defined in Section 5.1.1 of these Bylaws.¹ The official or officials having the authority under this Section 2.2 and Section 2.15 (Removal) of these Bylaws to appoint or remove such remaining Directors to the Board shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of the Corporation when making their determinations to appoint any Director.²

Section 2.3. Term of Directors.

The terms of the initial members of the Board of Directors shall be as provided by the Act. Thereafter, members of the Board shall serve three year terms, except the Commissioner of Health and the President of the Corporation each of whom shall serve as Director only for so long as he or she shall occupy his or her respective office. All Directors shall hold office until their successors are appointed and qualified. Directors may serve not more than three (3) three-year terms on the Corporation's Board of Directors, unless requested to serve additional terms by the applicable governmental appointing authority, as provided in Section 2.2 above and the Public Authorities Law.

¹ See §2825(2) (new rule added by §19 of 2005 amendments) for this requirement.

² See §2825(2) (new rule added by §19 of 2005 amendments) for this requirement.

Section 2.4. Annual Meeting of the Board.

The Board of Directors shall hold an annual meeting in the three (3) months following the end of the Corporation's fiscal year³, at a convenient time and location designated by the Board. Written notice of the annual meeting shall be mailed to each member of the Board not less than 30 days in advance of the meeting.

Section 2.5. Annual Report.

At the annual meeting of the Board, the President and the Treasurer shall present an annual report showing in appropriate detail the following information:

- 2.5.1. A financial statement of the Corporation for the fiscal year immediately preceding the date of the report, audited by a certified public accountant, showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses, and disbursements of the Corporation;
- 2.5.2. A summary of the activities of the Corporation during the preceding year.

The annual report shall be filed with the minutes of the annual meeting.

Section 2.6. Regular Meetings of the Board.

The Board shall hold regular meetings at convenient times and locations designated by the Board, and shall meet at least four (4) times a year. Written notice of all regular meetings shall be mailed to each Director not less than fifteen (15) days before the date fixed for such meeting. A representative of the Medical Staff and a representative of the Scientific Staff shall attend meetings of the Board and may participate in discussions, without vote.

Section 2.7. Special Meetings of the Board; Notice.

Special meetings may be called at any time by the President, and shall be called by the President or the Secretary within fourteen (14) days following receipt of a written request from any three (3) members of the Board. Notice of special meetings of the Board, or of any meeting of any committee of the Board, except the Executive Committee, which shall meet when deemed necessary and expedient, shall be given by mail to each member of the Board or committee at least three (3) days before the date on which such meeting is to be held, or shall be given in person, by telephone or by electronic mail not later than one (1) day before the date on which the meeting is to be held. The notice shall state the business for which each special meeting has been called, and that no business other than that stated in the notice shall be transacted at such special meeting.⁴

³ Note: Is there a particular month of every year in which you do hold the annual meeting? If so, we may want to simply state the month "unless as otherwise determined by the Board".

⁴ The law only requires reasonable notice (see §2826) and does not dictate anything further; the changes made are designed to help the Board call committee and special meetings on less notice by more convenient means (including by email).

Section 2.8. Waiver of Notice.

Notice of any meeting of the Board or any committee need not be given to any Director or committee member who submits a signed waiver of notice either before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him.

Section 2.9. Place and Time of Board Meetings.

The Board may hold its meetings at the office of the Corporation or at such other places (a) within the State of New York or, (b) if outside the State of New York, within a sixty (60) mile radius of the Corporation's principal office as it may from time-to-time determine, at a time to be designated in the meeting notice.

Section 2.10. Quorum of Directors.

- 2.10.1. The presence in person of eight (8) voting directors shall be necessary to constitute a quorum at all meetings of the Board for the transaction of business.
- 2.10.2. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the adjournment shall be given to all directors who were absent at the time of the adjournment.

Section 2.11. Action by the Board.

- 2.11.1. Each Director shall be entitled to one (1) vote on each matter properly submitted to the Directors for action at all meetings of the Board, except the President shall not vote respecting the compensation or benefits to be paid to him or her. Unless otherwise required by law, the favorable vote of at least eight (8) Directors at a duly convened meeting with a quorum present shall be the act of the Board;⁵
- 2.11.2. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or the committee thereof consent in writing to the adoption of a resolution authorizing the action. The resolution and written consent thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee;
- 2.11.3. Any one or more members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of a conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting;

⁵ See §3553(3)(b).

Section 2.12. Minutes.

The Secretary or his/her designee shall maintain complete and accurate minutes of each Board meeting and shall retain each unanimous written consent executed by Board members. Said minutes and written consents shall be maintained in the permanent records of the Corporation.

Section 2.13. Vacancy.⁶

Any vacancies occurring otherwise than by expiration of term of office shall be filled for the remainder of the unexpired terms in the manner provided for original appointment in accordance with Section 2.2 of these Bylaws.

Section 2.14. Resignation.

A Director may resign at any time by giving written notice to the appointing agent who appointed him or her, with a copy to the Secretary of the Corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Secretary or such appointing officer, and the acceptance of the resignation shall not be necessary to make it effective.

Section 2.15. Removal; Attendance at Meetings.

Except as otherwise provided by law, each Director, except *ex-officio* Directors, shall be removable by the public officer or public body which is empowered by these Bylaws and by the Act to appoint such Director, for inefficiency, breach of fiduciary duty, neglect of duty or misconduct in office, provided, however, that such Director shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice.⁷ Attendance at each meeting of the Board shall be recorded by the Secretary in the minutes thereof. Absence from a meeting may be excused, for good cause shown. Unexcused absences from one-third (1/3) or more regular or special meetings of the Board during a twelve (12) month period shall constitute cause for removal in the discretion of the public officer or public body which is empowered by these Bylaws and by the Act to appoint such Director.

Section 2.16. Compensation.

The Directors shall receive no compensation for their services as Directors but shall be reimbursed for all their actual and necessary expenses incurred in connection with carrying out their duties. Nothing herein contained shall be construed to preclude any Director from serving the Corporation in any capacity other than as a Director and receiving compensation therefor.

Section 2.17. Property Rights of Directors.

No Director of the Corporation shall have any rights or interests in or to the property or assets of the Corporation.

⁶ Consider including the rule governing vacancies to help guide the Board in filling them should vacancies arise. See §3553.

⁷ See §2827; ('breach of fiduciary duty' added by 2009 Amendments).

Section 2.18. Self-Evaluation.

On an annual basis, before the annual meeting, the Board of Directors shall evaluate its own performance, by means of each Board Member rendering an evaluation statement which reflects each individual member's perceptions in the areas of rules and responsibilities, examination of the Institution's mission and goals, resources of the Board, effectiveness of the Board, and other matters relating to the Board's overall performance. Such evaluation statements shall be kept confidential, and the Board, at its annual meeting, shall analyze the aggregate response to determine overall areas of strength and opportunities for improvement.

Section 2.19. Confidentiality.

It is the policy of the Corporation that the Directors treat as confidential the proceedings of all Board and committee meetings, and all information concerning the business activities of the Corporation, except as otherwise authorized by the Board or until there has been general public disclosure, or unless the information is a matter of public record or common knowledge.

Section 2.20. Officers of the Board.

The Board of Directors shall have the following officers, each of whom (except for the Secretary) shall be elected from among the Board's members and have the following functions:

- 2.20.1. *Chairperson.* The Chairperson shall be named by the Governor and shall (1) preside, if present, at meetings of the Board; (2) be an *ex-officio* member of all committees except the Audit Committee; and (3) appoint committees with the approval of the Board;
- 2.20.2. *Vice-Chair.* The Vice-Chair shall be elected by vote of a majority of the Board at the annual meeting and shall, if present and if the Chairperson shall be absent or shall be unable to act, preside at all meetings of the Board and perform such duties as from time-to-time may be assigned by the Board;
- 2.20.3. *Other Presiding Officers.* In the event that both the Chairperson and Vice-Chair may be absent or in any other way may be unable to serve, the President shall serve as presiding officer. If he or she is absent or is otherwise unable to serve, the Board shall by majority vote of those present choose a member to preside;
- 2.20.4. *Secretary.* The Secretary of the Corporation, as provided for in Section 3.3 of these Bylaws, shall be the Secretary of the Board and in each capacity shall be referred to as the "Secretary" herein.

ARTICLE 3 - OFFICERS OF THE CORPORATION

Section 3.1. Designation and Election of Officers.

The Corporation shall have a President, as provided for in Article 4, a Secretary, a Treasurer/CFO, and such other officers as the Board shall from time to time appoint and employ from persons other than themselves. All officers shall be nominated by the Governance Committee and shall be appointed by the Board at its annual meeting. Except when an officer of the Corporation resigns, is removed or becomes disabled, officers shall hold office for a period of one year or until their successors shall have been duly elected and qualified. Officers may be removed by a majority of the entire Board at any time, with or without cause. Any vacancy occurring in said offices may be filled by the Board of Directors at any meeting. Except for the offices of President and Secretary, any two or more offices may be held by the same person.

Section 3.2. Treasurer/CFO.

The Treasurer/CFO or his/her designee shall:

- 3.2.1. Have custody of all funds and securities of the Corporation;
- 3.2.2. Keep full and accurate accounts of receipts and disbursements in the corporate books;
- 3.2.3. Deposit all money and other valuables in the name of and to the credit of the Corporation in such depositories as may be designated by the Board;
- 3.2.4. Disburse the funds of the Corporation as may be ordered or authorized by the Board and preserve proper vouchers for such disbursements;
- 3.2.5. Render to the Board at the regular meetings of the Board, or whenever they require it, an account of his/her transactions as Treasurer or transactions by his/her designee, and of the financial condition of the Corporation;
- 3.2.6. Render a full financial report at the annual meeting of the Board;
- 3.2.7. Be furnished by all corporate officers and agents at his or her request with such reports and statements as he or she may require regarding the financial transactions of the Corporation;
- 3.2.8. See that a true and accurate accounting of the financial transactions of the Corporation is made, that reports of such transactions are presented to the Board; and
- 3.2.9. Perform such other duties as are given to him/her by these Bylaws or as from time-to-time are assigned to him/her by the Board.

Section 3.3. Secretary.

The Secretary or his/her designee shall:

- 3.3.1. Send appropriate notices and prepare agendas for all meetings of the Board;
- 3.3.2. Act as custodian of all records and reports of the Corporation;
- 3.3.3. Keep and report complete and accurate minutes of all meetings of the Board and all unanimous written consents executed by Board members; and
- 3.3.4. Perform such other duties as pertain to the office or as may be prescribed by the Board.

ARTICLE 4 - ADMINISTRATION

Section 4.1. President, Appointment and Evaluation.

The Board shall appoint and employ, from persons other than themselves, a competent administrator to serve the Corporation as President. In addition, the Board shall determine the salary and benefits of the President.⁸ The President shall be the chief executive of the Corporation. The President shall report directly to the Board and shall serve at the pleasure of the Board. The Board of Directors shall assure the President's effective performance through ongoing documented monitoring and evaluation considering such criteria as: the Corporation's compliance with statutory and regulatory requirements, the corrective actions required and taken to achieve such compliance and the maintenance of corrective actions to achieve continued compliance. The Board of Directors shall have the authority to discharge and remove the President with or without cause; provided, however, that removal without cause shall not prejudice the contract rights, if any, of the President.⁹

Section 4.2. President, Powers and Responsibilities.

The powers and responsibilities of the President shall include the following:

- 4.2.1. To direct, coordinate, and supervise the overall administration of the entire Corporation and its operating divisions;
- 4.2.2. To carry out the policies of the Board and to represent the Board in all matters in which the Board has not formally designated the Chairperson or another person or committee to act;
- 4.2.3. To serve as liaison between the Board and the Medical Staff;
- 4.2.4. To assist the Medical Staff in formulating and implementing bylaws, rules and regulations;
- 4.2.5. To enforce compliance with and obedience to all rules, bylaws, and regulations adopted by the Board of Directors for the governance, administration, and

⁸ See §3553(4).

⁹ See §3553(4).

management of the hospital;

- 4.2.6. To attend meetings of the Board, Board committees, and the Medical Staff;
- 4.2.7. To develop and submit to the Board annually a business plan for health care services, research and education, facilities utilization, expansion and physician recruitment, and to recommend changes when necessary or advisable;
- 4.2.8. To participate in planning functions with area health care providers and area-wide planning agencies, and to represent the Corporation in its relationship with other health services agencies;
- 4.2.9. To prepare and submit to the Board an annual budget for each fiscal year showing, among other things, expected operating and capital revenues and expenditures;
- 4.2.10. To prepare annually a capital expenditures plan spanning at least five (5) years based upon the long-range plans of the Corporation;
- 4.2.11. To work continuously with the Medical Staff and other health care professionals toward the end of quality health care services;
- 4.2.12. To present to the Board periodic reports reflecting the professional services and financial activities of the Corporation, and to submit such other reports as may be requested by the Board from time-to-time;
- 4.2.13. To perform such activities as are necessary to assure that all the health care operations of the Corporation are performed in compliance with applicable legal regulatory standards and requirements, and to counsel the Board of Directors and the Medical Staff with respect to the recognized current standards of hospital administration;
- 4.2.14. To be responsible for the selection, supervision, and discharge of all of the Corporation's other management and professional employees, properly credentialed, if required;
- 4.2.15. To be responsible for the development and maintenance of personnel policies and practices for all employees of the Corporation;
- 4.2.16. To maintain the physical properties and equipment of the Corporation in a good and safe state of repair and operating condition and to provide such facilities and physical accommodations and equipment as are required for the performance and delivery of quality health care at the Corporation, within the resources reasonably available to the Corporation;
- 4.2.17. To name the Director of Classification and Compensation, as provided by Section 3556(4) of the Act; and
- 4.2.18. To perform such other duties as may be required by the Board or are incidental to the foregoing.

Section 4.3. Qualifications of the President.

The President shall be a medical physician or shall have a Ph.D. in a health sciences field or both, and shall have demonstrated competence in the management of a major academic medical hospital and/or medical research facility, and shall enjoy a national reputation in his or her field.

Section 4.4. Medical Director.

The Board of Directors shall appoint a Medical Director, who shall be a physician who is qualified for membership on the Medical Staff and who shall be responsible for directing the Medical Staff organization in accordance with the provisions of Title 10(C) NYCRR 405.4. Such appointment shall be made after consultation with the Medical Staff. In appointing a Medical Director, the Board of Directors may consider an individual who: is a clinical department chairperson, is an elected President of the Medical Staff, is a Medical Staff committee chairperson, or any other person who meets the requirements for appointment set forth above. The Medical Director shall report to the Board of Directors through the President.

Section 4.5. Organizational Chart.

The Board of Directors has adopted the organizational chart attached to these Bylaws as *Schedule A*. The organizational chart, as the same may be amended from time-to-time, states the hierarchical organization and reporting responsibilities of the members of the Hospital officers, administration and staff.

ARTICLE 5 - COMMITTEES OF THE BOARD OF DIRECTORS

Section 5.1. Appointment of Committees.

Committees of the Board shall include standing committees and special committees. A standing committee is one whose functions are determined by a continuous need. The function and duration of a special committee shall be determined by its specific assignment, as stated in a resolution of the Board creating it. Standing committees of the Board shall include an Executive Committee, a Finance Committee, a Governance Committee, an Audit Committee, a Compensation Committee, a Corporate Compliance Committee, a Medical Staff Credentials Committee and a Technology Transfer Committee. The Board is also represented on the Hospital Quality Assurance Committee. Except as otherwise provided in these Bylaws, the chairpersons and all members of these committees shall be nominated annually by the Governance Committee at the annual meeting for election by the Board. The Board shall staff all standing committees with a majority of Board members, but may appoint non-board member community individuals to committees, each of whom shall have the right to a vote, provided that such non-member committee members shall at all times be a minority of the committee roster. The Chairperson of the Board shall be an *ex-officio* voting member of all committees except the Audit Committee.¹⁰

5.1.1. Criteria for Director Independence.

¹⁰ Note: this is not required by any statute; it is from §2.19.1 (Chairperson) of these bylaws.

Except for ex-officio directors of the Board, at all times at least seven (7) members of the Board of the Corporation shall be independent. A Director shall be considered to be independent if he or she (i) is not and for each of the two (2) preceding years¹¹ has not been employed by the Corporation or an affiliate thereof in an executive capacity, (ii) is not presently, and in each of the two (2) preceding years has not been, employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the Corporation, or received any other form of financial assistance valued at more than \$15,000 from the Corporation, (iii) is not a relative of an executive officer or executive employee of the Corporation or an affiliate, and (iv) is not presently, and in each of the two (2) preceding years, has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation or an affiliate.

Section 5.2. Committee Meetings.

At all committee meetings, a quorum shall be equal to a majority of the voting members of the committee. Notwithstanding the foregoing, a quorum of the Executive Committee shall require the presence of the President or the Treasurer acting as the voting designee of the President. A vote by a majority of the voting members present at a duly organized committee meeting shall constitute the action of the committee and meetings of committees of the Board will be further governed by the provisions of Sections 2.7 (Special Meetings of the Board; Notice) and 2.8 (Waiver of Notice) and Subsections 2.11.2 (Action by Unanimous Written Consent) and 2.11.3 (Telephonic Meetings) of Article 2 of these Bylaws. Each committee shall submit to the Board a summary of its proceedings and minutes of its meetings shall be made available to the entire Board. Except as specified otherwise in these Bylaws, standing committees and special committees shall meet with such frequency as is necessary to accomplish their purpose and at such times and places as the chairperson of the committee determines and the notice of the meeting specifies.

Section 5.3. Executive Committee.

5.3.1. The Executive Committee shall consist of the President, the Secretary, the Treasurer, the Chairperson of the Board, the Chairperson of the Finance Committee, and such other members of the Board as are nominated by the Governance Committee and elected by the Board, provided that the total membership of the Executive Committee shall not exceed seven (7). [The Chairperson of the Board shall chair the Executive Committee.]¹² The Secretary shall serve as an ex-officio, non-voting member of the Executive Committee. The Treasurer shall serve as an ex-officio member of the Executive Committee, but shall only be a voting member at meetings of the Committee which are not attended by the President, either in person or by conference telephone;

5.3.2. The Executive Committee, subject to any further limitations prescribed by the Board, shall possess and may exercise the powers of the Board in the management of the business and affairs of the Corporation during the period between meetings of the Board, except that the Executive Committee shall not have authority: 1) to fill vacancies

¹¹ Note: The statute technically says “past 2 years” not calendar years. See §2825(2) (added by 2005 amendment).

¹² Note: given that the law requires that The President of the Corporation shall not serve as Chairperson, having the President serve as Chair to the Executive Committee seems to violate at least the spirit of that rule, since the EC can act with full power of the Board in the interim between meetings. Unless particular circumstances dictate otherwise, we suggest that the Chairperson of the Board be the Chair of the Executive Committee.

on, or remove Directors from, the Board or any committee; 2) to determine the compensation of officers, Directors or committee members; 3) to amend, repeal or adopt Bylaws; 4) to amend or repeal any resolution of the Board which by its terms is not so amendable or repealable; 5) make capital or operating expenditures above limits, if any, established by the Board; 6) to change the number of Directors; or 7) to authorize indemnification under these Bylaws;

5.3.3. The Executive Committee may coordinate the activities and general policies of the various Corporation divisions, departments and committees, may make recommendations to the Board with respect to managing and conducting the affairs of the Corporation, and may meet and act as otherwise instructed by the Board. The Board of Directors shall be responsible for the long-range planning and quality assurance functions of the Corporation;

5.3.4. The Executive Committee shall meet as often as necessary or as is advised by the President, the Chairperson of the Board, the Committee, or the Board. The Committee shall keep minutes of each of its meetings, which shall include a record of its activities and business transactions. Said minutes and records shall be presented to the Board at its next regular meeting. The activities of the Executive Committee shall be deemed to have been ratified by the Board following presentation of the Committee's minutes and records, unless the Board adopts a resolution overruling the Committee.

Section 5.4. Governance Committee.

5.4.1. The Governance Committee shall (i) provide assistance to the Board in fulfilling its obligation to ensure that the Corporation is operated in accordance with prudent and responsible corporate governance standards and principles, including keeping the Board informed of current best governance practices and trends; (ii) maintain and make periodic improvement to the Corporation's bylaws; (iii) assist in the identification of qualified and independent nominees for Board membership, including to advise appointing authorities on the skills and experiences required of potential Board members; (iv) monitor and evaluate Board effectiveness and implement Board self-evaluations; (v) recommend to the Board Chairman nominees for Board committee assignments, and (vi) promote fulfillment of Director fiduciary duties and address potential ethical and conflict of interest issues among Board members.¹³

5.4.2. The Governance Committee shall be composed of not less than five (5) Directors, not less than three (3) of whom, and at all times a majority of whom, shall meet the criteria for director independence set forth in section 5.1.1 of these Bylaws. Committee members shall be appointed by the Chairman of the Board and shall possess the necessary skills to understand the duties and functions of the Governance Committee. The Committee Chair shall be designated by, and shall serve at the pleasure of, the Chairman of the Board. The Corporation's Secretary shall serve as secretary to the Committee.

5.4.3. The Governance Committee shall meet not less than twice each fiscal year, at a time and place determined by the Committee Chair, and may meet more frequently as determined by the Chair or by a majority of Committee members.

¹³ See §2824(7) requirements of Governance Committee (added by 2005 and expanded by 2009 amendments).

Section 5.5. Finance Committee.

5.5.1. The Finance Committee shall consist of at least three (3) directors, not less than three (3) of whom, and at all times a majority of whom, shall meet the criteria for director independence set forth in Section 5.1.1 of these Bylaws. The Chief Financial Officer of the hospital shall also serve as an *ex-officio*, non-voting member of the committee. The Committee shall meet not less than quarterly, and may invite additional people possessing information and/or skills necessary to its deliberations. Members of the Finance Committee shall possess the necessary skills to understand the duties and functions of the Finance Committee;¹⁴

5.5.2. The Finance Committee approves and presents to the Board strategic financial goals consistent with the Institute's mission;

5.5.3. The Finance Committee reviews monthly financial reports and operating statistics to ensure that the Corporation takes appropriate action in response to operating trends to achieve its financial goals;

5.5.4. The Finance Committee reviews and recommends the annual budget submitted by the President to the full Board and evaluates the financial feasibility of new business possibilities;

5.5.5. It shall be the responsibility of the Finance Committee to review proposals for the issuance of debt by the Corporation and make recommendations.

Section 5.6. Audit Committee.

5.6.1. The Audit Committee shall assist the Board in fulfilling its oversight responsibilities regarding the integrity of the Corporation's financial statements, the evaluation, qualifications, selection and retention of the independent auditors (including establishing the compensation to be paid by the Corporation to such independent auditors), the performance of the annual audit of financial statements, and the performance of the Corporation's internal audit functions relative to financial and regulatory record-keeping, reporting and compliance.

5.6.2. The Audit Committee shall be composed of not less than six (6) members, at least three (3) of whom, and at all times a majority of which, shall be Directors, and up to three (3) of whom may be community members who are not Directors of the Corporation. At least three (3) and at all times a majority of the Committee members, shall meet the criteria for director independence set forth in Section 5.1.1 of these Bylaws. The Committee shall designate a secretary to the Committee. Members of the Audit Committee shall possess the necessary skills to understand the duties and functions of the Audit Committee and shall be familiar with corporate financial and accounting practices.¹⁵

5.6.3. The Audit Committee shall meet not less than three (3) times each fiscal

¹⁴ See §2824(8) (added by 2009 Amendment).

¹⁵ See §2824(4) (added by 2009 Amendment).

year, and may meet more frequently as determined by the Chair or by a majority of Committee members.

Section 5.7. Corporate Compliance Committee.

The Corporate Compliance Committee shall consist of at least three (3) members of the Board; provided, however, that it shall not include as members either the President of the Corporation or the Commissioner of Health *ex-officio* director.¹⁶ The Corporate Compliance Committee shall be responsible for inspections of and investigations within the Institute, as well as fraud and abuse investigations. It shall participate with staff in the maintenance of a Corporate Compliance Policy, which policy shall foster efficient management, provide guidance in reimbursement areas, establish compliance standards, policies and procedures, identify opportunities to improve quality and reduce waste, develop a central coordinating source for information and guidance on Federal and State regulations, procedures and conditions of participation, provide open lines of communication to identify improper conduct and clarify policies, include effective education programs, use monitoring and auditing to detect non-compliance and improve quality, establish appropriate corrective action initiatives and disciplinary guidelines, and assign oversight responsibility to an appropriate individual.

Section 5.8. Compensation Committee.

The Compensation Committee shall consist of not less than four (4) Directors. The Committee Chair shall be designated by the Chairman of the Board and shall serve until replaced. The Committee shall be supported by the Corporation's Vice President of Human Resources and the Director of Classification and Compensation. It shall establish the compensation and benefits philosophy, strategy and performance levels for the Corporation's Chief Executive Officer (CEO); determine the compensation and benefits for the Corporation's employees who directly report to the CEO and other "key executives"; review and approve all new hire offer packages whenever either (i) the compensation (composed of base salary and any incentive or salary supplement) equals or exceeds \$300,000 per year, or (ii) any start up package equals or exceeds \$500,000 per year; oversee the development and administration of the incentive plan; and review reports from the CEO, management, external consultants and others on trends and developments, including legal and regulatory updates, in healthcare compensation and benefits.

Section 5.9. Technology Transfer Committee.

5.9.1. The Technology Transfer Committee is appointed by the Board to assist the Board in fulfilling its oversight responsibilities regarding the commercialization of technology and other intellectual property that can emanate from the research activities of the Institute's faculty.

5.9.2. The Technology Transfer Committee shall be composed of not less than six (6) members, at least four (4) and at all times a majority of whom¹⁷ shall be Directors, and up to three (3) of whom may be community members who are not Directors of the Corporation. Committee members shall be appointed by the Chairman of the Board, who shall serve *ex-officio* unless self-appointed as one of the minimum six (6) members. The

¹⁶ See §3553(3)(e). See also 2.1.12 of these Bylaws.

¹⁷ See 5.1 of these Bylaws.

Committee Chair shall be designated by the Chairman of the Board, and shall serve until replaced by the Chairman of the Board.

5.9.3. The Technology Transfer Committee shall meet not less than quarterly with meetings scheduled so as to be synchronized with the scheduling of the Board of Director Meetings each quarter, and may meet more frequently as determined by the Chair or by a majority of Committee members.

Section 5.10. Medical Staff Credentials Committee.

A Committee of the Board of Directors shall be appointed to receive, review and act, on behalf of the Board, upon credentialing recommendations of the Medical Staff Executive Committee (in this section referred to as the "Executive Committee"). The Medical Staff Credentials Committee shall consist of at least three (3) Directors, and shall consider the recommendations of the Executive Committee and shall (i) approve or (ii) disapprove the recommendations submitted by the Executive Committee. The Medical Staff Credentials Committee shall meet as often as is necessary to reasonably and efficiently maintain the Medical Staff credentialing process. The Committee shall have the authority to act on behalf of the Board, and shall in all cases, report to the Board at the Board meeting next following any action of the Committee. When the Medical Staff Credentials Committee does not concur with the recommendation of the Executive Committee, the recommendation shall be returned to the Executive Committee for further consideration along with a written explanation of the reason for such action. A time limit shall be set for further consideration by the Executive Committee and, if the Executive Committee makes a subsequent recommendation within the time period, the Medical Staff Credentials Committee shall make a final decision regarding the application at its next meeting. If the Medical Staff Credentials Committee does not receive a subsequent recommendation by the Executive Committee within the time period, the Medical Staff Credentials Committee shall make a final action either approving or disapproving the request.

Section 5.11. Special Committees.

Special Committees consisting of three (3) or more Directors, including the Chairperson of the Board as ex-officio member thereof, may be appointed by the President, subject to the approval of the Board, for such special tasks, duties and functions as circumstances warrant and as are provided for in such Board resolution.¹⁸ A special committee shall limit its activities to the accomplishment of the task for which it is appointed and shall have no power to act except as specifically conferred by action of the Board. Upon completion of the task for which appointed, the special committee shall stand discharged.

Section 5.12. Committee Minutes.

Minutes shall be kept of all committee meetings. Such minutes shall reflect all business conducted, including findings, conclusions and recommendations.

¹⁸ For your consideration, typically committees are comprised of at least 3 directors; but nothing in the Public Authorities Law requires this. Does the Chairperson's *ex-officio* position on all committees extend to special committees as well?

ARTICLE 6 - THE MEDICAL STAFF

Section 6.1. Organization.

The Board has created a Medical Staff organization to be known as the Medical Staff of Roswell Park Cancer Institute. The Medical Staff shall be comprised of all practitioners who are privileged to attend patients in the Institute. The Board shall consider recommendations of the Medical Staff and appoint to the Medical Staff, in numbers consistent with the Corporation's objectives and proper patient care, practitioners who meet the qualifications for staff membership set forth in the Medical Staff Bylaws. The Board must, in addition, delineate each applicant's clinical privileges within the Corporation. Medical Staff membership or clinical privileges in the hospital are not dependent solely upon certification, fellowship, or membership in a specialty body or society.

Section 6.2. Appointment.

6.2.1. All applications for appointment to the Medical Staff shall be in writing and addressed to the Chief Executive Officer of the Corporation. The application shall be verified and shall require detailed information concerning the applicant's education, training and experience, licensure, health status as defined by the Code of Regulations promulgated by the New York State Department of Health, physical and mental capabilities, and professional competence and ethical character and judgment, as prescribed more fully in the Medical Staff Bylaws. Each application shall be reviewed in accordance with the procedures and criteria set forth in the bylaws of the Medical Staff;

6.2.2. All appointments to the Medical Staff shall be upon recommendation of the Medical Staff Executive Committee to the Board Medical Credentials Committee. Initial appointment to the Medical Staff shall be for a period of one (1) year. Associate Staff are appointed for a limited term of (1) year. All appointments are subject to earlier termination for good cause as provided for and in accordance with procedures set forth in the Medical Staff Bylaws. Reappointment to the Medical Staff shall be for a maximum period of two (2) years. Associate Staff may be reappointed for a limited term of up to (1) year; but the period of appointment and reappointment of an Associate Staff Member shall not exceed a total of (4) years. When the Executive Committee concludes that an application of any person for initial appointment to the Medical Staff should be rejected, or an appointment not renewed, or privileges have been or are proposed to be reduced, altered, suspended or terminated (an "Adverse Action"), the applicant or Medical Staff member concerned shall be afforded (a) written notice stating the basis for the Adverse Action, and (b) an opportunity to be heard and to present evidence on the subject, in person or in writing, before the Executive Committee makes its recommendation to the Board. Such hearings shall be conducted in accordance with procedures set forth in Article IX of the Medical Staff Bylaws, so as to ensure due process and to afford full opportunity for the presentation of all pertinent information. The Board shall have final authority in making Medical Staff appointments and reappointments, and in granting clinical privileges to Medical Staff members.

Section 6.3. Duties of the Medical Staff.

The Medical Staff shall be responsible for the quality of medical care in the Institute. Among the duties of the Medical Staff are:

(a) To assure that all patients admitted to or treated at the Institute receive high quality health care;

(b) To conduct an ongoing review and evaluation of the quality of each practitioner's professional performance in the Institute, and to recommend to the Board of Directors through the Medical Staff Executive Committee the delineation of clinical privileges of each practitioner at the Institute based upon such appraisal;

(c) To provide a cooperative professional relationship among the Medical Staff, the Board, and the Corporation's administrative staff through which issues concerning the staff and the Institute may be discussed;

(d) To provide an appropriate educational setting that will maintain scientific standards and that will lead to continuous advancement in professional knowledge and skill;

(e) To establish and maintain professional and ethical standards;

(f) As more fully set forth in Section 6.4, to develop and maintain bylaws, rules and regulations for the appointment, reappointment, delineation of privileges, and self-governance of the staff;

(g) To make recommendations to the Board of Directors concerning the following, through the Medical Staff Executive Committee:

(1) appointments, reappointments and other changes in staff status, pursuant to defined, written criteria;

(2) granting of clinical privileges;

(3) disciplinary action;

(4) all matters relating to professional competence;

(5) such specific matters as may be referred to the staff by the Board of Directors;

Each member of the Medical Staff shall have appropriate authority and responsibility for the care of his or her patients, subject to such limitations as are contained in these Bylaws and in the Bylaws, Rules and Regulations of the Medical Staff, and subject to any limitations attached to the practitioner's appointment. Only a member of the Medical Staff with admitting privileges may admit a patient to the Institute. Each patient's general medical condition is the responsibility of a qualified physician member of the Medical Staff.

Section 6.4. Bylaws of the Medical Staff.

The Medical Staff shall adopt Bylaws, Rules and Regulations, and periodic amendments thereto as necessary, which set forth its organization and function, and which are consistent with the Bylaws, policies, and objectives of the Board of Directors, and consistent with applicable legal and regulatory requirements, and in particular the requirements of Title 10(C) NYCRR 405.4. Medical Staff Bylaws, Rules and Regulations shall be subject to, and effective

upon, approval by the Board of Directors. All members of the Medical Staff shall subscribe to and agree to be governed by all the Bylaws, Rules, Regulations, and policies of the Medical Staff and the Corporation and the requirements and ethical standards established by the medical specialty to which the practitioner belongs.

Section 6.5. Performance and Reviews (Quality Assurance).

An ongoing Quality Assurance Program shall be established and maintained by the administration and the Medical Staff. The Board of Directors shall ensure that the necessary administrative assistance is provided to facilitate the regular comprehensive peer analysis of the clinical practice and utilization review activities within the Institute. The quality of patient care services provided by individuals who are not subject to the Medical Staff's privilege delineation process will be reviewed as a part of the Institute's Quality Assurance Program. The Board of Directors will be kept advised of recommendations resulting from the review, including potential for improved patient care and solutions to identified concerns. The Board of Directors has overall responsibility for the conduct of the Institute in making available high quality patient care.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

Section 7.1. Indemnification.

The Corporation shall, to the full extent permitted by law, indemnify its directors, officers, employees, and other personnel.

Section 7.2. Insurance.

The Corporation may, but need not, purchase Directors' and officers' liability insurance, if authorized and approved by the Board of Directors.

ARTICLE 8 - FISCAL YEAR & FINANCES

Section 8.1. Fiscal Year.

The fiscal year of the Corporation shall begin on the 1st day of April and end on the 31st day of March of each year, unless as otherwise determined by the Board of Directors in accordance with the Act.¹⁹

Section 8.2. Loans.²⁰

No loans shall be made by the Corporation to any Director, Officer or employee of the Corporation.

¹⁹ See §3554(20) which allows Corporation to establish its fiscal year. This change provides the Board with flexibility to change fiscal year without amending the Bylaws.

²⁰ §2824(5); (added by 2005 Amendment).

ARTICLE 9 - CODE OF ETHICS AND CONFLICTS OF INTEREST

Section 9.1. General.

Directors, officers, and employees of the Corporation (“Employees”) shall exercise the utmost good faith in all transactions touching upon their duties relating to the Corporation, the Institute, and its property. In their dealings with and on behalf of the Corporation they will be held to a strict rule of honesty and fair dealing between themselves and the Corporation.

Section 9.2. Code of Ethics.

The Board of Directors shall promulgate a conflict of interest policy governing members of the Board of Directors. All Employees, Directors, and officers of the Corporation are subject to the provisions of the Code of Ethics contained in New York State Public Officers Law Section 74, as the same may be amended from time-to-time.²¹

Section 9.3. Violations.

In addition to any penalty contained in any other provision of law, any Employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended, or removed from office or employment in the manner provided by law.

ARTICLE 10 - RULES OF ORDER AND BYLAW CHANGES

Section 10.1. Governing Rules.

Meetings of the Board may be governed by Robert’s Rules of Order, subject to the Board’s sole discretion, in all cases in which such rules are applicable, and in which they are not inconsistent with these Bylaws, the provisions of the Act, any other applicable provisions of the Public Authorities Law, any other applicable laws or with the operational policies and procedures adopted by the Corporation.²²

Section 10.2. Bylaw Changes.

These Bylaws, or any of them, may be altered, amended, or repealed and the new Bylaws may be adopted at any annual meeting of the Board of Directors of the Corporation or at any special meeting thereof called for that purpose by majority vote of the Board as set forth in Section 2.11 of these Bylaws.

²¹ See §2824(1)(d) (added by §18 of 2005 Amendments) requiring code of ethics apply to Directors, officers and employees.

²² Robert’s Rules of Order are notoriously complicated and parliamentary in nature. Except in instances where a majority of the Board are familiar with and proficient with these parliamentary rules, it is best not to establish them as the mandatory governing rules. Most significantly, this is to ensure that the Board’s votes and deliberations are not unduly vulnerable to objection by dissenting board members or others by virtue of the voting or deliberation having failed to be in accordance with these strict rules. In limited cases, Robert’s Rules provide for additional remedies and obligations in certain circumstances (such as disciplinary procedures) that the Board may not have contemplated or intended which can create ambiguity over which set of provisions controls - the Corporation’s adopted policies and Bylaws or Robert’s Rules.

ADOPTED at
Buffalo, New York as of
_____, 2015.

ATTEST:

Date

Chairperson of the Board of Directors

Date

Secretary of the Corporation

Schedule A -- Organizational Chart of Hospital Administration