

Template Bylaws
Prepared by The Cooperative Network*
Dated March __, 2012

*[*NOTE: The information contained in these Bylaws is based on general legal principles. It is not to be construed as legal advice. Interested persons should consult with legal counsel before taking any action based on these principles to ensure appropriate application of the principles to specific situations.]*

**BYLAWS OF
COOPERATIVE* CO-OP**

*[*NOTE: Wisconsin Cooperative Association Act, Chapter 185 of the Wisconsin Statutes, provides for creation of private, nonprofit, member corporations. This annotation will refer to sections of the Wisconsin Cooperative Association Act with the preface Wis. Stats. Persons interested in forming a cooperative under another state law should review that state law, which may require more or different provisions than provided here. The Cooperative Network [cooperative and insurance law survey] describes various state cooperative and insurance laws.*

2. Section 1322(c)(1) of the Affordable Care Act (“ACA”) and 45 CFR 165.510 (Regulations implementing the requirements for CO-OPs were adopted by the Department of Health and Human Services on Dec. 13, 2011 as 45 CFR Part 156) require that a consumer-governed nonprofit health insurance issuer (“CO-OP”) be organized as a private, nonprofit, member corporation.

3. State law will determine whether a cooperative can be formed to provide health care. Cooperative associations for health care are authorized by Wis. Stats. 185.981(1). In states where health care cooperatives are not authorized, state insurance law may authorize formation of a non-profit insurance corporation. See [cooperative and insurance law survey].]

**ARTICLE I
PURPOSES**

The purposes of this Cooperative shall be as set forth in the Articles of Incorporation, to establish, maintain, and operate a voluntary nonprofit health, dental, or vision care plan or plans for the benefit of its members and their dependents,* to issue such plans in the individual and small group markets in each state in which it is licensed and to otherwise operate a qualified nonprofit health insurance issuer under the United States Patient Protection and Affordable Care Act.*

*[*NOTE: Primary purposes of cooperative associations for health care described in Wis. Stats. 185.981(2)]*

*[*NOTE: Purpose of qualified nonprofit health insurance issuer (“QNHI”) defined in Section 1322(c)(1) of the ACA.]*

ARTICLE II MEMBERS

Section 1. Definition of “Member”

A “Member” is a person who has been accepted for membership in this Cooperative in accordance with these Bylaws. A “Subscriber” is a natural person who participates in a health plan through this Cooperative under the terms of a subscriber certificate. An adult “Subscriber” becomes a “Member” as provided in Section 2.4 of these Bylaws.

Section 2. Qualifications of Membership

No person, whether natural or statutory, may be denied membership because of race, color, handicap, age, sex, creed, national origin, ancestry, sexual orientation, arrest or conviction status, marital status, religion or any other legally impermissible criterion. There are no residence requirements for membership in this Cooperative.

Section 3. Classes of Members

This Cooperative shall have two (2) classes of Members: Founding* Members and Class A Members.*

*[*NOTE: Founding members have been used by some newly formed health care cooperatives for marketing purposes to help create widespread community support for the cooperative.]*

*[*NOTE: A cooperative CO-OP could later add other classes of members.]*

Section 4. Requirements of Membership

The designation, qualifications, requirements and methods of acceptance of Membership shall be as follows:*

*[*NOTE: Membership designations, qualifications, etc. can be set forth in bylaws. Wis. Stats. 175.11(2)]*

A. Founding Members

Persons who have contributed at least \$25.00 during the period for enrolling Founding Members shall be known as Founding Members and shall retain their memberships for their lifetimes, irrespective of continuing subscriptions for health care plans.

B. Class A Members

Persons may become Class A Members of this Cooperative in either of the following ways:

- (1) Adult Subscribers, including dependents over the age of 18 covered in a family contract, become Class A Members during the period of their subscription for health care plans. The rights and privileges of Class A

membership shall be available to subscribers attaining Class A membership in this manner only during the period of their subscription for medical services.

- (2) The Board of Directors may confer Class A membership upon individuals not otherwise eligible to be Members of this Cooperative. The term of such Class A membership thus conferred may not exceed three (3) years, and there may be no more than eight (8) such Class A Members at any time.

Section 5. Membership Voting

A. Founding Members and Class A Members

Each Founding Member and each Class A Member (hereinafter sometimes referred to collectively as “Voting Members”) is entitled to one (1) vote* at any meeting of the Members.

*[*NOTE: 1. 45 CFR 156.515(b)(1)(iii) requires one vote per member in election of directors.
2. One member-one vote is also generally required for Wisconsin cooperatives. Wis. Stats. 185.12(2)]*

B. Proxies

Voting by proxy is not allowed in this Cooperative.*

*[*NOTE: Required by Wisconsin Cooperative Association Act . Wis. Stats. 183.12(3)]*

C. Absentee Ballots

- (1) Any Voting Member who is unable to attend a meeting of the Members may, if the Cooperative provides ballots for a vote on a motion to be considered at that meeting, vote in accordance with the provisions of the Wisconsin Cooperative Association Act and these Bylaws, by delivering or mailing his or her signed ballot to the office of the Cooperative.* If such a signed ballot has been submitted on a motion, then neither the motion nor any resolution to which it pertains may be amended.

*[*NOTE: The voting by ballot procedure is set out in Wis. Stats. 185.12(5).]*

- (2) A sealed envelope bearing the signature of the Voting Member and enclosing a marked but unsigned ballot shall constitute a signed absentee ballot for the purpose of this section. The sealed envelope containing the absentee ballot must be received at the office of the Cooperative on or before two (2) business days prior to the date of the meeting. In the event the Voting Member submitting a signed absentee ballot attends the meeting in person, the signed absentee ballot shall be discarded in favor of the vote of such Voting Member in person at the meeting

Section 6. Termination of Membership; Revocation of Voting Privileges.

A. Termination

Any Member may terminate his or her membership by written request to the Secretary of the Board of Directors.

B. Revocation of Voting Privileges

Any Voting Member's voting privileges may be revoked by a majority vote of the Voting Members present at a membership meeting, provided that the proposed termination and the reason therefore are on the written notice distributed not less than seven (7) nor more than thirty (30) days prior to the meeting.*

*[*NOTE: Cooperative Bylaws may provide for the termination of membership. Wis. Stats. 185.11(4)]*

Section 7. Membership Meetings

A. Annual Meeting

A regular annual meeting of Members shall be held each year at such time and place in County as the Board of Directors shall specify, provided that this meeting is held within six (6) months after the closing of the previous fiscal year.*

*[*NOTE: Annual meeting and time are required by Wis. Stats. 185.13(2)]*

B. Special Meetings

Special Member meetings may be called at any time by the President, the Board of Directors, or by petition signed by twenty (20%) percent or more of the Voting Members and filed with the Secretary.*

*[*NOTE: Persons able to call special meetings set out in Wis. Stats. 185.13(3)]*

C. Notice of Meetings

The time and place of any membership meeting shall be designated by the Board of Directors, and notice of any such meeting shall be mailed to each Voting Member of the Cooperative not less than twenty-five (25) days prior to the meeting.* Notice is deemed mailed when it is deposited, or a newsletter or other publication of the Cooperative or of an affiliated organization which includes the notice is deposited, in the United States mail, with postage prepaid, addressed to the Voting Member at his or her address as it appears in the records of the Cooperative.

*[*NOTE: The statute permits notice periods of between 7 and 30 days. Wis. Stats. 185.13(4)]*

Members entitled to notice shall be those persons shown as Voting Members on the records of the Cooperative on a date which is forty-five (45) days prior to the membership meeting. In the situation where a Member is receiving health care benefits under a family or other contract in the name of another person who is the Subscriber, the mailing of notice to the Subscriber shall constitute notice to all Voting Members receiving health care by virtue of that contract. The failure of any Voting Member to receive notice of any meeting of the Members shall not invalidate any action which may be taken by the Members at any such meeting

D. Quorum

A Quorum for meetings of Members shall be as follows:

*[*NOTE: Quorum Rules are required by Wis. Stats. 185.14]*

- (1) If the Cooperative has fewer than 10 Members, a quorum shall be a majority of the Members.
- (2) If the Cooperative has 10 or more Members but fewer than 51 Members, then a quorum shall be 5 Members.
- (3) If the Cooperative has 51 or more Members but fewer than 101 Members, then a quorum shall be at least 10% of the number of Members.
- (4) If the Cooperative has 101 or more Members but fewer than 900 Members, a quorum shall be 10 plus at least 5% of the number of Members in excess of 100.
- (5) If the Cooperative has more than 900 Members, the quorum shall be 50 Members.
- (6) If a quorum should not be present on the day appointed, the Members present may adjourn from time to time until a quorum shall attend, and a new notice of meeting shall be given as provided in subsection C of this Section 2.7 above.

E. Notification

The Secretary of the Cooperative shall attend to the calling of the any membership meeting and notice thereof.

ARTICLE III DIRECTORS

Section 1. Board of Directors

A. Powers

The business affairs of this Cooperative shall be managed by its Board of Directors,* all of whom shall be elected by the Voting Members as provided in this Article.*

*[*NOTE: Provided in Wis. Stats. 185.31(1)]*

*[*NOTE: All voting members of a CO-OP must be elected by a majority of a quorum of the members. 45 CFR 156.515(b)(1)(i)]*

B. Qualifications

To be eligible to become and remain a Director, a person must meet the following qualifications:

- (1) The person must be a Voting Member of the Cooperative and be at least 18 years of age.* All* of the Directors shall be Voting Members of the Cooperative.

*[*NOTE: All CO-OP Members 18 or older must be eligible to vote for directors. 45 CFR 156.515(b)(1)(ii)]*

*[*NOTE: Wis. Stats. 185.31(1) requires that all Board members be Members of the cooperative. CO-OPs need only require that a majority of the board be members. 45 CFR 156.515(b)(1)(vi)]*

- (2) Except as provided in Sections 3.2 and 3.4 hereof, no employee of the Cooperative may serve on the Board of Directors.*

*[*NOTE: CO-OP boards can include employees, subject to conflict of interest protections. 45 CFR 156.515(b)(2)(i)]*

- (3) No director may be a representative of the U.S., state or local government, or any subdivision or instrumentality thereof.*

*[*NOTE: Restriction required by ACA 1322(c)(2) and 45 CFR 156.515(b)(2)(v)]*

- (4) No director may be a representative of any insurance company, insurance service, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in any state or the District of Columbia and is subject to state law which regulates insurance which was in existence on July 16, 2009 (collectively "Issuer"), a holding company (a organization that exists primarily to hold

stock in other companies) that controls a Issuer, a trade association composed of Issuers and whose purpose is to represent the interests of the health insurance industry, a foundation established by an Issuer, a related entity, or a predecessor of either an Issuer or related entity.*

*[*NOTE: Restriction required by ACA 1322(c)(2) and 45 CFR 156.515(b)(2)(v)]*

C. Number The number of Directors shall be eleven (11).*

*[*NOTE: A cooperative of fewer than 50 members must have at least 3 directors; a cooperative of 50 or more members must have at least 5 directors. Wis. Stats. 185.31(2)]*

D. Voting. Each Director shall have one vote.*

*[*NOTE: Required for CO-OPs 45 CFR 156.515(b)(2)(ii)]*

E. Conflict of Interest Protections

- (1) Each director must act in the sole interest of the Cooperative and, as appropriate, the health and well being of the geographic area served by the Cooperative.*

*[*NOTE: Required for CO-OPs 45 CFR 156.515(b)(2)(i)]*

- (2) Each director must comply with the provisions of Article IV – Conflicts of Interest standards.*

*[*NOTE: 45 CFR 156.515(b)(3). A CO-OP must have governance documents that incorporate ethics, conflict of interest, and disclosure standards.]*

Section 2. Classes of Directors

A. Two Classes*

*[*NOTE: A CO-OP board must be elected within one year following the date on which the CO-OP provides coverage to its first member. The entire board no later than two years after that date. 45 CFR 156.515(b)(1)(iv)]*

There shall be two classes of Directors, an Individual Class of Directors and a Professional Class of Directors.* The Individual Class of Directors shall consist of nine (9) Directors who are elected by the Voting Members in the manner prescribed in the Bylaws. The Professional Class of Directors shall consist of two (2) Directors* who are elected by the Voting Members*in the manner prescribed in these Bylaws.

*[*NOTE: Positions on the CO-OP board may be designated for individuals with specialized expertise, experience or affiliation. 45 CFR 156.515(b)(2)(iii). A CO-OP may desire professional members on its Board to obtain the expertise and support of other major*

participants in its market or community. However, no director may be from the government or insurance industry as provided in paragraphs B.3 and 4 above.]

*[*NOTE: A CO-OP can chose to have a different balance between the Individual Class and the Professional Class. However, the Professional Class, positions on the CO-OP Board designated for individuals with specialized expertise, etc., cannot constitute a majority of the directors. 45 CFR 156.515(b)(2)(iv)]*

*[*NOTE: All CO-OP directors must be elected by a majority vote of a quorum of all Members. 45 CFR 156.515(b)(1)(i)]*

B. Terms for Individual Class

The Individual Class Directors shall be divided into three categories. Category 1 shall consist of three (3) Directors, Category 2 shall consist of three (3) Directors and Category 3 shall consist of three (3) Directors. Individual Class Directors shall serve for a period of three (3) years. The terms of each category of Individual Class Directors shall not run concurrently, but shall be staggered so that the terms of each of the Individual Class Directors serving within one category ends each year.*

*[*NOTE: The terms of Individual Class Directors, including whether directors are elected by class or as a whole each year, can be varied by the cooperative in the Bylaws.]*

C. Terms for Professional Class

The Professional Class Directors shall be divided into two categories. Category 1 shall consist of one (1) Director and Category 2 shall consist of one (1) Director. The initial term for the Professional Class Director from Category 1 shall be for a period of three (3) years and the initial term for the Professional Class Director from Category 2 shall be for a period of two (2) years. Following the expiration of each of the initial terms of service for the two categories of Professional Class Directors, the Professional Class Directors elected to the next term in each category shall serve for a period of three (3) years. A Professional Class Director shall be eligible to serve a maximum of two (2) consecutive terms. An individual who serves for a period of two (2) consecutive terms shall again be eligible to serve as a Professional Class Director after an absence from service on the Board of Directors of three (3) consecutive years.*

*[*NOTE: The terms of Professional Directors, including whether directors are elected by class or as a whole each year, can be varied by the cooperative in the Bylaws.]*

D. Expiration and Election

Each Director shall hold office until his/her successor has been elected and qualified unless he or she resigns or is removed pursuant to these Bylaws.

E. Vacancies in the Individual Class of Directors

Vacancies in the Individual Class of Directors shall be filled as soon as is reasonably possible after a vacancy occurs by appointment by a majority vote of the Individual Class Directors then in office.* Vacancies shall be filled from recommendations of the Nominations Committee. Individual Class Directors so elected shall serve the remainder of the term to which appointed.

[*NOTE: Replacement process provided in Wis. Stats. 185.31(5)]

F. Vacancies in the Professional Class of Directors

Vacancies in the Professional Class of Directors shall be filled as soon as is reasonably possible after a vacancy occurs by appointment by the Board of Directors.* Professional Class Directors so elected shall serve the remainder of the term to which appointed.

[*NOTE: Replacement process provided in Wis. Stats. 185.31(5)]

Section 3. Election of Individual Class Directors*

[*NOTE: Elections of CO-OP directors must be contested so that the total number of candidates for vacant positions on the operational board exceeds the number of vacant positions, except in cases where a seat is vacated mid-term due to death, resignation, or removal. 45 CFR 156.515(b)(1)(v)]

Individual Class Directors will be nominated and elected at the annual meeting of the membership in the following manner.

A. Nominations Committee*

[*NOTE: There are various methods for ensuring contested elections. A nominating committee is not required but is a popular and preferred method to reduce the risk of a self-perpetuating board.]

There shall be a Nominations Committee consisting of seven (7) Voting Members of the Cooperative who are not current members of the Board of Directors. Not less than one hundred twenty (120) days prior to the annual membership meeting, the Board of Directors shall solicit from all Voting Members written nominations for candidates for three (3) positions on the Nominations Committee. Candidates for the Nominations Committee must be Voting Members of the Cooperative, and may not be current members of the Board of Directors. The notice of the annual meeting shall contain the names of candidates wishing to serve on the Nominations Committee in the following year. Each year, the Voting Members will elect three (3) members of the Nominations Committee, and the Board of Directors will appoint four (4) members of the Nominations Committee. All members of the Nominations Committee will serve one (1) year terms, commencing in August of each year.

B. Nomination of Individual Class Directors

- (1) Nomination By Board of Directors or Nominations Committee. Not less than one hundred twenty (120) days prior to the annual membership meeting, the Board of Directors or the Nominations Committee shall solicit from all Voting Members written nominations for expiring Individual Class Director positions as well as any vacant positions. Those Voting Members eligible and wishing to serve as Individual Class Directors, will be requested to submit a written application to the Nominations Committee not less than one hundred (100) days prior to the annual membership meeting. It shall be the function of the Nominations Committee to select persons eligible and qualified to serve as Individual Class Directors of this Cooperative. The Nominations Committee shall recommend as nominees those persons it considers most qualified to serve and, whenever possible, shall recommend at least two nominees for each position to be filled.* At least seventy-five (75) days prior to the annual membership meeting, the Nominations Committee shall notify all persons submitting written applications of its selection of nominees, and shall file its report with the Secretary of the Cooperative. The report shall be available to any Member upon request.

*[*NOTE: Elections of CO-OP directors must be contested so that the total number of candidates for vacant positions on the operational board exceeds the number of vacant positions, except in cases where a seat is vacated mid-term due to death, resignation, or removal. 45 CFR 156.515(b)(1)(v)]*

- (2) Nomination by Petition. Any eligible Voting Member who is willing to serve may be nominated for election as an Individual Class Director by a petition signed by one hundred (100) or more Voting Members of the Cooperative submitted to the Nominations Committee at least sixty (60) days prior to the annual membership meeting.
- (3) Notice to Members. Not less than twenty-five (25) days prior to the annual membership meeting, the Nominations Committee shall inform the Members of the nominees, identifying the manner of nomination, whether by the Nominations Committee or by petition, and shall also inform the Members of the procedure for casting absentee ballots.

C. Procedure

At the annual membership meeting, each Voting Member is entitled to one (1) ballot pertaining to the election of Individual Class Directors, and may cast no more than one (1) such ballot, and may cast no more than one (1) vote for each unfilled Individual Class Director position. Voting shall be limited to persons nominated in accordance with subparagraphs A and B of this Section 3.3. After the ballots are cast, they shall be counted by the Secretary and Member volunteers who are not nominees. The nominees receiving the greatest number of votes, including absentee votes, for the positions to be

filled shall be declared elected, except that if there is a tie vote for the last position to be filled, there shall be a second ballot cast to fill that position. Vacancies for Individual Class Director positions which have not been otherwise filled by the Board of Directors pursuant to Section 2 (E) of this Article III shall be filled by Voting Members by separate election prior to balloting on other positions.

*D. Removal**

*[*NOTE: Bylaws can provide for removal of directors. Wis. Stats 185.31(4)]*

- (1) An Individual Class Director who misses three (3) consecutive regular Board of Directors meetings, or four (4) regular meetings during the period between annual membership meetings may be removed without any membership vote upon the majority vote of the other Directors of both classes then in office.

- (2) An Individual Class Director may be removed for any reason upon a petition calling for said removal being signed by one hundred (100) Voting Members and a simple majority vote of the Voting Members present at the next regular or special membership meeting. The petition shall state the reasons for the requested removal, and will place this item on the next agenda. The Director shall be informed in writing of the removal request and the reasons stated at least thirty (30) days prior to the meeting of the Members at which the removal is to be considered, and shall have an opportunity at the meeting to be heard in person or by counsel and to present pertinent evidence. The Member or Members bringing the petition against the Director shall have the same opportunity. Any vacancy created by such removal shall be filled as provided in these Bylaws.

Section 4. Election of Professional Class Directors

Professional Class Directors will be nominated and elected at annual meetings in the following manner:

A. Eligibility

To be elected to serve and continue service as a Professional Class Director, a person must have experience and expertise in the delivery and financing of health care services which will be helpful to the Cooperative.

B. Nomination

No less than twenty-five (25) days prior to the annual membership meeting, the Board of Directors shall inform Members of the person or persons the Board of Directors has nominated for election as the Professional Class Director, which nominee shall be the person or persons the Board of Directors has determined most qualified to serve as a Professional Class Director. The Board of Directors must need not submit more than one

(1) name of an eligible Professional to the Members for election as a Professional Class Director.* A person so elected shall be deemed to have been conferred with membership in the Cooperative for the term of service as a Director.

*[*NOTE: Since the elections for Individual Class Directors will be contested under Section 3B1 above, the requirement in 45 CFR 156.515(b)(1)(v) will be met even if the election of Professional Class Director is not contested. A cooperative may wish to provide for nomination of at least two Professional Class Directors a matter of governance preference.]*

C. Procedure

At the annual membership meeting, each Voting Member is entitled to one (1) ballot pertaining to Professional Class Director, and may cast no more than one (1) such ballot, and may cast no more than one (1) vote for the Professional Class Director position. Voting shall be limited to persons nominated by the Board of Directors in accordance with subparagraph B of this Section 3.4. After the ballots are cast, they shall be counted by the Secretary and Member volunteers. The nominee receiving the greatest number of votes, including absentee votes, shall be declared elected except that if there is a tie vote, there shall be a second ballot cast.

D. Removal*

*[*NOTE: Bylaws can provide for removal of directors. Wis. Stats 185.31(4)]*

A Professional Class Director may be removed in the same manner as an Individual Class Director may be removed pursuant to subparagraph D of Section 3.3 hereof.

Section 5. Meetings Quorum, Waiver of Notice

A. Regular Meetings

Regular monthly meetings of the Board of Directors will be established at a regular time and place each month. The meetings are open to all Members of this Cooperative.*

*[*NOTE: There is no general requirement that Board meetings be open to all members of a cooperative but many believe this openness is crucial to the democratic principles of cooperatives.]*

B. Quorum*

*[*NOTE: Board quorum of at least a majority required under Wis. Stats. 185.32(2)]*

A majority of the Directors holding office shall constitute a quorum for the transaction of business. The concurrence of a majority of those Directors present at a regularly scheduled or duly called meeting shall be necessary and sufficient to transact any business except as may be specified elsewhere in these Bylaws.

C. Waiver of Notice (Special Meeting)

Special meetings of the Board of Directors may be called at any time by the President or by a majority of Directors then holding office. No business, except that mentioned in the call for a special meeting, shall receive final action at any such special meeting. Three (3) days' notice of any such special meeting shall be given unless a written and signed waiver of notice is given by all Directors then in office. Attendance at a meeting is a waiver of notice of such meeting, except when a Director attends the meeting and objects there at to the transaction of business because the meeting was not lawfully convened.*

[*NOTE: Waiver of notice by attendance and participation provided in Wis. Stats. 185.32]

D. Meetings by Electronic Means of Communication

The Board of Directors or a Committee thereof may, in addition to conducting meetings in which each Director participates in person, and notwithstanding any place set forth in the notice of the meeting or these Bylaws, conduct any regular or special meeting by the use of any electronic means of communication, provided that:

- (1) all participating Directors may simultaneously hear each other during the meeting; or
- (2) all communication during the meeting is immediately transmitted to each participating Director, and that each participating Director is able to immediately send messages to all other participating Directors.*

[*NOTE: Requirements for electronic meetings set out in Wis. Stats 185.32(5)(a)]

Before the commencement of any business at a meeting at which any Directors do not participate in person, all participating Directors shall be informed that a meeting is taking place at which official business may be transacted.*

[*NOTE: Requirement in Wis. Stats 185.32(5)(b)]

Section 6. Officers Duties

A. Officers*

[*NOTE: These officers required, unless articles provide otherwise. Wis. Stats 185.35]

The officers of the Board of Directors shall be:

President
Vice President
Secretary
Treasurer*

*[*NOTE: These officers required, unless articles provide otherwise. Wis. Stats 185.35 If these titles conflict or are confused with management offices, then others can be provided in the Articles of Incorporation.]*

All officers shall be Directors on the Board, and shall be elected at the first Board meeting after the annual meeting of the Members at which the Board is elected. Each officer shall hold office for one (1) year or until a successor is elected and qualified.

B. Duties

The officers shall perform such duties as are ordinarily assigned to such officers in the normal course of business. The President and Secretary shall have authority to sign all documents within the scope of the implied or express authorization of the Board of Directors, Chapter 185 of the Wisconsin Statutes, and the Articles and Bylaws of this Cooperative. The Secretary and Treasurer shall perform the usual duties of those offices. The Vice President shall act as President in the absence or disability of the President. Any officer may be removed by a two-thirds (2/3) vote of all Directors, provided that the removal is on the announced agenda prior to the meeting.

Section 7. Committees

A. Committee and Advisory Councils

The Board of Directors shall, by resolution, create such standing or temporary committees or advisory councils as are deemed necessary. Nomination of committee or council members may be made by any Director, and appointment of a nominee to a committee or council shall be by majority vote of the Board of Directors. The chairperson of each committee or council shall be a Director and shall be appointed by a majority vote of the Board of Directors.

B. Committee Limitations

A voting member of any compensation committee who receives compensation (including, but not limited to, salary, bonuses and fringe benefits), directly or indirectly, from the Cooperative for services is precluded from voting on matters pertaining to his or her own compensation.* No employee of the Cooperative shall be eligible to serve as a member of any human relations committee of the Board.

*[*NOTE: Unless bylaws provide otherwise, exclusion from voting provided by Wis. Stats 185.36(2). CO-OP conflict of interest rules require process for disclosure and addressing conflicts. 45 CFR 156.515(b)(3)]*

Section 8. Liability of Directors and Members

A. Wrongful Distribution

Directors who negligently or in bad faith vote for any distribution of assets, contrary to Chapter 185 of the Wisconsin Statutes or the Articles, are jointly and severally liable to

the Cooperative for the value of assets distributed in excess of the amount which could have been distributed without violating this Chapter or the Articles.*

*[*NOTE: Provided in Wis. Stats 185.37(1)]*

B. Obligations of Cooperative

Members and patrons of a Cooperative are neither obligated to pay, nor liable upon, any Cooperative obligation.*

*[*NOTE: Provided in Wis. Stats 185.37(2)]*

C. Indemnification of Directors

Each Director, officer, employee or agent of the Cooperative, now or hereafter serving as such, shall be indemnified by the Cooperative against any and all claims and liabilities, including reasonable settlements to which he/she has or shall become subject by reason of serving or having served in such capacity, or by reason of any action alleged to have been taken, omitted, or neglected by her or him as such Director, officer, employee or agent; and the Cooperative shall reimburse each such person for all legal expenses reasonably incurred in connection with any claim or liability, provided, however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with any claim or liability arising out of his or her own willful misconduct or gross negligence.

Section 9. Compensation

Directors as such shall not receive any salary for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each meeting of the Board of Directors provided that Professional Class Directors shall receive no compensation for their service as Directors of the Cooperative. A Director requested by the Board of Directors, President or Executive Director, to assist the Executive Director, or in lieu of the Executive Director to transact necessary business of the Cooperative, may be allowed a per diem to be established by the Board of Directors, and expenses for such services.*

*[*NOTE: 1. Unless the bylaws provide otherwise, only the Members may establish compensation for a director for services as a director. Wis. Stats 185.36(1).
2. Unless the bylaws provide otherwise, the cooperative may compensate a director for services rendered as an employee but the employee/director may not take part in the vote on her or his salary for services rendered. Wis. Stats 185.36(2).
3. Article III, proviso 2 of the articles of incorporation prohibits compensation to any individual except as a reasonable reimbursement or compensation.]*

Section 10. Meetings

The meetings of the Board of Directors may be held inside or outside the State of Wisconsin as shall be determined by the Board of Directors.

**ARTICLE IV
CONFLICTS OF INTEREST***

*[*NOTE: 1. A CO-OP must have governance documents that incorporate ethics, conflict of interest, and disclosure standards. The standards must protect against insurance industry involvement and interference. In addition, the standards must ensure that each director acts in the sole interest of the CO-OP, its members and its local geographic community as appropriate, avoids self dealing, and acts prudently and consistently with the terms of the CO-OPs governance documents and applicable law. At a minimum, these standards must include: (i) A mechanism to identify potential ethical or other conflicts of interest; (ii) A duty on the CO-OP's executive officers and directors to disclose all potential conflicts of interest; (iii) A process to determine the extent to which a conflict exists; (iv) A process to address any conflict of interest; and (v) A process to be followed in the event a director or executive officer of the CO-OP violates these standards. 45 CFR 156.515(b)(3). 2. The particular provisions of 45 CFR 156.515(6)(3) relating to each provision of the Article are noted below.]*

Section 1. Conflicts

The following provisions shall cover actual or potential conflicts of interest:

A. Material Transactions

Any material transaction between the Cooperative and one or more of its Directors or Officers, or between the Cooperative and any other person in which one or more of its Directors or Officers has a material interest, is voidable by the Cooperative unless:*

*[*NOTE: 45 CFR 156.515(b)(3)(iv)]*

- (1) the transaction at the time it is entered into is reasonable and fair to the interests of the Cooperative; and
- (2) the transaction has, with full knowledge of its terms and of the interests involved, been approved in advance by the Board of Directors; and
- (3) the transaction has been reported to the Commissioner of Insurance immediately upon such approval.*

*[*NOTE: This requirement is imposed by state insurance laws, not cooperative law or the ACCA and regulations.]*

B. Procedures

The Cooperative and its Directors, Officers and committee members with Board-delegated powers will abide by the following conflict of interest procedures:

- (1) Any Director, Officer or committee member with Board-delegated powers having a material financial interest in a transaction presented to the Board of Directors or a committee thereof for authorization, approval, or ratification must make a prompt, full and frank disclosure of that person's interest to the Board of Directors or committee prior to its acting on that transaction.*

*[*NOTE: 45 CFR 156.515(b)(3)(ii)]*

- (2) Each Director, Officer or committee member with Board-delegated powers must sign, as a condition to serving the Cooperative in his/her respective role, a statement agreeing to be bound by the terms of these conflict of interest provisions. Any disclosure, whether on the annual statement or made at any other time, will include any relevant and material facts, known to the person, about the transaction which might reasonably be construed to be adverse to the Cooperative's interest.*

*[*NOTE: 45 CFR 156.515(b)(3)(ii)]*

- (3) The Board of Directors or committee to which any disclosure is made must thereupon determine, by majority vote, whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist. The Board must also conduct reasonable analysis to determine whether the Cooperative could obtain a more advantageous transaction from any disinterested person. A person who makes a disclosure must leave the meeting during the discussion of whether a conflict of interest exists.*

*[*NOTE: 45 CFR 156.515(b)(3)(iii) and (iv)]*

- (4) If a conflict is deemed to exist, the person may present factual information to or respond to questions with respect to the transaction, but must leave the meeting while the merits of the transaction are discussed and voted upon. The person may be counted in determining the existence of a quorum at any meeting where the transaction is under discussion or is being voted upon.*

*[*NOTE: 45 CFR 156.515(b)(3)(iii) and (iv)]*

- (5) The minutes of the meeting must reflect the disclosure made, the vote thereon and, where applicable, the abstention from voting and participation, and whether a quorum was present.*

*[*NOTE: 45 CFR 156.515(b)(3)(iii) and (iv)]*

- (6) For purposes of this section, a person shall be deemed to have a “material financial interest” in a transaction if the person (a) is the party (or one of the parties) contracting or dealing with the Cooperative, (b) is a Director or Officer of, or has a significant financial or influential interest in, the entity contracting with the Cooperative, or (c) is the spouse, sibling, ancestor or lineal descendant of any person identified in either of the preceding clauses.*

[*NOTE: 45 CFR 156.515(b)(3)(iii) and (i)]

C. Approval of Commissioner of Insurance

If the Commissioner of Insurance, by rule, requires that any class of transactions which, by its nature, tends to be unreasonable or unfair to the interests of the Cooperative, shall be reported to him in advance of the proposed effective date, such a transaction shall not be carried out even though approved by the Board of Directors, until the Commissioner approves the transaction, or does not disapprove it, within thirty (30) days after receiving the advance report of it.

D. No Application

This Article does not apply to:

- (1) transactions made between the Cooperative and any wholly owned subsidiary, policies of insurance, other than reinsurance, issued in the normal course of business, or
- (2) other classes of transactions exempted by rule from the reporting requirement, so long as:
 - (a) the transaction, at the time it is entered into, is reasonable and fair to the interests of the Cooperative; and
 - (b) the books, accounts and records of each party to the transaction are kept in a manner that clearly and accurately discloses the nature and details of the transaction in accordance with generally accepted accounting principles and permits ascertainment of charges relating to the transaction.

E. Review

The full Board shall specifically review any transaction in which a member, Director or Officer has a material financial interest adverse to the Cooperative at the meeting next following action by any other committee.

**ARTICLE V
GENERAL PROVISIONS**

Section 1. Order of Business

A. Order of Business

The order of business at annual meetings shall be set by the Board of Directors.

B. Rules of Order

Meetings of the members and of the Board of Directors shall be conducted according to, and governed by, reasonable rules for the conduct of meetings.

C. Presiding Officer

The presiding officer at membership meetings shall be the President of the Cooperative.

Section 2. Action Without Meeting

Any action which may be taken at a meeting, may be taken without a meeting, if a writing setting forth and approving the action taken shall be signed by all Voting Members of the Cooperative, Directors or Committee members entitled to vote on such action. Such consent shall have the same force and effect as a unanimous vote at a meeting.*

*[*NOTE: Action by written consent provided in Wis. Stats. 185.34]*

Section 3. Employment of Relatives of Board Members

No person shall be employed by the Cooperative who holds any of the following relationships with a member of the Board of Directors: spouse, father, mother, son, daughter, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or first cousin.*

*[*NOTE: CO-OP director or executive officer would have obligation to disclose these conflicts. 45 CFR 156.515(b)(3)(ii)]*

Section 4. Amendment of Bylaws

A. Member Vote

These Bylaws may be amended by an affirmative vote of a majority of the Voting Members present at any annual meeting at which a quorum is present, provided a statement of the nature of the proposed amendment is included in the notice of the meeting.*

*[*NOTE: Amendment process found in Wis. Stats. 185.07(3). Initial bylaws can be adopted by the temporary board. Wis. Stats. 185.07(1)]*

B. By Board of Directors

These Bylaws may also be amended by an affirmative vote of a majority of the Board of Directors at a regular or special meeting at which a quorum is present, provided a statement of the nature of the proposed amendment is included in the notice of the meeting. Any bylaw amended by the Board of Directors shall be reported at the next regular member meeting. Any such bylaw shall be at any time subject to amendment or repeal by the Voting Members.*

*[*NOTE: Provided in Wis. Stats. 185.07(2)]*

Section 5. Distribution of Bylaws

Upon request, a copy of the latest Bylaws of this Cooperative will be given to Members. Notice of Bylaws changes shall be given to Voting Members.

**ARTICLE VI
CONDUCT OF BUSINESS**

Section 1. Board of Directors Supervision

Neither the Board of Directors nor the membership of this cooperative shall supervise, regulate or intervene in business and insurance relationships between any health care providers and their patients.

Section 2. Confidentiality of Medical Records

Individual medical records, including regarding any member application for membership or insurance, shall be kept confidential unless with the member's written consent otherwise.

**ARTICLE VII
NON-PROFIT COOPERATIVE OPERATION***

*[*NOTE: These distributions apply to a CO-OP exempt from tax under IRC 501(c)(29).]*

Section 1. Determination of Net Proceeds

The Board of Directors shall annually determine the net proceeds by making the following deductions from total proceeds:

- A. All operating expenses and costs,
- B. All taxes, if any, and all other expenses, and
- C. Reasonable and necessary reserves for depreciation, depletion and obsolescence of physical property, doubtful accounts and other valuation reserves, all of which shall be established in accordance with usual and customary accounting practices.

Section 2. Allocation of Net Proceeds

A. All of the net proceeds, as determined in Section 7.1 hereof, shall be applied first to losses incurred in prior years by allocating such net proceeds to retained earnings.

B. After elimination of prior years' losses, allocation shall first be made to the designated reserve for future claims and benefits, so that the Cooperative shall maintain sufficient reserves to discharge its obligations, having regard for the nature of its contracts and the area and number of persons covered. The Board of Directors shall, from time to time, review and determine the sufficiency of the reserve.

C. After elimination of prior years' losses, and establishment of a sufficient Designated Reserve for Future Claims and Benefits, the remaining proceeds shall be credited to unallocated surpluses and reserves. All such net proceeds shall be used to lower premiums, improve benefits, or for other programs intended to improve the quality of health care to its members or to improve and extend the service of the Cooperative. Except as provided above, no portion of the net proceeds shall be used for, or inure to, the benefit of any member or individual.*

*[*NOTE: Required by ACA 1322(c)(4).]*

**ARTICLE VIII
EMPLOYEES**

Section 1. Management

The Board of Directors shall employ and fix the compensation of a managing officer, who shall have such title as the Board of Directors may designate, and who shall manage the business affairs of the Cooperative, under the supervision of the Board of Directors, and perform such other duties as the Board of Directors may require

Section 2. Professional Staff

The Board of Directors shall execute suitable contracts with professionals and others employed by the Cooperative.

**ARTICLE IX
RECORD OF MEMBERSHIP**

The Cooperative shall keep a complete record of Members.

**ARTICLE X
DISPOSITION OF ASSETS: RIGHT TO SECURE DEBTS**

Section 1. Disposition of Assets

Except as authorized by the Members, the Board of Directors may not dispose of all, or substantially all of the Cooperative's fixed assets. At any meeting, the Members may authorize the disposition of all, or substantially all, of the Cooperative's fixed assets if:

A. Notice that such disposition will be considered at such meeting has been given to all persons entitled to vote thereon; and

B. Such disposition has been approved by two-thirds (2/3) of those entitled to vote thereon voting at the meeting or by absentee ballot.*

*[*NOTE: Process for disposition of assets set out in Wis. Stats. 185.38(1).]*

Section 2. Right to Secure Debts

The Board may secure payment of the Cooperative's debts by mortgaging the Cooperative's rights, privileges, authority and franchise, revenues and other property.

**ARTICLE XI
STATUTES**

This Cooperative is organized under Chapter 185 of the Wisconsin Statutes of 1969, as amended (the "Wisconsin Cooperative Association Act"). It is the purpose of these Bylaws to comply with the provisions of that Statute, and more particularly §§ 185.981, 185.982, 185.983 and 185.985. Nothing contained herein shall be deemed in violation of these Statutes and all provisions of these Bylaws shall be construed to conform with these Statutes.*

*[*NOTE: Persons interested in forming a cooperative under another state law should review that state law, which may require more or different provisions than provided here. The Cooperative Network [cooperative and insurance law survey] describes various state cooperative and insurance laws.]*

These Restated Bylaws have been executed by the undersigned Officers of Cooperative Co-op on the ____ day of _____, 2012.

COOPERATIVE CO-OP

By: _____
President

Attest: _____
Secretary

