

## BOARD OF REGENTS BRIEFING PAPER

**1. AGENDA ITEM TITLE:** Faculty Practice Plan Bylaws and Operating Agreement, UNLV School of Medicine

**MEETING DATE:** March 2 – 3, 2017

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

The UNLV School of Medicine (“**UNLV SOM**”) was founded on Aug. 22, 2014 when the NSHE Board of Regents approved the school’s first biennium budget request. In 2015, the Nevada legislature unanimously approved nearly \$27 million in startup funds for the medical school. UNLV SOM has achieved all milestones to date, including achieving preliminary accreditation in October 2016, and beginning the process of accepting its charter class of 60 students for the fall of 2017. At the same time, UNLV SOM has worked to develop the school’s clinical faculty practice plan to enable the transition of more than 100 clinical faculty and 300-plus support staff of the University of Nevada, Reno School of Medicine (“**UNR-SOM**”) southern Nevada practice plan to UNLV SOM by July 1, 2017. UNLV SOM is establishing its clinical faculty practice plan (“**UNLV Medicine**”) approximately two years ahead of schedule per its original 10-year development plan to ensure the state has two strong and robust medical schools.

### **FACULTY PRACTICE PLAN**

One of the fundamental elements of a medical school is its faculty practice plan; as such, UNLV brings forth for Board approval the UNLV Medicine Bylaws and the Operating Agreement between UNLV Medicine and the Board of Regents of the Nevada System of Higher Education on behalf of UNLV SOM. UNLV on behalf of its SOM retained outside legal counsel with extensive experience in health law to aid the development of the faculty practice plan’s bylaws and its operating agreement (see attached reference materials). UNLV on behalf of UNLV SOM also has worked for the past year with outside legal counsel to finalize UNLV Medicine’s business plan (see attached reference material). UNLV Medicine, as the SOM’s clinical faculty practice plan, allows medical students and residents the ability to gain firsthand clinical experience under the supervision of a UNLV faculty physician while acquiring the educational and research opportunities from being in a live clinical environment. Physicians who participate in the practice plan receive an appropriate portion of their salary from the medical school, enabling them to spend the necessary time teaching with their patients and medical students. In this clinical practice setting, UNLV SOM supervising faculty physicians bill patients for the clinical services they provide. The revenue generated from their practice provides funding for UNLV Medicine. UNLV Medicine manages the clinical practice, engages in billing activities, collects revenue, and provides money for operations, including clinical practice operating expenses, salaries for nursing and other non-medical staff, as well as funds for clinical teaching faculty salaries. School of Medicine faculty practice plans are much like any other functioning clinical business, however the intent is to infuse education and research within the treatment environment.

The identified mission of UNLV Medicine is to provide a premier multi-specialty academic group practice and primary care physicians who strive to provide the highest quality health care. Through its clinical activity, the faculty practice plan supports the medical education, training, and clinical research missions of the medical school, as identified below:

- Patient care: Provide exceptional medical care and superior patient experience.
- Community expansion: Build clinical, education and research service lines and programs.
- Education innovations: Translate leading scientific innovations into clinical practice while servicing the diverse health care needs of the southern Nevada region.
- Career education: Provide lifelong learning experience for undergraduate, graduate, and continuing medical education for physicians.
- Financial pipeline: Be a sustaining, fiscally viable clinical enterprise of the UNLV SOM.

In March 2016, the Board of Regents approved the framework and creation of the nonprofit corporation for

UNLV Medicine. For the past year, the UNLV SOM has worked to finalize the formal business structure of its clinical faculty practice plan so it can begin to hire and employ physicians and staff, credentialed physicians, establish its network of physicians and providers for the State and private payers, finalize payer contracts, create a call center, and complete a multitude of functions that must occur before July 1, 2017 to transition more than 110 physician faculty and approximately 300 practice plan employees from UNR-SOM to UNLV Medicine.

### BYLAWS

The Bylaws of UNLV Medicine have been created for the governance of its members and the management of its day to day affairs.

#### General provisions

- **Affiliated Group:** The Corporation is an “affiliated group” of the Nevada System of Higher Education. (NSHE)
- The Corporate Member shall be the Board of Regents of the NSHE on behalf of University of Nevada, Las Vegas School of Medicine
- Only an individual who is a member in good standing of the teaching of clinical faculty of the School of Medicine, holds a restricted license to practice as a health care professional in the State of Nevada, has a current and active appointment agreement with the School of Medicine, and has filed a current assignment of his or her rights to Medicare, Medicaid and other clinical services reimbursement to the Corporation shall become an individual Member of the Corporation.

#### Board of Directors

- The Board of Directors shall consist of not less than one individual and not more than 25 individuals, including ex officio Directors
- **Voting Directors:** 9 Directors are department chairs, 2 Directors are clinical faculty, 1 Director is a researcher, 2 Directors are community based, Dean of the School of Medicine, UNLV President, CEO of UNLV Medicine, **Non-Voting Directors:** COO; UNLV Medicine, UNLV Senior Administrator, CMO, UNLV Medicine, CFO, School of Medicine.

#### Committees of the Board

- The Board of Directors, by resolution adopted by a majority of the Directors entitled to vote, may designate and appoint one or more standing or special committees.
- Current committees comprise of the Nominating committee, Executive committee, Compliance and Audit committee, Quality of Care and Patient Safety Committee, Finance, Billing and Collections committee and the Compensation and productivity Committee.

### OPERATING AGREEMENT

Summary of Terms The Operating Agreement (“**Operating Agreement**”) is between the NSHE Board of Regents on behalf of the University of Nevada, Las Vegas (“**University**”), and its School of Medicine (“**UNLV SOM**”), and UNLV Medicine. (See attachment). The Operating Agreement outlines the roles and responsibilities of each of the parties.

Below is a summary of some of the elements:

- **Term and Termination:** The agreement shall begin on the effective date and may be terminated upon mutual written agreement of the parties pursuant to Section 10 (h).
- **Organization, Purpose and Governance of UNLV Medicine:** UNLV Medicine will be a nonprofit corporation that is legally separate from the university. It will obtain and maintain status a tax-exempt, charitable organization under State and Federal income tax laws. The principle purpose of UNLV Medicine is to provide support for the education, research, and patient care missions of the UNLV SOM. UNLV Medicine is an affiliated entity of NSHE, incorporated by the BOR, and is subject to any NSHE policies, procedures governing or related to affiliated entities. UNLV Medicine shall be governed by a Board of Directors
- **UNLV Medicine Relationship with the University**
  - **Exclusive Contracting and Billing Entity:** UNLV Medicine shall be the primary entity through and under which the faculty of UNLV SOM bill for clinically related professional

services

- **Member Practice Agreement:** University will require all eligible members of the faculty of UNLVSOM execute a Member Practice Agreement with UNLV Medicine. University will assist UNLV Medicine in enforcing the terms of the Member Practice Agreement. UNLV Medicine agrees it will strictly enforce the terms of the Member Practice Agreement.
- **Roles and Responsibilities**
  - **UNLV Medicine** shall accept responsibility in carrying out financial, compliance, employment, faculty physician compensation, and business management functions.
  - **UNLV Medicine and the University as it relates to Affiliated Hospitals.** UNLVSOM and UNLV Medicine shall exercise reasonable efforts with affiliate hospitals to ensure adequate space to conduct clinical, teaching and research activities.
  - **UNLVSOM** shall use its operating budget to provide direct salary and benefit support to faculty member physicians and allied health professionals for their work performed carrying out the UNLVSOM mission. This includes financial, compliance, employment, facilities, goods and services
- **Independent Organizations**
  - **The University and UNLV Medicine** are independent entities as it relates to liability, contracts, obligations, torts, agreements, representation,
- **Investment and Disbursement of UNLV Medicine funds**
  - Funds will be transferred from UNLV Medicine to UNLVSOM to support the clinical service component, contribute to the dean's fund to create new, or to strengthen existing programs, for the recruitment of new faculty, etc., UNLV Medicine can also transfer to funds to the UNLV Foundation.
- **Financial Transactions and Accounts:** UNLV Medicine will have an accounting system in place, and have an annual audit by and independent certified public accountant
- **Report:** UNLV Medicine will submit annual reports to the University by September 15 that includes the audit and financial report, statement of material changes, statement of Revenue and Expenses, a Balance sheet, summary of dean's fund expenditures, and a financial plan for the following fiscal year.
- **The agreement also includes** language outlining UNLV Medicine' and University's compliance with laws, nondiscriminatory policy, indemnification, insurance, dispute resolution, trademark, etc.

The faculty practice plan bylaws and operating agreement, in part, set forth the foundational principles for the operational structure for UNLV Medicine's clinical enterprise.

### **3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

UNLV President Len Jessup requests Board approval of the UNLV School of Medicine's Faculty Practice Plan Bylaws and Operating Agreement.

### **4. IMPETUS (WHY NOW?):**

- Approval of UNLV Medicine's Faculty Practice Plan bylaws, operating agreement and business plan is required to meet the medical school's timeframe to operationalize its clinical enterprise set forth by the UNR-SOM – UNLV SOM transition agreement of July 1, 2017
- It is essential that UNLV Medicine is operational to transition the UNR-SOM academic faculty, several of the UNR-SOM's clinical practices, residents, and fellowships to UNLV SOM by July 1, 2017.
- The UNLV SOM must have its faculty practice plan formally established in order to begin establishing operations. Physicians must be credentialed and under state and private payer contracts and systems in place to bill for services beginning July 1, 2017.

### **5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- UNLV Medicine is essential to create a financially viable physician group that will in turn serve as the foundation of, and standard of care for, the highest degree of patient care in Southern Nevada.
- UNLV Medicine will, among other services, serve as the billing entity for UNLV School of

Medicine physicians and allied health providers, the compliance program that will exceed all federal and state requirements and recommendations, the licensing entity of the electronic health record system, and the business development arm that will ensure the community receives the widest array of exceptional physician services.

- The Bylaws are essential, and required, in order for UNLV Medicine to allow the UNLV SOM physicians to serve as Medicare and Nevada Medicaid participating providers.
- The Bylaws are also required as a part of the Internal Revenue Service 501(c)(3) application.
- The Operating Agreement will ensure that UNLV Medicine, UNLV School of Medicine, UNLV, and the Nevada System of Higher Education have a clear delineation of roles, responsibilities and expectations to allow the focus to remain on continuing to provide excellent patient care while training the physicians of tomorrow.

**6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

- Without approval, UNLV SOM cannot begin its clinical operation or hire the Las Vegas based UNR-SOM faculty, classified and clinical staff to support such operation.

**7. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

Do not approve the UNLV SOM's faculty practice plan bylaws, operating agreement, and do not support its business plan.

**8. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title # 4 Chapter # 10 Section # 10
- Amends Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes  No \_\_\_\_\_

Explain: To fulfill its obligations in accordance with the Bylaws and Operating Agreement, UNLV Medicine will seek Board of Regents authorization to obtain a capital loan in the amount of \$19,000,000 and will repay the loan from generated fee for service and contract revenues, but should UNLV Medicine be unable to repay, the UNLV School of Medicine would be required to cover any shortfall.

BYLAWS  
OF  
UNLV MEDICINE  
(a Nevada nonprofit corporation)

ARTICLE I  
GENERAL PROVISIONS

Section 1.     Name. The name of this nonprofit corporation is UNLV Medicine (the “Corporation”).

Section 2.     Offices. The principal office of the Corporation shall be located in the State of Nevada. The Board of Directors of the Corporation (the “Board of Directors” and, each member thereof, a “Director”) may from time to time change such principal office and establish such other offices as the Board of Directors designates or as the affairs and activities of the Corporation require.

Section 3.     Affiliated Group. The Corporation is an “affiliated group” (as such term is used in Section 10 of Chapter 10 of Title 4 of the Board of Regents Handbook (the “BOR Handbook”) of the Nevada System of Higher Education (“NSHE”). The Corporation, the Directors, the officers and employees of the Corporation, the Corporate Member and the Individual Members shall be subject to and comply with the policies and requirements established by the Board of Regents of NSHE (the “Board of Regents”) applicable to affiliated groups of NSHE as set forth in the BOR Handbook or otherwise, including without limitation, Section 10 of Chapter 10 of Title 4 of the BOR Handbook (collectively and as amended, restated, modified or supplemented from time to time, the “Board of Regents Requirements”).

Section 4.     Classes of Members. There shall be two classes of members (as such term is defined in Nevada Revised Statutes (“NRS”) 82.031), the corporate member (the “Corporate Member”) and the individual members (the “Individual Members”). The Corporate Member and the Individual Members shall only have those rights, powers and preferences specifically provided in these Bylaws.

(a)     Corporate Member. The Corporate Member shall be the Board of Regents of the NSHE on behalf of University of Nevada, Las Vegas School of Medicine (the “School of Medicine”). The Corporate Member shall have no voting rights except for the following exclusive voting rights: (i) appoint and remove directors with or without cause, (ii) alter, amend, restate or repeal the articles of incorporation of the Corporation (the “Articles”); (iii) to alter, amend, restate or repeal the Bylaws of the Corporation; and (iv) to dissolve and terminate the Corporation. The Corporate Member may act through its Representative, which shall be the Dean of the School of Medicine and otherwise may act through resolution of its board of directors. All other voting power shall be vested in the Board of Directors.

(b)     Individual Members.

(i)     Qualifications. Only an individual who is a member in good standing of the teaching or clinical faculty of the School of Medicine, holds a unrestricted license to practice as a health care professional in the State of Nevada, has a current and active

appointment agreement with the School of Medicine, and has filed a current assignment of his or her rights to Medicare, Medicaid and other clinical services reimbursement to the Corporation shall be eligible to become an Individual Member of the Corporation. An Individual Member must maintain such qualifications at all times in order to remain an Individual Member of the Corporation, and the individual membership of any person who does not hold such qualifications shall be deemed revoked without further action or notice.

(ii) Dues. Individual Members shall pay such annual dues as may from time to time be fixed by the Board of Directors.

(iii) Rights. The Individual Members shall be invited to and have the right to speak at all meetings of the Individual Members, in accordance with the provisions hereof.

(iv) Resignation. Any Individual Member may withdraw as an Individual Member after fulfilling all obligations to the Corporation by giving written notice of such intention to the Secretary or the Treasurer. The Secretary or the Treasurer shall present all resignation notices to the Board of Directors at the first meeting of the Board of Directors after receipt of such notices by the Secretary or the Treasurer.

#### Section 5. Meetings of Individual Members.

(a) Meetings. Meetings of the Individual Members shall be held at least one time each year, on such dates and at such places as the Board of Directors may designate from time to time. The first meeting of the Individual Members, and each meeting of the Individual Members held on or about the anniversary of the first meeting, shall be designated as the annual meeting of the Individual Members. The President of the Corporation shall report on the operation of the Corporation for the preceding year during the annual meeting.

(b) Voting. The Individual Members shall have no voting rights.

(c) Special Meetings. A special meeting of Individual Members may be called by the Board of Directors, at its discretion, or at the request of ten percent (10%) or more Individual Members of the Corporation made in writing to the Secretary/Treasurer. No business, other than that specified in the notice of the meeting, shall be transacted at any special meeting of Individual Members.

(d) Notice of Meetings. Notice of any meeting of the Individual Members, stating the place, day and hour of such meeting, may be given to each Individual Member at his or her last known business or home address at least 10 days prior to such meeting by the mailing of written notice, by personal delivery of written notice or by telephonic or electronic transmission of notice (and the method of notice need not be the same for each Individual Member). If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage thereon prepaid. If sent by facsimile or other electronic transmission, such notice shall be deemed to be delivered when directed to the fax number or e-mail address consented to by the Individual Member, or by posting on an electronic network together with notice to the Director of the posting or the giving of separate notice. In addition, notice shall be deemed duly given when it is either deposited in an Individual Member's mailbox at the School

of Medicine, delivered via email to the Individual Member's official University email address, or delivered to the Individual Member via hand-delivery.

In lieu of delivering notice as specified above, the Corporation may give Individual Members written notice of the date, time and place of each meeting by email or another form of electronic transmission. A notice given by email or another form of electronic transmission shall be given as far in advance of the meeting as would be required if the notice was delivered as specified above.

Section 6. Quorum. A quorum of Individual Members shall exist if at least 20% of the Individual Members are present in person or by proxy.

Section 7. Chair. The President of the Corporation shall serve as chair of any meeting of the Individual Members.

## ARTICLE II PURPOSE AND ASPIRATIONS

Section 1. Purpose. The Corporation shall have the purposes set forth in the Articles. The Corporation shall do and perform such acts as may be necessary or appropriate to carry out such purposes and may exercise any of the powers granted to nonprofit corporations by the laws of the State of Nevada including NRS Chapter 82, consistent with the Corporation's statement of charitable purpose as acknowledged by the Internal Revenue Service as the basis for its status as an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (as amended from time to time, and including the corresponding sections of any subsequent United States federal tax or revenue law, the "Code").

Section 2. Mission and Goals. The mission and goals of the Corporation are to do and perform every act or acts necessary, incidental to or connected with the furtherance of purposes set forth in Section 1 of this Article II, including, without limitation, (a) to collaborate as an "affiliated group" (as such term is used in the BOR Handbook) with the School of Medicine to implement an academic medical center with all of the legal rights and authority granted to such a center under state and federal law; (b) to develop an effective clinical practice environment to support the teaching, education, training and clinical research missions of the School of Medicine; (c) to provide such administrative, accounting and other services as shall be necessary for the School of Medicine and its physicians and other doctors to carry out their clinical practice missions; and (d) to render professional services as practitioners in connection with the foregoing.

## ARTICLE III BOARD OF DIRECTORS

Section 1. General Powers. Except as otherwise provided in NRS Chapter 82, the Articles or these Bylaws (as may be amended from time to time, the "Bylaws"), the business and affairs of the Corporation shall be conducted and managed under the direction of, and the control and disposal of the Corporation's properties and funds shall be vested in, its Board of Directors.

Section 2. Number, Tenure and Qualifications. The Board of Directors shall consist of not less than one individual and not more than 25 individuals, including *ex officio* Directors. The number of Directors within the foregoing fixed minimum and maximum and the composition of the Board of Directors may be established and changed from time to time by resolution adopted by the Board of Directors without amendment to these Bylaws or the Articles. The President of the Corporation and the CEO of the Corporation shall set the agenda for, and the President of the Corporation presides as chairman at, all meetings of the Board of Directors. The initial number of Directors is set at 21 and the initial Board of Directors shall be constituted of the following Directors:

<u>Type of Directors</u>	<u>Voting/Non-Voting Directors</u>	<u>Ex-Officio Directors</u>
6 Directors that are department chairs of Pediatrics, Internal Medicine, Family Medicine, Obstetrics & Gynecology, Surgery and Psychiatry  3 Directors that are department chairs from a cohort of surgery, ambulatory and hospital based practices	Voting Directors	N/A
2 Directors that are clinical faculty members of the School of Medicine and 1 Director that is a researcher	Voting Directors	N/A
2 Directors that are community-based business/finance representatives recommended by the Dean of the School of Medicine	Voting Directors	N/A
The Dean of the School of Medicine	Voting Director	<i>Ex-Officio</i> Director
The President of the University of Nevada, Las Vegas (“ <u>UNLV</u> ”)	Voting Director	<i>Ex-Officio</i> Director
The Chief Executive Officer of the Corporation	Voting Director	<i>Ex-Officio</i> Director



The Chief Operating Officer of the Corporation	Non-Voting Director	<i>Ex-Officio</i> Director
Senior Administrator of UNLV, per Article IV, Section 8(i) of these Bylaws	Non-Voting Director	<i>Ex-Officio</i> Director
The Chief Medical Officer of the Corporation, who should have a faculty appointment at the School of Medicine	Non-Voting Director	<i>Ex-Officio</i> Director
The Chief Financial Officer of the School of Medicine	Non-Voting Director	<i>Ex-Officio</i> Director

The Directors shall be appointed for terms as set by the Board of Directors to accomplish a schedule of terminations that will leave at least one-half of the voting board members in office from year to year.

Each Director, other than the *ex-officio* Directors, shall hold office until his or her successor shall be elected or appointed and qualified or until his or her earlier death, retirement, disqualification, resignation or removal. The term of office of each *ex officio* Director shall be for as long as he or she holds the position entitling him/her to be a Director of the Corporation. No decrease in the number of Directors shall have the effect of shortening the term of office of any incumbent Director.

Section 3. Nomination of Directors. Other than the *ex officio* Directors, Director nominees and recommendations for Director nominees may be submitted in writing by incumbent Directors, or by officers or staff of the Corporation, to the Nominating Committee. The Nominating Committee shall, after giving due consideration to such recommendations and such other persons as it may wish to consider, present its proposed slate of nominees to the Dean of the School of Medicine, who will present that slate of nominees to the Executive Vice President and Provost of UNLV for a recommendation to the President of UNLV for approval on behalf of the Corporate Member.

Section 4. Removal; Resignation. Other than the *ex officio* Directors, any Director may be removed at any time and for any reason or no reason at the request of the Corporate Member after the recommendation of the Board of Directors. Other than the *ex officio* Directors, any Director may resign at any time either by oral tender of resignation at any meeting of the Board of Directors or by giving written notice thereof to the President or Secretary of the Corporation. Such resignation shall take effect at the time specified in the oral tender or written notice and, if not specified, immediately upon receipt. Acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. Any vacancy occurring on the Board of Directors for any reason, including as a result of an increase in the number of Directors constituting the Board of Directors, may be filled by the affirmative vote of a majority of the remaining Directors then in office entitled to vote, even if less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor and until his or her successor is elected and qualified or until his or her earlier death, retirement, disqualification, resignation or removal.

Section 6. Annual Meetings. The annual meeting of the Board of Directors shall be held at the place and time determined by the Board of Directors, for the purpose of electing officers, reviewing the Corporation's Conflict of Interest Policy and for the transaction of such other business as may properly come before the meeting. Notice of annual meetings of the Board of Directors need not be given, but if given such notice shall be given in accordance with Section 8 of this Article III.

Section 7. Special Meetings. Special meetings of the Board of Directors may be called by the President whenever he or she deems it necessary, and shall be called by the President upon the request to do so in writing by a majority of the Directors entitled to vote. The President shall fix the place and time for holding any special meeting of the Board of Directors.

Section 8. Notice. Notice of any annual or regular meeting of the Board of Directors, stating the place, day and hour of such meeting, may be given to each Director at his or her last known business or home address at least 10 days prior to such meeting by the mailing of written notice, by personal delivery of written notice or by telephonic or electronic transmission of notice (and the method of notice need not be the same for each Director). Notice of any special meeting of the Board of Directors, stating the purpose, place, day and hour of the meeting, shall be given to each Director at his or her last known business or home address at least five days and not more than 30 days prior to such meeting by the mailing of written notice, by personal delivery of written notice or by telephonic, facsimile or electronic transmission of notice (and the method of notice need not be the same for each Director). If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage thereon prepaid. If sent by facsimile or other electronic transmission, such notice shall be deemed to be delivered when directed to the fax number or e-mail address of the Director, or by posting on an electronic network together with notice to the Director of the posting or the giving of separate notice.

Section 9. Waiver of Notice. Any Director may waive receipt of notice of any meeting before, at or after such meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise required by law or specified by the Articles or these Bylaws neither the business to be transacted nor the purpose of any annual meeting of the Board of Directors need be specified in the notice or the waiver of notice of such meeting.

Section 10. Quorum and Manner of Acting. A majority of all of the voting Directors shall constitute a quorum for the transaction of business of any meeting of the Board of Directors. Each Director, other than the non-voting Directors set forth in Section 2 of this Article III, shall be entitled to one vote and, if a quorum is present, the vote of a majority of the Directors entitled to vote present in person at a meeting shall be the act of the Board of Directors,

unless a greater number is required by the Articles, these Bylaws or by the NRS. If less than a quorum is present at a meeting, a majority of the Directors entitled to vote present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum is present.

Section 11. Meetings by Means of Conference Telephone or Videoconference. Members of the Board of Directors, or any Committee of the Board of Directors, may participate in a meeting of the Board of Directors or such Committee by means of a conference telephone, videoconference or similar communications device whereby all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 12. Conflict of Interest. It is the policy of the Corporation to prohibit its Directors, officers or staff members from engaging in any activity, practice or act which conflicts with, or could reasonably be perceived to conflict with or give the appearance of conflicting with, the interest of the Corporation, its clients, donors or suppliers. A conflict of interest may exist when the interests of activities of any Director, officer or staff member may reasonably be seen as competing with the interests and activities of the Corporation, or he or she derives a financial or other material gain as a result of the direct or indirect relationship. Any activity, practice or act which could give rise to a potential or perceived conflict of interest, no matter how small or insignificant, is to be reported to the Board of Directors and approved prior to engaging in such activity, practice or act. The Board of Directors shall adopt a Conflict of Interest Policy, consistent with the guidance of the Internal Revenue Service for charitable corporations and with the NRS, which shall be furnished on an annual basis to each Director, officer and senior staff member serving the Corporation and to each person who may become associated with the Corporation in such capacity. The Conflict of Interest Policy shall be reviewed annually for the information and guidance of Directors, officers and staff members and any new Director, officer and staff member shall be advised of the policy upon undertaking the duties of such position.

Section 13. Compensation. Directors shall serve without salary or other compensation. The actual and reasonable expenses of Directors incurred for attendance at meetings or in connection with performance of their official duties may be paid or reimbursed in compliance with the Board of Regents Requirements.

Section 14. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors or any Committee of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the actions so taken, is signed by a majority of the Directors entitled to vote or Committee members entitled to vote upon such action at a meeting. Such action by written consent shall have the same force and effect as an affirmative vote of the Board or Committee members at a meeting. Such written consent (which may be signed in counterparts) shall be filed with the minutes of the proceedings of the meetings of the Board of Directors. If any written consent is signed by less than all of the Directors then in office, notice of such action shall be sent to those Directors who did not sign the written consent within 10 days of the date of such consent.

Section 15. Presumption of Assent. A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless before adjournment of the meeting, he or she requests entry of dissent in the minutes. Such right to dissent shall not apply to a Director who voted in favor of such action.

#### ARTICLE IV OFFICERS

Section 1. Titles. The officers of the Corporation shall be a President, a Secretary and a Treasurer (or the equivalents thereof), and such other officers as may be deemed necessary or desirable by the Board of Directors. One person may hold more than one office at a time.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected by the Board of Directors at the annual meeting, after the election of Directors, and shall take office immediately. The Nominating Committee (if any) or any Director may nominate a Director or other person to be an officer of the Corporation by giving written notice to the Board of Directors. The term of office for each officer shall be one year, provided that each officer shall hold office until his or her successor shall have been duly elected and qualified, or until his or her earlier death, resignation or removal. If the election of any officer is not held at an annual meeting of the Board of Directors, such election shall be held as soon as conveniently possible thereafter. New offices may be created and filled, and vacancies may be filled, at any meeting of the Board of Directors. Each officer shall serve at the pleasure of the Board of Directors.

Section 3. Removal. Any officer may be removed by the Board of Directors, with or without cause, whenever in its judgment the interests of the Corporation would be served thereby. An *ex-officio* officer shall be deemed to have resigned his or her office upon the completion of his or her term of service in the office by which he or she holds his or her position on the Board of Directors. Election or appointment of an officer shall not create contract rights.

Section 4. Resignations and Vacancies. Any officer may resign at any time by giving written notice to the President or Secretary of the Corporation. Any resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified in such notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is subject to any rights or obligations, if any, under any existing contracts between the officer and the Corporation and is without prejudice to the rights, if any, of the Corporation. In the event of the resignation, removal, permanent disability, death or disqualification of any officer, the Board of Directors may fill the vacancy for the unexpired portion of the term.

Section 5. Authority and Duties of Officers. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified by the President, the Board of Directors or these Bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

(a) President. The President shall be the Vice Dean of Clinical Affairs of the School of Medicine, or if that position is vacant, shall be the Dean of the School of Medicine or

the Dean of the School of Medicine's designee, but shall not be a clinical department chair at the School of Medicine. As such, the President shall exercise general supervision of all operations of the Corporation, subject to the control of the Board of Directors. In the absence of the Secretary, the President or his or her designee has the power to attest and affix the corporate seal, if any, to any contract, deed, note or other instrument executed in the name of the Corporation. All officers, agents and employees shall report and be responsible to the President. He or she shall perform such other duties as may be determined from time to time by the Board of Directors.

(b) Secretary. The Secretary shall attend the meetings of the Board of Directors and, to the extent feasible, the meetings of the Committees of the Board of Directors, shall record or ensure that a record is maintained of the proceedings of all meetings of the Board of Directors and Committees, and shall maintain or cause to be maintained a complete and updated list of the members of the Board of Directors and all Committees, including the dates of election of each Director and Committee member. The Secretary shall also maintain or cause to be maintained a record of attendance of Directors at meetings. The Secretary shall perform all duties incident to the office of Secretary and such other duties as may be assigned by the President or by the Board of Directors. The Secretary shall have charge of all books, records, and papers of the Corporation, except those for which the Treasurer or some other person authorized to have charge thereof by the Board of Directors has responsibility. The Secretary shall ensure that the records required to be provided to NSHE pursuant to the Board of Regents Requirements shall be delivered in a timely manner. The Secretary shall also have the power to attest and affix the corporate seal, if any, to any contract, deed, note or other instrument executed in the name of the Corporation. The Secretary shall provide or cause to be provided notice of meetings in accordance with these Bylaws and shall furnish certifications of Board actions, Bylaws and organizational documents. The Secretary may, with the approval of the President, appoint an Assistant Secretary. In the absence of the Secretary, the President shall appoint a person to act as Secretary for a particular meeting.

(c) Treasurer. The Treasurer shall be the chief financial officer of the Corporation and shall receive and deposit or cause to be received or deposited in a bank approved by the Board of Directors all monies of the Corporation and keep or cause to be kept an accurate account thereof, review all financial statements, sign periodic financial reports and report or ensure that a report is made on the financial condition of the organization at annual meetings of the Board of Directors and whenever requested by the Board of Directors or President. The Treasurer shall ensure that the books of the Corporation are available for inspection by the President or the Executive Committee or any Compensation or Audit Committee. Upon the request of the Board of Directors or President, the Treasurer shall make reports as may be required and work with outside accountants and auditors. The Treasurer shall perform all duties incident to the office of Treasurer and such other duties as may be assigned by the President or by the Board of Directors. In the absence of the Treasurer at any meeting of the Board of Directors, any member of the Finance Committee may make the Treasurer's report.

Section 6. Compensation and Expenses. The salaries, if any, of the officers of the Corporation shall be fixed and paid in accordance with the Board of Regents Requirements. Reasonable expenses incurred in connection with performance of their official duties may be

reimbursed to officers upon approval of the President, the Executive Director (if any) or the Board of Directors in accordance with the Board of Regents Requirements.

Section 7. Voting by Secret Ballot. Voting for the election or removal of an officer shall be by secret written ballot if any Director so requests during any meeting.

Section 8. President of UNLV. In accordance with the Board of Regents Requirements, the President of UNLV shall be responsible for the activities of the Corporation since it is an “affiliated group” (as such term is used in the BOR Handbook) of NSHE, including, without limitation, (a) seeing that the gifts to the Corporation are in keeping with the goals, objectives and priorities of the Corporation and of NSHE and in consonance with the status of the Corporation under Section 501(c)(3) of the Code, (b) causing the Corporation to establish and maintain a system of internal accounting controls in accordance with the Board of Regents Requirements, and (c) causing annual financial statements to be prepared by the Corporation in accordance with all applicable state and federal laws and the Board of Regents Requirements and to include an unqualified opinion by an independent certified public accountant. Pursuant to the Board of Regents Requirements, the President of UNLV or his or her authorized delegee shall appoint (i) a senior administrator with financial expertise who is independent of the Corporation (“Designee”), and (ii) such Designee shall attend all meetings of the Board of Directors and the Executive Committee of the Corporation.

## ARTICLE V COMMITTEES OF THE BOARD

Section 1. Committees of the Board of Directors. The Board of Directors, by resolution adopted by a majority of the Directors entitled to vote, may designate and appoint one or more standing or special committees (each, a “Committee”). Each Committee shall consist of (a) one or more Directors and (b) such other persons as the Board of Directors may designate, who need not be members of the Board of Directors, except as otherwise set forth in these Bylaws. Each Committee may exercise the authority granted to it pursuant to these Bylaws or the enabling resolutions of the Board of Directors, except that no such Committee may take any action prohibited by NRS 82.206 (as amended from time to time or any successor statute). All Committees named in the Bylaws or mandated by the Board of Directors must take minutes of all meetings, which will be maintained with the Corporation’s records by the Secretary. Rules governing procedures for meetings of any Committee may be established by the Board of Directors or, in the absence thereof, by the Committee itself. All Committees are to report promptly to the Board of Directors and to take only such actions as are specifically designated in these Bylaws or in the resolution establishing the Committee or setting forth its duties and responsibilities.

Section 2. Privileges Held by Committees. The attorney-client privilege, the accountant’s privilege (if any), the privilege of internal corporate investigation (if any), the privileges and immunities granted by the Health Care Quality Improvement Act (42 USCA 11101 to 11152) and NRS 630.364, and any other privileges or immunities granted by applicable federal or state law (including common law) to the Corporation, shall be held and may be exercised by the Board of Directors, the Executive Committee, the Finance Committee, the Audit

Committee, and any Professional Review Committee or other Committee appointed by the Board of Directors.

Section 3. Committee Authority: General. At least one Director shall be appointed as a member of every Committee. At all meetings of the Committees, a majority of the Committee members then in office shall constitute a quorum for the transaction of any business and an affirmative vote of a majority of the members of the Committee present at a meeting shall be necessary for the taking of any action. All actions of the Committee shall be reported in writing to the Board of Directors at its next meeting succeeding such action. Minutes of the proceedings of the Committee shall be maintained by the Secretary. At any time that the Corporation does not have a duly constituted Committee despite the establishment of such a Committee by the Board of Directors, the Board of Directors shall have all of the powers and authority of such Committee.

Section 4. Nominating Committee. The Nominating Committee, which shall be designated by the Board of Directors, shall be responsible for proposing persons for election as Directors to the Corporate Member and for proposing persons for election as officers at the next annual meeting of the Board of Directors or, in the event of vacancies between elections, proposing replacement Directors and officers for election. When considering, evaluating and recommending possible candidates for the Board of Directors, the Nominating Committee may, in accordance with applicable law, consider factors such as gender, ethnicity, age, industry representation, geographic dispersion, the number, function and expertise of the Committee and the needs of the Board of Directors and the Corporation.

Section 5. Executive Committee. The composition, powers and duties of the Executive Committee shall be as described by the Board of Directors in the Executive Committee Charter, which shall be adopted and revised from time to time by the Board of Directors.

Section 6. Compliance and Audit Committee. The composition, powers and duties of the Compliance and Audit Committee shall be as described by the Board of Directors in the Compliance and Audit Committee Charter, which shall be adopted and revised from time to time by the Board of Directors. Notwithstanding any other document or decision adopted by the Board of Directors or for which the Board of Directors has failed in adoption or decision, the Compliance and Audit Committee shall be responsible for the oversight of the audit of the Corporation, and the Chair of the Compliance and Audit Committee shall at all times have direct access to the Auditor and to the Board of Directors for purposes of asserting compliance issues associated with the financial reports of the Corporation.

Section 7. Quality of Care and Patient Safety Committee. The composition, powers and duties of the Quality of Care and Patient Safety Committee shall be as described by the Board of Directors in the Quality of Care and Patient Safety Committee Charter, which shall be adopted and revised from time to time by the Board of Directors.

Section 8. Finance, Billing and Collections Committee. The composition, powers and duties of the Finance, Billing and Collections Committee shall be as described by the Board

of Directors in the Finance, Billing and Collections Committee Charter, which shall be adopted and revised from time to time by the Board of Directors.

Section 9. Compensation and Productivity Committee. The composition, powers and duties of the Compensation and Productivity Committee shall be as described by the Board of Directors in the Compensation and Productivity Committee Charter, which shall be adopted and revised from time to time by the Board of Directors.

Section 5. Removal. Any member of a Committee may be removed by the Board of Directors whenever, in the judgment of the Board of Directors, the interests of the Corporation would be served thereby.

Section 6. Term. Each member of a Committee shall serve until the next annual meeting of the Board of Directors, or until a successor is appointed, unless the Committee shall be earlier terminated or unless any such member is removed from such Committee, or unless such member shall resign or cease to be qualified as a member thereof. Any member of a Committee may resign at any time either by oral tender of resignation at any meeting of such Committee or by giving written notice thereof to the President or Secretary of the Corporation.

#### ARTICLE VI CORPORATE SEAL

The Board of Directors may, but is not required to, adopt a corporate seal of the Corporation.

#### ARTICLE VII INDEMNIFICATION

Section 1. Definitions. For purposes of this Article VII:

(a) “Indemnitee” shall (i) mean each Director or officer who was or is a party to, or is threatened to be made a party to, or is otherwise involved in, any Proceeding (as hereinafter defined), by reason of the fact that he or she is or was a Director or officer of the Corporation or is or was serving in any capacity at the request of the Corporation as a director, officer, employee, agent, partner, member, manager or fiduciary of, or in any other capacity for, another corporation, partnership, joint venture, limited liability company, trust or other enterprise (including an employee benefit plan) and (ii) include a person who has ceased to be a Director or officer of the Corporation or a director, officer, employee, agent, partner, member, manager or fiduciary of, or to serve in any other capacity for, another corporation, partnership, joint venture, limited liability company, trust or other enterprise, and shall inure to the benefit of his or her heirs, executors, administrators and legal representatives.

(b) “Proceeding” shall mean any threatened, pending or completed action, suit or proceeding (including, without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, and any appeal therefrom.

Section 2. Right to Indemnification. Each Indemnitee shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Nevada law against all judgments,



finances, taxes, penalties, amounts paid in settlement and expenses, including attorneys' fees, reasonably incurred or suffered by the Indemnitee in connection with any Proceeding; provided, that such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation and, in any Proceeding that is criminal in nature, had no reasonable cause to believe that his or her conduct was unlawful.

Section 3. No Presumption. The termination of any Proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not in itself create a presumption that the Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Corporation or that, with respect to any Proceeding that is criminal in nature, he or she had reasonable cause to believe that his or her conduct was unlawful.

Section 4. No Right to Indemnification. The Corporation shall not indemnify an Indemnitee for any claim, issue or matter as to which the Indemnitee has been adjudged by a court of competent jurisdiction, after exhaustion of any appeals taken therefrom, to be liable to the Corporation or for any amounts paid in settlement to the Corporation, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such amounts as the court deems proper. Except as so ordered by a court and for advancement of expenses pursuant to this Article VII, indemnification may not be made to or on behalf of an Indemnitee if a judgment or other final adjudication establishes that his or her acts or omissions involved intentional misconduct, fraud or a knowing violation of law and was material to the cause of action, and provided further, that no such indemnification shall be made with respect to any settlement or other non-adjudicated position of any Proceeding unless the Corporation has given its consent to such settlement or other disposition.

Section 5. Advancement of Expenses. The expenses of Indemnitees shall be paid by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as they are incurred and in advance of the final disposition of any Proceeding, upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Corporation.

Section 6. Non-Exclusivity of Rights. Nothing in this Article VII shall limit or affect any other right of any person to indemnification or expenses, including attorneys' fees, under any statute, rule or regulation, any provision of the Articles or these Bylaws, or any insurance policy, contract or otherwise. The Corporation may, by action of its Board of Directors and to the extent provided in such action, indemnify employees and other persons as though they were Indemnitees.

Section 7. Insurance and Agreements. The Corporation shall purchase and maintain insurance or make other financial arrangements on behalf of any Indemnitee for any liability and expenses asserted against or incurred by him or her. The Corporation is authorized to enter into agreements with any of its Directors, officers, or employees extending rights to indemnification and advancement of expenses to such person to the fullest extent permitted by applicable law, or

to provide such indemnification and advancement of expenses pursuant to a resolution of the Board of Directors, but the failure to enter into any such agreement or to adopt any such resolutions shall not affect or limit the rights of such person pursuant to this Article VII.

Section 8. Authorization for Discretionary Indemnification. A person who has been successful on the merits or otherwise in the defense of any Proceeding or any claim, issue or matter therein shall be entitled to indemnification as authorized in this Article VII. Except as provided in the preceding sentence and unless ordered by a court, any indemnification under this Article VII, under any contract or otherwise, shall be made by the Corporation, if and only if, authorized in the specific case upon a determination that indemnification is proper in the circumstances. The determination shall be made (a) by the Directors entitled to vote acting by quorum consisting of Directors who are not parties to the Proceeding, (b) if such a quorum is not obtainable, by independent legal counsel in a written opinion or (c) if a majority vote of a quorum consisting of Directors entitled to vote who are not parties to the Proceeding so orders, by independent legal counsel in a written opinion.

Section 9. Amendments to Indemnification Rights. The provisions of this Article VII relating to indemnification shall constitute a contract between the Corporation and each of its Directors and officers which may be modified as to any Director or officer only with that person's consent or as specifically provided in this Section 9. Notwithstanding any other provision of these Bylaws relating to their amendment generally, any repeal or amendment of this Article VII which is adverse to any Director or officer shall apply to such Director or officer only on a prospective basis, and shall not limit the rights of an Indemnitee to indemnification with respect to any action or failure to act occurring prior to the time of such repeal or amendment. Notwithstanding any other provision of these Bylaws (including, without limitation, Article X), no repeal or amendment of these Bylaws shall affect any or all of this Article VII so as to limit or reduce the indemnification in any manner unless adopted by the unanimous vote of the Directors of the Corporation then serving, provided, that no such amendment shall have a retroactive effect inconsistent with the preceding sentence.

Section 10. Changes in Nevada Law. References in these Bylaws to Nevada law or the NRS or to any provision thereof shall be to such law as it existed on the date these Bylaws were adopted or as such law thereafter may be changed, provided that (a) in the case of any change which expands the liability of Directors or officers or limits the indemnification rights or the rights to advancement of expenses which the Corporation may provide in this Article VII, or if any provision in this Article VII shall be determined at any time to be unenforceable in any respect, the other provisions shall not in any way be affected or impaired thereby and the rights to limited liability, to indemnification and to advancement of expenses provided in the Articles and/or these Bylaws shall continue as theretofore to the fullest possible extent and enforcement permitted by law, or (b) if any change permits the Corporation, without the requirement of any further action by Directors, to limit further the liability of Directors or officers or to provide broader indemnification rights or rights to the advancement of expenses than the Corporation was permitted to provide prior to such change, then liability thereupon shall be so limited and the rights to indemnification and the advancement of expenses shall be so broadened to the extent permitted by law.

ARTICLE VIII  
MISCELLANEOUS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, or any agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to execute and deliver any contract, agreement or instrument, including for the assignment, conveyance or encumbrance of property of the Corporation, in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances; however, the sale, lease or exchange of all of its property and assets shall be authorized only in the manner prescribed by the applicable law.

Section 2. Checks and Payment Orders. All checks, drafts or orders for the payment of money notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by any two officers of the Corporation, provided that such payments may be made electronically by the Corporation's certified public accountant, or other agents or employees of the Corporation may be designated as signatories on any account, if authorized by resolution of the Board of Directors.

Section 3. Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in or with such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Books and Minutes. The Corporation shall keep correct and complete books and records of account and financial statements and shall also keep minutes of the proceedings of its Board of Directors and Committees. All books and records of the Corporation may be inspected by any Director or his or her accredited agent or attorney, or as otherwise set forth in these Bylaws, for any proper purpose and at any reasonable time. Certain books and records of the Corporation may be inspected by the Board of Regents in accordance with the Board of Regents Requirements.

In accordance with 42 C.F.R. § 430, 302, the Corporation shall, and shall require all subcontractors of the Corporation to, provide to the Comptroller General of the United States, the U.S. Department of Health and Human Services, and their duly authorized representatives, access to the Corporation and the subcontractor's contract, books, documents, and records until the expiration of four years after the services are furnished under the contract or subcontract, if the contract or subcontract contemplates services valued at \$10,000 or more over any twelve month period.

The Corporation is a Business Associate (as defined in the Health Care Portability and Accountability Act of 1996, as it may be amended from time to time "HIPAA") of the UNLV School of Medicine, and shall enter into and comply with a Business Associate Agreement with this entity, and any others from time to time, as prescribed by HIPAA. The Corporation shall similarly enter into a Business Associate Agreement with all subcontractors of the Corporation who have access to the Personal Health Information of individuals (as defined in HIPAA) through their services on behalf of the Corporation.

Its books and records are not open to the public except as required by law or by the Board of Regents Requirements.

Section 5. Gifts and Contributions. Subject to the Board of Regents Requirements, the Board of Directors and officers of the Corporation may accept on behalf of the Corporation, any gift acceptance or other policies and procedures adopted by the Board of Directors, any designated contribution, grant, gift, devise or bequest consistent with its general tax-exempt purposes or for any special purpose of the Corporation. Subject to the Board of Regents Requirements, as so limited, donor designated contributions will be accepted for special funds, purposes or uses. Further, subject to the Board of Regents Requirements, the Corporation shall retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used in a manner consistent with the restrictions contained in the grant and the Corporation's exempt purposes.

Section 6. Loans to Directors and Officers. No loans or advances, other than customary travel advances or advancements pursuant to Section 5 of Article VII, shall be made by the Corporation to any of its Directors or officers.

#### ARTICLE IX FISCAL YEAR

The fiscal year of the Corporation shall start on July 1 of each calendar year and end on June 30 of each calendar year.

#### ARTICLE X DISSOLUTION

Section 1. Approval of Dissolution. The Corporation shall only be dissolved and terminated by the Corporate Member.

Section 2. Plan of Dissolution. After a dissolution is adopted and approved pursuant Section 1 of this Article X, a Board Committee of not less than 3 Directors shall be designated by the President to act as liquidating Directors. Such Board Committee shall proceed with reasonable promptness to dissolve the Corporation. No Director shall be entitled to any compensation for his or her services in connection with the dissolution of the Corporation.

Section 3. Payment of Expenses. Upon the dissolution of the Corporation, the assets of the Corporation shall first be applied to pay the liquidating expenses, debts and other obligations of the Corporation.

Section 4. Remaining Property After Payment of Expenses. Upon the dissolution of the Corporation, any remaining assets of the Corporation following payment of all liquidating expenses, debts and other obligations of the Corporation shall be distributed to UNLV.

#### ARTICLE XI AMENDMENT OF BYLAWS

These Bylaws may be altered, amended or repealed, and new Bylaws may be adopted, by the affirmative vote of (a) at least a majority of the Directors entitled to vote at any annual or special meeting of the Board of Directors, and (b) the Corporate Member. Any notice of a meeting at which these Bylaws are to be altered, amended or repealed, or new Bylaws may be adopted, shall include notice of such proposed action. Notwithstanding the foregoing, 1/3 of the Directors entitled to vote may adopt emergency bylaws, subject to repeal or change by action of the Corporate Member, which shall be operative during any emergency in the conduct of the business of the Corporation resulting from an attack on the United States, any nuclear or atomic disaster, other national or state emergencies or other situations that prevent the Corporation from operating in accordance with these Bylaws.

ARTICLE XII  
NONDISCRIMINATORY POLICY

In addition to the nondiscriminatory policy set forth in the Articles, the Corporation shall comply with any nondiscriminatory policy set forth in the Board of Regents Requirements, including, without limitation, Section 13 of Chapter 8 of Title 4 of the NSHE Handbook.

ARTICLE XIII  
CONSTRUCTION AND DEFINITIONS

The rules contained in the then current edition of Robert's Rules of Order govern the Corporation in all cases in which they are applicable, and in which they are not inconsistent with these Bylaws, the Articles or any applicable law.

If any provisions of these Bylaws conflict with the Board of Regents Requirements, the Board of Regents Requirements shall govern.

\* \* \* \*

CERTIFICATION

The undersigned, as the duly elected President of UNLV Medicine, a Nevada nonprofit corporation (the "Corporation"), does hereby certify that the Board of Directors of the Corporation duly adopted the foregoing Bylaws of the Corporation by unanimous written consent dated as of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Barbara Atkinson, M.D., President

**OPERATING AGREEMENT**  
**BETWEEN**  
**THE BOARD OF REGENTS ON BEHALF OF**  
**THE UNIVERSITY OF NEVADA, LAS VEGAS AND ITS**  
**SCHOOL OF MEDICINE**  
**AND**  
**UNLV MEDICINE**

THIS AGREEMENT is made effective this \_\_\_\_ day of \_\_\_\_\_, 2017 (the “Effective Date”) by and between The Board of Regents of the Nevada System of Higher Education, a constitutional entity of the State of Nevada, for and on behalf of the University of Nevada, Las Vegas (the “University” or “UNLV”) School of Medicine (“UNLVSOM”), and UNLV Medicine, a Nevada non-profit corporation (hereinafter referred to as “UNLV Medicine”). The University and UNLV Medicine are sometimes collectively referred to below as “the Parties” and individually as “the Party.”

**RECITALS**

- A. University is a state institution of higher education established by the Nevada Constitution, Article 11, Section 4, with the power and duty to operate, manage, control, and maintain *inter alia*, UNLVSOM, whose missions are to teach medicine, to engage in research, and to provide clinical services to the community.
- B. Medical education requires a balance of basic science and clinical science instruction. Access to and experience with a broad patient population is integral to the medical school curriculum and critical to the undergraduate and graduate medical education programs of UNLVSOM.
- C. Clinical patient care maintains and increases the skills of the faculty and also provides a setting for the education of students. Clinical patient care also generates revenues that are critical to the mission of the University.
- D. University recognizes that, because of changing health care markets, the success of UNLVSOM depends, to a large extent, on the ability of its faculty physicians and other faculty health care professionals to provide clinical services in a manner that is cost-effective, accounts for healthcare reform, and is supportive and complementary of the missions of University and UNLVSOM.
- E. UNLV Medicine is a not-for-profit corporation existing under and by virtue of Chapter 82 of the Nevada Revised Statutes (Nonprofit Corporations Act) and is organized exclusively for charitable, educational, and scientific purposes and to benefit and support the teaching, research, and services missions of the faculty of UNLVSOM.

- F. On March 3 and 4, 2016, the Board of Regents (“BOR”) of the Nevada System of Higher Education (“NSHE”) approved University’s request to establish the UNLVSOM faculty practice plan, a tax exempt 501(c)(3) non-profit corporation.
- G. University and UNLV Medicine desire to set forth the terms upon which UNLV Medicine will serve as the faculty practice plan of UNLVSOM, including, but not limited to, the manner in which University is to provide support for UNLV Medicine and the terms that will assure UNLV Medicine provides to University all such information as University may require to verify that UNLV Medicine is fulfilling its purposes and is responsive and attentive to the needs of University.

## **AGREEMENT**

NOW THEREFORE, in consideration of the mutual covenants of the Parties and the mutual benefits to be gained by the performance hereof, the University and UNLV Medicine agree as follows:

1. **Term and Termination.** This Agreement shall begin on the Effective Date and may be terminated only upon mutual written agreement of the Parties or pursuant to Section 10(h) of this Agreement.

2. **Organization, Purpose and Governance of UNLV Medicine.**

(a) **Organization.**

(i) UNLV Medicine is organized and operated as a Nevada non-profit corporation that is legally separate from the University, pursuant to Chapter 82 of the Nevada Revised Statutes. It shall obtain and maintain status as a tax-exempt, charitable organization under State and Federal income tax laws.

(ii) Upon the dissolution of UNLV Medicine, any remaining assets of UNLV Medicine, following payment of all liquidating expenses, debts, and other obligations of UNLV Medicine, shall be distributed to University.

(b) **Purpose.** The principal purpose of UNLV Medicine is to provide support for the education, research, and patient care missions of UNLVSOM, as approved by University administration. UNLV Medicine is the centralized faculty practice plan for the faculty of UNLVSOM and is authorized to bill, collect, and disburse all patient revenues and other revenues earned by the faculty. UNLV Medicine is also authorized to enter into contracts and obligations for the generation and collection of such revenues. As a condition of employment with UNLVSOM, all clinical faculty members, whether part-time or full-time, are required to sign a Member Practice Agreement with UNLV Medicine, which allows UNLV Medicine to bill and collect on behalf of the faculty of UNLVSOM, as detailed in Section 4(b) of this Agreement.

(c) **Governance.**

(i) UNLV Medicine is an affiliated entity of NSHE, incorporated by the BOR, and is subject to any NSHE policies or procedures governing or related to affiliated entities. Notwithstanding the foregoing, UNLV Medicine is a separate legal entity and may



operate and conduct its day-to-day affairs consistent with that status and with best business practices of a separate legal entity. Accordingly, UNLV Medicine may prescribe its own rules and procedures related to accounting, financing, purchasing, personnel, management, and general operations (“Internal Rules of Operation”) in order to successfully compete in the health care marketplace, as applicable to Internal Revenue Service 501(c)(3) organizations.

(ii) UNLV Medicine shall be governed by a Board of Directors which shall be selected in accordance with the provisions of UNLV Medicine’s bylaws. The President of UNLV Medicine shall be the individual so named in the UNLV Medicine bylaws.

### 3. **UNLV Medicine Relationship with the University.**

(a) **Exclusive Contracting and Billing Entity.** Unless otherwise agreed to by the Parties, UNLV Medicine shall be the primary entity through and under which the faculty of UNLV SOM bill for clinically related professional services. UNLV Medicine shall have the sole and exclusive right to enter into contractual arrangements on behalf of UNLV SOM faculty members for the provision of clinically related professional services, including clinical consulting and medical-legal consulting.

#### (b) **Member Practice Agreement**

(i) University agrees that it will require, as a condition of employment, that all eligible members of the faculty of UNLV SOM execute a Member Practice Agreement with UNLV Medicine.

(ii) University agrees that it will assist UNLV Medicine in enforcing the terms of the Member Practice Agreement entered into by members of UNLV Medicine by requiring adherence to said agreements as a condition of continued employment as a member of University’s faculty, consistent with the policies of NSHE.

(iii) UNLV Medicine agrees that it will strictly enforce the terms of its Member Practice Agreement, report promptly to University in the event any individual fails or refuses to abide thereby, and join with University in any appropriate action, in law or equity, necessary to secure compliance.

(c) **HIPAA.** NSHE is designated as a “hybrid entity,” as such term is defined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) UNLV SOM is included in NSHE’s hybrid entity designation. The parties agree that UNLV Medicine is a business associate of UNLV SOM, which is a covered entity, and as such, shall execute a business associate agreement as required by HIPAA.

### 4. **Roles and Responsibilities.**

(a) UNLV Medicine and University, in whole or in part by and through UNLV SOM, shall have the following roles and responsibilities pursuant to this Agreement. These roles and responsibilities are not meant to be an all-inclusive list and may be modified at any time upon execution of an amendment to this Agreement, or other written agreement, between UNLV Medicine and UNLV SOM.

(b) UNLV Medicine. UNLV Medicine shall have the following roles and shall accept responsibility in carrying out its purpose under this Agreement as follows:

(i) Financial. UNLV Medicine shall have the sole financial responsibility for all items over which it has direct authority. To the extent that the parties negotiate financial support agreements, such as a line of credit, those agreements shall be separately negotiated and agreed upon by and among UNLV Medicine, UNLV SOM, University and/or NSHE, and shall be attached to this Agreement as an Addendum. UNLV Medicine shall comply with all requirements related to financial accounting as a result of its status as an affiliated entity.

(ii) Compliance. UNLV Medicine shall be responsible for supporting and maintaining compliance in the following areas: General Billing and Coding pursuant to Centers for Medicare and Medicaid Services (CMS) requirements; planned audits and evaluations as described in yearly Office of the Inspector General (OIG) Work Plans; the Health Insurance Portability and Accountability Act of 1996 (HIPAA); Electronic Health Records (EHR) administration; the Stark Law and Anti-Kickback Statute; the False Claims Act; the Affordable Care and Patient Protection Act of 2010 (ACA); open payment laws; physician conflicts of commitment and consulting arrangements; and other compliance areas as determined necessary in furtherance of the purpose of this Agreement. Compliance responsibilities are further outlined in the UNLV Medicine Compliance Program Plan.

(iii) Employment. The Parties recognize the need for UNLV Medicine to assume full responsibility and control for and to provide for the employment of certain staff engaged in carrying out the necessary functions involved in the generation of income under the Plan. This includes the ability of UNLV Medicine to employ full or part-time support staff whose primary functions are to assist UNLV SOM faculty members in the provision of clinical services that generate professional fee and contract income under the Plan subject to the limitations described in the preceding paragraph. UNLV Medicine shall not, however, employ in whole or in part faculty members of University.

(iv) Faculty Physician Compensation. UNLV Medicine shall, with input and agreement from the Dean of UNLV SOM and the Chief Financial Officer of UNLV Medicine and the Compensation and Productivity Committee of the UNLV Medicine Board of Directors, develop a physician compensation plan in accordance with applicable laws and regulations and as agreed upon by the Parties.

(v) Business Management Functions. UNLV Medicine shall provide a full range of business management services to University unit healthcare practitioners or healthcare organizations, as agreed by UNLV SOM and approved by the President of UNLV or his or her delegate, including but not limited to, the following:

- (1) Entering into contractual arrangements, including partnerships or joint ventures with hospitals, physician practice groups, managed care organizations, networks of health care providers, government agencies or other healthcare organizations or entities;
- (2) Securing appropriate sites for faculty members to provide patient care and to determine whether a faculty member can practice;

- (3) Providing the full range of scheduling and management functions necessary for UNLV SOM faculty members to maintain a clinical practice;
- (4) Coding and billing for bills that are submitted on behalf of UNLV SOM faculty members, under UNLV Medicine's Medicare and Medicaid numbers, and under UNLV Medicine payer agreements;
- (5) Establishing, managing and operating one or more networks of healthcare providers;
- (6) Acquiring physician practices or the practices of other healthcare providers in a manner consistent with the goals of UNLV SOM faculty retention, recruitment, and program development;
- (7) Negotiating agreements with supply chain vendors;
- (8) Acquiring real and personal property; and
- (9) Subject to any applicable NSHE policies, including those related to affiliated entities, creating for-profit and/or nonprofit subsidiary corporations or other entities as may be necessary or desirable to carry out any or all of the above.

(c) UNLV Medicine and University.

(i) Affiliated Hospitals. UNLV SOM clinical care activities often occur in UNLV SOM affiliated hospitals, such as University Medical Center of Southern Nevada. UNLV SOM and UNLV Medicine shall exercise reasonable efforts with its affiliated hospitals to include in the affiliation agreements provisions to ensure that adequate space is available to properly conduct these patient care activities and work together to enforce those provisions with affiliated hospitals, if necessary. This is necessary, for a variety of reasons, including but not limited to ensuring that UNLV SOM and UNLV Medicine brand protection, ensuring that UNLV SOM faculty members and residents have proper and appropriate space to conduct their clinical, teaching and research activities, and creating the support for required educational accreditation matters.

(d) University. University, in whole or in part by and through UNLV SOM, shall have the following roles and responsibilities in carrying out the purpose as outlined in this Agreement. UNLV SOM shall use its operating budget to provide direct salary and benefit support for its faculty member physicians and allied health faculty members attributable to their work performed in carrying out the UNLV SOM mission. It also shall provide support for support staff and respective support expenses attributable to the UNLV SOM mission. This work includes the performance of activities for UNLV SOM in the respective areas of UNLV SOM administration, GME, UME, research, and education.

(i) Financial. As expressed above in Section 4(d) of this Agreement, UNLV SOM shall be financially responsible for supporting and maintaining UNLV SOM and

shall be responsible for any other item that is expressed in the Agreement between the parties and any other formal agreements between the parties that may be mutually agreed hereafter.

(ii) Compliance. UNLVSOM shall be responsible for supporting and maintaining compliance in the following areas: Research and Laboratories; Export Controls; Technology Transfer; Grants and Contracts administration; Environmental Health and Safety; Human Resources for its employees, which shall exclude all UNLV Medicine employees; and all other compliance areas required in order for UNLVSOM to maintain federal and state compliance as an institution of higher education.

(iii) Employment. UNLVSOM shall be responsible for employing and providing salary support and benefits to all UNLVSOM-employed faculty physicians and other healthcare providers.. UNLVSOM shall be responsible for all of its employee discipline, progress, promotion and tenure, and salary determinations in accordance with the physician compensation plan set forth and agreed to by the UNLV Medicine Board of Directors.

(iv) Facilities, Goods, and Services. UNLV Medicine is eligible to use University's facilities for UNLV Medicine activities, subject to availability and applicable policies. University will provide UNLV Medicine with access to certain University goods and services via University supply chain mechanisms, as agreed upon by the parties. UNLV Medicine will pay for such facilities, goods and services at the agreed upon rates. Similarly, the University is eligible to use UNLV Medicine's facilities for University activities, subject to availability and applicable policies. UNLV Medicine will provide the University with access to certain UNLV Medicine goods and services, as agreed upon by the parties and in compliance with all rules, policies and procedures as set forth in writing by the University, and consistent with NSHE policies and procedures. The University will pay for such facilities, goods and services at the agreed upon rates.

(e) Shared Resources and Services.

(i) Contractual Relationships between the Parties. University and UNLV Medicine may contract with one another for the provision of or reimbursement for services and program related expenses necessary and proper to meet the purposes of this operating agreement.

(ii) Transactions between the University and UNLV Medicine shall meet the commercially reasonable standards for ordinary business transactions, including proper documentation and approvals, and shall be subject to a separately negotiated amendment to this Agreement or agreement, which shall be attached to this Agreement as an Addendum. Special attention shall be given to avoiding direct or indirect conflicts of interest between University and UNLV Medicine and those with whom UNLV Medicine does business.

(iii) University Counsel. Pursuant to BOR Handbook Title 4, Chapter 10, Section 10, UNLV Medicine is an affiliated, but separate, entity incorporated under the laws of the State of Nevada. Accordingly, UNLV Medicine may engage its own external or internal legal counsel, as necessary, to advise it with respect to matters relating solely to the operation, management, organizational structure, finances, and governance of UNLV Medicine. Internal and/or external legal counsel retained by UNLV Medicine shall not represent the University or UNLVSOM in any matters relating to University and/or UNLVSOM management or operations,

including, but not limited to, matters involving employment, academic affairs, real estate, facilities, procurement, and other contracting.

5. **Independent Organizations.**

(i) University and UNLV Medicine acknowledge that each is an independent entity and agree neither shall be liable, nor shall be held out by the other as liable, for any of the other's contracts, obligations, torts, or other acts or omissions, or those of the other's trustees, directors, officials, employees, agents, or representatives.

(ii) Neither UNLV Medicine nor the University shall act as the agent or representative of the other Party or otherwise purport to act on such other Party's behalf, except as otherwise expressly authorized in writing by a duly designated representative of such Party.

(iii) Nothing contained herein shall be construed to provide that any member of University's faculty, residents, or student body is acting as an agent of UNLV Medicine, or that any UNLV Medicine employees are acting as agents of University, when providing care to patients in University facilities or as a part of an approved University program.

(iv) In accordance with the Nevada Limited Waiver of Sovereign Immunity, NRS 41.0305, *et. seq.*, when acting in the performance of their duties and within the scope of their employment or training, said faculty members or residents shall be considered public employees of University, and the cost of defense and payment of claims or judgments shall be made on their behalf through insurance policies or University funds maintained for that purpose unless the public employee is determined to have acted in a willful or wanton manner. It is understood that UNLV Medicine employs some non-physician, non-faculty clinical staff to provide clinical services. These UNLV Medicine employees shall be covered by malpractice coverage obtained by UNLV Medicine through NSHE Risk Management Services, and UNLV Medicine shall reimburse UNLV SOM for those UNLV Medicine employees in a frequency as mutually agreed upon between UNLV Medicine and UNLV SOM.

(v) The Parties agree that neither Party, including such Party's directors, officers, employees, and agents, shall take any action that would impair or impinge upon the independence, discretion, business judgment, and fiduciary obligations of the directors and officers of the other Party, except as required by or provided for in this Agreement, NSHE policies, or in other agreements entered into by the Parties.

(vi) Anything herein to the contrary notwithstanding, the University and UNLV Medicine commit their best efforts to assure that no action will be taken pursuant to this Agreement that impairs UNLV Medicine's status as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, or as a supporting organization under Section 509(a)(3) of the Code. In this regard, interpretation and construction of all terms of this Agreement shall be made in order to give effect to and to preserve UNLV Medicine's aforementioned status.

(vii) No term of this Agreement shall be interpreted or construed so as to impose financial accountability for either Party upon the other Party, to obligate either Party to finance the deficits of or to provide financial support to the other Party, except as otherwise

required of UNLV Medicine under Section 7 of this Agreement, or to otherwise obligate either Party in any manner for a debt of the other Party.

6. **Limitation of Activities Relative to Fundraising and Research.** All third-party gifts made to the University through UNLV Medicine shall be deposited by UNLV Medicine with University's Foundation, consistent with the then-current University policy. Additionally, grants and contracts that support research conducted by University personnel, including but not limited to all grants and contracts where University personnel are Principal Investigators, shall be negotiated between the third party and the University (and not UNLV Medicine), consistent with the then-current University policies and practices. Notwithstanding the foregoing, UNLV Medicine may enter into contracts for the consulting and the medical-legal activities of UNLV SOM faculty members.

7. **Investment and Disbursement of UNLV Medicine Funds and Assets.**

(a) **Salary and Benefits Support.**

(i) To the extent funds are available, UNLV Medicine will transfer to UNLV SOM each month the amount of funds necessary to support the clinical service component performed on behalf of UNLV Medicine of faculty member salary, benefits and incentive payments as determined and budgeted according to the physician compensation plan approved by UNLV Medicine Board of Directors.

(ii) Solely upon the written consent by the Dean of UNLV SOM, certain clinical faculty members may be compensated under a different salary arrangement in which there is no guaranteed portion of salary. The salary may fluctuate entirely on the clinical income generated by that clinical faculty member. This is limited to physicians who are considered adjunct faculty members by virtue of the designation of letter of appointment, letter of appointment with benefits, or part-time faculty members.

(iii) Physician compensation will be paid as follows:

- (1) On the first day following each month of clinical service, UNLV Medicine will pay UNLV SOM for each faculty member's contracted base salary amount plus benefits attributable to the clinical service component. The base salary and benefits amounts are fixed amounts.
- (2) UNLV Medicine will pay UNLV SOM for each faculty member's incentive payment, in accordance with the UNLV Medicine Board of Directors physician compensation plan. UNLV Medicine will pay UNLV SOM for such incentive payments on the first day of the month after the determination that each faculty member's incentive was met.

(b) **UNLV SOM Dean's Fund.** In accordance with UNLV Medicine's Bylaws, and in furtherance of UNLV Medicine's purpose, UNLV Medicine shall pay to UNLV SOM what is

referred to as a “Dean’s Fund” amount, which, pursuant to applicable University policies shall be expended by the Dean of UNLV SOM for the following non-exclusive purposes:

- (i) to finance new academic programs in UNLV SOM;
- (ii) to strengthen existing academic programs in UNLV SOM;
- (iii) to assist in the recruitment of new faculty members, Directors of Centers, Division Heads or Department Chairs;
- (iv) to support short-term internal UNLV Medicine loans designed to cover departmental deficits generated in UNLV Medicine cost centers;
- (v) to support program development at affiliated institutions; and
- (vi) for any expenses necessary and proper to the operation of UNLV SOM and University’s missions.

The expenditure of Dean’s Fund money must be consistent with UNLV Medicine’s charitable purpose and University’s mission.

(c) Dean’s Fund Amount. UNLV Medicine shall calculate the amount to be paid to the Dean’s Fund as outlined in Schedule A, attached hereto and incorporated herein by reference. This amount shall be paid twenty-five (25) days after each month’s conclusion. No payment to the Dean’s Fund for the preceding month will be made as long as there is any outstanding debt owned by UNLV Medicine to the University and/or NHSE. Any Dean’s Fund amount due but not paid because of the aforementioned restriction will be forfeited by UNLV SOM. Once the debt described in Section 7(c) of this Agreement has been paid in full, or University and/or NHSE has/have been removed as guarantors, the Dean’s Fund amount shall be reinstated and the calculation pursuant to Schedule A will begin for the month following the extinguishing of the debt.

(d) Operational Support. It is permissible for UNLV Medicine to transfer cash or other assets to UNLV Foundation, a 501(c)(3) non-for-profit entity, for the restricted purpose of providing additional, voluntary support to the UNLV SOM for expenditures as described in Section 7(b) of this Agreement. However, such transfers are voluntary and UNLV Medicine is under no obligation to provide such voluntary support. This voluntary support is also under the same restriction before any Dean’s Fund payment can be made as described in Section 7(c) of this Agreement.

## 8. Financial Transactions and Accounting Practices.

(a) UNLV Medicine shall have in place an accounting system to assure financial activities are carried out and reported in accordance with generally accepted business and accounting practices.

(b) UNLV Medicine shall have an annual audit conducted by an independent certified public accountant. The audit firm shall be selected by and shall report to UNLV Medicine’s Audit and Compliance Committee. The audit firm shall be rotated at least every five (5) years,

and shall not otherwise be a consultant to UNLV Medicine. The UNLV Medicine Board of Directors may request that the scope of the external audit be expanded to include compliance testing of the required policies and procedures of this Agreement.

(c) University's President or his or her designee may inspect and audit UNLV Medicine's books and records at reasonable times upon request.

(d) UNLV Medicine's Board of Directors and UNLV Medicine's officers and staff shall be subject to the following:

(i) Business transactions involving UNLV Medicine and the personal or business affairs of a UNLV Medicine Board member, officer, or staff member shall be approved in advance by the Board. In addition, Board members and UNLV Medicine's officers shall comply with the other terms and provisions of UNLV Medicine's Policy on Conflicts of Interest.

(ii) In accordance with UNLV Medicine's Policy on Conflicts of Interest, no Board member, officer, or staff member of UNLV Medicine shall accept from any source any gift or gratuity that is offered, or reasonably appears to be offered, because of the position held with UNLV Medicine by the individual, nor shall an offer of a gift or gratuity be extended by such an individual on a similar basis. A gift or gratuity means any payment to the extent that consideration of equal or greater value is not received. It does not include informational materials, such as books, reports, calendars, or other unsolicited promotional material. A gift does not include modest entertainment, such as a meal or refreshments in connection with meetings, conferences, or public ceremonies, or home hospitality. This provision applies to the individual and does not apply to gifts offered to or by UNLV Medicine as an organization.

9. **Reporting Requirements.** UNLV Medicine agrees that it will furnish the following reports to University by delivering annually, but not later than September 15<sup>th</sup> of each calendar year, a copy of such reports for the offices of the Board of Regents of the Nevada System of Higher Education, the University President, and the University Controller. These reports shall include, but not be limited to:

(a) The Audit and Financial Report of Independent auditors to include a statement of material changes in position, a statement of Revenue and Expenses, a Balance Sheet, and any Management Letters.

(b) Summary of Dean's Fund Expenditures.

(c) Financial Plan for Following Fiscal Year.

10. **General Provisions.**

(a) **Notices.** Any notices or other communications required or permitted to be sent under this agreement shall be sufficient if delivered by hand or sent by registered mail, postage prepaid, to the address set forth below or such other address as a Party may specify in writing:



To UNLV Medicine:

President  
UNLV Medicine  
[Address]  
[City/State/ZIP]

with a copy to:

University of Nevada, Las Vegas School of Medicine  
Dean of the School of Medicine  
[Address]  
[City/State/ZIP]

To University:

President [or Chancellor, if NSHE wishes to receive notices]  
University  
[Address]  
[City/State/ZIP]

(b) Compliance with Laws. UNLV Medicine and University agree to carry out all responsibilities as described in this operating agreement in compliance with all applicable federal and state laws and regulations.

(c) Non-discrimination. UNLV Medicine shall comply with any nondiscriminatory policy set forth in the Board of Regents Requirements, including, without limitation, Section 13 of Chapter 8 of Title 4 of the NSHE Handbook.

(d) Indemnification.

(i) Indemnification by University. To the extent limited in accordance with N.R.S. 41.035 to 41.039, University shall indemnify, defend, and hold harmless UNLV Medicine from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses arising either directly or indirectly from and any act or failure to act by University or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement. University will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. University's indemnity obligation for actions arising from tort is limited in accordance with the provision of N.R.S. 41.035.

(ii) Indemnification by UNLV Medicine. UNLV Medicine shall indemnify, defend, and hold harmless University from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses arising either directly or indirectly from and any act or failure to act by UNLV Medicine or any of its officers or employees that may occur during or which may arise out of the performance of this Agreement.

(e) Insurance. University and UNLV Medicine, each agree to maintain insurance coverages ordinarily and customarily maintained by businesses engaged in similar activities.

These include, but are not limited to, general liability, officers and directors errors and omissions, employment liability, workers compensation, property, professional liability, and cyber-liability breach insurance.

(i) Professional Liability Coverage. University provides professional liability coverage for its employees, residents, and students covered under approved affiliated agreements, through a combination of self-insurance and commercial insurance in amounts required by law. Upon the written request of UNLV Medicine, University shall provide UNLV Medicine with a certificate of insurance evidencing that this coverage has been obtained.

(ii) Coverage Limits. University participates in the self-insurance program of the State of Nevada and will provide a statement of participation upon request.

(iii) University Workers' Compensation. University shall maintain worker's compensation insurance or self-insurance coverage, as required, pursuant to NRS Chapters 616A-D.

(iv) UNLV Medicine Employees Not Covered By University Self-Insurance. UNLV Medicine shall maintain adequate professional liability coverage for its employees engaged in clinical support activities. To the extent applicable, UNLV Medicine shall obtain professional liability insurance in the following minimum amounts:

- (1) One Million Dollars (\$1,000,000) Per Occurrence;
- (2) Three Million Dollars (\$3,000,000) In the Aggregate.
- (3) This minimum amount may represent coverage in any combination of primary or excess amounts, and UNLV Medicine shall provide University with a certificate of insurance evidencing that this coverage has been obtained, upon written request of University.

(v) UNLV Medicine General Liability. UNLV Medicine shall obtain general liability insurance in the following minimum amounts:

- (1) One Million Dollars (\$1,000,000) Per Occurrence;
- (2) Two Million Dollars (\$2,000,000) General Aggregate;
- (3) One Million Dollars (\$1,000,000) Products and Completed Operations Aggregate; and
- (4) One Million Dollars (\$1,000,000) Personal and Advertising Injury.

(vi) UNLV Medicine Workers' Compensation. UNLV Medicine shall provide University with proof of Employer's Liability limits of at least One Hundred Thousand Dollars (\$100,000) per occurrence and for occupational disease, and shall comply with provisions of NRS Chapter 616A to 616D and 617.

(vii) UNLV Medicine Crime Insurance. UNLV Medicine shall purchase crime insurance when handling money, securities, or other property. Such insurance policy shall provide coverage for employees, theft, forgery, alteration, burglary, computer fraud, counterfeit, funds transfer fraud, or fraud or any other similar risk covered by most crime insurance policies. The limit shall be One Million Dollars (\$1,000,000).

(viii) UNLV Medicine shall waive subrogation against University by endorsement.

(ix) Insurance policies obtained by UNLV Medicine cannot be canceled, non-renewed, coverage and/or limits reduced or coverage materially altered that can affect University without sixty (60) days prior written notice to University.

(x) Until such time as the insurance is no longer required by University, UNLV Medicine shall provide University with renewal or replacement evident of insurance no less than (30) days before the expiration or replacement of the required insurance.

(xi) Insurance policies obtained exclusively by UNLV Medicine shall be currently rated A.M. Best as A-IX or better.

(xii) UNLV Medicine shall provide a Certificate of Insurance ACORD form or a form substantially similar to show evidence the policies required by UNLV Medicine under this Agreement.

(f) Dispute Resolution. The Parties are mutually committed to collaborative problem solving for resolving issues that may arise between them concerning this Agreement. In the event of a dispute, the complaining Party shall notify the other Party of the dispute and the presidents of both Parties will appoint appropriate representatives to negotiate in good faith to resolve the dispute until such time as either: (1) the dispute has been resolved; or (2) the designated representatives have concluded that continued negotiation does not appear likely to resolve the dispute. If the Parties conclude that direct negotiations are unlikely to resolve the dispute, the Parties will attempt to settle any dispute arising out of or related to this Agreement through mediation. The Parties may agree on a mediator. If they are unable to agree on a mediator, the Parties shall contact an agreed upon dispute resolution organization or service and shall use its selection process to select a mediator. Each Party shall bear its own costs of the mediation and the Parties shall share the costs of the mediator. The mediation shall be scheduled in a timely manner. The Parties shall make a good faith effort to resolve the dispute through mediation. If the Parties reach a resolution of the dispute through mediation, such resolution shall be set forth in a written agreement signed by both Parties and shall be binding on and enforceable against each Party. If a dispute is not resolved through mediation, the Parties shall be entitled to pursue any other remedy allowed by law or this Agreement.

(g) Further Cooperation. To the extent that further specific understandings and written agreements and/or documentation are necessary to implement the spirit and intent of this Agreement, the Parties hereby commit their best efforts to developing said agreements and incorporating them herein by amendment hereto.

(h) Default and Termination.

(i) In the event either Party believes the other has breached any term or condition of this Agreement, the non-breaching Party shall provide the breaching Party with written notice setting forth a description of such breach, and the breaching Party shall have a period of sixty (60) days following receipt of such notice to cure the default. At the end of such sixty (60) day period, if the breach is not cured to the reasonable satisfaction of the non-breaching Party, the non-breaching Party must initiate the dispute resolution process described in Section 10(f) of this Agreement. At the conclusion of the dispute resolution process, if the matter remains unresolved, the breaching Party shall then be in default, provided that, if the nature of the breach is such that it cannot reasonably be cured within such sixty (60) day period, the cure period shall extend for so long as is necessary to cure the breach and the breaching party shall not be in default so long as the breaching party takes diligent actions to cure the breach. In the event of the occurrence of any default by either Party, the non-defaulting Party shall have any remedy provided in this Agreement, in law or in equity subject to the limitations on remedies described in this Agreement or by law, including, with respect to University, limitations based upon governmental immunity.

(ii) In the event of the occurrence of a default resulting from a material breach of this Agreement by UNLV Medicine, including, without limitation, any act or omission which would cause it to lose its status as a tax exempt organization or a University supporting organization, University may terminate this Agreement without further notice. University's exercise of the termination rights described in this Section 10(h)(ii) is expressly conditioned upon University's providing notice of the breach and proceeding in accordance with Section 10(h)(i) prior to the exercise of such rights. Further, if University is considering termination as a result of a default resulting from a material breach, University shall initiate the dispute resolution process described in Section 10(f) prior to exercising its termination rights. In the event of University's termination of this Agreement as a result of UNLV Medicine's default as described in this Section 10(h)(ii), the Board shall cause UNLV Medicine to be dissolved and its assets (after payment of creditors) to be transferred to University for deposit within accounts of UNLVSOM for the support of UNLVSOM's mission.

(i) Trademarks. University hereby licenses U.S. federal trademark registration no. 1,711,832 to UNLV Medicine as expressly granted in the trademark license attached hereto as Schedule B, and hereby incorporated by reference.

(j) Survival of Provisions. Notwithstanding any termination of this Agreement, the Agreement shall continue in force and effect as to any provision hereof which requires observance or performance by a party subsequent to termination.

(k) Assignment. Neither Party shall assign any obligation hereunder or assign any interest or right herein without the prior written consent of the other Party.

(l) Force Majeure. Neither Party shall be considered to be in default as a result of its delay or failure to perform its obligations under this Agreement to the extent that such delay or failure arises out of causes beyond the reasonable control of the Party. Such causes may include, but are not limited to, acts of God or the public enemy, acts of the state or the United States in either its sovereign or contractual capacity, fires, floods, epidemics, strikes, and unusually severe weather; but, in every case, delay or failure to perform must be beyond the reasonable control of and without the fault or negligence of the Party.

(m) Entire Agreement; Amendment. This Agreement supersedes all prior oral and written understandings and agreements between the Parties hereto. The Parties acknowledge and agree that this document, together with any exhibits and all other documents expressly referred to herein, constitutes the entire agreement between the Parties regarding the subject matter hereof. Any amendments hereto shall not be valid unless set forth in a writing signed by both Parties.

(n) Waiver of Provisions. Any waiver of any term and condition hereof must be in writing and signed by the Party giving the waiver. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms and conditions hereof.

(o) Severability. Nothing contained in this Agreement shall be construed so as to require the commission of an act contrary to law and whenever there is any conflict between any provision of this Agreement and any present constitutional provision, statute, law, ordinance or regulation, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law and to carry out the purposes of this Agreement.

(p) Captions. Any captions to or headings of the articles, sections, subsections, paragraphs or subparagraphs of this Agreement are solely for the convenience of the Parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of validity of any provision of this Agreement.

(q) Construction of Agreement. The provisions of this Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. The Parties agree that the terms and provisions of this Agreement embody their mutual intent and agreement and that they are not to be construed more liberally in favor of, or more strictly against, any Party hereto.

(r) Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Operating Agreement to be executed by their duly authorized representatives.

**The Nevada System of Higher Education,  
on behalf of the University of Nevada,  
Las Vegas School of Medicine**

**UNLV Medicine**

By: \_\_\_\_\_  
Chancellor, University

By: \_\_\_\_\_  
President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Schedule A

### Income Disbursement

In accordance with Section 7 and subject to the payment terms in Section 7(c) of this Agreement, the Dean's Fund Amount shall be determined as follows;

**Five percent (5%) of all revenue received during a calendar month by UNLV Medicine shall be deemed to be the Dean's Fund Amount.**

**Revenue is considered actual cash received for patient services which has been posted to the patient accounts receivable.**

**Revenue also is considered the actual cash received from agreements for professional services provided to other health care facilities.**

**Cash collected is not considered Revenue if the amount is considered:**

- 1) an overpayment for patient services (refunding is required), or
- 2) refunds, discounts, rebates or dividends received for purchasing services and supplies, or
- 3) non-patient revenues such as medical directorships, clinical administration compensation, consulting, honorariums, reimbursement received for copying medical records, as examples but not an exhaustive list, or
- 4) Investment income, or
- 5) Any compensation received by a federal or state program that recognizes the teaching effort of the UNLV SOM physician faculty through the Medicaid or Medicare programs, or any other federal program.

Notwithstanding, the Dean, in his/her sole discretion may exempt specific categories of Revenue from this calculation should she/he determine that the best interest of the practice and SOM would be served.

Should UNLV Medicine dissolve, the Dean's Fund should be calculated on the patient services collections received on the final collections after dissolution provided all debts have been paid in full.

## Schedule B

### TRADEMARK LICENSE AND CO-EXISTENCE AGREEMENT

This Trademark License and Co-Existence Agreement (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2017 (“Effective Date”) by and between The Board of Regents of the Nevada System of Higher Education, a constitutional entity of the State of Nevada, with its principal place of business located at [insert address] (“Licensor”) and UNLV Medicine, a Nevada non-profit corporation also with its principal place of business at [insert address] (“Licensee”).

#### RECITALS

Licensor is the owner of U.S. federal registration no. 1,711,832 for “UNLV” along with all right, title, interest and goodwill in relation thereto, (collectively, the “Trademark”); and,

Licensee is in the business of offering clinical support, management services, and business development services in connection with the University of Nevada, Las Vegas School of Medicine. Licensee wishes obtain to a non-exclusive, limited license to use the Trademark in connection with Licensee and the services it provides. Licensee further wishes to file and own a U.S. federal registration for UNLV MEDICINE (the “Combined Mark”) for use in connection with Licensee and the services it provides.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements made in this License, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive, non-transferable, fully paid, worldwide and royalty-free license to use the Trademark for and solely in connection with the promotion of and business operations of Licensee and its services and its U.S. federal application for the Combined Mark.
2. Licensing Fee. Licensee shall pay Licensor a one-time license fee in the amount of \$10.00.
3. Consent/No Contest. Licensor hereby consents to the use and registration of the Combined Mark worldwide in connection with Licensee and its services. Licensor further agrees it shall not oppose, nor seek to cancel, any application or resulting registration for the Combined Mark.
4. Co-Existence. Due to any differences in the services offered by the Licensor and Licensee, and the differences between the Trademark and the Combined Mark, Licensor and Licensee agree that, in accordance with the terms and conditions set forth herein, their respective services and marks can co-exist in commerce and on trademark registers worldwide, and that the public will be able to distinguish the marks and the services provided hereunder.

5. Trademarks Ownership/Enforcement. Licensor shall be the sole and exclusive owner of all right, title and interest in the Combined Mark, and grants to Licensee the right to use the Combined Mark as detailed Section 1of this Agreement. Furthermore, Licensor grants to Licensee the right to any U.S. federal application and registration thereof of the Combined Mark.

6. Term. This License and the provisions hereof, except as otherwise provided, shall be in full force and effect commencing on the Effective Date and shall extend for a term of thirty (30) years (the “Term”), which Term may be extended upon the mutual written agreement of the parties.

7. Survival. Sections 1, 3, 4 and 5, 6, 7, 8, 9, 10, 11, 12 and 13 shall survive the termination of this Agreement. Upon the expiration of this Agreement, all rights granted to Licensee under this Agreement shall survive forthwith.

8. Amendment. This License may be amended or supplemented only by a writing that is signed by duly authorized representatives of both parties.

9. Waiver. No term or provision hereof shall be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waive is asserted. No consent by either party to, or waive of, a breach by either party, whether express or implied, shall constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

10. Severability. If any provision of this License is found invalid, illegal or unenforceable, that provision shall be amended to achieve as nearly as possible the same effect as the original provision, and the remainder of this License shall remain in full force and effect.

11. Headings. The paragraph headings contained herein are for convenience of reference only and shall not be considered as substantive parts of this License. The use of the singular or plural form shall include the other form and the use of the masculine, feminine or neuter gender shall include the other genders.

12. Governing Laws. This License shall be governed by and interpreted under the laws of the State of Nevada, other than such laws, rules, regulations, case law and statutes that may result in the application of the laws of a State other than Nevada. Licensee hereby consents to the jurisdiction and venue of any state of federal court within Nevada for purposes of any action related to the interpretation or enforcement of this Agreement.

13. Entire Agreement. This License including all Exhibits attached hereto, constitutes the entire agreement between the parties relating to the subject matter herein, and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral.

IN WITNESS WHEREOF, the parties confirm and acknowledge the terms of this Agreement.

**The Board of Regents of the Nevada  
System of Higher Education**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**UNLV Medicine**

By: \_\_\_\_\_

Its: \_\_\_\_\_



Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**

**LICENSED MATERIALS**

Licensors are hereby permitted to use the following Trademarks:

UNLV	U.S. Registration No. 1,711,832	Registered: September 1, 1992	First use in Commerce: January 1, 1969
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## **UNLV Medicine Executive Summary**

### **UNLV School of Medicine Clinical Faculty Practice Plan (FPP) Operations Timeline**

Clinical faculty practice plan (FPP) operations were planned to launch in FY 2020 as part of the original 10 - year UNLV school of medicine (UNLV SOM) budget first developed by Dean Atkinson when she joined the school in 2014. The FPP launch would also align with the first class of students beginning their 3<sup>rd</sup> year outpatient clerkship patient training. The 2020 FPP timeline plan was amended due to the UNRSOM-UNLV SOM transition agreement, (Transition) signed in June, 2016, and the FPP operations for UNLV SOM will now be implemented in July, 2017, two (2) years ahead of UNLV SOM's original plan.

In the original budget and plan, the UNLV SOM's focus and resources were dedicated to securing preliminary accreditation, implementation of the education unit (curriculum and student admissions) for the Fall of 2017 charter class. Operational consequences of the Transition now engage additional cost, planning time and external people resources on the part of UNLV SOM in its current phase of development with the July, 2017 clinical FPP launch of UNLV Medicine. The impending Transition will shift more than 110 physicians, 270 residents and fellows and approximately 300 administrative staff from the UNRSOM ICS FPP to UNLV Medicine's new faculty practice plan. As per the Transition agreement, a collaborative process is established with UNRSOM leadership to evaluate and select faculty and staff in the transition to UNLV Medicine. Additionally, the Transition provided the opportunity to include a review of UNRSOM's existing fourteen (14) practice sites and leases, with the decision to shed more than seven (7) locations and maintain eight (8) leases in the go forward strategy of operation under UNLV Medicine.

Ongoing communications with UNRSOM staff continue to be collaborative and substantive. Important operational milestones must be achieved leading to a July 1<sup>st</sup> seamless transition of physicians and operations to avoid disruption of current patient care and to avoid significant financial loss after July 1<sup>st</sup>. (up to \$1,000,000 / week)

## **Status of Clinical Academic Medicine for Southern Nevada**

The ICS Southern Nevada Faculty Practice Plan (FPP) today represents the practicing clinical arm for the UNRSOM, and is where UNRSOM students and residents for the school spend their undergraduate (UME) and graduate (GME) clinical training. The FPP contains six (6) specialty departments today: Family Medicine, Surgery, Psychiatry, OB/GYN, Internal Medicine and Pediatrics, each led with a department chair MD. The departments function with local southern Nevada management infrastructure, with corporate decisions and financial control for the FPP led out of Reno.

Dean Atkinson's vision for UNLV Medicine is to be recognized as the preeminent multi-specialty academic medical group in Nevada, differentiated by innovations in patient centered care, research and education. The Dean and the UNLVSOM staff have met with the UNRSOM department chairs throughout 2016 in anticipation of the July, 2017 transition, and have unearthed many ideas to improve performance and grow the services of the FPP under UNLV Medicine. Quality medicine and quality physicians and staff exist within the UNRSOM FPP today. In setting the academic goals of UNLV Medicine that will support the medical education, (UME) training (GME) and clinical research, the Dean will be addressing the chronic shortage of physicians Nevada experiences in nearly every physician category. By creating an exceptional medical care and superior patient experience within clinical, education and research service lines that are operated in a fiscally prudent manner, UNLV Medicine looks forward to closing these statistics gaps while serving the patient needs within the community.

## **UNLV Medicine Guiding Principles and Strategic Management Initiatives Plan**

UNLV Medicine seeks to establish guiding principles in the development of the entity. Management initiatives that follow industry best practices are required in the lead up, launch and ongoing operation of UNLV Medicine. Planning is currently underway in the following categories: Revenue cycle management, quality outcomes, operational performance, financial management, human resource management, community relations, risk management, information technology, governance and strategic planning. UNLV Medicine's 450+ faculty and staff will be trained within this operations framework.

## **UNLV Medicine Financial Plan**

UNLV Medicine has started its implementation phase as it readies for a July 1, 2017 opening. The infrastructure is coming together within areas of contracting, credentialing, EMR implementation planning, MSO functions, financial support, human resources, marketing and communications with patients and transition operation coordination from the UNR practice plan. The 4-year financial plan projects to achieve profitability demonstrated in year 5. UNLV Medicine believes its projections are consistent with industry benchmarks and results in conservative trends.

During the first year, UNLV Medicine anticipates a lag in collections attributable to the startup year. Although it is anticipated that UNLV Medicine will be profitable on an accrual basis, the balance outstanding in accounts receivable will be approximately 120 days of patient revenue and the balance outstanding of contract receivable of 60 days of professional services. UNLV Medicine will seek a \$19 million start-up working capital loan. It is estimated that during year 4, UNLV Medicine will have paid off the loan in full. UNLV Medicine is projecting a consistent yearly growth of 5% but allowing for slight reductions in productivity in Year 1 for the installation of EPIC and in Year 3 for the opening of the Longitudinal Teaching Clinic.

### **Stages of Development: Ramp-up, Operations and Community Clinic**

UNLV Medicine is currently functioning in a start-up setting with specific objectives to meet as they build the organization in the near term. The ramp-up phase of UNLV Medicine is underway now and will run through June, 2017. Key planning elements include BOR approval of UNLV Medicine by-laws, operating agreement and business plan, securing licensure and accreditation of faculty to UNLV Medicine, hiring of key personnel, creation of general operations infrastructure among other important tasks. The next phase in July 2017 and onwards shifts to faculty practice operations. Key planning elements include establishing faculty and staff performance expectations and operations metrics, integration of EMR solution, establishing the billing/collections process etc. The next significant milestone for the organization is the development of the UNLV Medicine 3<sup>rd</sup> year Clerkship Clinic in July of 2018. Key planning elements include the identification of faculty for UME and establishment of faculty schedule, define clear project governance structure, establish communications plan for partners, and implement practice guidelines etc.