

**BYLAWS**  
**OF**  
**ALASKA PHYSICIANS & SURGEONS, INC.**

**Preamble**

Alaska Physicians & Surgeons, Inc. ("APS") is a mutual benefit not-for-profit Alaska Corporation established by various providers from the Anchorage, Alaska area to provide an organization and management structure for its Member Providers ("Members") to provide quality and efficient health care. APS shall collaborate with providers to implement APS's objectives.

Except as specifically provided by agreement, APS assumes no risk or responsibility for payment to any Member and merely facilitates contracting between Members and third-party insurers. APS is not a guarantor of the payment or performance by any payor, or the performance by any Member of any of the terms or conditions set forth in any contract or payor agreement.

APS will act through its Members to implement a competitive system to deliver health care services in a way which will achieve economies and efficiencies. This is to be accomplished through careful selection of Members, review mechanisms and cooperation with purchasers of health care services. Through the Officers, Board, and Committees established by these Bylaws, APS will set utilization and quality assurance guidelines, and other such administrative policies and requirements.

APS intends to attract and administer a variety of managed health care contracts, including agreements with health maintenance organizations (HMO) and one or more preferred provider organizations (PPO), from insurers, health care service contractors, the government and direct contracts with consumers or their employers (subject to any further regulatory compliance).

To the extent feasible, APS will seek managed health care contracts which will allow all Members to participate therein and provide health care services. Membership in APS is nonexclusive. Members are free to participate in other alternative health care delivery systems whether or not APS is a party thereto.

From time to time the Board of Directors may decide it is in the best interests of APS to make arrangements for the provision of health care services through persons who are not Members of APS ("Contract Providers"). Contract Providers shall not be Members of APS, shall not have the right to vote nor have any of the Membership Rights set forth in these Bylaws.

APS owns no tangible real or personal property. There is no capital stock; Members are participating providers. There is no ownership interest in the corporation and the Participating Provider Agreement has in itself no value as an investment nor will it in itself increase in value. The Participating Provider Agreement cannot be transferred or sold and Membership is nontransferable.

## **ARTICLE I Offices**

**1.1 Principal Office.** The principal office of APS in the State of Alaska shall be located at:

Suite 552  
3340 Providence Drive  
Anchorage, Alaska 99508

APS may have such other offices, either within or without the State of Alaska, as the Board of Directors may designate or as the business of APS may require from time to time.

**1.2 Registered Office.** The registered office of APS shall be maintained in, but need not be, identical to the principal office, in the State of Alaska, and the address of the registered office may be changed from time to time by the Board of Directors. The Registered Agent and office of the Registered Agent shall be:

George S. Rhyneer, M.D.  
Suite 206  
4120 Laurel Street  
Anchorage, Alaska 99508

## **ARTICLE II Membership Application**

**2.1 General.** Membership in APS shall be by invitation from the Board of Directors only. Prospective Members must submit a completed Membership Application and meet the criteria set forth in Section 4. 1 hereof to be considered for Membership in APS.

**2.2 Application Requirements and Procedures.** Application requirements and procedures for prospective Members shall first be approved by the Corporation's Board of Directors. The criteria and procedure used to review applicants shall be set forth in the Rules and Regulations.

**2.3 Approval of Applicant.** If an applicant meets the criteria for Membership, then the Board of Directors of APS shall vote to determine whether the applicant will be offered Membership in APS. An applicant will be offered Membership if he or she receives affirmative votes from an absolute majority of the then current Board of Directors of APS.

**2.4 Membership.** There shall be two (2) classes of Membership named, Provisional and Full Members. Provisional Members status for a period of one year before Full Membership is granted. Both Provisional and Full Members shall be entitled to vote.

**2.5 Affiliated Members.** If an application is submitted by an individual who is a shareholder, partner, employee, etc. of a practice consisting of other shareholder/partner/employee providers, all providers within such practice (both providers then existing and any shareholder, partner, employee providers which become affiliated thereafter) must apply for Membership in APS. If one or more providers within said practice are denied Membership, or Membership is later terminated, all remaining providers within said practice will have their applications denied or Membership terminated; provided that, such remaining providers may petition the Board in writing for waiver of this provision. The Board may waive this provision upon satisfactory proof that the provider(s) whose application(s) was/were denied or Membership was/were terminated will be prohibited from providing health care services to patients through APS.

**2.6 Panel Closure.** The Board of Directors reserves the right to from time to time close the panel of provider members as to a particular subspecialty. In closing the Member panel as to a subspecialty, as well as extending invitations to apply for Membership in APS to individuals within a particular subspecialty, the Board shall consult with Members from such subspecialty, if any, to determine whether the then current patient population warrants such panel closure or invitation to apply for Membership.

**2.7 Contract Providers.** From time to time, Payors with which APS contracts may require the services of health care providers which service the Members of APS are unable to provide. In the Board's sole, discretion, A-PS may contract with one or more individuals who are otherwise not eligible for Membership in APS, to provide services as Contract Providers. Contract Providers may not vote on APS affairs nor serve on the Board of Directors, and will not have any of the other rights of Membership that are described in these Bylaws.

Contract Providers' relationship with APS shall be contractual only, whose contracts shall be subject to termination by APS without cause. Unless otherwise approved by the Board, a Contract Provider will be contracted with to provide services on a plan-by-plan basis. A Contract Provider shall have no right to demand participation in any plan not offered to him or her.

## **ARTICLE III**

### **Meetings**

**3.1 Annual and Regular Meetings.** The annual meeting of the Members shall be held each year on or about the first week of February at a place and time designated by the Board of Directors for the purpose of the transaction of such business as may come before the meeting. The notice of the annual meeting shall be mailed not less than ten (10) nor more than sixty (60) days before the meeting, designating the time, date and location thereof.

In addition to the annual meeting, the Board of Directors shall hold one or more regular meetings throughout the year at a time and place to be announced by the Board. Such additional regular meetings shall be held to apprise the Membership of APS affairs and provide a forum for planning and the exchange of ideas relevant to the success of APS.

**3.2 Special Meetings.** Unless otherwise proscribed by statute, special meetings of the Members may be called for any purpose or purposes, by the President, the Vice President or by a majority of the Board of Directors, and shall be called by the President at the request of not less than one-tenth (1/10th) of all the Members of APS entitled to vote at the meeting.

**3.3 Place of Meeting.** The Board of Directors shall determine the place of meeting for all annual and special meetings of the Members. In the absence of any such determination, all meetings of the Members shall be held at either the principal or registered office of APS in the State of Alaska.

**3.4 Notice of Meeting.** Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fifteen (15) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary or the Officer or persons calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his or her address as it appears on the books of APS, with postage thereon prepaid. A written waiver of notice of a meeting signed by a Member entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

**3.5 Quorum; Manner of Acting.** Thirty percent (30%) of the Members entitled to vote, represented in person, shall constitute a quorum at a meeting of the Members. If a quorum is present, the affirmative vote of a majority of the Members present at the meeting and entitled to vote on the subject matter shall be the act of APS, unless the vote of a greater number or voting by classes is required by statute, the Articles of Incorporation or these Bylaws. The Members present at a duly organized meeting may adjourn the meeting, notwithstanding the withdrawal of enough Members to leave less than a quorum.

**3.6 Proxies.** Except where voting by mail is authorized, Members must be physically present at a meeting in order to vote and may not vote by proxy.

**3.7 Vote by Mail.** If approved by the Board, Members qualified to vote at any annual or special meeting may vote by mail ballot for any matter(s) designated by the Board. If voting by ballot is approved by the Board, APS shall provide to each Member an explanation of the matter to be voted upon (including proposed amendments to the Bylaws or Articles if applicable), an indication of the number of votes necessary to constitute a quorum and the number of votes necessary to approve the matter(s) at issue, the date by which ballots must be received and a mail ballot which may be cast by the Member for the matter. The ballots shall be accompanied by two envelopes, one for enclosure of the ballot and the other to be pre-addressed to the Secretary of APS and into which the sealed envelope containing the ballot may be placed. Mailed ballots must be received by APS on or before the date of the meeting.

**3.8 Informal Action by Members.** Any action which may be or is required to be taken at a meeting of the Members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

#### **ARTICLE IV Membership**

**4.1 Membership Criteria.** Every Member of APS must fulfill the following criteria:

- a. A member must maintain unrestricted, a professional license from the State of Alaska. A member whose license is subsequently restricted or suspended by the state may elect to continue his/her membership during the time of any appeal process; except that during any time of restriction or suspension, he/she may not attend meetings, vote or otherwise participate in APS activities.
- b. A member must be a medical staff member in good standing, at a hospital licensed by the State of Alaska or
- c. Is JACHO certified through an accredited credentialing agency.
- d. A Member whose hospital privileges are subsequently restricted or suspended by the hospital may elect to continue her membership during the time of any appeal process; except that during any time of restriction or suspension, he/she may not attend meetings, vote or otherwise participate in APS activities. In the event that the member's hospital privileges are restricted, revoked, or the member resigns while under investigation, the APS board of directors will review the member's APS status.

- e. A Member must carry medical malpractice coverage in such amounts as may be set from time to time by the Board of Directors. The Member's insurer must supply APS with a certificate of insurance which shall state that such insurance coverage shall not be terminated or reduced without ten (10) days' prior to written notice to APS. As a minimum, each Member shall have professional liability coverage of at least \$500,000 per occurrence and \$1000.00 aggregate.
- f. A Member must abide by all aspects of the Participating Provider Agreement, the Bylaws and Rules and Regulations of APS as they may be amended from time to time; cooperate with APS and its Members in the implementation of APS's policies and objectives; pay assessments when due; and adhere to the medical ethics of the Alaska State Medical Association.
- g. Members shall not discuss with other Members the fee structure, financial terms, or service pricing of any agreements Members enter into or consider entering into, including whether or not a specific Member has accepted or rejected a specific agreement.
- h. A Member must comply with the quality guidelines and utilization standards required by participating plans and/or established by APS, and participate in, accept the results of and comply with the requirements of the utilization review committees as required by the Participating Provider Agreement, these Bylaws and the Rules and Regulations of APS. Failure to do so may result in a termination of a Member's Membership rights.
- i. A Member shall be certified, or become certified within five (5) years of becoming a Member, by a member board of the American Board of Medical Specialties, except a Member may satisfy this criteria if he or she has completed an approved post graduate training program in his or her specialty practice and have practiced in his or her specialty for a period of ten (10) years prior to membership application in APS.
- j. A Member shall serve on such committees as APS may from time to time request, and shall cooperate in the operations of APS in order to ensure that the patients treated by Members of APS will receive a high quality of care. A Member's failure or refusal to carry out this responsibility shall be grounds for automatic termination of his or her membership status.

**4.2 Authorization for Informational Investigation.** Every person who applies for Membership in APS shall authorize the Board of Directors and its agents and representatives to consult with providers, county and state medical societies, and others who may have information bearing on the applicant's competence as a provider as well as his or her moral and ethical qualifications. The applicant shall release APS, its Board of Directors, Officers, agents and

representatives from any liability for their acts or their statements made in good faith and without malice in connection with evaluating the applicant during the application process. Each applicant shall execute a separate authorization and release for the purpose of conducting such informational investigation.

**4.3 Release From Liability for Good Faith Acts.** Applicants and Members release from liability APS, its Board of Directors, Officers, agents and representatives for their acts or statements made in good faith and without malice in connection with any evaluation, appointment, reappointments, hearings, disciplinary or corrective actions, sanctions, termination of Membership and other activities as provided for in the Bylaws and/or Rules and Regulations of APS. This release is intended to and does hereby extend to individual Members and nonmember providers who participate in the above activities.

**4.4 Termination of Membership Rights.** The Membership of any Member of APS (except Provisional Members who may be terminated pursuant to Section 4.5 hereof) may be terminated as provided below:

- a. Automatically if a Member dies, retires, is adjudicated incompetent or has his or her professional license suspended or restricted without reinstatement;
- b. At the discretion of the Board if a Member fails or refuses to comply with any of the criteria set forth in subparagraphs (a) through (j) of Section 4.1 - 4.8 hereof; or
- c. Pursuant to the criteria and procedures set forth in Article IV of APS's Rules and Regulations (hereinafter "Fair Hearing Plan").

**4.5 Termination of Provisional Members.** During the one year period of Provisional Membership, Provisional Members may have their Membership terminated by the Board without cause, provided that if the basis for termination arises from the Provisional Member's professional conduct or competence, the Provisional Member shall have a right to a hearing as provided in the Fair Hearing Plan.

**4.6 Voluntary Termination of Membership.** Subject to any continuity of care requirements of any Plan with which APS has contracted and subject to the limitations on voluntary termination of a Member's Participating Provider Agreement set forth in such Agreement, a Member may terminate his or her Membership in APS upon sixty (60) days written notice to the Board of Directors of APS. No Membership Assessments paid previous to such notice of voluntary termination shall be repaid to such Member.

**4.7 Assessments.** From time to time the Board of Directors may determine and levy assessments against each Member of APS to pay expenses incurred by APS. Notice of

assessments shall be mailed to each Member. Assessments shall be payable within sixty (60) days after the date of the notice. Failure to pay any assessment is cause for termination of Membership status.

**4.8 Transfer of Membership.** There is no ownership or investment interest in APS. As such, Membership in APS is nontransferable, and no Member shall sell or offer to sell or otherwise transfer his or her Membership, unless such sale or transfer is to APS and has been authorized by the Board of Directors. This provision shall not, however, give Members the right to demand that APS repurchase their Membership interest.

## **ARTICLE V Board of Directors**

**5.1 General Powers.** The business and affairs of APS shall be managed by its Board of Directors. The Board of Directors shall have the authority to represent APS on all medical and nonmedical aspects of the Corporation's business.

**5.2 Number, Tenure and Qualifications.** The initial Board of Directors of APS shall consist of twelve (12) persons, seven (7) original steering committee members and five (5) primary care providers, who are Members of APS. The initial Directors shall serve until the first annual meeting of the Members.

Thereafter, the Board of Directors shall consist of up to twelve (12) persons, seven (7) primary care providers and five (5) specialist providers, who are Members of APS. The initial term of office for Directors shall be fixed in such a manner as to assure staggered terms of office (i.e., one Director, one year, one Director, two years, etc.). At the expiration of the initial term of office for each Director, a successor shall be appointed to serve a term of three (3) years. Directors shall serve three (3) year terms thereafter. Each Director shall hold office until the successor shall have been appointed and qualified, unless sooner removed from office as hereinafter provided.

**5.3 Nominations and Elections.** When the term of a Director on the Board is about to expire, the Board shall give written notice to the Members requesting written nominations for a successor Director. The notice and request for nominations so given must be mailed no less than sixty (60) days prior to the date such Director's term expires and must state the deadline for receipt of nominations.

Successor Directors shall be elected at the annual meeting of Members unless the Board requests elections by written ballot pursuant to Section 3.7 hereof. Each Member shall have the right to cast one vote for the nominee of his or her choice, for each Director position to be filled. The nominee who receives the most votes shall be appointed as the successor Director upon the expiration of the predecessor Director's term.

**5.4 Regular Meetings.** The annual meeting of the Board of Directors shall be held without other notice than this Bylaw, immediately after the annual meeting of the Members. Notice with an agenda shall be provided to each Director two (2) weeks prior to the meeting date. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings.

**5.5 Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any one Director.

**5.6 Notice; Waiver.** Notice of special meetings shall be given at least five (5) days prior to the date of the meeting in writing mailed to each Director at his or her business address, or by telephone, or in person at least seventy-two (72) hours prior to the time set for the meeting. If mailed, such notice shall be deemed to be delivered after it is deposited in the United States mail addressed to the Director, with postage thereon prepaid. 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. Neither the business to be transacted, nor the purpose of any meeting of the Board of Directors need to be specified in the notice or waiver of notice of such meeting. A written waiver of notice of a meeting signed by the Directors entitled to such notice, whether before or after the time stated therein, shall be equivalent to valid notice.

**5.7 Quorum.** A majority of Directors eligible to vote, fixed in accordance with Section 5.2 above, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but, if less than a majority of Directors are present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

**5.8 Manner of Acting.** The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless otherwise provided by the Articles of Incorporation or these Bylaws, and further provided that approval of any health care contract under consideration shall require an affirmative vote of an absolute majority of the then current Board of Directors. The Directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum. At any meeting of the Directors, if any issues not set forth on a meeting agenda are approved by less than an absolute majority of the Board, any Director who dissents to such action may require that such action be "shelved" until the next meeting of the Board, at which time such issue must again be voted upon by the Board before it can be adopted.

**5.9 Vacancies.** Subject to the restriction on subspecialist representation on the Board contained in Section 5.2 hereof, any vacancy occurring in the Board of Directors shall be filled by appointment by the Board. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor in office.

**5.10 Presumption of Assent.** A Director of APS who has the right to vote and 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 minutes of the meeting, unless he or she shall file his or her written dissent to such action with the person acting as the Secretary of the meeting before the final approval of such minutes by the Board. Such right to dissent shall not apply to a Director who voted in favor of such action.

**5.11 Removal of Directors.** Any or all Directors may be removed by a vote of two thirds (2/3rds) of the then current Members of APS.

**5.12 Informal Action by Directors.** Any action which may be taken or which is required to be taken at a meeting of the Board of Directors, or of any Committee of the Board, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors or all the members of the Committee entitled to vote with respect to the subject matter thereof.

**5.13 Telephonic Meetings.** Meetings of the Board of Directors, or of any Committee designated by the Board of Directors, may be held by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

**5.14 Conflicts of Interest.** A Director of APS may not be interested in, or a director or officer of another competing corporation without the express consent of the remaining Members of the Board. If the Board consents to a Director being interested in, or a director or officer of another competing corporation, no contracts or other transactions shall be affected thereby. Any Director, individually, may be a party to or interested in any contract or transaction with APS, provided all the following criteria are met:

- a. The interest of the Director is disclosed to the Board;
- b. The interested Director may not vote on any resolution regarding the transaction and his or her presence may not be counted toward a quorum; and
- c. The Board approves the transaction at a regular or special meeting.

**5.15 Nondisclosure of Proprietary Information.** Information obtained by persons who serve as Directors of APS which pertains to any aspect of APS, is considered proprietary and may not be disclosed to non-Members except as necessary to conduct the business and affairs of APS.

**5.16 Compensation.** Reasonable compensation, if any, for duties performed as a Director of APS shall be fixed by the Board of APS.

## **ARTICLE VI Committees**

**6.1 Committees, Generally.** All Committees shall be established and members appointed by the Board of Directors. Each Committee shall report to the Board with written minutes of all meetings. All voting members of Committees must be Members of APS unless expressly provided otherwise herein. The Executive, Review and Utilization Management-Quality Assurance Committees shall be deemed as standing committees.

**6.2 Executive Committee.** The Board of Directors may by resolution designate the President and any other member(s) of the Board to constitute an Executive Committee of three (3) or more members and delegate to such Committee, subject to applicable law and the control of the Board of Directors, any of its powers. The Board, by resolution, may at any time modify or revoke any or all of the authority so delegated to such Committee, change the number of members of this committee and fill vacancies in the Committee from the members of the Board.

**6.3 Review Committee.** A Review Committee shall be selected and consist of five (5) Members, in good standing, to review applications for Membership status, to request supplementary data on applications, to recommend to the Board actions on applications, to meet with applicants individually to see if they are dedicated to the principles of quality medical care and to carry out the duties with regard to summary suspension as provided for in the Fair Hearing Plan, and such other functions as the Board may direct.

**6.4 Utilization Review-Quality Assurance Committee.** The members of the Utilization Review-Quality Assurance ("UR/QA") Committee shall be appointed by the Board. The UR/QA Committee may be composed of non-Members (including Contract Providers). This Committee shall be responsible for review of medical records of hospitalized patients and outpatients and any other patient(s) whose treatment was provided by a Member pursuant to contracts directly entered into with any health plan, as well as review of Members' office records if necessary. The UR/QA Committee shall set standards for inpatient and outpatient records to assure compliance with standards of quality of care. The UR/QA Committee shall be responsible for initiation of Corrective Action and investigatory actions as provided for in the Fair Hearing Plan, and shall also recommend to the Board, corrective and disciplinary actions for Members who engage in inappropriate conduct and/or fail to comply with standards set by the Committee and these Bylaws.

**6.5 Hearing Committee.** The members of this Committee shall be appointed by the Board of Directors for the special purpose of acting as a hearing panel pursuant to the Fair Hearing Plan. The members need not be Members of APS. No Member may be in economic competition with the Member who neither is the subject of the hearing nor shall have previously considered the matter.

## **ARTICLE VII Officers**

**7.1 Number.** The Officers of APS shall be a President, a Vice President, a Secretary/Treasurer and other such Officers as may be designated by the Board of Directors. Such other Officers and Assistant Officers, as may be deemed necessary may be appointed by the Board of Directors. Officers must be licensed to practice medicine or osteopathy and must be Members of APS.

**7.2 Appointment and Term of Office.** The Officers shall be appointed annually at the first meeting of the Board of Directors held after each annual meeting of the Members. If the Officers are not appointed at such meeting, such appointment(s) shall be made as soon thereafter as may be convenient. Each Officer shall hold office until a successor shall have been duly appointed and shall have qualified or until the Director's death or resignation or shall have been removed in the manner hereinafter provided.

**7.3 Removal.** Any Officer or agent appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of APS would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed or the right of such person to remain a Member of A-PS.

**7.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

**7.5 President.** The President shall be the principal executive officer of APS and, subject to the control of the Board of Directors, shall in general supervise and control all the business and affairs of APS. The President shall preside at all meetings of the Members of the Executive Committee and of the Board of Directors. The President shall be an ex officio member of any Committee of the Corporation. The President may sign, with the Secretary or any other proper Officer of APS, thereunto authorized by the Board of Directors, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other Officer or agent of APS or shall be required by law to be otherwise signed or executed; and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

**7.6 Vice President.** In the absence of the President, or in the event of the President's death, inability or refusal to act, the Vice President shall perform all the powers of and be subject to all the restrictions upon the President. The Vice President may, with the Secretary/Treasurer, sign documents on behalf of APS and shall perform such other duties as from time to time may be assigned by the President or by the Board of Directors.

**7.7 Secretary/Treasurer.** The Secretary/Treasurer shall:

- a. Keep the minutes of the Members' meetings and of the Board of Directors meetings in one or more books provided for that purpose;
- b. See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law;
- c. Keep a register of the post office address of each Member which shall be furnished to the Secretary by every such Member;
- d. Have charge and custody of and be responsible for all funds and securities of APS; receive and give receipts for monies due and payable to APS from any source whatsoever, and deposit all such monies in the name of APS in such banks, trust companies or other depositories as shall be selected by the Board of Directors.
- e. In general, performs all duties incident to the office of Secretary/Treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors.

If required by the Board of Directors, the Secretary/Treasurer shall give a bond for the faithful discharge of duties in such sum and with such surety or sureties, as the Board of Directors shall determine.

**7.8 Salaries.** The salaries, if any, of the Officers shall be fixed from time to time by the Board of Directors and no Officer shall be prevented from receiving such salary by reason of the fact that the Officer is also a Director of APS. The Board of Directors shall disclose to the Members the compensation paid to Officers of APS, including any changes thereto.

**7.9 Nondisclosure of Proprietary Information.** Information obtained by persons who serve as Officers of APS which pertains to any aspect of APS, is considered proprietary and may not be disclosed to non-Members except as necessary to conduct the business and affairs of APS.

## **ARTICLE VIII Contracts, Checks and Deposits**

**8.1 Contracts.** The Board of Directors may specifically authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of APS. Such authorization shall be obtained from the Board prior to the execution of each and every contract/instrument.

**8.2 Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of APS shall be signed by such Officer or Officers, agent or agents APS and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**8.3 Deposits.** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of APS in such banks, trust companies or other depositories as the Board of Directors may select.

## **ARTICLE IX**

### **Indemnification of Directors and Officers**

**9.1 Indemnification.** To the fullest extent permitted by the Alaska Nonprofit Corporation Act ("Act"), the Corporation shall indemnify any Director or Officer of the Corporation made a party to a proceeding, because the person is or was a Director or Officer of the Corporation, against liability incurred in that proceeding; provided, however, no indemnification pursuant to this provision shall indemnify any Director or Officer from or on account of: (1) any breach of the Director's or Officer's duty of loyalty to the Corporation; (2) acts or omissions not in good faith or involving intentional misconduct or a knowing violation of the law; (3) any unlawful distribution; (4) any transaction from which the Director or Officer derived an improper personal benefit; and (5) any act or omission in violation of the Act.

**9.2 Advancement of Expenses.** The Corporation may, but shall not be required to, pay for or reimburse the reasonable expenses incurred by a Director or Officer who is a party to a proceeding in advance of the final disposition of the proceeding to the fullest extent permitted by the Act.

**9.3 Purchase of Insurance.** APS shall purchase and maintain a Directors and Officers insurance policy and/or general liability policy, with an endorsement insuring against antitrust liability, covering persons who serve or have served as Directors or Officers of the Corporation. The amount of coverage will be initially determined, and may be increased or decreased from time to time, by the Board of Directors. To the extent of any uninsured liability or liability not indemnified by the Corporation, each Provider of APS (including both Participating and Contract Providers) shall agree to indemnify any Director or Officer of the Corporation made a party to a proceeding because the person is or was a Director or Officer of the Corporation against liability incurred in that proceeding (including costs of defense and attorney fees); provided, however, no indemnification pursuant to this provision shall indemnify any Director or Officer from or on account of: (1) any breach of the Director's or Officer's duty of loyalty to the Corporation; (2) acts or omissions not in good faith or involving intentional misconduct or a knowing violation of the law; (3) any unlawful distribution; (4) any transaction from which the Director or Officer derived an improper personal benefit; and (5) any act or omission in violation of the Act. Further, any indemnification pursuant to this provision by each individual Provider shall be limited to the

Provider's reimbursement received from APS contracted health plans for the twelve (12) month period prior to receipt of written demand for indemnification by the Director(s) or Officer(s) entitled to such indemnification.

## **ARTICLE X Amendments**

**10.1 Amendment by Directors.** These Bylaws may be altered, amended or repealed by two-thirds (2/3rds) majority vote of the Directors. Suggested changes must be mailed to the Directors at least thirty (30) days prior to any meeting called for the purpose of voting thereon.

**10.2 Amendment by Members.** Members may revoke or amend any Bylaw provision adopted by the Board if an affirmative vote for the revocation or amendment is cast by seventy (75) percent of the Members.

**10.3 Procedure for Proposing Amendment.** An amendment may be proposed by any member of the Board of Directors or by written initiative presented to the Corporation's Secretary signed by at least five percent (5 %) of the Members of APS.

## **ARTICLE XI Contract Discussions**

**11.1 Independent Consultant.** APS may retain the services of an disinterested individual who has no financial interest in APS, to evaluate and discuss the terms and fee structure of managed care contracts offered to APS and its Members. Information gathered by or submitted to the consultant shall remain in his or her possession throughout the term of his or her relationship with APS, provided that such information is the property of and shall be turned over to the Board of Directors or the Board's designee upon the termination of the consultant's relationship with APS. Such consultant shall be reimbursed for services rendered to APS, solely by APS and no other source.

**11.2 Discussion of and Participation in Contracts.** The Board of Directors, or its designee, may work with the consultant to determine whether or not any particular contract should be presented to the Members of APS for individual consideration thereof; provided that the Board of Directors, or its designee, may not discuss the fee structure, cost terms or service pricing of any contract under consideration amongst themselves or with other Members of APS.

- a. APS shall have the authority, through an independent consultant, to do the following:

- i. To respond to Payor's requests for information concerning price levels that APS, through its consultant, believes will be acceptable to Members,
  - ii. To gather data from Members sufficient to enable APS, through its consultant, to make the determination described in clause (i),
  - iii. To relay prices, through its consultant, proposed by Payors to Members for their individual consideration and acceptance or rejection thereof, and
  - iv. To do any other thing necessary and appropriate to carry out the foregoing.
- b. All activities described in subparagraph a (a) and any other activities related in any way to the pricing of services by Members through APS shall be performed only by the independent consultant.
- c. In performing the activities described in subparagraph (a), the independent consultant may discuss generally with APS's Board of Directors the market considerations affecting prices, but shall not discuss specific prices with the Board of Directors. The independent consultant may discuss prices with Members of the Board of Directors individually under the provisions of clauses (ii), (iii) and (iv) of subparagraph (a).
- d. In performing activities described in subparagraph (a), the independent consultant shall keep confidential any information concerning prices charged or requested by particular Members and shall not disclose such information to other Members.
- e. The independent consultant shall not have authority or discretion to decide what prices proposed by Payors shall be transmitted to Members. Nor shall such price proposals be subject to review, either before or after transmittal, by the APS Board of Directors. The independent consultant shall not have the authority to reject a Payor contract proposal based on its price term.
- f. The independent consultant shall exercise his or her authority over pricing (i) free of the influence of any individual APS Member or Director, or any group of them, and (ii) in a manner that furthers APS's goals of maintaining competitive participation by Members while offering competitive pricing to Payors. APS shall not discriminate against a Member for reasons unrelated to market conditions. No individual APS Member or Director, or any group of them, shall request or otherwise attempt to cause APS staff or the independent consultant to discriminate with respect to reimbursement of, or other terms offered to, any Member.
- g. All Members remain free to reject a contract offer or to contract directly with any Payor.

- h. APS operates on the assumption that each Member will decide independently whether to accept or reject prices offered directly to him or her by Payors. To ensure that Members operate in a manner consistent with this assumption, these guidelines are set forth in these Bylaws.
- i. From time to time, at the sole discretion of the APS Board of Directors, an independent examiner may examine compliance with this policy to determine whether APS and its Members, Directors, Officers and staff are varying from the policy in any material respect. The results of the examination shall be reported to the Board of Directors. In any examination under this subparagraph (i), the examination results shall not disclose pricing information to the Board of Directors or any Member in a way inconsistent with Subparagraph (d).

A Member's rejection of any such contract offered to him or her, shall in no way affect his or her status as a Member of APS. Any Member who has been offered a contract for participation therein, whether accepted or rejected, is expressly prohibited from discussing with any other Member the fee structure, cost terms, and service pricing as well as whether or not other Members have accepted or rejected the same or similar contract.

## **ARTICLE XII**

### **Dissolution**

The Corporation may be dissolved by a two thirds (2/3) vote of Members present voting at the annual Membership meeting, and a quorum vote of the Board of Directors at a scheduled Board meeting. Notice of a proposed vote of dissolution shall be submitted in writing to each Member of the Corporation thirty (30) days prior to the Membership meeting.

In the event of dissolution of the Corporation, a final audit shall be commenced and on completion, all remaining Corporate dues shall be returned on a pro rata basis to the Provisional and Member Providers. All tangible assets shall be liquidated and the proceeds disbursed, as the Board of Directors shall so determine.

In the event of dissolution of the Corporation, dissolution shall be pursuant to Title 10.20.290 *et seq.* of the Alaska Corporation Code.

## **ARTICLE XIII**

### **Sever ability**

In the event that any provision of these Bylaws a) conflicts with or is prohibited by any applicable State or Federal law or b) is declared to be void or unenforceable by a court of

competent jurisdiction, the remaining provisions of these Bylaws shall nevertheless be valid, binding and enforceable as of such void or unenforceable provision had been omitted from these Bylaws when they were adopted.

**ARTICLE XIV  
Rules of Order**

**14.1 Roberts Rules of Order.** All meetings of the Members, Board of Directors, and Committees shall be conducted according to the most recent edition of Roberts Rules of Order.

**ARTICLE XV  
Rules and Regulations**

**15.1 Rules and Regulation.** The Rules and Regulations of APS consist of the Member Appraisal and Reappraisal Process, Fair Hearing Plan and such other matters as the Directors shall approve.

These Bylaws were adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
Secretary

ATTEST

\_\_\_\_\_  
President