

Board of Trustees Bylaws

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ARTICLE I: PURPOSE AND MANAGEMENT

SECTION 1.1: OBJECTIVES

1.1.1 The Burrell College of Osteopathic Medicine, LLC (the “BCOM”) is an osteopathic medical college licensed to do business in Las Cruces, New Mexico. The role and purpose of the BCOM is to provide the education and clinical training of future osteopathic physicians.

SECTION 1.2: OWNERSHIP AND MANAGEMENT OF THE BCOM

1.2.1 BCOM Investment Partners, LLC (the “Company”) is the sole owner and member of the BCOM. These Bylaws reserve rights, consents, or similar actions to the Company, and such actions may be exercised on the Company’s behalf as specified herein by BCOM Management, LLC, the Company’s sole manager (the “Manager”).

1.2.2 The governance, oversight, and direction of the BCOM is vested in the Board of Trustees of the BCOM (the “Board of Trustees”). The primary responsibility and goal of the Board of Trustees is to further the mission and purpose of the BCOM by providing autonomous oversight of the BCOM, thereby facilitating the establishment and approval of policies, the maintenance of quality education and the provision of institutional management and planning, all in a manner that is responsive to the needs of Las Cruces, the State of New Mexico and the Borderplex Region. The primary function of the Board of Trustees shall be to provide autonomous governance over the operations of the BCOM, and to assure that the BCOM provides quality medical education that meets the needs of the community and complies with all regulatory, licensing and accrediting bodies.

1.2.3 The BCOM’s officers and the Board of Trustees have the governance rights and duties set forth in these Bylaws, subject to the rights and duties, fiduciary and otherwise, that are reserved to the Company in these Bylaws (including as set forth in Schedule I) (e.g., merger transactions, sales of securities or membership interests, sales of assets or acquisitions outside the ordinary course) or that are otherwise required to be reserved to the Company as the sole member of BCOM by the New Mexico Limited Liability Company Act. Any and all powers and authority not specifically granted by these Bylaws to the Board of Trustees are reserved to the Company.

1.2.4 The Board of Trustees has authority to select and hire the President/CEO of the BCOM based upon his or her competency. The President/CEO manages the day-to-day business affairs and administration of the BCOM. The President/CEO reports to the Board of Trustees. The Board of Trustees has delegated to the President/CEO authority for the BCOM’s business operations as described within these Bylaws. The President/CEO’s fiscal authority is subject to the Annual Budget and Plan approved by the Board of Trustees and, to the extent required by these Bylaws, ratified by the Company.

ARTICLE II: MEMBERS

SECTION 2.1: ESTABLISHMENT OF THE BOARD OF TRUSTEES

2.1.1 The Board of Trustees, as a collective entity, and its individual members (each, a “Member”), shall exercise those privileges and duties specified by these Bylaws.

2.1.2 The Board of Trustees shall be delegated full autonomy and authority by the Company to oversee general administrative matters of governance of the BCOM as described within these Bylaws, including, but not limited to, policy development, performance improvement, and organizational management and planning. The Company acknowledges the Members as a valuable resource necessary for the delivery of quality education in a manner that is efficient and responsible to the community. The authority granted to the Board of Trustees shall be exercised in a manner commensurate with these quality goals.

SECTION 2.2: NUMBER AND QUALIFICATIONS

2.2.1 The number of voting Members of the Board of Trustees of the BCOM shall be no less than thirteen (13). The Board of Trustees shall be composed of:

2.2.1.1 the Managing Member of BCOM Management, LLC, who may serve as Chairman of the Board;

2.2.1.2 the President/CEO of the BCOM, who shall serve as a non-voting, ex-officio Member;

2.2.1.3 12 additional voting Members as follows:

a. At least five independent Members from the general public (i.e., persons with no ownership or employment relationship with the BCOM nor familial relationship with any owner or employee of BCOM), nominated and approved by the Board of Trustees. These Members must be selected for their dedication to the BCOM and its mission, and for their ability to represent the osteopathic medical profession, higher education, legal issues and/or community;

b. Two independent Members from New Mexico State University (NMSU) as nominated by NMSU’s Chancellor (the “NMSU Members”); NMSU’s Chancellor is able to serve as one of the two NMSU Members;

c. Two Members (in addition to the Managing Member of BCOM Management, LLC) designated by BCOM Management, LLC, (together with the Managing Member of BCOM Management, LLC, “the BCOM Management, LLC Members”).

d. Three Members (the “Rice Members”) designated by William Marsh Rice University (“Rice University”).

SECTION 2.3: TERM OF OFFICE

2.3.1 Each independent voting Member shall be appointed to a term commencing at the start of the fiscal year. A standard term shall be for 3 years except that initial terms may be shorter to assure that terms are staggered to maintain continuity in board membership. A voting Member (other than a Rice Member, NMSU Member or BCOM Management, LLC Member) may serve no more than two consecutive terms without approval from the Board of Trustees.

2.3.2 Any voting Member (other than a Rice Member or BCOM Management, LLC Member) may be removed by a majority vote of all remaining voting Members whenever the Board of Trustees determines such removal will be in the best interest of the BCOM. The Rice Members may only be removed by Rice University. The BCOM Management, LLC Members may only be removed by BCOM Management, LLC.

SECTION 2.4: ELECTION

2.4 Prior to the expiration of a term, and after consultation with the Company, as appropriate, a complete list of names recommended to replace independent Members whose term is next scheduled to expire shall be presented to the Board of Trustees. The Board of Trustees shall appoint Members from the list of names selected by the Board of Trustees. Such appointments shall become effective on the first day of the fiscal year.

SECTION 2.5: MEETINGS

2.5.1 Regular meetings of the Board of Trustees shall be held at least quarterly. The first meeting of the fiscal year shall be designated as the Annual Meeting. A requirement for more frequent regular meetings may be established by resolution of the Board of Trustees. Special meetings of the Board of Trustees may be called by the President/CEO, the Chairman on his/her initiative, by the Chairman at the request of any four Members, or by the Company. Meetings shall be held at the BCOM unless otherwise designated by the Chairman.

2.5.2 Board of Trustees meetings may be held by means of telephone conference or other communications equipment by means of which all persons participating in the meeting can hear each other and be heard and the Secretary shall provide the details regarding how to remotely access each meeting as part of the notice of each regular or special meeting.

SECTION 2.6: NOTICE

2.6.1 Notice of any regular or special meeting shall be given at least three days in advance by written notice delivered personally, by reliable overnight courier service, or by email, in each case addressed at a Member’s address as provided to the BCOM from time to time. Notice will be deemed

to have been delivered at the time of delivery or transmission if delivered personally or by email and on the next business day if given by overnight courier.

2.6.2 Any Member may waive notice of any meeting. The attendance of a Member at any meeting shall constitute a waiver of any defect therein unless the Member, at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting any business at the meeting and does not thereafter vote or assent to action taken at the meeting.

2.6.3 Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Trustees need be specified in the notice or waiver of notice of such meeting.

SECTION 2.7: QUORUM

2.7.1 A majority of the voting Members shall constitute a quorum for the transaction of business at any regular or special meeting of the Board of Trustees. If less than a majority of the voting Members are present at the meeting, a majority of the voting Members present may adjourn the meeting without further notice.

2.7.2 The Members present at a duly organized meeting may continue to transact business until adjourned, notwithstanding the withdrawal of enough voting Members to leave less than a quorum. The act of the majority of voting Members present at a duly organized meeting shall be the act of the Board of Trustees. Notwithstanding the foregoing no official action of the Board of Trustees shall occur unless a quorum is present and a majority of those present vote on a particular action.

SECTION 2.8: INFORMAL ACTION

2.8 Any action required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed or voted upon in writing, including email voting, by a quorum of Members entitled to vote with respect to the subject matter thereof.

SECTION 2.9: ATTENDANCE

2.9 Each Member shall be required to attend in person at least 50% of all regular meetings each year, unless excused for cause, as determined by the Chairman. Failure to meet the attendance requirements shall be grounds for revocation of Board of Trustees membership, except in the case of Rice Members.

SECTION 2.10: VACANCIES

2.10 Any vacancy occurring on the Board of Trustees, whether by virtue of an increase in the size of the Board of Trustees, or of a loss or relinquishment of individual membership, shall be filled by the Board of Trustees; except that only Rice University may fill a vacancy caused by the loss or

relinquishment of a Rice Member, and only BCOM Management, LLC may fill a vacancy caused by the loss or relinquishment of a BCOM Management, LLC Member. A Member appointed to fill a vacancy shall be appointed to the unexpired term of the class of membership in which the vacancy occurs.

SECTION 2.11: CONFLICT OF INTEREST

2.11 Each Member shall be bound by the conflict of interest policy established by the Board of Trustees. Each Member shall sign a conflict of interest disclosure at the time of initial appointment and annually, at the Annual Meeting. A copy of the current policy is attached hereto and incorporated herein by reference as Exhibit A.

ARTICLE III: OFFICERS

SECTION 3.1: OFFICERS

3.1.1 The officers of the Board of Trustees shall be the Chairman, who may be the Managing Member of BCOM Management, LLC, the Vice Chairman, who will be an independent member of the Board of Trustees, and the Secretary, who will be the CEO/President.

SECTION 3.2 ELECTION AND TERM OF OFFICE

3.2.1 The Chairman and Vice Chairman of the Board of Trustees shall be elected annually for one-year terms by the Board of Trustees at its first meeting of each fiscal year; the Secretary position is filled as indicated in Section 3.1. If the election of the Chairman and Vice Chairman is not held at such meeting, such election shall be held thereafter as soon as is practicable. In no event shall a Member serve as Chairman for more than two consecutive one-year terms. Each appointed officer shall hold office until his/her successor shall have been duly appointed or until his/her death or until he/she resigns or shall have been removed in the manner hereinafter provided.

SECTION 3.3: REMOVAL

3.3.1 Any officer of the Board of Trustees may be removed from office by a majority vote of the Board of Trustees whenever the Board of Trustees determines such a removal will be in the best interest of the BCOM. For the avoidance of doubt, a determination to remove the President/CEO of the BCOM from serving as Secretary of the Board does not remove the President/CEO of the BCOM from serving in the role of President/CEO.

SECTION 3.4: VACANCIES

3.4.1 A vacancy in any office because of death, resignation, removal, disqualification or otherwise shall be filled by the Board of Trustees for the unexpired portion of the term.

SECTION 3.5: CHAIRMAN OF THE BOARD OF TRUSTEES

3.5.1 The Chairman shall preside at all meetings of the Board of Trustees and shall see that all orders and resolutions of the Board of Trustees are carried into effect. The Chairman shall also perform such other duties given by these Bylaws and those as may be assigned from time to time by the Board of Trustees. Except as specified in these Bylaws or as assigned by the Board of Trustees in accordance with these Bylaws, the rights and powers of the Chairman shall not differ from those of other Trustees.

SECTION 3.6: VICE CHAIRMAN OF THE BOARD OF TRUSTEES

3.6.1 The Vice Chairman of the Board of Trustees shall perform such duties given by these Bylaws and those as may be assigned from time to time by the Board of Trustees, or the Chairman of the Board of Trustees. In the absence of the Chairman, the Vice Chairman shall have all the powers and responsibilities of the Chairman.

SECTION 3.7: SECRETARY

3.7.1 The Secretary shall:

3.7.1.1 record all proceedings of the meetings of the Board of Trustees and any committees thereof in a book or books to be kept for that purpose;

3.7.1.2 cause all notices to be duly given in accordance with the provisions of these Bylaws;

3.7.1.3 whenever any committee shall be appointed pursuant to a resolution of the Board of Trustees, furnish the chairperson of such committee with a copy of such resolution; and

3.7.1.4 in general, perform all duties incidental to the office of the Secretary and such other duties as are given by these Bylaws or as may be assigned from time to time by the Board of Trustees, the Chairman, or the Vice Chairman.

3.7.1.5 when the Board convenes an Executive Session, the Chairman of the Board reserves the right to delegate the duties of the Secretary during the Executive Session.

ARTICLE IV: FISCAL YEAR

SECTION 4.1: FISCAL YEAR

4.1 The BCOM's fiscal year shall correspond with the BCOM's academic year which commences on July 1st of each year and ends on June 30th.

ARTICLE V: COMMITTEES OF THE BOARD OF TRUSTEES

SECTION 5.1: COMMITTEES OF THE BOARD

5.1.1 BCOM shall have a Budget and Audit Committee to review and recommend approval of the Annual Budget to the full Board of Trustees. The Budget and Audit Committee shall recommend to the full Board of Trustees an independent auditor and monitor the independence and effectiveness of such auditor. The Budget and Audit Committee shall periodically review the BCOM's internal financial controls, policies, and procedures and may select outside advisors in so doing. The Budget and Audit Committee shall be composed of a majority of independent trustees with at least one Rice Member and at least one BCOM Management, LLC Member, with the number of Rice Members and BCOM Management, LLC Members always being equal in number.

SECTION 5.2: COMMITTEE STRUCTURE

5.2.1 The Board of Trustees shall act as a committee of the whole unless separate committees are established.

5.2.2 The creation of a standing committee shall require approval of the number of Members required by these Bylaws to take action on behalf of the Board of Trustees. The Board of Trustees may also establish ad hoc or special committees by the same process. Standing, ad hoc, or special committees shall include at least one Rice Member and at least one BCOM Management, LLC Member, with the number of Rice Members and BCOM Management, LLC Members always equal in number, and independent Members shall constitute a majority of each such committee. Except as provided below, committees established by the Board of Trustees may exercise any authority of the Board of Trustees that is delegated by Board of Trustees action. When establishing a committee, the Board of Trustees shall define:

5.2.2.1 qualifications for membership on the committee including the selection of non-Members to the committee;

5.2.2.2 the term of committee membership;

5.2.2.3 the minimum frequency of meetings and attendance requirements;

5.2.2.4 the frequency and type of required reports on committee activities; and

5.2.2.5 the specific authority and responsibilities of the committee.

5.2.3 The Chairman may establish ad hoc or special committees for any purpose the Chairman deems appropriate to the business of the Board of Trustees and the BCOM. Those committees established unilaterally by the Chairman shall be advisory in nature and shall not have the authority to transact business on behalf of the Board of Trustees. Such ad hoc or special committees established by the Chairman shall include at least one Rice Member and at least one BCOM Management, LLC Member, with the number of Rice Members and BCOM Management, LLC Members always equal in number.

5.2.4 The Board of Trustees by affirmative vote shall appoint the members of any Board of Trustees committees (other than any Rice Member or BCOM Management, LLC Member who serves on a committee as set forth in Section 5.1.1, 5.2.2 and 5.2.3 who in each case shall be appointed to serve on the committee by Rice or BCOM Management, LLC, respectively). Members of committees (other than a Rice Member or BCOM Management, LLC Member) may be removed by the affirmative vote of the number of Members required to take Board of Trustees action.

5.2.5 Any member of a committee who is not also a Member shall serve in an advisory capacity without the right to vote.

5.2.6 No committee shall have authority to fill vacancies on the Board of Trustees or on any of its committees nor to adopt the Annual Budget and Plan nor to adopt amend or repeal these Bylaws.

5.2.7 Members of committees of the Board of Trustees may participate in a committee meeting by any communication by means of which all participating committee members can simultaneously hear and speak with each other during the committee meeting and the chairman of the committee shall provide the details regarding how to remotely access each meeting as part of the notice of each meeting. A committee member participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE VI: BOARD OF TRUSTEES FUNCTIONS

The Board of Trustees is charged with the responsibility to undertake all lawful actions commensurate with its role and purposes as defined in these Bylaws. Without limiting the generality of the foregoing, the Board of Trustees shall perform the following functions:

SECTION 6.1: LIAISON

6.1.1 The Board of Trustees shall oversee the implementation of a system for resolving conflicts among leaders and the individuals under their leadership. The system's effectiveness shall be regularly reviewed, and revised as necessary. A copy of the current policy is attached hereto and incorporated

herein by reference as Exhibit B.

SECTION 6.2: COMPLIANCE WITH LAWS, REGULATIONS AND MAINTENANCE OF ACCREDITATION

6.2.1 The Board of Trustees shall ensure compliance with all applicable federal, state, and local laws and regulation. The Board of Trustees shall require the President/CEO to review and respond to the reports and recommendations from planning, regulatory, and inspecting agencies, and regularly report to the Board of Trustees regarding the status of compliance.

6.2.2 The Board of Trustees shall ensure the acquisition and maintenance of accreditation by the American Osteopathic Association's Commission on College of Osteopathic Accreditation (COCA) and any other required accreditation bodies. From time to time, the Board of Trustees shall require that COCA standards be used in a review of the BCOM's ongoing compliance with accreditation standards.

6.2.3 The Board of Trustees shall receive reports, as needed, pertaining to compliance with local, state, federal and accreditation bodies.

SECTION 6.3: MANAGEMENT OF THE ENVIRONMENT OF CARE

6.3.1 The Board of Trustees shall ensure the planning and implementation of methods for providing for the safety, protection, and care of the BCOM's students, faculty, staff, visitors and others, and ensure allocation of appropriate resources to maintain a safe, secure care environment.

6.3.2 The Board of Trustees shall adopt and periodically review a written plan regarding safety management, life safety management, emergency preparedness, hazardous materials and waste management, security management, medical equipment management, and utility management.

6.3.3 The Board of Trustees shall receive and review regular reports about performance related to safety management, life safety management, emergency preparedness, hazardous materials and waste management, security management, medical equipment management, and utility management.

6.3.4 The Board of Trustees shall receive and review an annual evaluation of the scope, objectives, performance, and effectiveness of safety management, life safety management, emergency preparedness, hazardous materials and waste management, security management, medical equipment management, and utility management.

SECTION 6.4: PLANNING

The Board of Trustees shall govern the process of institutional planning, subject to ratification by the Company as indicated below.

6.4.1 The institutional planning process shall include the following minimum features:

6.4.1.1 approval of the BCOM's annual and three year budget and operating plan and key performance indicators ("Annual Budget and Plan") inclusive of Total Revenue, Total Expenses, and Total Net Income (each as defined in the Annual Budget and Plan), subject to ratification of the Company if Total Revenue, Total Expenses, or Total Net Income deviates by greater than 10% from Total Revenue, Total Expenses, or Total Net Income in the prior fiscal year's approved Annual Budget and Plan; the Annual Budget and Plan shall be prepared annually, shall be developed as indicated in these Bylaws, and shall be prepared according to generally accepted accounting principles;

6.4.1.2 approval of the BCOM's annual and three-year capital budget shall be subject to the ratification of the Company if the total annual or three-year, as applicable, capital budget amount deviates by greater than 10% from the prior year's approved annual or three-year capital budget, as applicable. The form of the capital budget shall be a three-year capital expenditure plan, which shall be developed by the President/CEO and CAO in collaboration with other leaders of the organization, and which shall identify the objectives of, and anticipated sources of financing for, each proposed capital expenditure in excess of \$100,000;

6.4.1.3 review and updating at least annually of the overall business plan and budget recommendations, including compensation; and

6.4.1.4 establishment of a collaborative planning process within the BCOM to address:

a. definition and communication of a mission, a vision, and values for the BCOM and creating the strategic, operational, programmatic, and other plans and policies to achieve the mission and vision;

b. planning which addresses all of the important organizational functions identified by COCA;

c. the economic viability of the BCOM, and shall include the establishment of a faculty development plan that determines the appropriate quantity, specialties, and practice profiles of professionals necessary to the delivery of quality education and the economic viability and success of the BCOM, as appropriate to the mission and vision of the BCOM, and the scope of services provided.

SECTION 6.5: CONTRACTED SERVICES

6.5 The Board of Trustees have delegated to the President/CEO to provide mechanisms to ensure that services provided under contract are in compliance with all applicable conditions of participation, regulations, and COCA standards for the contracted service.

SECTION 6.6: DEPARTMENTAL POLICIES AND PROCEDURES

6.6 The Board of Trustees shall require that the BCOM's President/CEO, CAO and other relevant personnel collaborate in the development of BCOM-wide programs, policies, and procedures. Departmental policies and procedures shall be developed to reflect each department's goals and scope of services, as well as staff knowledge and skill. At a minimum, policies and procedures shall describe how the department addresses routine functions in areas including, but not limited to, student, academic, research and clinical administration. The Board of Trustees has delegated to the President/CEO authority to approve such routine departmental policies and procedures. All policies and procedures shall be reviewed and revised periodically by the President/CEO or his/her designee. The period between reviews will comply with COCA standards, at a minimum.

SECTION 6.7: ORIENTATION, EDUCATION AND EVALUATION

6.7.1 The Board of Trustees, acting through the Chairman and the President/CEO, shall provide resources necessary to enable all Members of the Board of Trustees to understand and fulfill their responsibilities. An annual orientation program for all new Board of Trustees members shall be conducted, as well as relevant continuing education programs as may be appropriate from time to time.

6.7.2 The Board of Trustees shall review and evaluate its own performance and effectiveness on an annual basis.

ARTICLE VII: ADMINISTRATION

SECTION 7.1: APPOINTMENT AND EVALUATION

7.1.1 CHIEF EXECUTIVE OFFICER

Upon vacancy of the President/Chief Executive Officer (CEO), the Board of Trustees shall select and employ a competent President/CEO using a criteria-based process which outlines qualifications for the position based on education and experience, who shall be responsible for management of the BCOM.

7.1.2 The Board of Trustees shall monitor the performance of the President/CEO on an ongoing basis and conduct, at least annually, a performance evaluation for the President/CEO.

SECTION 7.2: AUTHORITY AND DUTIES

7.2.1 CHIEF EXECUTIVE OFFICER

The Chief Executive Officer (CEO) of the College shall hold the title of President and be responsible for management of the College. The specific authority and duties of the President/CEO shall be the following:

7.2.1.1 to establish effective day-to-day operations of the BCOM through appropriate departmentalization and delegation of duties;

7.2.1.2 in accordance with accreditation requirements, hire a Chief Academic Officer (CAO)/Dean following consultation of the Board of Trustees and provide to the Board no less frequently than annually, an evaluation of the CAO's performance.

7.2.1.3 in accordance with accreditation requirements, hire a Chief Financial Officer (CFO) following consultation of the Board of Trustees. The CFO shall report to the President. The CFO shall provide all pertinent financial statements and reports, including the annual audit, to the Budget and Audit Committee and the Board of Trustees.

7.2.1.4 to establish information and support systems;

7.2.1.5 to recruit and maintain staff;

7.2.1.6 to conserve physical and financial assets;

7.2.1.7 to carry out all policies established by the Board of Trustees, or by the BCOM when policy authority has been delegated to its officers by the Board of Trustees;

7.2.1.8 to develop and submit to the Board of Trustees for review and approval, a plan of organization of the personnel and others concerned with the operation of the BCOM. This plan of organization will be subsequently reviewed and approved annually by the Board of Trustees with the Annual Budget and Plan. The President/CEO has the authority, within the approved Annual Budget and Plan, to authorize changes to the organization as needed within the academic year;

7.2.1.9 to prepare, with direct input from the CAO, an Annual Budget and Plan showing expected receipts and expenditures, and a long-term capital expenditure plan, which shall be presented to the Board of Trustees for approval of the final Annual Budget and Plan with such changes as it deems appropriate;

- 7.2.1.10 to select, employ, control and discharge employees who report directly or indirectly to the President/CEO, including competent individuals who provide services;
- 7.2.1.11 to ensure personnel policies and practices for the BCOM are implemented;
- 7.2.1.12 to ensure the physical properties remain in a good state of repair and operating condition;
- 7.2.1.13 to supervise the business affairs of the BCOM;
- 7.2.1.14 to present to the Board of Trustees or its authorized committee, periodic reports reflecting the professional service and financial activities of the BCOM and prepare and submit special reports as may be required by the Board of Trustees;
- 7.2.1.15 to attend all meetings of the Board of Trustees and committees, thereof;
- 7.2.1.16 to keep the Board of Trustees fully informed of the conduct of the BCOM;
- 7.2.1.17 to review and respond to all inspection reports of any authorized inspecting agency, and to insure that the BCOM meets the standards of COCA and any other appropriate accreditation requirements; and
- 7.2.1.18 to perform other duties that may be necessary in the best interests of the BCOM.
- 7.2.1.19 In the absence of the President/CEO the Board of Trustees will designate the officer who will perform the duties of the duties of the President/CEO.

ARTICLE VIII: INDEMNIFICATION

SECTION 8.1: INDEMNIFICATION

8.1 The Company shall indemnify the Board of Trustees, officers, employees, and agents to the fullest extent permitted by law. The Company may purchase and maintain insurance providing indemnification on behalf of any Board of Trustee member, officer, employee, agent or any individual who is or was a representative of the Board of Trustees, or Company, to the extent set forth in such indemnification policy.

ARTICLE IX: APPROVAL

SECTION 9.1: APPROVAL AND AMENDMENTS

9.1 Proposed amendments to these Bylaws may be proposed by the affirmative vote of a majority of the Board of Trustees; provided, however, these Bylaws and any amendments or alterations thereto shall not become effective until final approval by the Company as provided in this Section 9.1. These Bylaws may be amended at any time by the Company after first seeking the advice of the Board of Trustees; provided, however, notwithstanding anything in these Bylaws to the contrary, any provision in an amendment of these Bylaws that increases the number of members of the Board of Trustees or modifies, alters or changes any of the rights of the Rice Members or University set forth in these Bylaws, including, but not limited to this Section 9.1 or Sections 2.2, 2.3, 2.4, 2.9, 2.10, 5.1, 5.2, 7.1, or Schedule I, shall require approval of the Company and Rice University for only those amendments pertaining to Rice Members, Rice University or an increase in the number of members of the Board of Trustees or Schedule I; provided, further, notwithstanding anything in these Bylaws to the contrary, that any amendment to these Bylaws that alters, limits or curtails the rights, roles and responsibilities of the Company or increases or decreases the number of members of the Board of Trustees shall require the approval of the Company.

9.2 The approval of the Company shall be required for (A) any action expressly requiring the approval of a member under the New Mexico Limited Liability Company Act, (B) any action set forth on Schedule I to these Bylaws or (C) any other action expressly set forth in these Bylaws as requiring approval of the Company.

ARTICLE X: NON-DISCRIMINATION

SECTION 10.1: NON-DISCRIMINATION POLICY

10.1.1 It is the firm policy of the Board of Trustees and the BCOM not to discriminate on the basis of race, color, creed, ethnicity, sex, age, religion, national origin, disability, familial status, ancestry, sexual orientation, gender, gender identity, genetic information, marital status, veteran status or spousal affiliation in its programs, activities, hiring, or the admission of students.

This policy applies in recruitment and admission of students, employment of faculty and staff, and scholarship and loan programs. This policy is also followed in the operation of all other programs, activities and services of the BCOM.

The BCOM subscribes to the principles and adheres to the requirements of state and federal law pertaining to civil rights and equal opportunity, in accordance with the requirements of Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973, as amended; and the Age Discrimination Act of 1975, as amended.

Evidence of practices inconsistent with this policy should be reported to the Director of Human Resource, who is the designated coordinator of the BCOM's non-discrimination program. Inquiries regarding compliance with the sex discrimination provisions of Title IX may also be directed to the BCOM's Title IX Coordinator, or to the Assistant Secretary for Civil Rights, Department of Education, Washington, D.C.

APPROVAL:

By: Signature on File

Daniel Burrell, Chairman – Board of Trustees

Amended Date: 9/17/2019

Exhibits:

Schedule I, Rights Reserved to the Member

Exhibit A, Conflict of Interest Policy

Exhibit B, Conflict Resolution Policy

Exhibit C, Executive and Management Conflict of Interest

Exhibit D, Provision for Due Process (Students & Employees)

Exhibit E, Student Due Process

SCHEDULE I – RIGHTS RESERVED TO THE MEMBER

Notwithstanding anything to the contrary in the Bylaws, the BCOM shall not, without first obtaining the approval of the Company:

- (i) adopt an Annual Budget and Plan for the upcoming fiscal year inclusive of Total Revenue, Total Expenses, and Total Net Income (each as defined in the Annual Budget and Plan for the upcoming fiscal year), if Total Revenue, Total Expenses, or Total Net Income deviates by greater than 10% from Total Revenue, Total Expenses, or Total Net Income in the prior fiscal year's approved Annual Budget and Plan;
- (ii) adopt an annual and three-year capital budget if the total annual or three-year, as applicable, capital budget amount deviates by greater than 10% from the prior year's approved annual or three-year capital budget, as applicable.
- (iii) (x) alter the primary business of the BCOM from that of owning and operating an osteopathic medical college, or (y) undertake any other material business operations by the BCOM;
- (iv) take any action which would cause the BCOM to lose the various regulatory approvals necessary for its operation;
- (v) cause the BCOM to issue additional equity interests or securities exercisable or convertible for equity interest in the BCOM;
- (vi) permit or cause the BCOM at any time to incur or become liable for indebtedness in excess of \$250,000;
- (vii) including as a result of a series of related transactions: (1) merge or consolidate the BCOM with or into another person or a merger of another person with or into the BCOM, (2) convert the BCOM into another entity, (3) take actions that would result in a change of control of the BCOM, (4) sell of all or substantially all of the assets of the BCOM to another person or (5) lease of, or grant an exclusive license for, all or substantially all of the BCOM assets;
- (viii) sell, lease or grant an exclusive license for any portion of the BCOM assets, other than in the ordinary course of business not to exceed \$250,000, individually or in the aggregate;
- (ix) permit or cause the BCOM to make donations or contributions to, or commit to provide scholarships to students of, New Mexico State University ("NMSU") Foundation or affiliates of NMSU in excess of \$600,000 in any 12-month period;
- (x) cause BCOM to exit or alter its primary business from that of owning and operating an osteopathic medical college;
- (xi) admit additional members to the BCOM;

(xii) grant or permit to exist any security interest, pledge, lien or encumbrance on any of the BCOM assets except in connection with indebtedness otherwise permitted;

(xiii) cause the BCOM to enter into, directly or indirectly, any transaction with an affiliate of the Company or Daniel C. Burrell or any member of Daniel C. Burrell's immediate or extended family;

(xiv) cause the liquidation, dissolution or winding up of the business and affairs of the BCOM;

or

(xv) agree to do any of (i) through (xiii), above.

EXHIBIT A: CONFLICT OF INTEREST POLICY

It is a policy of the Board of Trustees that all members of the Board of Trustees shall disclose and avoid any conflicts of interest pertaining to any decisions or matters before the Board of Trustees in which a member of his or her immediate family has a conflict of interest, financial or otherwise.

A conflict of interest is defined as any contract, transaction, or other matter between the BCOM and one or more of its Board of Trustees Members, or between the BCOM and any other corporation, firm, association, BCOM, or other entity in which one or more of the Board of Trustees Members are officers, directors, or Members and are financially or otherwise interested.

No member of the Board of Trustees may participate in any discussions of any matters other than to disclose a conflict, or vote on any matters before the Board of Trustees when such matters would result in a conflict of interest or financial gain or loss to the member or the member's immediate family. Such matters would include, but not be limited to, contracts to furnish goods and/or services, leases or purchase agreements of real or personal property, or such like matters which would result in conflict of interest or a financial gain or loss. Upon learning that a matter before the Board of Trustees would create a conflict of interest to a member, that member must make a full disclosure to the Board of Trustees of his or her financial interest in such manner, and the member shall not further participate in any discussion of or decision on such matter. The failure of a member to make a disclosure as described herein may result in the avoidance of such agreement, contract, lease, or other matter at the discretion of the Board of Trustees of this Partnership. For the purpose of this policy, the term "immediate family" shall mean a member's spouse, child/children, grandchild/grandchildren and the brothers, sisters, parents, grandparents, nieces or nephews of a member or his or her spouse.

EXHIBIT B: CONFLICT RESOLUTION POLICY

The Board of Trustees of BCOM provides and supports a system for resolving conflicts among the BCOM's leaders and those under their leadership. The Board of Trustees acknowledges the following principles:

I. That the potential exists for conflicts to arise from time to time among those who participate in making decisions regarding operational, medical, social, or financial matters on behalf of the BCOM or the BCOM's customers.

II. That we shall seek to resolve all conflicts fairly and objectively, whether the conflict is between administrators, managers, faculty members, employees, or the governors of this BCOM.

III. That all leaders of the BCOM shall promote decision making that results in the appropriate use of power, protection of human rights, and consideration of organizational and societal issues, as reflected in the organization's mission and values statements.

IV. Upon knowledge or notification of unresolved conflicts level, the Chairman will evaluate the nature of the conflict and develop an appropriate system of review and corrective action for each specific unresolved conflict.

EXHIBIT C: EXECUTIVE and MANAGEMENT CONFLICT OF INTEREST POLICY

It is a policy of the BCOM that all members of the executive and management team shall disclose and avoid any conflicts of interest pertaining to any decisions or matters before the organization in which a member of his or her immediate family has a conflict of interest, financial or otherwise.

A conflict of interest is defined as any contract, transaction, or other matter between BCOM and one or more of its employed members, or between the BCOM and any other corporation, firm, association, or other entity in which one or more of BCOM's trustees, managers or executives are officers, directors, or members and are financially or otherwise interested in this other entity.

No member of the executive or management team may participate in any discussions of any matters other than to disclose a conflict, or decide on any matters before BCOM when such matters would result in a conflict of interest or financial gain or loss to the member or the member's immediate family. Such matters would include, but not be limited to, contracts to furnish goods and/or services, leases or purchase agreements of real or personal property, or such like matters which would result in conflict of interest or a financial gain or loss. Upon learning that a matter before BCOM would create a conflict of interest to a member, that member must make a full disclosure to BCOM's next chain of command of his or her financial interest in such manner, and the member shall not further participate in any discussion of or decision on such matter. The failure of a member to make a disclosure as described herein may result in the avoidance of such agreement, contract, lease, or other matter at the discretion of BCOM of this relationship, product or service. For the purpose of this policy, the term "immediate family" shall mean a member's spouse, child/children, grandchild/grandchildren and the brothers, sisters, parents, grandparents, nieces or nephews of a member or his or her spouse.

EXHIBIT D: EMPLOYEE PROGRESSIVE DISCIPLINE and DUE PROCESS POLICY

The Board of Trustees of BCOM provides and supports a system to ensure that all employees, students, including but not limited to faculty, non-faculty, managers and executives whether full-time or part-time status, are afforded due process during times of disciplinary review and/or action based on all local, state and federal employment laws.

Every employee has the duty and the responsibility to be aware of and abide by existing rules and policies. Employees also have the responsibility to perform his/her duties to the best of his/her ability and to the standards as set forth in his/her job description or as otherwise established.

BCOM supports the use of progressive discipline to address issues such as poor work performance or misconduct. Our progressive discipline policy is designed to provide a corrective action process to improve and prevent a recurrence of undesirable behavior and/or performance issues. Our progressive discipline policy has been designed consistent with our organizational values, HR best practices and employment laws.

Outlined below are the steps of our progressive discipline policy and procedure. BCOM reserves the right to combine or skip steps in this process depending on the facts of each situation and the nature of the offense. The level of disciplinary intervention may also vary. Some of the factors that will be considered are whether the offense is repeated despite coaching, counseling and/or training; the employee's work record; and the impact the conduct and performance issues have on our organization.

The following outlines BCOM's progressive discipline process:

- **Verbal warning:** A supervisor verbally counsels an employee about an issue of concern, and a written record of the discussion is placed in the employee's file for future reference.
- **Written warning:** Written warnings are used for behavior or violations that a supervisor considers serious or in situations when a verbal warning has not helped change unacceptable behavior. Written warnings are placed in an employee's personnel file. Employees should recognize the grave nature of the written warning.
- **Performance improvement plan:** Whenever an employee has been involved in a disciplinary situation that has not been readily resolved or when he/she has demonstrated an inability to perform assigned work responsibilities efficiently, the employee may be given a final warning or placed on a performance improvement plan (PIP). PIP status will last for a predetermined amount of time not to exceed 90 days. Within this time period, the employee must demonstrate a willingness and ability to meet and maintain the conduct and/or work requirements as specified by the supervisor and the organization. At the end of the performance improvement period, the performance improvement plan may be closed or, if established goals are not met, dismissal may occur.

If at any time throughout the progressive disciplinary process an employee believes that he or she is being treated in an unfair or unprofessional manner, the employee may request a meeting with the next level

supervisor within BCOM's organizational structure and chain of authority to review the employee's grievance. This process may continue up to and including the highest level of management authority within BCOM.

BCOM reserves the right to determine the final and appropriate level of discipline for any inappropriate conduct, including oral and written warnings, suspension with or without pay, demotion and discharge.

EXHIBIT E: STUDENT DUE PROCESS POLICY

The Board of Trustees of BCOM provides and supports a system to ensure that all Students are afforded due process during times of disciplinary review and/or action.

BCOM's Students' rights and due process are addressed in BCOM's Student Handbook. Students will be held accountable to BCOM's Code of Professional Conduct. Any behavior that deviates from the Code of Professional Conduct will be subject to possible review and disciplinary action up to and including administrative withdrawal. Students will be afforded due process to appeal actions taken against them by faculty, officers or committees. Such appeal processes are addressed in BCOM's Student Handbook and/or the procedures of the College.