

**AMENDED AND RESTATED BYLAWS  
OF  
TEXAS HEALTH SERVICES AUTHORITY  
A Texas Non-Profit Corporation**

September 18, 2008

These Amended and Restated Bylaws (the “**Bylaws**”) govern the affairs of Texas Health Services Authority (the “**Corporation**”), established under Chapter 182, Health and Safety Code, as a statutory nonprofit corporation and organized under the Texas Non-Profit Corporation Act (the “**Act**”).

**ARTICLE I.**

**GENERAL**

1.1 Principal Office. The principal office of the Corporation shall be located in Austin, Travis County, Texas.

1.2 Other Offices. The Corporation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Corporation may require from time to time.

1.3 Registered Office and Registered Agent. The Corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Act. The registered office may be, but need not be, identical with the principal office of the Corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

1.4 Purposes of Corporation. The purposes of the Corporation are (i) to promote, implement, and facilitate the voluntary and secure electronic exchange of health information, (ii) to create incentives to promote, implement and facilitate the voluntary and secure electronic exchange of health information, and (iii) such other purposes as shall be lawfully delegated to the Corporation.

**ARTICLE II.**

**MEMBERS**

2.1 Classes of Members. The Corporation shall have no members.

**ARTICLE III.**

**BOARD OF DIRECTORS**

3.1 General Powers. The affairs of the Corporation shall be managed by its Board of Directors.

### 3.2 Number, Tenure and Qualifications.

3.2.1 Directors. The Governor of Texas shall appoint, with the advice and consent of the Texas Senate, eleven Directors (the “**Directors**”). Each Director is a voting member of the Board of Directors.

3.2.2 Ex Officio Members. The Governor shall appoint two non-voting ex officio members (the “**Ex Officio Members**”) representing the Texas Department of State Health Services, and the Governor may appoint other Ex Officio Members as the Governor deems appropriate.

3.2.3 Tenure. Each Director and Ex Officio Member shall hold office for a term of two years and thereafter may continue to serve until a successor has been appointed by the Governor.

3.2.4 Qualifications. The Governor shall appoint as Directors individuals who represent consumers, clinical laboratories, health benefit plans, hospitals, regional health information initiatives, physicians, or rural health providers, or who possess expertise in any other area the Governor finds necessary for the successful operation of the Corporation.

### 3.3 Prohibitions Against Serving on Board.

3.3.1 Board of Other Governmental Body. An individual may not serve on the Board of Directors if the individual serves on the board of any other state agency, institution or governmental body in Texas.

3.3.2 Gift or Grant to Corporation. An individual may not serve on the Board of Directors if the individual has made a gift or grant, in cash or kind, to the Corporation.

3.3.3 Lobbyist. An individual may not serve on the Board of Directors if the individual is required to register as a lobbyist under Chapter 305, Government Code, because of the individual’s activities for compensation on behalf of a profession or entity that is engaged in the providing of health care, the review or analysis of health care, the payment for health care services or procedures, or the providing of information technology.

3.4 Presiding Officer of Board. The Governor shall designate a Director to serve as the presiding officer of the Board of Directors (“**Chairman**”) at the pleasure of the Governor. The Chairman shall preside over all meetings of the Board of Directors.

3.5 Regular Meetings. The Board of Directors shall meet at least twice a year. The Chairman shall provide for regular meetings by notice stating the time and place of such meetings. The meetings may be held either within or without the State of Texas and shall be held at the Corporation’s principal office in Texas if the notice does not specify the location of the meetings. The Board of Directors shall develop and implement policies that provide the public with a reasonable opportunity to appear at a regular meeting and to speak on any issue under the authority of the Corporation.

3.6 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman at the request of the Chairman or any two Directors. The Chairman shall fix any place, within the State of Texas, as the place for holding any special meetings of the Board of Directors.

3.7 Cancellation of Meetings. The Board of Directors may cancel any meeting for cause, except as may be otherwise provided by the Bylaws.

3.8 Notice to Directors and Ex Officio Members. Notice of any special meeting of the Board of Directors shall be given at least ten days prior thereto by written notice delivered personally or sent by mail, facsimile, or on consent of a Director or Ex Officio Member, by electronic transmission, to each Director and Ex Officio Member at his address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. If notice be given by facsimile, such notice shall be deemed to be delivered upon transmission. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any notice required or permitted to be given by electronic transmission is deemed given when the notice is transmitted to an electronic mail address provided by the Director or Ex Officio Member for the purpose of receiving notice or communicated to the Director or Ex Officio Member by any other form of electronic transmission consented to by the Director or Ex Officio Member. The attendance of a Director or Ex Officio Member at any meeting shall constitute a waiver of notice of such meeting, except where a Director or Ex Officio Member 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 at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by another provision of these Bylaws.

3.9 Waiver of Notice by Director or Ex Officio Member. Any notice required to be given to a Director or Ex Officio Member under this Article may be waived by the person entitled thereto.

3.10 Open Meetings. The Corporation is subject to Chapter 551, of the Texas Government Code.

3.11 Quorum. A majority of the Directors of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are represented at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

3.12 Proxy. Only Directors who are physically present at a meeting may vote when a vote is called. A vote may not be cast by proxy, written consent, or telephone.

3.13 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

3.14 Vacancies. Any vacancy occurring in the Board of Directors shall be filled as follows:

3.13.1 Directors. Directors shall be filled by the Governor, with the advice and consent of the Senate.

3.13.2 Ex Officio Members. Ex Officio Members shall be filled by the Governor.

3.15 Compensation. Directors and Ex Officio Members serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings or for performing other official duties authorized by the Chairman.

## **ARTICLE IV.**

### **OFFICERS**

4.1 Officers. The officers of the Corporation shall be a Chief Executive Officer (“**CEO**”), and if the Board of Directors determines appropriate after consultation with the CEO, such other officers as it may deem necessary and appropriate to carry out the responsibilities of the Corporation.

#### 4.2 Election and Term of Office.

4.2.1 Appointment. The Board of Directors shall appoint a CEO, who shall serve under the direction of the Board of Directors. The Board of Directors may also at its discretion appoint one or more Vice-Presidents, a Treasurer, and a Secretary. The pay, conditions of employment, and, to the extent not described herein, the responsibilities and powers of the Officers of the Corporation, will be determined by the Board of Directors unless delegated by the Board of Directors to the CEO.

#### 4.3 Removal.

4.3.1 Chief Executive Officer. The Chief Executive Officer (“**CEO**”) serves at the pleasure of the Directors and may be removed at any time by the Directors, but such removal shall be without prejudice to his or her contract rights, if any.

4.3.2 Other Officers. Any officer, other than the CEO may be removed by resolution passed by vote of the majority of seated Directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

4.4 Vacancies. A vacancy in any office because of death, resignation, disqualification or otherwise, shall be filled by the Directors.

4.5 CEO. The CEO shall be the principal executive officer of the Corporation and shall, under the direction of the Directors, supervise and control all of the business and affairs of the Corporation. The CEO may sign, with the Secretary or any other proper officer of the Corporation 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 or by statute to some other officer, committee or agent of the Corporation; and in general the CEO shall perform all duties incident to the office of CEO and such other duties as may be prescribed by the Board of Directors from time to time. Unless otherwise ordered by the Board of Directors, the CEO will have full power and authority on behalf of the Corporation to attend, act and vote at any meetings of stockholders of any corporation in which the corporation may hold stock. At any such

meeting the CEO may exercise any and all rights incident to the ownership of such stock, and which the Corporation might have possessed and exercised as its owner.

4.6 Vice President. If appointed, in the absence of the CEO or in the event of the CEO's inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in order of their election) shall perform the duties of the CEO, and when so acting shall have all the powers of and be subject to all the restrictions upon the CEO. Any Vice President shall perform such other duties as from time to time may be assigned to a Vice President by the CEO or Board of Directors.

4.7 Treasurer. If appointed, the Treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VIII of these Bylaws; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the CEO or by the Board of Directors. If required by the Board of Directors, the 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.

4.8 Secretary. If appointed, the Secretary shall keep the minutes of the meetings of the Executive Committee and the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records; keep a register of the post office address of each Director which shall be furnished to the Secretary by each Director; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the CEO or by the Board of Directors.

4.9 Other Staff. In addition to the Officers, the CEO may hire or appoint other staff to provide direction and assistance in fulfilling the goals of the Corporation.

## **ARTICLE V.**

### **COMMITTEES**

5.1 Executive Committee. The Board of Directors may, by resolution adopted by a majority of the Directors in office, designate an Executive Committee, to consist of two or more of the Directors of the Corporation. The Executive Committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the Corporation, except where action of the full Board of Directors is required by law; provided that the designation of such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any Director of any responsibility imposed on the Board of Directors or any Director by law. Any member of the Executive Committee may be removed by the Board of Directors by the affirmative vote of a majority of the Board of Directors, whenever in its judgment the best interests of the Corporation will be served thereby. The Executive Committee shall keep regular minutes of its proceedings and

report the same to the Board of Directors when required, and shall, to the extent required by law, comply with the Chapter 551 of the Texas Government Code.

5.2 Finance Committee. The Board of Directors may, by resolution adopted by a majority of the Directors in office, designate a Finance Committee, to consist of two or more of the Directors of the Corporation. The Finance Committee shall prepare all budgets of the Corporation, study financial requirements for all projects and other activities of the Corporation, and review insurance and risk management programs, and shall perform such other responsibilities as may be given to the committee by the Board of Directors. The Finance Committee shall keep regular minutes of its proceedings and report the same to the Board of Directors when required, and shall, to the extent required by law, comply with the Chapter 551 of the Texas Government Code.

5.3 Audit Committee. The Board of Directors may, by resolution adopted by a majority of the Directors in office, designate an Audit Committee. The Audit Committee shall be composed of a number of Directors and non-Directors to be determined from time to time by the Board of Directors, subject to the following limitations: (i) the Audit Committee shall not include Directors who are members of the Finance Committee; (ii) the Audit Committee shall not include any employee of the Corporation, including without limitation the CEO; (iii) the Audit Committee shall not include any person who has a material financial interest in any organization doing business with the Corporation or any person who does business with the Corporation; and (iv) members of the Audit Committee shall not receive compensation from the Corporation for service on the Audit Committee. If constituted, upon the Audit Committee may, at the request of the Board of Directors (i) recommend to the Board of Directors the retention and, when appropriate, the termination of the independent certified public accountant to serve as auditor of the Corporation; (ii) negotiate the compensation of such auditor; (iii) confer with the auditor to satisfy the Audit Committee members that the financial affairs of the Corporation are in order; (iv) review and determine whether to accept each audit; (v) approve the performance of any non-audit services provided to the Corporation by the auditor or the auditor's firm; and (vi) perform such other responsibilities as may be given to the committee by the Board of Directors from time to time. The Audit Committee shall keep regular minutes of its proceedings and report the same to the Board of Directors when required, and shall, to the extent required by law, comply with the Chapter 551 of the Texas Government Code.

5.4 Collaboration Council. The Board of Directors may, by resolution adopted by a majority of the Directors in office, establish a Collaboration Council and may appoint members to such Collaboration Council. The Collaboration Council shall, to the extent provided in the resolution of the Board of Directors, be responsible for providing public and private sector input and advice regarding strategy and policy recommendations to the Board of Directors to assist the corporation in meeting its corporate objectives and purposes. The Collaboration Council shall serve in an advisory capacity to the Board of Directors only and shall have no independent authority.

5.5 Other Committees. The Board of Directors may by resolution adopted by a majority of the Directors in office, designate from among its members one or more other committees, task forces, or work groups other than the committees described in this Article 5. All such committees, task forces, and work groups shall consist of a Chairman and other members, none of whom need be Directors, except where otherwise directed by another provision of these Bylaws or by the Board of Directors at the time of the creation of any such committee. The Board of Directors shall approve any procedural rules for such committees, task forces, and work groups.

5.6 Authority of Committees. No committee or other body shall have the authority of the Board of Directors in reference to amending, altering or repealing the Bylaws; electing, appointing or removing any member of any such committee or any Director or officer of the Corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the Corporation; authorizing the voluntary dissolution of the Corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the Corporation; or amending, altering or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed on it or the Director by law.

5.7 Budget. Before incurring any expenses of any kind or nature, the Board of Directors shall approve a detailed budget, and no expenses shall be incurred in excess of such budget, except upon approval of the Board of Directors. Thereafter, budgets for annual operations shall be similarly so prepared and approved by the Board of Directors.

5.8 Term of Office. Each member of a committee shall continue as such until the next annual meeting of the Directors and until the committee member's successor is appointed, unless the committee shall be sooner terminated, or unless such member is removed from such committee, or unless such member shall cease to qualify as a member thereof.

5.9 Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

5.10 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

5.11 Volunteer Organization. The Board of Directors may establish a volunteer organization for the Corporation. The composition and function of the organization will be as is necessary to assist the Board and staff in its activities including but not limited to fundraising, administration, and research support activities.

## **ARTICLE VI.**

### **CONTRACTS, CHECKS, DEPOSITS AND FUNDS**

6.1 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances.

6.2 Checks and Drafts. 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 such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the

Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Corporation.

6.3 Loans. No loans shall be contracted on behalf of the Corporation unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

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

6.5 Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

6.6 Interest of Directors, etc. Subject to the restrictions of Sections 6.7 and 6.8 of this Article, this Corporation may enter into contracts or other transactions with any other corporation, person, firm, association, trust or entity even though one or more of the Directors or officers of this Corporation may be a party to or interested directly or indirectly in such contracts or transactions in some capacity other than as a Director or officer of this Corporation, but, if any Director or officer of this Corporation having such other interest acts in any way for or on behalf of this Corporation in connection with such matter, such other interest shall be made known to the Board of Directors before it finally authorizes or approves such contract or transaction.

6.7 Prohibition Against Sharing in Corporate Earnings. No Director, officer, or employee of or member of a committee of or person connected with the Corporation, or any other private individual shall receive at any time any of the net earnings of pecuniary profit from the operations of the Corporation, and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation; provided, that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the Corporation in effecting any of its purposes as shall be fixed in accordance with these bylaws. Upon such dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the assets of the Corporation, after all debts have been satisfied, then remaining in the hands of the Board of Directors shall be distributed, transferred, conveyed, delivered, and paid over, in such amounts as the Board of Directors may determine or as may be determined by a court of competent jurisdiction upon application of the Board of Directors, exclusively to entities which are qualified as exempt organizations under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and its Regulations as they now exist or as they may hereafter be amended.

6.8 Exempt Activities. Notwithstanding any other provision of these Bylaws, no Director, officer, employee, or representative of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 and its Regulations as they now exist or as they may hereafter be amended.

6.9 Prohibition Against Compensating Governmental Advisory Council Members. The Corporation may not compensate, employ, or contract with any individual who serves as a member



of the board of advisory council to any other governmental body, including any agency, council or committee, in Texas.

## **ARTICLE VII.**

### **BOOKS AND RECORDS**

7.1 Books and Records. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors.

## **ARTICLE VIII.**

### **FISCAL YEAR**

8.1 Fiscal Year. The fiscal year of the Corporation shall begin on September 1 and end on August 31 each year.

## **ARTICLE IX.**

### **WAIVER OF NOTICE**

9.1 Waiver of Notice. Except as provided in Section 3.8, whenever any notice is required to be given under the provisions of the Act or under the provisions of the Articles of Incorporation or the Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## **ARTICLE X.**

### **AMENDMENTS TO BYLAWS**

10.1 Amendment to Bylaws. These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by a majority of the Directors present at any regular meeting or at any special meeting, if at least five days' written notice is given of an intention to alter, amend or repeal these Bylaws or to adopt new Bylaws at such meeting.

## **ARTICLE XI.**

### **INDEMNIFICATION**

11.1 To the fullest extent permitted by, and in accordance with the procedures set forth in the Act, as the same may be amended from time to time, the corporation shall indemnify its directors, officers and employees; provided, however, that in the opinion of the corporation's legal counsel and/or tax advisors, such indemnification shall not constitute a prohibited act of self-dealing or otherwise constitute a violation under the Internal Revenue Code of 1986 and regulations thereunder, or otherwise jeopardize the tax-exempt status of the corporation.

**ARTICLE XII.**

**MISCELLANEOUS PROVISIONS**

12.1 Legal Authorities Governing Construction of Bylaws. The Bylaws shall be construed in accordance with the laws of the State of Texas. All references in the Bylaws to statutes, regulations, or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time.

12.2 Legal Construction. If any bylaw provision is held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision and the Bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the Bylaws.

12.3 Rules of Order. The meetings and proceedings of this Corporation shall be regulated and controlled according to "Robert's Rules of Order Revised" for parliamentary procedure, except as may otherwise be provided by these Bylaws.

12.4 Headings. The headings used in the Bylaws are used for convenience and shall not be considered in construing the terms of the Bylaws.

12.5 Gender. Wherever the context requires, all words in the Bylaws in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

12.6 Power of Attorney. A person may execute any instrument related to the Corporation by means of a power of attorney if an original executed copy of the power of attorney is provided to the Secretary of the Corporation to be kept with the Corporation records.

12.7 Parties Bound. The Bylaws shall be binding upon and inure to the benefit of the directors, officers, committee members, employees, any agents of the Corporation and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as otherwise provided in the Bylaws.

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These Amended and Restated Bylaws were duly adopted by the Board of Directors on the 18<sup>th</sup> Day of November, 2010. EXECUTED to be effective as of the date set forth above.



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Chairman (Signature of Chairman)

Ed Marx (Printed Name of Chairman)