

 HAWAII HEALTH SYSTEMS CORPORATION <i>Quality Healthcare for All</i> POLICY	Department: CEO	Policy No. BOD 0002A
		Supersedes Policy No.
Subject: Corporate Board Assumption of Regional Board Minimum Contractual Responsibilities	Approved By: <i>Brenda S. Ho</i> HHSC Board of Directors By: Brenda Ho Its: Secretary/Treasurer	Approved Date: January 26, 2024
		Last Reviewed: December 8, 2023

I. PURPOSE:

Hawaii Health Systems Corporation “HHSC” or “the Corporation” is a single legal entity under the laws of the State of Hawaii. Under Hawaii Revised Statutes (HRS) Chapter 323F as enacted and implemented, custodial care of HHSC’s assets and responsibilities for regional governance, operations and administration of delivery of services were assumed by the five (5) HHSC Regional System Boards of Directors (“Regional Board(s)"). The Corporation remains the only entity that can sue or be sued.

The purpose of this policy is to authorize and facilitate the continued exercise of responsibility over HHSC assets, and the execution of other minimum contractually required Regional Board functions, by the HHSC Corporate Board of Directors (“Corporate Board”), on an interim basis, in the event that any Regional Board is unable to execute certain responsibilities and/or perform certain functions for a prolonged period of time.

Notwithstanding anything in this policy to the contrary, this policy does not authorize or direct the Corporate Board to assume all powers and authority of any Regional Board on a permanent basis.

II. DEFINITIONS:

HHSC Corporate Board of Directors (“Corporate Board”): As described in HRS §323F-3.

HHSC Regional System Board of Directors (“Regional Board”): As described in HRS §323F-3.5.

Minimum Contractual Obligations: Ongoing obligations and responsibilities of a Regional Board whose lack of fulfillment poses an unacceptable risk to the Corporation as determined by majority vote of the Corporate Board. Contractual Obligations include, but are not limited to, by way of example, the ongoing obligations of the Maui Regional Board under the Transfer Agreement with Maui Health System, a Kaiser Foundation Hospitals LLC, dated January 14, 2016.

Regional Board Chair: The current Regional Board Chair; in the absence of a current Chair, refers to the most recent Regional Board Chair to have been elected or served, or their designee, if known.

Reconstituted: A Regional Board regains a minimum number of Board members willing and able to resume active performance of that Regional Board's Minimum Contractual Obligations.

III. POLICY:

If any Regional Board is unable to execute its Minimum Contractual Obligations for a prolonged period, the Corporate Board, or its designee, may perform or fulfill certain obligations of that Regional Board until such time as that Regional Board is Reconstituted, or is relieved of its obligations by amendment of statute and/or contract. The Corporate Board shall only perform or fulfill responsibilities it deems necessary to comply with Minimum Contractual Obligations and/or to protect the Corporation from unacceptable risk.

IV. PROCEDURE:

- A. **Regional Updates.** The Corporate Board shall periodically receive reports from and review the activities of the five Regional Boards, which shall include each Regional Board's performance of Minimum Contractual Obligations. For purposes of this Procedure, "periodically" means a minimum of two times per year. These reports may be made verbally, e.g. at a Corporate Board meeting, or in writing.
- B. **Failure to Fulfill Minimum Contractual Obligations.**
- a. Upon learning of a Regional Board's failure to fulfill Minimum Contractual Obligations, the Corporate Board shall place on its Board agenda an action item to address such concerns only if:
 - i. The Regional Board has not had a statutorily required meeting for a minimum period of one year; and
 - ii. The Corporate Board becomes aware of a concern that the Regional Board has not been able to fulfill its Minimum Contractual Obligations for at least two years or HHSC is on notice that a lawsuit is threatened or filed due to the inability of the Regional Board to fulfill its Minimum Contractual Obligations.
 - b. The subject Regional Board Chair or designee shall be invited to address the concern at the appropriate Corporate Board meeting.
 - c. Following discussion, the Corporate Board may vote on whether the concern is substantiated, and if so, may vote to take action to fulfill all or a portion of the Regional Board's unmet Minimum Contractual Obligations.
 - d. Upon the Corporate Board's affirmative vote to take action to fulfill all or a portion of the Regional Board's unmet Minimum Contractual Obligations, the Corporate CEO will provide written notice to the Regional Board Chair of the Corporate Board's action and provide notice that the Regional Board will have thirty (30) days (or less depending on the threat of litigation) to show that the Regional Board has made substantive progress in fulfilling and completing the identified unmet Minimum Contractual Obligation(s).
 - e. If the Regional Board fails to provide evidence of substantive progress in fulfilling and completing the identified unmet Minimum Contractual

Obligation(s) within thirty (30) days, the Corporate CEO has the authority to execute the action item that the Corporate Board has approved.

- C. If a Regional Board regularly holds statutorily required meetings but fails to meet the Minimum Contractual Obligations, then the Corporate Board, through Board action, may request or recommend that the Regional Board undertake certain actions in order to achieve compliance.
- a. Upon failure of the Regional Board to take the necessary action to meet the unmet Minimum Contractual Obligations for at least 18 months after receiving the request or recommendation from the Corporate Board, the Corporate Board may take Board action to rectify the Minimum Contractual Obligations.
- D. The Corporate Board shall only take action to fulfill the Minimum Contractual Obligations of a Regional Board until such time as the subject Regional Board is Reconstituted, or is relieved of its obligations by amendment of the relevant contract(s).

V. AUTHORITY:

- HRS §323F-7(a), HRS§323F-7(11);
- HHSC Corporate Bylaws, and HHSC Regional Board Bylaws.

VI. REFERENCES: None.

VII. ATTACHMENTS: None.