

Tri- State Society for  
Cardiovascular and  
Pulmonary Rehabilitation

BYLAWS

AMENDED AND RESTATED

APPROVED

November 3, 2007

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**TRI-STATE SOCIETY FOR CARDIOVASCULAR  
AND PULMONARY REHABILITATION, INC.**  
**BYLAWS**

**Amended and Restated**

**Approved**

\_\_\_\_\_, 2007

**ARTICLE I: INTRODUCTION**

- 1.1 **Name.** The name of this Organization shall be the Tri-State Society for Cardiovascular and Pulmonary Rehabilitation (hereinafter “Tri-State” or “TSSCVPR”).
- 1.2 **Background.** Tri-State is a nonprofit public benefit corporation formed under the laws of New Jersey and includes the States of Delaware, New Jersey and the Commonwealth of Pennsylvania (excluding western Pennsylvania).
- 1.3 **Registered Offices.** Tri-State’s registered office shall be located at: One Centennial Square, Haddonfield, New Jersey 08033.
- 1.4 **Other Offices.** Tri-State may have other offices as its Board of Directors (hereinafter the “Board”) may determine.
- 1.5 **Fiscal Year.** Tri-State’s fiscal year shall commence on June 1 and end on May 31 of each year.

**ARTICLE II: PURPOSES**

- 2.1 **Statement of Purposes.** The purposes for which Tri-State is organized are exclusively charitable, scientific or educational within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, including, without limitation, all purposes, powers and privileges conferred upon Tri-State by the New Jersey Nonprofit Corporation Act, as well as the more specific purpose of providing education and improving communication between health care professionals who are primarily concerned with promoting cardiovascular and pulmonary health by:
  - 2.1.1 Promoting an exchange of ideas and the development of a communication network to further the goals of Tri-State;
  - 2.1.2 Promoting awareness of cardiovascular and pulmonary health for the patient and the community;

- 2.1.3 Providing educational opportunities for professionals whose primary involvement is the care of the cardiovascular and pulmonary patient;
- 2.1.4 Supporting the efforts of the American Association of Cardiovascular and Pulmonary Rehabilitation (“AACVPR”) and pursuing affiliation with other organizations of similar purposes and interests with those of Tri-State; and
- 2.1.5 Encouraging the formation of regional TSSCVPR chapters whose activities are in furtherance of the goals and objectives of Tri-State.

### **ARTICLE III: MEMBERSHIP**

- 3.1 **Enumeration.** Tri-State shall have three classes of members: Resident Members; Institutional Members; and Honorary Members.
- 3.2 **Qualification.** The qualifications for each class of membership shall be as follows:
  - 3.2.1 **Resident Members:** Any health care professional working in the realm of cardiovascular and/or pulmonary medicine/rehabilitation may be a Resident Member with full membership and voting privileges.
  - 3.2.2 **Institutional Members:** Any institution or organization that employs health care professionals in the practice of cardiovascular and/or pulmonary medicine / rehabilitation may be an Institutional Member with full membership and voting privileges.
  - 3.2.3 **Honorary Members:** Any person of outstanding accomplishment in the field of cardiovascular and/or pulmonary rehabilitation may be nominated by the Executive Committee as an Honorary Member. Honorary Members shall have full membership privileges, except that they shall not have voting rights and shall not be required to pay dues.
- 3.3 **Application for Membership.** Application for membership shall be made on forms authorized by the Board and submitted to Tri-State’s Executive Vice President or designee. Annual membership is effective from January 1 through December 31 of each year.
- 3.4 **Dues and Fees.**
  - 3.4.1 All members shall pay annual dues, except for Honorary Members who shall pay no dues. The Executive Board shall set the annual dues.
  - 3.4.2 Dues must be received before December 31 of each year, although a new member, who joins between October 1 and December 31, may request an alternative payment schedule.

- 3.4.3 Any member whose dues are in arrears shall lose all privileges of membership; however, a dues paying member who is dropped from membership because of delinquency may be reinstated upon filing a new membership application.

#### **ARTICLE IV: BOARD OF DIRECTORS**

- 4.1 **Structure of the Board of Directors.** (see attached structural tree)
- 4.2 **Authority.** The business and affairs of Tri-State shall be managed by its Board, which may exercise all powers vested by law and do all such lawful acts and things as are not required by statute or these bylaws to be exercised or done by another body. Tri-State shall be fully responsible for its management and fiscal affairs, as well as for any debts and liability it may incur. The Board may, in its discretion, appoint an Administrative Assistant to manage daily operations.
- 4.3 **Standard of Care and Justifiable Reliance.** A member of the Board (hereinafter “director”) shall stand in a fiduciary relation to Tri-State and shall perform his or her duties as a director, including duties as a member of any committee upon which the director may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of Tri-State and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, represented to be correct by the president, the treasurer or presiding officer, and prepared or presented by any of the following:
- (a) One or more officers or employees of Tri-State whom the director reasonably believes to be reliable and competent in the matters presented;
  - (b) Counsel, independent or certified public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person;
  - (c) A duly designated committee of the Board, upon which the director does not serve, as to matters within its designated authority, which the director reasonably believes merit confidence.
- A director shall not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.
- 4.4 **Personal Liability of Directors.** A director shall not be personally liable to Tri-State or its members for monetary damages for breach of duty as a director. This provision shall not apply to the responsibility or liability of a director pursuant to any criminal statute, or the liability of a director for the payment of taxes pursuant to local, state or Federal law.

- 4.5 **Enumeration.** The Board shall consist of the following persons: President; Immediate Past President; President-Elect; Executive Vice President; three State Vice Presidents; Secretary; Treasurer; Committee Chairpersons; and a Member-at-Large. The President, President-Elect, Executive Vice President, State Vice Presidents, Secretary, Treasurer shall be elected by the voting membership at the Annual Symposium. The Chapter Managers shall be elected at the local level. Committee Chairpersons and Members-at-Large shall be appointed by the President.
- 4.6 **Term.** Directors shall be elected for a term consistent with their term(s) as officers or, in the alternative, for a term of one (1) year, except that the Treasurer shall hold office for a term of two (2) years. Each director shall hold office until the expiration of the term for which he or she was selected and until a successor has been selected and qualified, or until his or her earlier death, resignation or removal. A decrease in the number of directors shall not have the effect of shortening the term of any incumbent director. Regardless of the particular date of the Annual Symposium, the term of a director expiring in a given year shall be deemed to expire on the date of the Annual Symposium held in that year.
- 4.7 **Vacancies.** Vacancies on the Board shall be filled by the Board to serve for the balance of the un-expired term and until a successor has been selected and qualified, or until his or her earlier death, resignation or removal.
- 4.8 **Removals and Resignation.**
- 4.8.1 **Removal.** A director may be removed from the Board for cause, provided that he or she is given the specific reason for removal. A failure to attend three (3) consecutive meetings without an approved excuse may constitute grounds for removal.
- 4.8.2 **Resignation.** A director may resign at any time upon written notice to the Board. The resignation shall be effective upon its receipt or at such time as the notice of resignation shall specify.
- 4.9 **Meetings.**
- 4.9.1 **The Board.** The Board shall meet at least three (3) times per year at a time and place to be designated by the President. All directors are required to attend two (2) of the three (3) meetings. If unable to attend a meeting, the director shall inform the President and request an “excused absence” prior to the date of the scheduled meeting. In the event that the director fails to notify the President, he or she shall be ‘absent without excuse’ and shall be ineligible for Annual Symposium benefits. A special meeting may be called by the President or by the Secretary, at the request of two or more of the directors.
- 4.9.2 **Annual Symposium.** The Annual Symposium shall be held at the Board’s fourth meeting of each year.

- 4.9.3 **Elections.** The Nominating Committee shall meet prior to the Annual Symposium and shall seek recommendations from the Board for a proposed slate of officers. The slate shall be submitted to the Board for review and shall then be circulated to the membership prior to the Annual Symposium.
- 4.9.4 **Committees.** All committees shall meet at the call of the committee chairperson, except that the Nominating Committee shall meet as set forth in section 4.9 (c) above.
- 4.9.5 **Chapters.** The Board may, from time to time and in its discretion, call meetings of the Chapters. Tri-State may sponsor, co-sponsor or endorse such meetings.
- 4.10 **Quorum.** The presence of a majority of the directors shall constitute a quorum for the transaction of business. The acts of a majority of the directors present and voting at a meeting at which a quorum is present shall be the acts of the entire Board. After each Board meeting is called to order, the chair's first act shall be to determine if a quorum is present and announce that result. In the absence of a quorum at any time during the meeting, no action or decision can be taken. Meeting participation via electronic means (telephone, teleconference, etc.) is acceptable and counts for a quorum, so long as all parties participate in a discussion or debate.
- 4.11 **Action by Written Consent.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if, prior or subsequent to the action, a unanimous written consent thereto is filed with the Secretary.
- 4.12 **Participation in Meeting by Telephone and Other Means.** One or more persons may participate in a meeting of the Board by conference telephone [or similar communications equipment] by which all persons participating in the meeting can hear each other. All persons so participating shall be deemed present in person at the meeting.
- 4.13 **Compensation of Directors.** No compensation shall be paid to any director for his or her services as such; however, the Board, in its discretion, may authorize reimbursement to directors for travel and actual expenses necessarily incurred in attending meetings and performing other duties on behalf of Tri-State.
- 4.14 **Conflict of Interest Policy.** The Board shall adopt a conflict of interest policy, which shall govern the identification of actual or potential conflicts of interest and establish a procedure for appropriate Board action with respect to such conflicts. The conflict of interest policy shall be retained with Tri-State's corporate records and shall be reviewed and updated annually. A conflict of interest questionnaire and acknowledgment shall be circulated to all directors annually and shall be retained with the corporate records.
- 4.15 **Document Retention Policy.** The Board shall adopt a document retention policy, which shall be retained with Tri-State's corporate records and shall be available upon request.

- 4.16 **Whistleblower Policy.** The Board shall adopt a whistleblower policy, if applicable, which shall be retained with Tri-State's corporate records and shall be available upon request.
- 4.17 **Code of Ethics.** The Board shall adopt a Code of Ethics, which shall guide the management of Tri-State's affairs and shall provide a set of best practices for the organization.

## **ARTICLE V: NOTICE, WAIVERS, MEETINGS GENERALLY**

- 5.1 **Manner of Giving Notice.** Whenever written notice is required to be given by statute or these bylaws, it may be given: in person, by mail (first class or express mail, postage prepaid), or by electronic means to each member of record entitled to vote. A notice of meeting shall specify the time, place and purpose of the meeting.
- 5.2 **Notices of Meetings.**
- 5.2.1 **Board Meetings.** Notice of a regular Board meeting shall be given in advance.
- 5.2.2 **Members' Meeting.** Written notice of a regular meeting of the membership shall be given not less than ten (10) or more than sixty (60) days before the date of the meeting.
- 5.2.3 **Special Meeting.** Notice of a special meeting shall be given at least twenty-four hours (24) in advance of the meeting. If the special meeting is called for the purpose of amending the certificate of incorporation or these bylaws, the notice shall contain the proposed amendment(s). Notice of a special meeting shall state the time and place of the meeting and the specific business to be considered.
- 5.3 **Waiver of Notice.**
- 5.3.1 **Written Waiver.** Whenever written notice is required to be given by statute or these bylaws, a waiver in writing, signed by the person entitled to the notice, shall be deemed equivalent to the giving of the notice, whether before or after the time stated therein.
- 5.3.2 **Waiver by Attendance.** Attendance at any meeting shall constitute a waiver of notice of the meeting, except where the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.
- 5.4 **Modification of Proposal Contained in Notice.** Whenever the language of a proposed resolution is included in a written notice of a meeting the resolution may be adopted at that meeting without further notice. The resolution may be amended at that time, provided the amendments do not enlarge its original purpose.

## **ARTICLE VI: OFFICERS**

- 6.1 **Authority.** All officers shall have such authority and perform such duties in the management of Tri-State as may be provided by resolutions of the Board or these bylaws.
- 6.2 **Officers Generally.**
- 6.2.1 **Enumeration.** The officers shall consist of the President, President Elect, Immediate Past President, Executive Vice President, three (3) State Vice Presidents (Delaware, New Jersey and Pennsylvania), Secretary and Treasurer. All officers shall be Resident or Institutional Members.
- 6.2.2 **Standard of Care.** Each officer shall perform his or her duties in good faith; in a manner he or she reasonably believes to be in the best interests of Tri-State; and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his or her duties shall not be liable by reason of having been an officer of Tri-State.
- 6.2.3 **Resignations.** An officer may resign at any time upon written notice to the Board. The resignation shall be effective upon receipt or as specified in the notice of resignation or pursuant to any written agreement.
- 6.3 **Election and Term of Office.** The officers shall be elected by the membership at the Annual Symposium for a term of one (1) year and until a successor has been selected and qualified, or until his or her earlier death, resignation or removal. The Treasurer shall be elected for a term of two (2) years.
- 6.4 **The President.** The President shall preside at all meetings of the Board and shall exercise general supervision over the affairs of Tri-State and see that such affairs are conducted in accordance with the certificate of incorporation and these bylaws and pursuant to the directions of the Board. The President shall appoint all committee chairpersons, subject to the approval of the Board. The President shall be an *ex-officio* member of all committees.
- 6.5 **The President-Elect.** In the absence or disability of the President, the President-Elect shall perform the duties specified above. In addition, the President-Elect shall perform duties, which may, from time to time, be delegated by the President. The President-Elect reports to the President, as shown in the organizational tree attached hereto at section 4.1.
- 6.6 **The Executive Vice President.** The Executive Vice President shall perform all duties incident to the office of Executive Vice President and such other duties as may, from time to time, be assigned by the Board. In the event the President-Elect succeeds to the office of President, the Executive Vice President shall succeed the President-Elect. The

Executive Vice President reports to the President, as shown in the organizational tree attached hereto at section 4.1.

- 6.7 **Board Discretion.** In the event that absence, disability, resignation or removal of any of the officers named herein results in a change in succession or nature of duties, the Board shall retain discretion to authorize an exception to these bylaws and to modify the lines of succession and the allocation of duties. "
- 6.8 **The Secretary.** The Secretary shall attend all meetings of the Board. The Secretary shall record all votes; keep minutes of Board and committee meetings; be responsible for the timely mailing of notice; maintain records and reports as required by law; be custodian of the corporate seal and see that it is affixed to all documents executed on behalf of Tri-State; and, in general, perform all duties incident to the office of Secretary, and all duties as may from time to time be assigned by the Board. The Secretary reports to the President, as shown in the organizational tree attached hereto at section 4.1.
- 6.9 **The Treasurer.** The Treasurer shall have or provide for the custody of Tri-State's funds or other property; shall collect and receive or provide for the collection and receipt of money earned by or in any manner due to or received by Tri-State; shall deposit all funds in his or her custody as Treasurer in such banks or other places of deposit as the Board may from time to time designate; shall, whenever so required by the Board, render an account showing all transactions as Treasurer and the financial condition of Tri-State; and, in general, shall discharge such other duties as may from time to time be assigned by the Board or the President. The Treasurer reports to the President, as shown in the organizational tree attached hereto at section 4.1.
- An Assistant Treasurer may, upon recommendation of the Finance Committee, be appointed by the President for a two (2) year term subject to approval by the Board. The Assistant Treasurer shall serve as a member of the Finance Committee
- 6.10 **Members-At-Large.** A Member-At-Large shall be appointed by the President for a one (1) year term and shall serve as a resource person to the President. The Member-At-Large reports to the President, as shown in the organizational tree attached hereto at section 4.1.
- 6.11 **Other Officers, Committees, Employees and Agents.** The Board may from time to time elect other officers and appoint other committees, employees or agents as Tri-State's business may require.
- 6.12 **Removal of Officers and Agents.** Any officer or agent of Tri-State may be removed by the Board with or without cause, except as the same may be restricted by a written contract.
- 6.13 **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled by the Board.

## ARTICLE VII: COMMITTEES

### 7.1 Establishment and Powers.

7.1.1 **Committees of the Board.** The Board may establish committees as it deems appropriate.

7.1.2 **Powers.** Any committee established by the Board shall have and may exercise all the powers and authority of the Board, except that no committee shall have the power or authority to:

- (a) Create or fill vacancies on the Board;
- (b) Adopt, amend or repeal the certificate of incorporation or these bylaws;
- (c) Amend or repeal any resolution of the Board that by its terms is amendable or repeal able only by that board; or
- (d) Act on matters committed by a resolution of the Board to another committee.

7.1.3 **Term.** Each committee shall serve for a term of one (1) year; however, committee members may be reappointed without limitation.

### 7.2 Standing Committees. Standing Committees shall consist of:

7.2.1 **Executive Committee.** The Executive Committee consists of the elected officers, who shall coordinate the activities of the membership, other committees, and regional chapters as necessary. The President is the chair of the Executive Committee.

7.2.2 **Finance Committee.** The Finance Committee shall review the Treasurer's records within the first quarter of the fiscal year and shall be responsible for the preparation and submission to the Board of an annual budget. The Treasurer shall chair the Finance Committee. Other members of the Finance Committee shall include the Past President, President, President-Elect, and the Assistant Treasurer.

7.2.3 **Audit Committee.** The Audit Committee shall act as liaison with the independent auditors and shall be responsible for interviewing and recommending such auditors when appropriate and shall monitor Tri-State's internal fiscal controls. The Audit Committee shall be chaired by the immediate Past President and consist of two or more additional Board Members who are competent in financial matters, with the exclusion of the Treasurer and the Treasurer's Assistant, who shall not serve on this committee.

- 7.2.4 **Fundraising Committee.** The Fundraising Committee shall be responsible for all fundraising efforts and activities conducted by Tri-State, and in particular for obtaining sponsorship for the Annual Symposium. The chairperson of the Fundraising Committee reports to the Treasurer.
- 7.2.5 **Membership Committee.** The Membership Committee shall direct the work of recruiting, approving and securing new members. The Membership Committee shall be responsible for the distribution of membership applications, distribution and publication of the directory, and maintaining membership information. The Executive Vice President shall chair the Membership Committee.
- 7.2.6 **Communications Committee.** The Communications Committee is subdivided into three components, the Newsletter Sub-Committee, the Website Sub-Committee, and the Public Relations Sub-Committee. Chairpersons of all subcommittees report to the Chairperson of the Communications Committee. The Chairperson of the Communications Committee reports to the Executive Vice President.
- (a) **Chairperson of the Communications Committee:** The Chairperson of the communications committee is responsible for the activities of all subcommittees. The Chairperson is the official spokesperson for Tri-State and handles all public communications of the organization.
  - (b) **Newsletter Sub-Committee:** shall be responsible for gathering, preparing and disseminating information concerning the activities and concerns of Tri-State's Members by means of a newsletter published three (3) times each year.
  - (c) **Website Sub-Committee:** shall be responsible for gathering, preparing, and maintaining information on the organization's website.
  - (d) **Public Relations Sub-Committee:** shall be responsible for developing and maintaining liaison relationships with other like minded organizations and individuals. In addition, the committee shall respond to requests for information regarding Tri-State and its activities.
- 7.2.7 **Nominating Committee.** The Nominating Committee shall be responsible for formulating a slate of candidates for each office, which may include a ballot to be mailed to the general membership for additional nominees, and for conducting the election. The Nominating Committee is chaired by the Immediate Past President.
- 7.2.8 **Health Policy and Reimbursement Committee.** The Health Policy and Reimbursement Committee shall work toward improving understanding between professional providers of cardiac and pulmonary rehabilitation services and third party payers of such services. All committee activities shall include the following:

- (a) **Political Advocacy** such as education of and communication with elected officials regarding regulatory and legislative issues such as monitoring reimbursement trends and issues
- (b) **Monitoring** reimbursement trends and issues; communicating professional guidelines and opinions to payers; informing members of major trends in reimbursement status; and serving as a resource for insurance-related questions and concerns.

Due to the nature of its work, the Professional Reimbursement Committee should consist of representatives from each state and should include at least one (1) member of the Reimbursement Committee of AACVPR. The chairperson of the Health Policy and Reimbursement Committee reports to the President.

7.2.9 **Professional Affairs Committee**. The Professional Affairs Committee addresses professional, legal, and ethical issues that concern the Board. The Chair of this Committee is the Parliamentarian, who may appoint a designee from the Professional Affairs Committee to serve in his or her place for any specific meeting of the Board, subject to the president's approval. This Committee shall maintain documentation of the Bylaws, Administrative Manual and other legal/ethical documents of Tri-State. The Chairperson of the Professional Affairs Committee reports to the President.

7.2.10 **Education Committee**. The Education Committee shall be responsible for assisting the President-Elect to plan and implement the organization's annual meeting and other activities and events as they may develop. The Chairperson of the Education Committee reports to the President-Elect. The Education Committee is responsible for obtaining CEU credits for activities of Tri-State.

7.2.11 **Special Events Committee**. The Special Events Committee shall be responsible for promoting and assisting the State Vice Presidents with cardiac and pulmonary rehabilitation weeks. The Committee will also work closely with the Symposium Committee to obtain all awards and to coordinate the social events for the Symposium. The Chairperson will chair the Outstanding Achievement Award Sub-Committee, with the assistance of the Immediate Past President.

7.2.12 **Symposium Committee**. The Symposium Committee shall be responsible for planning the Annual Symposium in collaboration with the other committees. The President-Elect shall chair the Symposium Committee.

7.2.13 **Ad Hoc Committees**. (to be constituted as necessary)

7.3 **Appointment of Committee Persons**: Committee chairpersons shall appoint committee members subject to the approval of the President. Chairpersons shall serve at the

direction of the President. The President shall be an *ex-officio* member of every committee.

## **ARTICLE VIII: INDEMNIFICATION**

### **8.1 Definitions.** For purposes of this Article:

- 8.1.1 “Corporate agent” means any person who is or was a director, officer, employee or agent of Tri-State or of any constituent corporation absorbed by Tri-State in a consolidation or merger and any person who is or was a director, officer, employee or agent of any other enterprise, serving as such at Tri-State’s request or that of the constituent corporation, or of the legal representative of the director, officer, employee or agent.
- 8.1.2 “Other enterprise” means any domestic corporation, foreign corporation or corporate business entity other than Tri-State or any employee benefit plan or trust.
- 8.1.3 “Expenses” means reasonable costs, disbursements and counsel fees.
- 8.1.4 “Liabilities” means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties.
- 8.1.5 “Proceeding” means any pending, threatened or completed civil, criminal, administrative or arbitral action, suit or proceeding and any appeal therein and any inquiry or investigation which could lead to the action, suit or proceeding.

### **8.2 Scope of Indemnification.**

- 8.2.1 **General Rule.** Tri-State shall indemnify a corporate agent against the agent’s expenses and liabilities in connection with any proceeding involving the corporate agent because he or she is or was a corporate agent, other than a proceeding by or in the right of Tri-State if:
  - (a) the corporate agent acted in good faith and in a manner which the agent reasonably believed to be in or not opposed to the best interests of Tri-State; and
  - (b) with respect to any criminal proceeding, the corporate agent had no reasonable cause to believe the conduct was unlawful.
  - (c) the termination of a proceeding by judgment, order, settlement or conviction shall not of itself create a presumption that the indemnified representative is not entitled to indemnification.

- 8.2.2 Tri-State may indemnify a corporate agent against that agent's expenses in connection with any corporate proceeding by, or in the right of, Tri-State to procure a judgment in its favor, which involves the corporate agent by reason of being or having been the corporate agent, if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of Tri-State. No indemnification, however, shall be provided in respect of any claim, issue or matter as to which the corporate agent was liable to Tri-State unless, and only to the extent that, the Superior Court, or the court in which the proceeding was brought, shall determine that, despite the adjudication of liability but in view of all the circumstances of the case, the corporate agent is fairly and reasonably entitled to indemnity for those expenses which the Superior Court or other court shall deem proper.
- 8.2.3 Tri-State shall indemnify a corporate agent against expenses to the extent that the corporate agent has been successful on the merits or otherwise in any proceeding referred to in subsections (2) and (3) of this section or in defense of any claim, issue or matter therein.
- 8.2.4 Any indemnification under subsection (2) of this section and, unless ordered by the court, under subsection (3) of this section, may be made by Tri-State only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the corporate agent met the applicable standard of conduct set forth in subsection (2) or (3). Unless otherwise provided in the certificate of incorporation or bylaws, the determination shall be made:
- (a) By the Board or a committee of the Board at a meeting at which a quorum is present and without including directors who were parties to or otherwise involved in the proceeding, acting by a majority vote of directors who were not parties to or otherwise involved in the proceeding;
  - (b) By a majority vote of the disinterested directors, if the quorum is not obtainable, or, even if it is obtainable and the quorum so directs, by independent legal counsel, in a written opinion, the counsel to be designated by the directors; or
  - (c) By the members, and if the certificate of incorporation or bylaws or a resolution of the Board directs.
- 8.2.5 Expenses incurred by a corporate agent in connection with the proceeding may be paid by Tri-State in advance of the final disposition of the proceeding as authorized by the Board upon receipt of an undertaking by or on behalf of the corporate agent to repay the amount unless it shall ultimately be determined that he agent is entitled to be indemnified as provided in this section.
- 8.2.6 If, upon application of a corporate agent, Tri-State has failed or refused to provide indemnification as required under subsection (c) above or permitted under

subsections (b),(d) and (e) of this section, the corporate agent may apply to a court for an award of indemnification by the corporation, and the court: may award indemnification to the extent authorized under subsections (2) and (3) and shall award indemnification to the extent it is required under subsection (4) notwithstanding any contrary determination which may have been made under subsection (5); and (2) may allow reasonable expenses to the extent authorized by, and subject to the provisions of, subsection (6) of this section, if the court shall find that the corporate agent has raised genuine issues of fact or law either by the pleadings or during the course of the proceeding.

### 8.3 **Application for Indemnification.**

8.3.1 Application for indemnification may be made:

- (a) in the civil action in which the expenses were or are to be incurred or other amounts were or are to be paid; or
- (b) to the Superior Court in a separate proceeding.
- (c) If the application is for indemnification arising out of a civil action, it shall set forth reasonable cause for the failure to make application for the relief in the action or proceeding in which the expenses were or are to be incurred or other amounts were or are to be paid. The application shall set forth the disposition of any previous application for indemnification and shall be made in the manner and form as may be required by the applicable rules of the court or, in the absence thereof, by direction of the court to which it is made. The application shall be upon notice to Tri-State. The court may also direct that notice shall be given at Tri-State's expense to the members and to all other persons as it may designate or may require.

8.3.2 The indemnification and advancement of expenses provided by or granted pursuant to the other subsections of this section shall not exclude any other rights to which a corporate agent may be entitled under a certificate of incorporation, bylaw, agreement, or otherwise; provided that no indemnification shall be made to or on behalf of a corporate agent if a judgment or other final adjudication adverse to the corporate agent establishes that his acts or omissions (1) were in breach of his duty of loyalty to the corporation or its members, (2) were not in good faith or involved a knowing violation of law, or (3) resulted in receipt by the corporate agent of an improper personal benefit.

8.3.3 Tri-State shall have the power to purchase and maintain insurance on behalf of any corporate agent against any expense incurred in any proceeding and any liabilities asserted by reason of the agent's being or having been a corporate agent, whether or not Tri-State would have the power to indemnify the agent against those expenses and liabilities under the provisions of this section.

- 8.3.4 The powers granted by this section may be exercised by Tri-State notwithstanding the absence of any provision in its certificate of incorporation or bylaws authorizing the exercise of these powers.
- 8.3.5 Except as required by subsection (d) of this section, no indemnification shall be made or expenses advanced by Tri-State under this section, and none shall be ordered by a court, if that action would be inconsistent with a provision of the certificate of incorporation, a bylaw, a resolution of the board or of the members, an agreement or other proper corporate action in effect at the time of the accrual of the alleged cause of action asserted in the proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by Tri-State or the rights of indemnification to which a corporate agent may be entitled.
- 8.3.6 This section does not limit Tri-State's power to pay or reimburse expenses incurred by a corporate agent in connection with the corporate agent's appearance as a witness in a proceeding at a time when the corporate agent has not been made a party to the proceeding.

#### **ARTICLE IX: MISCELLANEOUS**

- 9.1 **Corporate Seal.** Tri-State shall have a corporate seal as the Board shall determine.
- 9.2 **Checks.** All checks, notes, bills of exchange or other orders in writing shall be signed by such person or persons as the Board or any person authorized by resolution of the Board may, from time to time, designate. No officer, Member or employee of Tri-State shall disburse any funds or monies of Tri-State in his or her possession without authorization from the President or the Board and subject to notification to the Treasurer.
- 9.3 **Contracts/Liabilities.** Except as otherwise provided by statute, the Board may authorize any officer or agent to enter into any contract or to execute or to deliver any instrument on behalf of Tri-State. Such authority may be general or confined to specific instances. No officer or member shall be personally liable for any bills or obligations of Tri-State, past or present, except for the timely payment of his or her own dues.
- 9.4 **Required Corporate Records.** Tri-State shall keep complete and accurate books and records of account, minutes of the proceedings of the Board and of any other body exercising powers or performing duties authorized by these bylaws. The records shall be kept at Tri-State's principal place of business. All books, minutes or other records may be in written form or any other form capable of being converted into written form within a reasonable time.
- 9.5 **Annual Financial Report.** The Treasurer shall submit to the Board annual financial statements, including a balance sheet as of the end of each fiscal year and a statement of income and expenses for the fiscal year. The financial statements shall be prepared on

the basis of generally accepted accounting principles and shall contain those details required to be included by statute, the certificate of incorporation or these bylaws.

#### **ARTICLE X: AMENDMENTS**

- 10.1 **Amendments.** These bylaws may be amended by the affirmative vote of two-thirds majority of the Board at any regular or special meeting, provided that a quorum is present and the text of the proposed amendment has been sent to each trustee at least ten (10) days prior to the meeting.

#### **ARTICLE XI: DISSOLUTION ARTICLE**

- 11.1 **Distribution of Assets.** In the event of Tri-State's dissolution, liquidation or termination, and after payment of all costs and liabilities thereof, the remaining assets shall be distributed to another organization consistent with Tri-State's charitable purposes and goals; which would qualify under the provisions of Section 501 (c) (3) of the Internal Revenue Code and its Regulations as they now exist, or as they may hereafter be amended, and none of the assets will be distributed to any officer, director or member of the corporation or to any private individual.