

# **THE FED IS BEST FOUNDATION BYLAWS**

## **ARTICLE I - NAME OF ORGANIZATION**

The name of the corporation is The Fed is Best Foundation.

## **ARTICLE II - CORPORATE PURPOSE**

### **Section 1. Nonprofit Purpose**

The Fed is Best Foundation (referred to herein as the “Foundation”) is organized exclusively for charitable, educational and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code. The Foundation is a non-profit organization of health professionals, patient advocates and parents whose mission is to prevent starvation-related complications that can result in brain injury, and in extreme cases, death from insufficient feeding of milk, particularly among breastfed infants. The mission includes advising and supporting all mothers and health professionals in all aspects of safe infant feeding, including exclusive breastfeeding, temporary supplemented breastfeeding, combination feeding, formula-feeding and tube-feeding.

### **Section 2. Specific Purpose**

This mission of the Foundation is achieved by the following:

- a. Critically and independently studying the science of infant feeding, the peer-reviewed literature and patient stories of breastfeeding complications and infant brain injury caused by starvation-related complication.
- b. Creating infant feeding guidelines that provide the safest and most ethical clinical guidelines for health professionals and the safest infant feeding advice for parents based on the most current peer-reviewed data. The primary goal of the guidelines is to prevent starvation-related complications that result in brain injury and/or death.
- c. Raising public awareness of these feeding issues by directly campaigning to families, health professionals and health facilities regarding all important aspects of infant feeding in order to protect all infants from brain- and life-threatening complications.
- d. Advocating to government officials, government organizations, health organizations and health facilities to promote safe and ethical infant feeding guidelines that protect infants from brain- and life-threatening complications related to underfeeding.

## **ARTICLE III - BOARD OF DIRECTORS**

### **Section 1. General Powers**

Except as provided by law, the Foundation’s Articles of Incorporation (referred to herein as the “Articles”) or these bylaws (referred to herein as these “Bylaws”), all corporate powers shall be exercised

by or under the authority of, and the affairs of the Foundation managed under the direction of, its board of directors (referred to herein as the “Board of Directors” or the “Board”).<sup>1</sup>

## **Section 2. Number, Election, Tenure, Requirements, and Qualifications**

The number of directors shall be fixed from time-to-time by resolution of the Board but shall consist of no less than three (3) nor more than fifteen (15) including the following officers: President or two Co-Presidents (as determined by the Board in its discretion), Secretary, and Treasurer.

Directors shall be elected by a majority vote of the directors present and voting at a meeting of directors where a quorum is present, as provided by Section 5 of this Article.

Each director shall hold office for a one-year term.<sup>2</sup> The term of a director filling a vacancy expires at the end of the unexpired term that such director is filling. Despite the expiration of a director’s term, the director continues to serve until the director’s successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors.<sup>3</sup>

Each director must attend at least a majority of the meetings of the Board of Directors per year.

Directors must abide by the following intellectual and ethical standards in order to be eligible for directorship:

- a. Directors must abide by the ethical duty to do no harm to infants or their families, oppose health policies and laws that cause harm, and promote health policies, practices and laws that protect infants from harm related to unsafe and insufficient feeding;
- b. Directors must act to protect the interests of patients and their families, respect the family’s individual feeding goals to nourish their babies in the best way they deem possible given their own social, cultural, economic, physical, psychological and personal circumstance so long as those goals meet the child’s nutritional requirements safely;
- c. Directors must provide honest and fully informed consent of the risks and benefits of any feeding choice as a clinician or advocate in order to respect the parent’s autonomy to make safe infant feeding choices;
- d. Directors must object to conditions and ideas that prove to be harmful to parents and children, as evident from peer-reviewed published literature and clinical practice, even if it counters popular opinion within the general population;
- e. Directors must read the scientific, clinical and epidemiological evidence on infant feeding, both breast- and formula-feeding, infant nutritional requirements, infant brain physiology and injury, and independently and critically evaluate it as it becomes available to the best of his/her ability;
- f. Directors must act as an independent and critical evaluator of infant feeding policies in order to achieve the safest and most ethical infant feeding standards for all infants and their families;
- g. Directors must provide safe infant feeding advice that prioritizes the delivery of all the necessary calories, fluid and micronutrients to an infant and that protects their brain and vital organs without compromise, with safe infant feeding options including breast milk and/or properly-prepared formula (or other safe breast milk substitutes if formula is not available);
- h. Directors must protect the patient and human right of an infant to be fed with safe and sufficient milk to prevent hunger and thirst;

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<sup>1</sup> Revised to comply with the Arkansas Nonprofit Corporation Act (the “Act”). See § 4-33-801.

<sup>2</sup> One-year term is also the default rule under the Act. See § 4-33-805.

<sup>3</sup> Revised to comply with the Act. See § 4-33-805.

- i. Directors must protect the patient and human right of a parent to feed his/her child to prevent hunger, thirst, suffering, injury and death

No member of the Foundation may accept funds or gifts from any infant feeding company or organization including those who directly or indirectly profit from breast- and formula-feeding products and services.

All directors must disclose any conflicts of interests that will impede on their ability to serve as a director of the Foundation.

### **Section 3. Regular, Annual and Special Meetings**

The Board of Directors shall provide, by resolution, the time and place for the holding of regular meetings of the Board. All other meetings are special meetings.<sup>4</sup>

Director elections shall take place at each annual meeting of the Board.

Special meetings of the Board of Directors may be called by or at the request of any director provided that proper notice is given pursuant to Section 4 of this Article.

### **Section 4. Notice<sup>5</sup>**

Notice of any regular or annual meeting of the Board of Directors shall be given to each director at least ten (10) days prior to the meeting date. Neither the business to be transacted at, nor the purpose of, any regular meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by applicable law, the Articles or these Bylaws.

Notice of any special meeting of the Board shall be given to each director at least two (2) days prior to the meeting date.

The president or twenty percent (20%) of the directors then in office may call and give notice of a meeting of the Board. Notice may be given by telephone, facsimile or electronic methods, or by written notice.

A director may at any time waive any notice required by law, the Articles or these Bylaws. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes of the Board. A signed waiver delivered by facsimile transmittal or other electronic communication bearing an image of the signature shall constitute a valid waiver of notice.

A director's attendance at or participation in a meeting waives any required notice of the meeting, unless the director upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with applicable law, the Articles, or these Bylaws objects to lack of notice and does not thereafter vote for or assent to the objected to action.

### **Section 5. Quorum and Voting Requirements<sup>6</sup>**

Except as otherwise required by applicable law, the Articles or these Bylaws, a quorum consists of a majority of the directors in office immediately before a meeting begins.

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<sup>4</sup> Revised to comply with the Act. See § 4-33-820.

<sup>5</sup> Revised to comply with the Act. See § 4-33-822 and § 4-33-823.

<sup>6</sup> Revised to comply with the Act. See § 4-33-824.

A quorum shall be necessary at any meeting of the Board to transact business, but a lesser number shall have power to adjourn to a specified later date without notice.

If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board unless applicable law, the Articles or these Bylaws require the vote of a greater number of directors.

Directors are permitted to participate in a regular, annual or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting for purposes of quorum.

### **Section 6. Action without Meeting**<sup>7</sup>

Any action required or permitted by law to be taken at a meeting of the directors may be taken without a meeting if the action is taken by at least two-thirds (2/3) of the Board. The action must be evidenced by one (1) or more written consents describing the action taken, signed by at least two-thirds (2/3) of the Board following notice of the intended action to all directors. The signature of a director may be affixed to a written consent by any reasonable means, including without limitation facsimile signature or electronic image.

Action taken by written consent is effective when the last director signs the consent, unless the consent specifies a different effective date. The written consent may be delivered to the Foundation by electronic communication, including without limitation facsimile transmission or electronic mail.

Such written consents must be filed in the Board's records reflecting the action taken. Action taken by written consent has the effect of a meeting vote and may be described as such in any document.

### **Section 7. Resignation**<sup>8</sup>

A director may resign at any time by delivering written notice to the Board of Directors, the president or secretary.

A resignation is effective when the notice is effective unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date.

### **Section 8. Removal**<sup>9</sup>

A director may be removed with or without cause by the vote of at least three-quarters (3/4) of the directors present at a meeting which is called for the purpose of removing the director and for which the meeting notice stated that the purpose, or one of the purposes, of the meeting is removal of the director. Each director must be given written notice of the proposed removal at least seven (7) days in advance of the vote for removal. An officer who has been removed as a director shall automatically be removed from office.

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<sup>7</sup> Revised to comply with the Act. See § 4-33-821.

<sup>8</sup> Revised to comply with the Act. See § 4-33-807.

<sup>9</sup> Revised to comply with the Act. See § 4-33-808.

## **Section 9. Vacancies**

Whenever any vacancy occurs on the Board of Directors it shall be filled without undue delay by a majority vote of the remaining members of the Board of Directors at a regular meeting. Vacancies may be created and filled according to specific methods approved by the Board. A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date or otherwise) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

## **Section 10. Confidentiality**

Directors shall not discuss or disclose information about the Foundation or its activities to any person or entity unless (a) such information is already a matter of public knowledge, (b) such person or entity has a need to know, or (c) the disclosure of such information is in furtherance of the Foundation's purposes, or can reasonably be expected to benefit the Foundation. Directors shall use discretion and good business judgment in discussing the affairs of the Foundation with third parties. Without limiting the foregoing, directors may discuss upcoming fundraisers and the purposes and functions of the Foundation, including but not limited to accounts on deposit in financial institutions.

Each director shall execute a confidentiality agreement consistent herewith upon being voted onto and accepting election to the Board of Directors.

## **Section 11. Compensation**

Members of the Board of Directors shall not receive any compensation for their services as directors.

# **ARTICLE IV - OFFICERS**

The Board of Directors shall have a President, Secretary, Treasurer and such other officers as are appointed by the Board. The Board has the discretion to appoint up to two directors to a single officer position. Additionally, the same individual may simultaneously hold more than one (1) office in the Foundation.<sup>10</sup>

## **Section 1. President**

The President shall preside at all meetings of the Board and the Advisory Council and shall have the following duties:

- a. Have general superintendence and direction of all other officers of the Foundation and see that their duties are properly performed;
- b. Submit a report of the operations of the Foundation at each annual meeting of the Board of Directors, and from time to time, shall report to the Board of Directors all matters that may affect the Foundation;
- c. Serve as a liaison between the Board of Directors and the Advisory Council;
- d. Serve as a member of all committees of the Board; and
- e. Have the power and duties usually vested in the office of the President.

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<sup>10</sup> Revised to comply with the Act. See § 4-33-840.

### **Section 3. Secretary**

The Secretary shall attend all meetings of the Board of Directors and the Advisory Council and have the following duties:

- a. Prepare all minutes of all meetings of the Board and the Advisory Council;
- b. Send notices of all Board meetings to directors and keep track of attendance at such meetings;
- c. Perform all official correspondence from the Board as may be prescribed by the Board or the President; and
- d. Perform such other duties as may be prescribed by the Board or the President.

### **Section 4. Treasurer**

The Treasurer shall have the following duties:

- a. Submit for the Board's approval all proposed capital expenditures;
- b. Present a complete and accurate report of the finances raised by the Foundation at each meeting of the Board, or at any other time upon request to the Board;
- c. Have the right of inspection of the funds of the Foundation including budgets and subsequent audit reports;
- d. Assist in direct audits of the funds of the Foundation according to funding source guidelines and generally accepted accounting principles; and
- e. Perform such other duties as may be prescribed by the Board or the President.

### **Section 5. Election of Officers**

Officers shall be elected by the Board. The names of those persons to be nominated for the respective offices shall be submitted thirty (30) days prior to the annual meeting of the Board. The election shall be held at the annual meeting of the Board. Officers shall serve a one-year term.

### **Section 6. Resignation and Removal of Officers**

An officer may resign at any time by delivering written notice to the Board of Directors, the president or secretary. A resignation is effective when the notice is effective unless the notice specifies a future effective date. If a resignation is made effective at a future date and the Foundation accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

Article III Section 8 which governs removal of directors shall apply to officers as well.

### **Section 7. Vacancies**

The Board of Directors shall be responsible for appointing persons to fill officer vacancies. The persons so appointed shall hold office for the unexpired term in respect of which such vacancy occurred.

## ARTICLE V - COMMITTEES

### Section 1. Committee Formation<sup>11</sup>

The Board of Directors may create one or more committees of the Board and appoint directors to serve on them. Each committee shall have two (2) or more directors, who serve at the pleasure of the Board.

The creation of a committee and appointment of members to it must be approved by a majority of a quorum of the directors when the action is taken.

Sections 3 through 6 of Article III which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Board, shall apply to committees of the Board and their members as well.

To the extent specified by the Board of Directors or in the Articles or these Bylaws, each committee of the Board may exercise the Board's authority under Article III Section 1. However, a committee of the Board may not (1) authorize distributions; (2) approve dissolution, merger or the sale, pledge or transfer of all or substantially all of the Foundation's assets; (3) elect, appoint or remove directors or fill vacancies on the board or on any of its committees; or (4) adopt, amend or repeal the Articles or these Bylaws.

## ARTICLE VI – POLICIES AND PROCEDURES

The Board shall adopt, review and revise such policies and procedures, including related to conflicts of interest, as it determines to be advisable for the governance and operations of the Foundation.

## ARTICLE VII - INDEMNIFICATION

### Section 1. General

To the fullest extent permitted under the Arkansas Nonprofit Corporation Act (the "Act"), the Foundation shall indemnify any director, officer, employee, or agent, or former member, director, officer, employee, or agent of the Foundation (each of the foregoing persons is referred to in this Article individually as an "indemnitee"), against expenses actually and necessarily incurred by such indemnitee in connection with the defense of any action, suit, or proceeding in which that indemnitee is made a party by reason of being or having been such member, director, officer, employee, or agent. The foregoing indemnification shall not be deemed exclusive of any other rights to which an indemnitee may be entitled under any bylaw, agreement, resolution of the Board of Directors, or otherwise.

### Section 2. Expenses

Expenses (including reasonable attorneys' fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Foundation in advance of the final disposition of such action, suit, or proceeding, if authorized by the Board of Directors, provided that the indemnitee furnish the Board with such affirmation and written undertaking as required by the Act.

### Section 3. Insurance

The Foundation may purchase and maintain insurance on behalf of any person who is or was a member, director, officer, employee or agent against any liability asserted against such person and incurred by such

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<sup>11</sup> Revised to comply with the Act. See § 4-33-825.

person in any such capacity or arising out of such person's status as such, whether or not the Foundation would have the power or obligation to indemnify such person against such liability under this Article.

### **ARTICLE VIII - ADVISORY COUNCIL**

An Advisory Council may be created whose members shall advise the Board of Directors but who shall have no duties, voting privileges, nor obligations for attendance at regular meetings of the Board. Advisory Council members may attend said meetings at the invitation of the Board of Directors. Members of the Advisory Council shall possess the desire to serve the community and support the work of the Foundation by providing expertise and professional knowledge. Members of the Advisory Council shall comply with the confidentiality policy set forth herein and shall sign a confidentiality agreement consistent therewith upon being voted onto and accepting appointment to the Advisory Council.

### **ARTICLE IX - BOOKS AND RECORDS**

The Foundation shall keep complete books and records of account and minutes of the proceedings of the Board of Directors.

### **ARTICLE X - AMENDMENTS**

#### **Section 1. Articles of Incorporation<sup>12</sup>**

The Board of Directors may adopt one (1) or more amendments to the Articles. The Board shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with the notice requirements of Article III Section 4. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the Articles and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

#### **Section 2. Bylaws<sup>13</sup>**

Unless otherwise provided in the Articles, the Board of Directors may adopt one (1) or more amendments to these Bylaws. The Foundation shall provide notice of any meeting of directors at which an amendment is to be approved. The notice shall be in accordance with the notice requirements of Article III Section 4. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment of the Bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

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<sup>12</sup> Revised to comply with the Act. See § 4-33-1002.

<sup>13</sup> Revised to comply with the Act. See § 4-33-1020.



**ADOPTION OF BYLAWS**

We, the undersigned, are all of the initial directors of the Fed is Best Foundation, and we consent to, and hereby do, adopt the foregoing Bylaws, consisting of the 9 preceding pages, as the Bylaws of the Fed is Best Foundation.

ADOPTED AND APPROVED by the Board of Directors on this 7<sup>th</sup> day of Feb, 2018.

[Redacted Signature]

Name: Christie del Castillo-Hegy, M.D.  
Title: President

[Redacted Signature]

[Redacted Signature]

Name: Beth del Castillo  
Title: Secretary