

ARTICLE IV
CONFLICT OF INTEREST POLICY

Section 1. Conflict of Interest Policy. Each Trustee recognizes he or she has a duty to avoid conflicts of interest. The purposes of this Conflict of Interest Policy (“Policy”) are to prevent conflicts and set forth a procedure to resolve them if they arise, in order to protect the interests of AKF when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Trustee of AKF or might result in an “excess benefit transaction” as defined in Section 4958 of the Internal Revenue Code of 1986, as amended (the “Code”). The Policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable corporations.

Section 2. Definitions.

a) “Compensation” includes direct and indirect remuneration, as well as gifts or favors, benefits, perquisites, reimbursements for personal expenses, and entitlements relating to personal uses of property of AKF, that are not insubstantial. “Compensation” also includes “revenue-sharing transactions” within the meaning of Code section 4958.

b) “Interested Person” means any Trustee, officer, employee vested with significant executive or managerial responsibilities, or member of a Committee with powers delegated by the Board, who has a direct or indirect Financial Interest, as defined below.

c) A person has a “Financial Interest” if the person has, directly or indirectly, through business, investment or, to the person’s knowledge, family:

i) An ownership or investment interest in any entity with which AKF has a transaction or arrangement; or

ii) A compensation arrangement with AKF or any entity or individual with which AKF has a transaction or arrangement; or

iii) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which AKF is negotiating a transaction or arrangement; or

iv) An ownership or investment interest in, or compensation arrangement with, any dialysis company that has made a charitable contribution toward AKF’s Health Insurance Premium Program (“HIPP program”) or that treats patients who receive financial assistance from AKF through the HIPP program.

With respect to Financial Interests identified in (iv) herein, the proposed “transaction or arrangement” giving rise to a potential conflict of interest, as set forth in Section 3 below, shall be deemed to include any recommendation from the HIPP Subcommittee regarding eligibility criteria, guidelines, policies, financing, or any other area within the purview of the Subcommittee.

For purposes of this Policy, a person shall not be deemed to have a “Financial Interest” in a dialysis company or an entity with which AKF has or is negotiating a transaction or arrangement if the person’s sole relationship with such dialysis company or such entity is through an investment in a mutual fund or exchange-traded fund that maintains an ownership or investment interest in such dialysis company or entity.

d) For purposes of Section 9 of this Policy, “Family Members” include an individual’s spouse, ancestors, brothers, sisters, children, grandchildren, great grandchildren, and spouses of brothers, sisters, children, grandchildren, and great grandchildren

Section 3. Procedures.

a) Duty to Disclose. In connection with any actual or possible conflict of interest, an Interested Person has an ongoing duty to disclose the existence of a Financial Interest and shall be given the opportunity to disclose all material facts to the Trustees and members of Committees with Board-delegated powers considering the proposed transaction or arrangement.

b) Determining Whether a Conflict of Interest Exists. After disclosure of a Financial Interest and all material facts, and after any discussion with the Interested Person, he or she shall leave the board or Committee meeting during the discussion of the potential conflict of interest and shall not participate in the vote on whether a conflict of interest exists. The remaining board or Committee members shall decide if a conflict of interest exists.

If a conflict of interest is found to exist, then the procedures set forth in Section 3(c) of the Policy shall be followed.

c) Procedures for Addressing a Conflict of Interest.

i) An Interested Person may make a presentation at the Board or Committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and shall not participate in the vote on, the transaction or arrangement that result in the conflict of interest. The body that considers the proposed transaction or arrangement shall be composed entirely of individuals without a conflict of interest with respect to the proposed transaction or arrangement.

ii) The chairperson of the Board or the Committee shall, if appropriate, appoint a disinterested person or Committee to investigate alternatives to the proposed transaction or arrangement.

iii) After exercising due diligence, the Board or Committee shall determine whether AKF can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

iv) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or Committee shall

determine by a majority vote of the disinterested Trustees whether the transaction or arrangement is in AKF's best interest, for its own benefit or in furtherance of its charitable purposes, and whether it is fair and reasonable. The Board or Committee's deliberations should include an analysis of comparable transactions or arrangements. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

d) Violations of the Conflicts of Interest Policy.

i) If the Board or appropriate Committee has reasonable cause to believe a member has failed to disclose a Financial Interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

ii) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board or appropriate Committee determines that the member has failed to disclose a Financial Interest, it shall take appropriate disciplinary and corrective action.

Section 4. Records of Proceedings.

a) The minutes of the Board and all Committees with board-delegated powers shall contain:

i) the names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.

ii) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith; and

iii) a description of procedures followed.

Section 5. Compensation.

a) No Trustee shall vote on any matter relating to his or her compensation, irrespective of whether said compensation is received from AKF or any entity controlled by or affiliated with AKF.

b) A voting member of any Committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from AKF for services is precluded from voting on matters pertaining to that member's compensation.

c) No voting member of the Board or any Committee whose jurisdiction includes



compensation matters and who receives compensation, directly or indirectly, from AKF, either individually or collectively, is prohibited from providing information to any Committee regarding compensation.

Section 6. Annual Statements.

a) A conflict of interest disclosure statement shall be furnished to the Trustees in advance of the spring meeting of the Board. Such statements shall be appended to the minutes of the spring meeting of the Trustees and treated as an integral part thereof.

Each Trustee shall annually sign a statement which affirms such person:

- i) has received a copy of the Policy;
- ii) has read and understands the Policy;
- iii) has agreed to comply with the Policy;
- iv) has disclosed in writing any Financial Interest; and,
- v) understands that AKF is a charitable organization and that in order to maintain its federal tax exemption AKF must engage primarily in activities which accomplish one or more of its tax-exempt purposes; and, the Trustees, officers, and employees are responsible for ensuring AKF is faithful to its charitable purposes.

Section 7. Periodic Reviews.

a) To ensure AKF operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- i) whether compensation arrangements are objectively reasonable;
- ii) whether sales or acquisitions by AKF result in inurement or impermissible private benefit;
- iii) whether transactions and arrangements conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further AKF's charitable purposes, and do not result in inurement or impermissible private benefit; and
- iv) whether AKF's expense reimbursement procedures are adequate in terms of required documentation, whether persons seeking reimbursement are complying with these procedures, and whether such expenses relate to furthering AKF's charitable purposes and do not result in inurement or impermissible private benefit.

Section 8. Use of Outside Experts.

In conducting the periodic reviews provided for herein, AKF in its discretion may retain advisors and consultants to provide advice. If “outside” experts are used, such use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

Section 9. Excess Benefit Transactions.

a) AKF is classified by the Internal Revenue Service as a public charity and is therefore subject to the “intermediate sanctions” rules contained in section 4958 of the Code and the accompanying Treasury Regulations. These rules in general subject individuals who are in a position to exercise substantial influence over AKF’s affairs (including officers, Trustees and in certain instances substantial contributors) as well as their Family Members and entities in which the aforementioned parties own a greater than 35 percent voting, capital, or profits interest (“Disqualified Persons”) to excise taxes if an excess benefit transaction has occurred. Managers of AKF (officers, Trustees, and any individual having powers or responsibilities similar to those of officers or Trustees) who knowingly approve an excess benefit transaction are also subject to excise taxes.

b) An excess benefit transaction has occurred if the economic benefit provided by AKF to a Disqualified Person, either directly or indirectly, exceeds the value of the consideration provided by the Disqualified Person to AKF in return. Examples of excess benefit transactions include payment of excessive compensation for services and a payment for property that exceeds fair market value.

c) AKF does not intend to engage in any excess benefit transactions. In its review of a Financial Interest, the Board or appropriate Committee shall consider whether such Financial Interest could constitute an excess benefit transaction and shall in no event pursue a transaction or arrangement that would constitute an excess benefit transaction.

d) Any Disqualified Person who contemplates receiving compensation for providing goods, services or facilities to AKF shall disclose all relevant information pertaining to the fair market value of said goods, services or facilities.

e) AKF shall not enter into any agreement with a Disqualified Person for providing goods, services or facilities to AKF unless, by a two-thirds (2/3) majority vote, the Board first shall have determined that the consideration proposed to be charged and the terms and conditions relating thereto, by the Trustee for the provision of said goods, services or facilities to AKF are in the best interest of AKF and is fair and reasonable in light of the relevant market for said goods, services, or facilities.

f) AKF shall endeavor to ensure that all compensation arrangements are objectively reasonable, based on the relevant market for persons of comparable skills, training, education and experience and performing similar duties for comparable organizations under similar conditions and circumstances. AKF shall consider and give due weight to studies published by third parties regarding rates of compensation whenever and, to the extent that, such



studies are reliable and available.

Section 10. Other Provisions.

a) Each new Trustee will be advised of this Policy and shall acknowledge he or she understands this Policy.

b) No Trustee, acting as such, shall receive compensation from AKF. Reimbursement of reasonable expenses paid or incurred by a Trustee in connection with the official business of AKF shall not be treated as compensation. AKF shall require appropriate documentation of expenses for which reimbursement is sought.

c) Trustees are fiduciaries of AKF and, as such, in addition to the above, must act fully in accordance with the common law and District of Columbia law relating to fiduciary duties.