

ATTORNEY GENERAL OF THE STATE OF NEW YORK

-----X

In the Matter of the Application of :

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. :

ATTORNEY GENERAL  
APPROVAL

For Approval to Sell Substantially All of  
the Assets pursuant to Sections 510 and 511-a  
of the Not-for-Profit Corporation Law of the  
State of New York :

OAG NYC 2018-85

-----X

1. By its Petition verified on May 7, 2018, New York State Catholic Health Plan, Inc. d/b/a Fidelis Care New York (the "Petitioner") applied to the Office of the New York State Attorney General (the "Attorney General") pursuant to Sections 510 and 511-a of the Not-for-Profit Corporation Law for approval of an application to sell substantially all of its assets (the "Petition").

2. Specifically, the Petition seeks Attorney General approval of (i) the transfer of substantially all assets of Petitioner to Centene Corporation ("Centene") pursuant to the Asset Purchase Agreement between Petitioner and Centene, dated September 12, 2017 (the "Transaction") for \$3.75 billion in consideration (the "Transaction Proceeds"), and (ii) the subsequent transfer of the Transaction Proceeds and the remaining assets of Petitioner to the Mother Cabrini Health Foundation, Inc. (the "Foundation") to enable the Foundation to carry out its charitable grantmaking activities as described in the Petition (the "Transfer").

3. As set forth in the Petition, the assets to be transferred to Centene upon the closing of the Transaction (the "Closing") include:

- a) Petitioner's provider contracts, rights with respect to Petitioner's enrollees and goodwill relating to the provision of health care services under the following federal and state insurance programs:

- i. New York State Medicaid, Medicaid Advantage and Medicaid Advantage Plus;
  - ii. Medicare Advantage and Medicare Dual Advantage (together, “Medicare”), subject to the Medicare Reinsurance Agreement described below;
  - iii. Individual commercial business, including enrollees in Qualified Health Plans as part of the New York State of Health (New York’s state-based exchange program), subject to the QHP Reinsurance Agreement described below;
  - iv. Child Health Plus Program;
  - v. Managed Long Term Care Program; and
  - vi. Essential Plan.
- b) All cash, other than Excess Cash, as defined in the Petition;
  - c) All accounts or notes receivable;
  - d) Intellectual property (other than the Petitioner’s legal name, New York State Catholic Health Plan, Inc.), including the “FIDELIS” trademark and derivations thereof;
  - e) Information technology;
  - f) Certain assumed contracts;
  - g) All furniture, fixtures, equipment, supplies and other tangible personal property other than religious artifacts;
  - h) Permits, to the extent transferrable under the law;
  - i) All stock of Salus Administrative Services, Inc., and membership interests of Salus IPA LLC, wholly-owned subsidiaries of Petitioner;
  - j) Certain real property leases (but not the membership interest in Petitioner’s subsidiary that holds title to Petitioner’s headquarters in Rego Park, Queens); and
  - k) All other goodwill, going concern and other similar intangibles relating to the assets being purchased.

Petition, ¶¶ 58 and 59.

3. Additionally, as recited in the Petition, as part of the Transaction, Centene will assume all of Petitioner’s liabilities, except for those liabilities relating to or arising from (i)

Transaction-related expenses and liabilities; (ii) taxes; (iii) term loans and indebtedness relating to the term loans; (iv) pre-Closing employee-related liabilities; (v) liabilities related to any Excluded Assets, as defined in the Petition; (vi) breaches of assigned contracts prior to the Closing; (vii) intercompany payables; and (viii) broker or finder fees. Petition, ¶ 60.

4. As described in the Petition, (a) New York Quality Healthcare Corporation has been formed as a wholly-owned subsidiary of Centene to operate the businesses acquired from Petitioner following the closing (Petition, ¶ 86); and (b) certain products, namely, Petitioner's individual commercial market products (including its Qualified Health Plans) and Medicare products (Medicare Advantage, Medicare Advantage D-SNP, Medicaid Advantage and Medicaid Advantage Plus), will be transitioned to Centene as follows:

- a) The individual commercial market products (including Qualified Health Plans) will be transitioned to Centene during the next annual open enrollment period. Between the Closing date and the date of transfer, Hallmark Life Insurance Company ("Hallmark"), an existing Centene subsidiary, will reinsure all of the financial liabilities relating to Petitioner's individuals products (including its Qualified Health Plans) in accordance with the QHP Reinsurance Agreement, the form of which is attached to the Petition as Exhibit 20. Petition, ¶ 75, Ex. 20. The Department of Health required as a condition of its approval of the transaction that such enrollees be formally migrated to New York Quality Healthcare Corporation no later than January 1, 2019. Petition, Ex. 28.
- b) The novation or assignment of Petitioner's Medicare products is subject to approval by the Centers for Medicare & Medicaid Services; During the period between the Closing date and the date of novation, Hallmark will reinsure all of the financial liabilities relating to Petitioner's Medicare products in accordance with a Medicare Reinsurance Agreement, the form of which is attached to the Petition as Exhibit 21. Petition, ¶ 76, Ex. 21. The Department of Health required as a condition of its approval of the transaction that such enrollees be formally migrated to New York Quality Healthcare Corporation no later than January 1, 2020. Petition, Ex. 28.

- c) Hallmark's obligations will be guaranteed by Centene pursuant to a Guarantee Agreement, the form of which is attached to the Petition as Exhibit 22. Petition, ¶ 78, Ex. 22.
- d) Petitioner will enter into a management agreement with Centene Management Company, LLC, Centene Company of New York, LLC and Salus Administrative Services, Inc., the form of which is attached to the Petition as Exhibit 23. This agreement will provide for Centene Management Company, LLC, Centene Company of New York, LLC and Salus Administrative Services, Inc. to assume responsibility for all of the operations of Petitioner's individual commercial products (including its Qualified Health Plans) and Medicare products until such time as they are transitioned to Centene. Petition ¶ 79, Ex. 23.

5. As set forth in the Petition Petitioner will use the Transaction Proceeds as follows (collectively, the "Use of Proceeds");

- a) to pay the following closing expenses set forth in Exhibit 33 of the Petition in the approximate amounts set forth below:

Indemnification Escrow Account Fees	\$10,000
Transaction Related Expenses:	
Financial Advisor Fees	\$22,100,000
Professional Advisors	\$3,900,000
Employee Retention Program (non-executive)	\$8,500,000
PTO (Paid time off) Obligation	\$1,000,000

Petition, Ex. 33.; and

- b) to transfer the proceeds, net of the closing expenses set forth above in (a), along with all of Petitioner's remaining assets (other than Petitioner's individual commercial products including Qualified Health Plans and Medicare products) to the Foundation:
  - i. The assets transferred by Petitioner to the Foundation will be used (a) in accordance with the charitable purposes set forth in the Foundation's

Certificate of Incorporation filed with the New York State Department of State on May 2, 2018 and attached to the Petition as Exhibit 35; and (b) as further described and outlined in the Petition. Petition ¶¶ 150 through 176, Exs. 35 through 45; and

- ii. As part of the Transaction and as a settlement with New York State, Petitioner and/or the Foundation have agreed to pay New York State an initial payment of \$1,000,000,000 within 30 days of Closing and an additional payment of \$400,000,000 within 18 months of the initial payment. The Foundation will also provide an additional \$100,000,000 to the State, which can be paid in the form of two equal \$50,000,000 charitable grants, in 2021 and 2022 respectively (the foregoing payments in this paragraph referred to collectively as the “NYS Payment”). Petition, ¶ 139, Ex. 31 (letter dated March 30, 2018 from the Petitioner to Mr. Robert Mujica, director of the New York State Division of the Budget, outlining the settlement framework). As described further in paragraph 14 below and attached as Exhibit A, the Director of the Division of the Budget, on behalf of the State of New York, undertook, by letter dated May 6, 2018, the further obligation to use the proceeds of the payments described in this paragraph solely for purposes consistent with the charitable purposes of Petitioner.

6. As set forth in the Petition, Petitioner, Centene and the Foundation plan to enter into certain additional agreements prior to the Closing of the Transaction.

- a) Prior to the Closing, the parties will enter into an amendment to the Asset Purchase Agreement, the form of which is attached to the Petition as Exhibit 2 (the Asset Purchase Agreement, as amended, is referred to herein as the “Purchase Agreement”).
- b) In contemplation of the Transfer, Petitioner, Centene and the Foundation will enter into a Payment and Limited Joinder Agreement, the form of which is attached to the Petition as Exhibit 34. Under this agreement, the Foundation will

agree to pay, on behalf of Petitioner, certain of Petitioner's payment obligations that are determined to be owed by Petitioner under the Purchase Agreement and further agrees to comply with certain provisions of the Purchase Agreement as if the Foundation had originally been named a party to the Purchase Agreement. Petition, ¶ 149.

- c) Petitioner and Centene will enter into an Escrow Agreement, the form of which is attached to the Purchase Agreement as Exhibit E. Under the Escrow Agreement, \$375,000,000 of the Transaction Proceeds will be placed in an indemnification escrow account from which indemnity claims may be paid pursuant to the terms of the Purchase Agreement. Petition, ¶¶ 70 through 72, Ex. 1. The Petition further provides that Petitioner's Board and Members have approved the assignment of all assets to which Petitioner is entitled to receive at the closing of the transaction, including by assignment of the rights and obligations of the escrow to the Foundation at the closing, such that upon the release of the escrow account at the end of the indemnification period, the Foundation will receive an additional \$375,000,000 in cash, subject to any reduction for indemnification claims. Petition ¶¶ 195 and 196, Exs. 50 and 51.
- d) Petitioner and the Foundation may enter into a further agreement with New York State regarding the NYS Payment, provided that any such agreement shall be subject to and not modify the undertakings of New York State to the Attorney General, including but not limited to the undertaking set forth at Exhibit A, and regarding the restrictions therein on the State to use such proceeds in a manner consistent with the charitable purposes of Petitioner; and provided further that the Attorney General shall be provided with reasonable notice of any such agreement prior to its execution and provided with a final copy thereof.

7. The Petition verifies to the Attorney General that the Transaction, Transfer and Use of Proceeds has been considered and approved by the Petitioner's Board of Directors (the "Board") and the eight members of Petitioner (the "Members") as follows:

- a) As referenced in the Petition, a special meeting held on September 7, 2017, the Board approved the transaction. Petition ¶¶ 186 through 191, Ex. 46. As referenced in the Petition, Petitioner convened a second Special Meeting of the Board on September 12, 2017 for the purpose of ratifying certain changes made to the Purchase Agreement after the September 7, 2017 meeting. Petition ¶ 192, Ex. 47.
- b) As referenced in the Petition, the eight Members met telephonically on September 12, 2017 at a meeting duly called and voted unanimously to approve the Transaction. Petition ¶ 194, Ex. 49.
- c) As referenced in the Petition, on April 4, 2018, Petitioner's Members met telephonically, at a meeting duly called, to consider and approve a variety of items, including the payment to New York State, the reorganization of Petitioner into two entities, the formation of the Foundation and the Transfer. The eight Members voted unanimously to approve these matters. Petition ¶ 195, Ex. 50.
- d) As referenced in the Petition, on May 3, 2018, the Board met telephonically to discuss the status of the Transaction, approve the amendment to the Asset Purchase Agreement, approve the Payment and Joinder Agreement, and authorize the Transfer. The Board unanimously voted to approve the resolutions attached to the Petition as Exhibit 51. Petition ¶ 196, Ex. 51.

8. The Petition verifies that no persons have raised, nor have a reasonable basis to raise, any objections to the proposed transaction. Petition ¶ 203. Following the filing of the Petition with the Attorney General on May 7, 2018, the Attorney General commenced a process seeking public comment on the Petition, and recorded receipt of approximately 5,350 public comments in response. A copy of the Notice is set forth in Exhibit B. Although Section 511-a of the Not-for-Profit Corporation Law does not require a public comment period on any application made to the Attorney General, the Attorney General used her discretion to allow for such a public comment period. The Attorney General is, concurrently with this approval, issuing a response to such public comments, that is set forth in Exhibit C.

9. Based upon the Attorney General's review of the comments received, the Attorney General sought from Petitioner and Centene further information related to the compensation arrangements of seven senior management employees at Fidelis (the "Fidelis Officers"). Following that inquiry (the "Attorney General Inquiry"), which included the production of additional documents and information from both Fidelis and Centene, Centene reported that the Fidelis Officers had entered into agreements with Centene that provided for, among other things, certain payments (the "Centene Bonuses", described more fully below in paragraph 10) subsequent to closing. The Centene Bonuses included payments in amounts substantially equivalent to the value of certain preexisting severance and retention payments that the Fidelis Officers would have received under their prior existing contractual agreements with Fidelis. Each of the Fidelis officers was required by Fidelis to waive payment of the severance and retention payments from Fidelis at the time of the Agreement between Fidelis and Centene.

10. The Centene Bonuses, which were agreed to by the Fidelis Officers directly with Centene, were comprised of:

- a) A "stay bonus" in an amount ranging between 33.3% and 100% of the Fidelis Officer's annual salary, depending upon the Fidelis Officer. (A "stay bonus" is sometimes provided to induce executives of the seller organization in a transaction to remain with that organization until the transaction is complete, rather than obtain other employment);
- b) A "severance payment" or "change of control payment," in an amount equal to between nine months and two years of salary, depending on the Fidelis Officer. (A severance payment or change of control payment is sometimes provided to compensate executives for the loss of employment after a change of control.) The Fidelis Officers would have been contractually entitled to those severance payments from Centene even where they were guaranteed continued employment by Centene following the change in control.
- c) Payment of certain funds as a "gross-up" to the Fidelis Officers for the tax consequences to them following conversion of their tax-deferred nonprofit retirement plan to a supplemental taxable plan.



11. As a result of the Attorney General Inquiry, and additional documentation having been obtained, the following has now occurred:

a) Centene has advised the Attorney General that the Fidelis Officers have agreed to waive the portion of the Centene Bonuses that is equivalent to the amount of their respective severance or change of control payment. The total amount they have agreed to waive is approximately \$6.6 million.

b) Centene has provided the Attorney General and the Fidelis Board with a letter stating the precise revised bonus amounts being paid by Centene to the Fidelis Officers in connection with the transaction.

c) The Board of Fidelis has reviewed and ratified the transaction having considered this additional information, by passing a resolution dated June 11, 2018, that states, in relevant part: “after careful consideration of this additional information regarding the Centene Compensation, the Board believes that such information does not alter its prior determination that the Transaction is in the best interests of, and furthers the charitable mission of, the Corporation and of the Foundation . . .” The documents reflecting the ratification are annexed hereto as Exhibit D, which includes Centene’s letter referenced in paragraph 11(b).

12. In light of the foregoing, and following the Attorney General Inquiry, the Attorney General has determined that the transaction, taken as a whole, and with the elimination of the “severance” payments to the Fidelis officers, is fair and reasonable to the corporation and that the purposes of the corporation will be served thereby.

13. At the request of the Attorney General, and with the concurrence of the Petitioner, Centene has entered into a series of undertakings to the Attorney General that are set forth in Exhibit E. These undertakings are in furtherance of the Attorney General’s responsibility under Sections 510 and 511-a of the Not-for-Profit Corporation Law to assure the protection of the purposes of the corporation and the interests of the unnamed charitable beneficiaries. These undertakings were modified based upon the Attorney General’s review of the comments received, and agreed to by Centene in their modified form. (A prior undertaking was attached to the Petition as Exhibit 25.) These undertakings were requested because, among other representations, the Attorney General is relying upon them in approving the Petition.

14. At the request of the Attorney General, the Director of the Division of the Budget, on behalf of the State of New York, undertook, by letter dated May 6, 2018, the obligation to use the proceeds of the payment described in 6(d) above solely for purposes consistent with the charitable purposes of the Petitioner. A copy of that letter is attached as Exhibit A, and with respect to which letter Petitioner has raised no objection to the Attorney General. This undertaking is in furtherance of the Attorney General's responsibility under Sections 510 and 511-a of the Not-for-Profit Corporation Law to assure the protection of the purposes of the corporation and the interests of the unnamed charitable beneficiaries, and the Attorney General is relying upon it in approving the Petition.

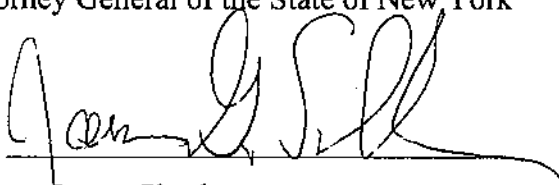
15. At the request of the Attorney General, and with the concurrence of the Petitioner, the Foundation has entered into a series of undertakings to the Attorney General that are set forth in Exhibit F. These undertakings are in furtherance of the Attorney General's responsibility under Sections 510 and 511-a of the Not-for-Profit Corporation Law to assure the protection of the purposes of the corporation and the interests of the unnamed charitable beneficiaries. These undertakings were requested by the Attorney General in order for it to approve the Petition, and the Attorney General is relying upon these undertakings in approving the Petition.

16. Based on review of the Petition and the exhibits thereto (and the additional documents and information requested by the Attorney General, including the Centene undertakings described in paragraph 13, the Director of the Division of Budget undertaking described in paragraph 14, and the Foundation undertaking described in paragraph 15), the comments generated through the public comment process, the approvals of the Transaction and the Transfer by the New York State Department of Health and New York State Department of Financial Services, and the verification of Rev. Patrick J. Frawley that New York State Catholic Health Plan, Inc. has complied with the provisions of the Not-for-Profit Corporation Law applicable to the sale of all or substantially all of its assets; and it appearing to the satisfaction of the Attorney General that: the consideration and terms of the transaction are fair and reasonable to the corporation; and that the purposes of the corporation and the interests of the class of unnamed charitable beneficiaries will be promoted by the transaction, the Transaction, Transfer and Use of Proceeds are hereby approved.

17. Petitioner shall provide written notice to the Attorney General that the Transaction and Transfer has been completed, if they have been abandoned, or if they are still pending 90 days after approval.

Barbara D. Underwood

Attorney General of the State of New York

By:   
James Sheehan  
Chief, Charities Bureau

Date: 6/14/18

# **EXHIBIT A**



## Division of the Budget

**ANDREW M. CUOMO**  
Governor

**ROBERT F. MUJICA JR.**  
Director of the Budget

**SANDRA L. BEATTIE**  
Deputy Director

May 6, 2018

James Sheehan, Esq.  
Chief, Charities Bureau  
New York State Office of the Attorney General

Dear Mr. Sheehan,

I am writing in response to a request from the Office of the Attorney General for information regarding a September 2017 Asset Purchase Agreement between Centene Corporation and New York State Catholic Health Plan, Inc., d/b/a Fidelis Care New York ("Fidelis Care") (collectively "the Parties") wherein Centene Corporation will purchase substantially all of Fidelis Care's assets for approximately \$3.75 billion (the "Transaction"). It is my understanding that the Parties have petitioned the Attorney General for approval of the Transaction in accordance with Not-For-Profit Corporation Law § 511-a, and that, in support of its review of such Petition, the Office of the Attorney General is seeking clarification on the State's intended use of certain payments to the State associated with the Transaction.

To offset the State's costs associated with health care transformation efforts and consistent with prior similar asset transfers in the State, the Parties have agreed to make \$2 billion in payments to the State through a combination of direct payments and increased tax obligations resulting from the Transaction over the course of a five-year period commencing with the closing of the Transaction ("Transaction Payments"). The State intends to use the Transaction Payments exclusively for the purposes of (a) enhancing access to affordable quality healthcare and healthcare related services for the poor, disabled, disadvantaged, elderly and/or under-served people of New York State, and/or (b) to assist such populations with any unmet healthcare and healthcare related needs including, but not limited to, those associated with the social determinants of health.

The Division of the Budget (the "Division") intends to report on the receipt and use of the Transaction Payments in the State's quarterly Financial Plan updates. The Division expects that the quarterly Financial Plan updates, which are accessible through the Division's website located at <https://www.budget.ny.gov/>, will provide sufficient detail to confirm that the Transaction Payments were used exclusively for the purposes set forth above. The Division will also provide the Office of the Attorney General with any

additional information which may be necessary to confirm that the Transaction Payments and Tax Obligations were used exclusively for such purposes.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. F. Mujica Jr.", written in a cursive style.

Robert F. Mujica Jr.

# **EXHIBIT B**

## **Notice of Petition and Request for Public Comment on Fidelis Care New York Sale:**

Office of the Attorney General of the State of New York:

Notice of Petition for Approval of Sale of Assets Pursuant to Sections 510 and 511-a of the Not-for-Profit Corporation

Law

submitted by New York State Catholic Health Plan, Inc. d/b/a Fidelis Care New York and Request for Public  
Comment”

- [Notice](#)
- [Verified Petition and Exhibits](#)
- [Undertaking from State of New York regarding Proceeds](#)



# **EXHIBIT C**

Office of the Attorney General of the State of New York:  
Response to Public Comment Approval of Sale of Assets Pursuant to Sections 510 and 511-a of the Not-  
for-Profit Corporation Law submitted by New York State Catholic Health Plan, Inc.

Response Dated June 14, 2018

New York State Catholic Health Plan, Inc., doing business as Fidelis Care New York (“Fidelis”), submitted a petition verified on May 7, 2018 (the “Petition”) to the Attorney General of the State of New York (the “Attorney General”) under Sections 510 and 511-a of the Not-for-Profit Corporation Law (“N-PCL”) for review and approval of the sale of substantially all of the assets of Fidelis (including its managed care businesses) to Centene Corporation, a for-profit corporation.

N-PCL Section 511-a (c) sets forth the standard of review by the Attorney General with respect to the relief requested by Petitioner in the Petition: “(c) If it shall appear, to the satisfaction of the attorney general that the consideration and the terms of the transaction are fair and reasonable to the corporation and that the purposes of the corporation or the interests of the members will be promoted, the attorney general may authorize the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation, as described in the petition, for such consideration and upon such terms as the attorney general may prescribe. The authorization of the attorney general shall direct the disposition of the consideration to be received thereunder by the corporation.”

N-PCL Section 511-a (b) permits the Attorney General, in its discretion, to direct that notice of a petition be provided to any interested person. Fidelis, as stated in paragraph 199 of the Petition, acknowledged that the Attorney General would provide public notice of the Petition. On May 7, 2018, the Attorney General issued a Notice of Petition and Request for Public Comment requesting comments to the petition for a period ending on May 23, 2018. Interested parties were invited to submit comments by electronic mail only to [Fidelis.Transaction@ag.ny.gov](mailto:Fidelis.Transaction@ag.ny.gov). Copies of the Notice, an electronic copy of the Petition and an undertaking from the State of New York regarding its use of certain of the proceeds of the transaction were made available at <https://ag.ny.gov/fidelis>. In addition, all public comments received from verified email addresses have been posted at <https://ag.ny.gov/fidelis>.

The Attorney General recorded receipt of almost 6,000 comments in response to the Notice, almost all of which provided support for the transaction and the proposed use of proceeds. Approximately 40 people and organizations raised issues concerning or opposed the transaction. The Attorney General provides the following responses to the public comments concerning the latter group of comments.

	<b><u>TOPIC</u></b>	<b><u>COMMENT AND ATTORNEY GENERAL RESPONSE</u></b>
1	Support for Transaction	We received 5,887 comments in support of the transaction, urging the Attorney General’s office to approve the sale of assets of Fidelis to Centene.
2	Objection <sup>1</sup> With No specific reason	We received 2 comments that objected to the Petition for approval of the sale of Fidelis to Centene and in which no reason was given for the objection.
3	Objection Regarding 14-Day Notice Period; Translation	<p>We received 16 comments expressing concern that a 14-day window for submitting comments to the Attorney General is too short, as the volume of material did not allow for adequate review and comment.</p> <p><u>Attorney General Response:</u> N-PCL Sections 511 and 511-a do not require a public comment period on any application made to the Attorney General or the Supreme Court on notice to the Attorney General. However, due to the broad impact this sale could have upon members of the public, and the large class of charitable beneficiaries, the Office of the Attorney General used its discretion to allow for a public comment period. From the period commencing the evening of May 7, 2018, and ending at midnight on May 23, 2018, almost 6,000 comments were received from members of the public. The period allotted for comments allowed for ample response.</p>
4	Objection Regarding Lack of Public Hearings Around the State	<p>We received 16 comments that requested that there should have been public hearings around the state on the proposed transaction prior to the approval of the Attorney General.</p> <p><u>Attorney General Response:</u> An application made to the Attorney General’s office for administrative determination pursuant to N-PCL Section 511-a does not include a statutory requirement for a public hearing, or any public comment period. However, due to the broad impact this sale could have upon members of the public, and the large class of charitable beneficiaries, the Office of the Attorney General used its discretion to allow for a public comment period. From the period commencing on the evening of May 7, 2018, and ending at midnight on May 23, 2018, almost 6,000 comments were received from members of the public.</p>
5	Objection Regarding	We received 14 comments that requested that, prior to final determination by the Attorney General, notice should be sent to current

---

<sup>1</sup> For purposes of this response, the OAG categorized as an “objection” any comment that was not expressly in support of the transaction. That includes many comments that did not expressly use the word “object” or “oppose” but raised questions, comments, suggestions and/or concerns about the transaction. Some comments categorized as “objection” raised more than one topic of concern. Therefore, issues raised in one letter may be included in more than one topic below.

Lack of Plan Member Notice and Translation of Notice and Petition	<p>Fidelis enrollees to let them know of the opportunity to comment. There was also comment that the need for notice to plan members should also be required due to recent Fidelis advertisements that the commenter determined did not sufficiently explain the pending sale.</p> <p><u>Attorney General Response:</u> N-PCL Sections 510 and 511 outline what is required to be included in a sale petition under N-PCL Section 511-a. Under N-PCL Sections 510 and 511 members who are entitled to vote must consent to the terms of the transaction and the use of proceeds. As stated in its Petition, Fidelis is a membership organization whose membership is set forth in its Bylaws and is limited to the eight Diocesan Bishops of the State and Ecclesiastical Province of New York (the “Members”). Petition, ¶ 10. The Petition states that the Members approved the transaction and attached to the Petition written evidence of the approval. Petition, ¶¶ 194, 195, Exs. 48, 49. Plan members and consumers had the opportunity to comment in response to the public notice and comment period provided by the Attorney General, in its discretion. N-PCL Section 511-a does not include the review of consumer advertising materials in its mandate.</p>
---	---

6	Objection Regarding Use of State Funds	<p>We received 9 comments about New York State’s use of the contribution of \$1.4 billion from Fidelis, as restricted by the May 6, 2018 letter from the Division of the Budget to the Attorney General. We also received comment that the State should be prohibited from using any portion of the proceeds to reduce the state Medicaid and health care budget.</p>
---	--	---

Attorney General Response: The Petition, as supplemented by the letter to the Attorney General from the New York State Division of Budget dated May 6, 2018, provides for payment to the State of funds that will be used exclusively for improving access to affordable healthcare and funding healthcare needs. Those purposes are consistent with the purposes for which Fidelis was formed and meet the requirements of N-PCL 511-a that the proceeds of the sale be used for the purposes of the selling organization. The New York State Division of the Budget has agreed to use the funds for the required purposes and to maintain and post on the Internet at [www.budget.ny.gov](http://www.budget.ny.gov) quarterly reports of the expenditure of the funds. Details of the reasons for and terms of the payments to the State of New York are set forth in the Petition at paragraphs 137 through 139 and the May 6 letter to the Attorney General and were made available at [<https://ag.ny.gov/fidelis>] during the comment period.

7	Objection Regarding Sale of Charitable Assets to	<p>We received 10 comments expressing concern about the sale of a not-for-profit organization to a for-profit entity.</p> <p><u>Attorney General Response:</u> N-PCL Section 511-a requires that, when a charity’s assets are sold, whether to a not-for-profit or for-profit entity,</p>
---	--	---

For-Profit Entity	<p>the Attorney General must determine that the charitable purposes of the corporation and the interests of the charity and its members will be promoted by the sale. The proceeds of the sale must be used to further the charitable purposes of the selling organization. As more fully described in the Petition, Centene has made commitments to the Attorney General regarding: (a) the maintenance of product offerings; (b) the appointment of an enrollee advocate to serve on the board of the newly formed New York Quality Healthcare Corporation ("New Fidelis") , the New York corporation approved by the Department of Health to acquire the assets and liabilities of Fidelis; (c) the agreement of for New Fidelis to pay \$300,000 to hire an independent expert to prepare an annual report, over a three-year period, on the impact of the sale transaction on the patient population, and make recommendations to the New Fidelis board based on the report; and (d) certain other matters. See Petition, ¶ 125, Ex. 25. The approvals of the Department of Health and Department of Financial Services, annexed to the Petition, also include commitments for Centene's operations after the closing. Petition, ¶¶ 126 through 133, Exs. 26 through 29. In addition, as with Fidelis Care, Centene's operations and fulfillment of the terms described in the petition will be subject to the ongoing oversight of the Attorney General, the Department of Health and the Department of Financial Services.</p>
-------------------	---

- |   |   |
|---|---|
| 7 | <p>Objection to Sale of Assets to Centene Regarding the One - Year Commitment to Comply with Ethical and Religious Directives of Catholic Healthcare Services</p> <p>We received 6 comments claiming that Centene's one-year commitment to comply with the Ethical and Religious Directives for Catholic Healthcare Services as applied to reproductive rights was too long. We also received comment regarding concerns about the potential one year ethical directive compliance impact on other health issues, namely end of life care and LGBT health care services (including fertility related services, HIV prevention medication or treatment, and gender-affirming healthcare to transgender people). We also received comment opposing the elimination of the ethical directives in the Fidelis Medicaid plan after the closing.</p> <p><u>Attorney General Response:</u></p> <p>In its asset purchase agreement in this transaction, Centene agreed that, "to the extent permitted by applicable law and government authorities", for one year following the closing of the transaction Centene would "use commercially reasonable good-faith efforts to comply with the protocols and policies ... relating to the ethical and religious directives for Catholic Health Care Services in connection with the operations of the business in the state of New York." Petition, Ex. 1, Section 6.22(b).</p> <p>The Petition states that Petitioner, as a Catholic health care organization, does not pay, reimburse, arrange for, or provide any</p> |
|---|---|

service or participate in any activity that is not in accordance with the Ethical and Religious Directives for Catholic Healthcare Services issued by the United States Catholic Conference, as interpreted by the Bishop of the Diocese in which the provider renders services to members; these Directives set forth specific medical services that Catholic health care entities cannot provide, including contraception, abortion, sterilization, and extracorporeal (in vitro) fertilization. Petition, ¶ 1 including footnote 1. Accordingly, it is the understanding of the Attorney General that in certain of Fidelis' plans, certain reproductive health services required by law were provided to consumers by a special mechanism through a third party provider or, for certain government-funded plans like Medicaid, only if that consumer sought the services directly and showed proof of that person's plan eligibility.

As the Attorney General was concerned that these special mechanisms would end after the closing by Centene within a shorter period than one year from the closing (which we have been informed by Fidelis may occur as early as July 1, 2018), the undertaking by Centene set forth in ¶ 9 of Ex. 25 to the Petition therefore states that the final approval of the Attorney General of the transaction will be expressly conditioned on:

"The provision by New Fidelis of all family planning services and medically necessary abortions, as required by applicable law, for all plans on and after January 1, 2019, and the adoption by New Fidelis, as soon as practicable following the closing of the Transaction, of updated internal manuals, customer service scripts, website materials and other relevant information that proactively provides adequate information on the availability of such services as of the closing through current mechanisms and on the planned transition of services."

Petition, Ex. 25, ¶ 9.

Although the Attorney General is not aware of any special mechanisms employed by Fidelis with respect to any legally-required health services beyond reproductive health services, in response to comments, the Attorney General has required that the final Centene undertaking be broadened as follows:

"Centene confirms that it is aware that Attorney General approval will be expressly conditioned upon the provision by New Fidelis of all services, as required by applicable law, for all plans operated by Centene on and after January 1, 2019, and the adoption by New Fidelis, as soon as practicable following the closing of the Transaction, of updated internal manuals, customer service scripts, website materials and other relevant information that proactively provides adequate information on the availability of such services as of

the closing through current mechanisms and on the planned transition of services.”

Attorney General Approval, Exhibit E, ¶ 9.

- |   |   |  |
|---|---|--|
| 8 | Objection<br>Based on the<br>Need for<br>Additional<br>Conditions<br>Prior to<br>Approval of<br>Petition-<br>Centene<br>Undertakings    | <p>We received 12 comments expressing pleasure that the Centene undertaking included a commitment by New Fidelis to agree to pay \$300,000 to the Attorney General to hire an independent expert to prepare annual reports, over a three-year period, on the impact of the asset sale transaction on the patient population, and make recommendations to the New Fidelis board based on the report. Commenters noted that the monitoring of health care coverage and access in the community is very important for ensuring that any emerging issues may be brought to the attention of the board and addressed by Centene. However, commenters noted that it was unfortunate the provision would only be for three years, and encouraged the Attorney General to extend for a longer period.</p> <p><u>Attorney General Response:</u> The Attorney General was concerned that the undertaking from Centene regarding the impact on the Medicaid patient population be for a reasonable period to allow emerging issues to be monitored after the closing. After extensive negotiation with Centene, the Attorney General agreed to a three-year monitoring period as reflected in the Centene undertaking. Petition, Ex.25. This period mirrors the three-year period for many of Centene’s conditions regarding the commercial insurance market products in the approval of the Department of Financial Services. Petition, Ex. 29. [We note that the undertaking provides that Centene will reimburse an independent expert selected by the Attorney General, not for direct payment to the Attorney General as some of the comments stated.]</p> |
| 9 | Objection<br>Based on the<br>Need for<br>Additional<br>Conditions<br>Prior to<br>Approval-<br>Mother<br>Cabrini<br>Health<br>Foundation | <p>We received 31 comments with suggestions for additional conditions on the Mother Cabrini Health Foundation (the “Foundation”) prior to approval of the Petition.</p> <p><u>Attorney General Response:</u> Under the N-PCL, management of the assets of a charity is the responsibility of the board of directors, which is obligated to assure that the mission of the charity is carried out. The Attorney General’s responsibility under N-PCL Section 511-a is to evaluate the use of the proceeds proposed in the petition and to determine whether “the purposes of the corporation will be served” by the proposed use. In this case, we have determined that the charitable purposes of the corporation and the proposed use of the proceeds will be served by the Foundation. The Foundation has submitted an extensive plan detailing the Foundation’s proposed use of proceeds, which are consistent with the charitable purposes of Fidelis, and the Foundation’s proposed governance, which is consistent with the</p>  |

mandates of the N-PCL for a constitution of the governing bodies of a charitable corporation. Our responses to key specific comments are set forth below.

(1) We received comment that Fidelis' health care assets should remain dedicated to high priority purposes that are consistent with its long standing nonprofit charitable mission to expand health insurance coverage and access to care for New Yorkers, especially by expanding health insurance coverage and care, reducing barriers to coverage, overcoming gaps and barriers to care, supporting consumer assistance programs to ensure patients are enrolled and stay enrolled, and improving customer experience of care.

Attorney General Response: N-PCL Section 511-a requires that proceeds from the sale of a charity's assets be used to further the charitable purposes of the selling organization. In determining whether or not to approve the proposed use of proceeds for the charitable purposes and plans of the Foundation, we conducted an extensive review of the Petition to identify: (1) the history and sources of funds of Fidelis; (2) the purposes and powers of Fidelis (3) the activities in fact carried out and services actually provided by Fidelis; (4) the relationship of the activities and purposes of the Foundation to those of Fidelis; and (5) the basis for the distribution of proceeds recommended by the board and members of Fidelis.

The Petition includes extensive disclosure of the purposes of Fidelis, the proposed purposes of the Foundation, the work of the Fidelis board and members to develop charitable purposes for the new Foundation, Fidelis' historical mission, operations, and limited grant making to address health issues of the poor and underserved, and a summary of research and analysis on the rationale for the proposed purposes of the Foundation as to why health services and the key determinants of bad health for the underserved are intertwined and increasingly should be addressed together for impactful grant-making. Petition, ¶¶ 5, 24 through 36, and 150 through 156, Exs. 3, 35.

We were ultimately satisfied that the proposed purposes of the Foundation met the required criteria. We recognize that there were other paths that the Foundation might have taken with respect to its purposes and plans that might also have met those criteria, including those suggested by the commenters, had the board and membership proposed such comments in the Petition. However, the role of the Attorney General in review of a petition under N-PCL Section 511-a is to confirm the legal compliance of a proposed plan and not to mandate one plan over another.



(2) We received comment that the Foundation should prioritize funding certain program areas, in particular ensuring that all New Yorkers will continue to have access to high quality medical coverage and care and advocacy and policy work, particularly on the state level.

Attorney General Response: We recognize the importance of this transaction in increasing the available funding for, and partnering with, so many critical New York charitable organizations. Accordingly, we requested that Petitioner include disclosure and documentation of its planned grant making that is not typically included in a petition of this type. Petition, Ex. 45, Grant Program Guide. Petitioner did so, and we were ultimately satisfied that such materials met the criteria for our review. However, the role of the Attorney General in review of a petition under N-PCL Section 511-a is to confirm the legal compliance of a proposed plan and not to mandate one plan or program area over another.

(3) We received comment that the governance of the Foundation did not contain mandates for, or designated allocations for, Board members with expertise in the subject areas or communities that will be served. Several comments specifically requested that there be representation from a specific community or type of organization to be served by the Foundation, including plan members and community-based health clinics (FQHCs). We also received comments that the Board of the Foundation should reflect diverse interests and backgrounds more generally.

Attorney General Response: The board of a charitable corporation has a fiduciary duty of care that includes a duty to nominate board members with the appropriate diverse qualifications as “diversity will help insure a board committed to serve the organization’s mission with a range of appropriate skills and interests”. The Office of the Attorney General, *Right from the Start; Responsibilities of Directors of Not-for-Profit Corporations*, May 15, 2015, <https://www.charitiesnys.com/pdfs/Right-From-the-Start.pdf> page 6. The Petition evidences that the Petitioner evaluated the qualifications of the initial Foundation board members and establishes the Foundation’s general commitment to both diversity and community input. Petition, ¶¶ 156, 157, 171, Ex.39. Beyond such disclosures, the mandate of the Attorney General does not require that it involve itself in internal governance matters of the Foundation at this time, such as the selection of initial board and advisory committee members. Charitable corporations are generally required to post a public

list of their directors and officers in their Internal Revenue Service Information Return on Form 990, filed annually with the Charities Bureau, and available on the Charities Bureau Website, and to make the 990 available upon request. Fidelis has agreed to make these filings annually with the Charities Bureau. Petition, Ex. 53. Therefore, although the N-PCL has no specific diversity requirement or requirement that the governance of a charitable corporation include stakeholders as voting members of the board of directors, these documents will permit the public, charitable sector organizations, the media, charitable beneficiaries, and the Charities Bureau to raise issues of diversity and expertise with the governing body of the charity in the future.

(4) We received comment that because current Fidelis staff members may continue with Centene, it was not clear how such ties might affect what the Foundation can fund.

Attorney General Response: We were also concerned that the Foundation clearly explain its independent grant-making process and governance. Because Centene is a for-profit company, Centene itself would appear not to qualify for any grants from the Foundation pursuant to the grants guide which requires that grantees be only not-for-profit corporations with Tax Exemption from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. Petition, Ex. 45, page 19. Second, Fidelis attaches the Foundation's conflict of interest policy to the Petition. Petition, Ex. 41. Third, the Petition states that it is not anticipated that any related party (as defined in N-PCL Section 102) of Fidelis or Centene will have any direct or indirect grantee, governance or financial relationship with the Foundation and that any related party transactions would be approved in accordance with the N-PCL and the conflict of interest policy; further that no present employee of Petitioner or Centene will be compensated as an employee, officer or director of the Foundation for a period of at least three years from the closing. Petition, ¶ 160.

(5) We received comment that there is a conflict of interest inherent in the appointment of board members to the Foundation from hospitals to which Centene will negotiate hospital reimbursement rates.

Attorney General Response: The Attorney General is always concerned about any potential conflict of interest in a transaction involving a charitable corporation. The Petition states Centene or its affiliates (as entities) will have no role in the governance or operations of the Foundation as the Foundation will be a New York charitable corporation with the

same Members as the Petitioner. Petition, 146 (organization structure of Petitioner and Foundation). See also this Attorney General Response, ¶ 11(5).

(6) We received comment that requested that the Foundation establish a Community Advisory Committee. Certain comments suggested that the role of the committee be advisory and serve as a community liaison and provide community assessments, while others suggested that the committee take on a more formal role of nominating directors to the board (and serve as a board training ground). Some comments suggested specific types of representatives or organizations that would be appropriate representatives for such a committee.

Attorney General Response: We were also concerned that the Foundation seek meaningful input from its stakeholders in its plan and future operations. Such outreach, although not required by N-PCL, is a meaningful practice for grant-making Foundations. The Petition states that “to assist the Foundation in developing and implementing its grant-making program, the Foundation plans to partner with health and social welfare experts to help identify funding priorities and grant initiatives. It will seek input from key stakeholders, including by establishing advisory committees to supplement the expertise on the Foundation Board. The committees may focus on urban, rural, immigrant health issues, or on particular health disparities on the board.” Petition, ¶ 171.

(7) We received comment stating that, in other health plan conversions, the new executives and directors of the health plan may receive stock options and large executive pay packages and a request that our office should make sure that no one receives inappropriate compensation for converting Fidelis Care to for-profit operation.

Attorney General Response: Based upon the Attorney General’s receipt of the above comment, the Attorney General sought from Fidelis and Centene further information related to the compensation arrangements of seven senior management employees at Fidelis (the “Fidelis Officers”). Following that inquiry, which included the production of additional documents and information from both Fidelis and Centene, Centene reported that the Fidelis Officers had entered into agreements with Centene that provided for, among other things, certain payments (the “Centene Bonuses”) subsequent to closing, in amounts substantially equivalent to the value of certain preexisting severance and retention payments that the Fidelis Officers would have received under their prior existing contractual agreements with Fidelis. Each of the Fidelis officers was required by Fidelis to waive payment of the severance and

retention payments from Fidelis at the time of the Agreement between Fidelis and Centene.

- |           |  |  |
|-----------|--|--|
| <b>10</b> | Objection Based on Concerns With Current Fidelis Operations  | <p>We received 3 comments based on concerns regarding Fidelis’ current operations and/or governance structure.</p> <p><u>Attorney General Response:</u> Fidelis is subject to oversight by the Attorney General’s Charities and Health Care Bureaus, and Medicaid Fraud Control Unit, as well as by the Department of Health and the Department of Financial Services. This oversight will continue when the Fidelis operations are transferred to Centene, and ongoing operational issues after the transfer may be evaluated by the independent consultant retained by Centene as required by the Attorney General.</p>  |
| <b>11</b> | Objection Based on Concern that There Should Be Legislation Specifically Covering Sales of Not-for-Profit Health Plans | <p>We received 10 comments based on concerns that New York would be better served by adopting a model state law governing conversions by and sales of substantially all assets of a nonprofit health plan or hospital, including because such law will ensure that the public has meaningful input prior to approval of the transaction.</p> <p><u>Attorney General Response:</u> The Attorney General’s mandate in reviewing the Petition emanates from the current N-PCL, which does not include such provisions.</p>  |
| <b>12</b> | Objection Based on Redaction of Appraisal of Fair Market Value of Petitioner’s Assets to Be Sold.                      | <p>We received 1 comment that the petition provided in the public notice was deficient because the petition contained a redacted version of the appraisal of the fair market value of Petitioner’s assets.</p> <p><u>Attorney General Response:</u> The Attorney General has discretion, under the Not-for-Profit Corporation Law, to accept a petitioner’s request that its materials in the Petition be treated as confidential because such materials contain trade secrets or confidential material. In reviewing the Petition, the Attorney General redacted certain sections that we believed were deserving of protection from disclosure at this time.</p> |

# **EXHIBIT D**

## OFFICER'S CERTIFICATE

June 11, 2018

The undersigned, Rev. Donald J. Harrington, C.M., does hereby certify that he is the Chairman of the Board of Directors (the "**Board**") of New York State Catholic Health Plan, Inc., d/b/a Fidelis Care New York, a New York not-for-profit corporation and as such is duly authorized to execute and deliver this Certificate on behalf of the Board. The undersigned further certifies on behalf of the Board that attached hereto as **Exhibit A** is a true, complete, and correct copy of the resolutions of the Board, duly adopted at a meeting of the Board on June 11, 2018, at 1:00 P.M. EDT, ratifying, approving, and affirming the Board's prior actions to approve and authorize the Transaction (as defined in **Exhibit A**), which resolutions are in full force and effect and have not been amended, superseded, supplemented, or terminated.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of the date first written above.

**NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC.**

By: Donald J. Harrington, C.M.  
Name: Rev. Donald J. Harrington, C.M.  
Title: Chairman of the Board

# **EXHIBIT A**

**NEW YORK STATE CATHOLIC HEALTH PLAN, INC.  
d/b/a FIDELIS CARE NEW YORK**

**RESOLUTIONS OF THE BOARD OF DIRECTORS**

**June 11, 2018**

**WHEREAS**, the Board of Directors (the “Board”) of New York State Catholic Health Plan, Inc. d/b/a Fidelis Care of New York (the “Corporation”) has heretofore approved a transaction pursuant to which Centene Corporation (“Centene”) will purchase substantially all of the Corporation’s assets and will assume substantially all of the Corporation’s liabilities in accordance with the terms and conditions of that certain Asset Purchase Agreement, dated September 12, 2017, as amended by that certain Amendment No. 1 to the Asset Purchase Agreement, together with certain related transaction agreements (the “Transaction”);

**WHEREAS**, as a condition to the approval of the Transaction by the eight Diocesan Bishops of the State and Ecclesiastical Province of New York in their capacity as the members of the Corporation (the “Members”), the Members required the top seven executives of the Corporation (the “Fidelis Officers”) to unconditionally waive their rights to receive certain change in control benefits to which they were entitled under (i) their respective employment agreements, (ii) certain separate letter agreements with the Corporation regarding the payment of retention bonuses (for all but one of the Fidelis Officers), and (iii) the Corporation’s Supplemental Executive Retirement Plan for Executive Staff (collectively, the “Change in Control Benefits”), which, among other things, will result in more funds being available for charitable grantmaking activities by the Mother Cabrini Health Foundation, Inc. (the “Foundation”) following the closing of the Transaction; and

**WHEREAS**, each of the Fidelis Officers agreed to unconditionally waive their respective Change of Control Benefits by executing a Waiver, Discharge and Settlement Agreement, dated as of September 12, 2017, copies of which are attached as Exhibit A;

**WHEREAS**, consummation of the Transaction is subject to the receipt of certain governmental approvals, including, but not limited to, the approval of the Office of the Attorney General of the State of New York (the “OAG”) pursuant to Section 510 and Section 511-a of the New York State Not-for-Profit Corporation Law;

**WHEREAS**, in connection with the OAG’s review of the Transaction, Centene informed the OAG that Centene has made offers of employment to the Fidelis Officers which provide for the Fidelis Officers to receive the compensation and benefit arrangements set forth in Exhibit B hereto following the closing of the Transaction (“Centene Compensation”);

**WHEREAS**, the Fidelis Officers negotiated the Centene Compensation directly with Centene, through their personal legal counsel, and neither the Corporation nor its advisors participated in or were otherwise involved in any such negotiations;



**WHEREAS**, neither the Board nor, to its knowledge its advisors, had knowledge of the terms, conditions or amounts of the Centene Compensation at the time of the Board's original action to approve and authorize the Transaction or thereafter until receiving the letter from Centene dated June 9, 2018 attached as Exhibit B hereto, and neither the Board nor, to its knowledge its advisors, made any request or demand of Centene with respect to the negotiation of compensation and benefit arrangements set forth in Exhibit B;

**WHEREAS**, although the Corporation has had no involvement with respect to the Centene Compensation and none of the Centene Compensation will be payable from the Corporation's or the Foundation's funds, the OAG has nevertheless requested that the Board consider this new information and determine whether it affects the Board's prior approval of the Transaction;

**WHEREAS**, after careful consideration of this additional information regarding the Centene Compensation, the Board believes that such information does not alter its prior determination that the Transaction is in the best interests of, and furthers the charitable mission of, the Corporation and of the Foundation, given (i) that the payment by Centene of the Centene Compensation will have no impact or effect whatsoever on the financial position or activities of the Corporation or the Foundation since the Centene Compensation is being paid entirely with funds of Centene; (ii) that the interests of the Corporation and the Foundation are enhanced by the fact that the Fidelis Officers waived their rights to the Change in Control Benefits, and (iii) that the future charitable grantmaking activities of the Foundation will be benefited by having more funds available; and (iv) the significant public benefit that will result from the Transaction.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that Board's prior actions to approve and authorize the Transaction are hereby ratified, approved and affirmed in all respects, and all such prior resolutions adopted by the Board with respect to the Transaction shall remain in full force and effect.

# **Exhibit A**

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this "**Agreement**") made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK ("**Fidelis**") and THOMAS BROWN ("**Executive**").

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Administrative Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the "**Employment Agreement**"). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the "**SERP**" and, together with the Employment Agreement, the "**Executive Agreements**");

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the "**Change in Control Benefits**");

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the "**Proposed Purchase Agreement**"), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis' assets and will assume substantially all of Fidelis' liabilities (the "**Proposed Transaction**");

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis' determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other representatives, agents and assigns of the Executive (collectively, the "**Releasing Parties**"), hereby fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless

Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the "**Released Parties**") from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the "**Released Matters**"). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Crowley

Thomas Brown  
Thomas Brown

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this “*Agreement*”) made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK (“*Fidelis*”) and PATRICK J. FRAWLEY (“*Executive*”).

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Executive Officer of Fidelis pursuant to an Employment Agreement dated December 19, 2012, as amended (the “*Employment Agreement*”). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the “*SERP*”), and he has a contingent right to receive a transaction bonus pursuant to a letter agreement dated March 27, 2017 (the “*Transaction Bonus Letter*” and, together with the Employment Agreement and SERP, the “*Executive Agreements*”);

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the “*Change in Control Benefits*”);

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the “*Proposed Purchase Agreement*”), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis’ assets and will assume substantially all of Fidelis’ liabilities (the “*Proposed Transaction*”);

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis’ determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other

representatives, agents and assigns of the Executive (collectively, the ***“Releasing Parties”***), hereby fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Donald J. Harrington, Ch

Patrick J. Frawley  
Patrick J. Frawley



## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this “*Agreement*”) made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK (“*Fidelis*”) and THOMAS HALLORAN (“*Executive*”).

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Financial Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the “*Employment Agreement*”). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the “*SERP*”), and he has a contingent right to receive a transaction bonus pursuant to a letter agreement dated August 16, 2016 (the “*Transaction Bonus Letter*” and, together with the Employment Agreement and SERP, the “*Executive Agreements*”);

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the “*Change in Control Benefits*”);

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the “*Proposed Purchase Agreement*”), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis’ assets and will assume substantially all of Fidelis’ liabilities (the “*Proposed Transaction*”);

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis’ determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other representatives, agents and assigns of the Executive (collectively, the “*Releasing Parties*”), hereby

fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Crowley

Thomas Halloran  
Thomas Halloran

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this "***Agreement***") made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK ("***Fidelis***") and PAMELA HASSEN ("***Executive***").

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Marketing Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the "***Employment Agreement***"). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the "***SERP***"), and she has a contingent right to receive a transaction bonus pursuant to a letter agreement dated December 22, 2016 (the "***Transaction Bonus Letter***" and, together with the Employment Agreement and SERP, the "***Executive Agreements***");

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the "***Change in Control Benefits***");

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the "***Proposed Purchase Agreement***"), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis' assets and will assume substantially all of Fidelis' liabilities (the "***Proposed Transaction***");

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis' determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other

representatives, agents and assigns of the Executive (collectively, the ***“Releasing Parties”***), hereby fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Frawley

Pamela Hassen  
Pamela Hassen

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this “*Agreement*”) made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK (“*Fidelis*”) and MARTIN KREBS (“*Executive*”).

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Legal Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the “*Employment Agreement*”). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the “*SERP*”), and he has a contingent right to receive a transaction bonus pursuant to a letter agreement dated November 2, 2016 (the “*Transaction Bonus Letter*” and, together with the Employment Agreement and SERP, the “*Executive Agreements*”);

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the “*Change in Control Benefits*”);

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the “*Proposed Purchase Agreement*”), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis’ assets and will assume substantially all of Fidelis’ liabilities (the “*Proposed Transaction*”);

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis’ determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other representatives, agents and assigns of the Executive (collectively, the “*Releasing Parties*”), hereby

fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Crowley

Martin Krebs  
Martin Krebs

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this “*Agreement*”) made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK (“*Fidelis*”) and SANTO RUSSO, Esq. (“*Executive*”).

### WITNESSETH:

WHEREAS, Executive is currently employed as the Chief Legal Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the “*Employment Agreement*”). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the “*SERP*”), and he has a contingent right to receive a transaction bonus pursuant to a letter agreement dated November 3, 2016 (the “*Transaction Bonus Letter*” and, together with the Employment Agreement and SERP, the “*Executive Agreements*”);

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the “*Change in Control Benefits*”);

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the “*Proposed Purchase Agreement*”), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis’ assets and will assume substantially all of Fidelis’ liabilities (the “*Proposed Transaction*”);

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis’ determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other representatives, agents and assigns of the Executive (collectively, the “*Releasing Parties*”), hereby

fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Crowley

Santo G. Russo  
Santo Russo, Esq.

## WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT

WAIVER, DISCHARGE AND SETTLEMENT AGREEMENT (this "***Agreement***") made as of the 12<sup>th</sup> day of September, 2017 by and between NEW YORK STATE CATHOLIC HEALTH PLAN, INC. D/B/A FIDELIS CARE NEW YORK ("***Fidelis***") and DAVID P. THOMAS ("***Executive***").

### WITNESSETH:

WHEREAS, Executive is currently employed as the President and Chief Operating Officer of Fidelis pursuant to an Employment Agreement dated June 7, 2013, as amended (the "***Employment Agreement***"). Executive is also a participant in the Fidelis Care New York Supplemental Executive Retirement Plan for Executive Staff, as amended (the "***SERP***"), and he has a contingent right to receive a transaction bonus pursuant to a letter agreement dated August 16, 2016 (the "***Transaction Bonus Letter***" and, together with the Employment Agreement and SERP, the "***Executive Agreements***");

WHEREAS, the Executive Agreements provide that the Executive is entitled to receive certain payments and/or contingent economic benefits from Fidelis in the event of a change in control of Fidelis (the "***Change in Control Benefits***");

WHEREAS, Fidelis is contemplating entering into an Asset Purchase Agreement, by and between Fidelis and Centene Corporation (the "***Proposed Purchase Agreement***"), pursuant to which Centene Corporation will purchase from Fidelis substantially all of Fidelis' assets and will assume substantially all of Fidelis' liabilities (the "***Proposed Transaction***");

WHEREAS, Fidelis has determined that it is not in the best interest of Fidelis to pay any Change in Control Benefits in connection with the Proposed Transaction; and

WHEREAS, in connection with Fidelis' determination, Executive desires to fully and permanently discharge Fidelis from any and all of its obligations to pay or otherwise provide any of the Change in Control Benefits to Executive, as specified herein, with respect to the Proposed Transaction.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In consideration for the sum of One Dollar (\$1.00) and other good and valuable consideration to be paid by Fidelis to Executive, the receipt and sufficiency of which is hereby acknowledged:

(a) Waiver. Executive hereby fully and permanently waives any and all rights to the Change in Control Benefits relating to, arising from, and triggered by the Proposed Transaction. The Executive Agreements are hereby deemed to be amended to the extent contemplated herein, without any further action on the part of Executive or Fidelis. The terms of the Executive Agreements, as so amended, remain in full force and effect.

(b) General Release. Effective as of the date of this Agreement, the Executive, on behalf of himself, herself and his or her heirs, executors, administrators, successors and any other

representatives, agents and assigns of the Executive (collectively, the ***“Releasing Parties”***), hereby fully, forever, irrevocably and unconditionally waives, releases, discharges and holds harmless Fidelis, its Board of Directors, employees, and officers, and each of the Diocesan Bishops individually and as members of Fidelis and their associated Dioceses, and each of their respective affiliates, representatives, employees, attorneys, agents, successors and assigns (the ***“Released Parties”***) from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, based upon any theory of federal, state, provincial or local statutory, regulatory or common law, and any and all claims and demands of whatever kind or character, whether vicarious, derivative, or direct, whether fixed, contingent or liquidated, or whether known or unknown, from the beginning of time through the date of this Agreement arising from, relating to, and in connection with, the Change in Control Benefits triggered by the Proposed Transaction (collectively, the ***“Released Matters”***). Executive acknowledges and agrees that the foregoing release is intended to, and does, fully, finally and forever release the Released Matters, notwithstanding the existence or discovery of any such new or additional claims or facts, incorrect facts, misunderstanding of law, misrepresentation or concealment, it being further acknowledged and agreed that all of the foregoing constitute Released Matters. The release set forth in this Agreement shall be construed broadly as a general release only in respect of the Released Matters. The Executive hereby irrevocably agrees not to assert, directly or indirectly, any claim or demand, or to commence, institute or cause to be commenced or instituted, any civil, criminal or administrative suit, action, or proceeding of any kind against any Released Party based upon any of the Released Matters.

2. The Executive hereby acknowledges and agrees that he or she is represented by independent counsel, has had an opportunity to review this Agreement with his or her independent counsel, and is entering into this Agreement knowingly and voluntarily.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may be modified only by a written instrument signed by both parties.

4. This Agreement, and any action or proceeding arising or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

5. This Agreement and any amendments hereto may be executed and delivered in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above written.

NEW YORK STATE CATHOLIC HEALTH  
PLAN, INC. d/b/a FIDELIS CARE NEW YORK

By: Patrick J. Frawley

David P. Thomas  
David P. Thomas

# **Exhibit B**





CONFIDENTIAL

June 9, 2018

Rev. Donald J. Harrington, C.M.  
Chairman of the Board  
New York State Catholic Health Plan, Inc.  
D/B/A Fidelis Care  
95-25 Queens Boulevard  
Rego Park, New York 11374

RE: Post-Closing Compensation Arrangements

Dear Father Harrington:

We are writing to inform you that Centene Corporation ("Centene") has made offers of employment to the executive management team of New York State Catholic Health Plan, Inc. ("NYSCHP"), which in addition to base salaries and other benefits, include the sign-on payments described in this letter. Such offers shall be effective upon the closing (the "Closing") of the transactions contemplated by that certain Asset Purchase Agreement, dated September 12, 2017, between NYSCHP and Centene (the "Purchase Agreement").

As you will recall, the following officers of NYSCHP waived their rights to receive certain stay bonuses, severance payments and benefits under NYSCHP's Supplemental Executive Retirement Plan ("SERP") prior to NYSCHP entering into the Purchase Agreement: Rev. Patrick J Frawley, Thomas Brown, Thomas Halloran, Pamela Hassen, Martin Krebs, Santo Russo and David Thomas (collectively, the "Executive Officers"). Given the critical importance to Centene of the continued employment of the Executive Officers by NYSCHP through the Closing and by Centene following the Closing, Centene made an independent business decision to agree to make sign-on payments to the Executive Officers to help ensure such continued service. The table below sets forth the amount of such sign-on payments:

Centene Corporation  
Centene Plaza  
7700 Forsyth Blvd.  
St. Louis, MO 63105  
314-725-4477

Executive	Stay Bonus	SERP Contribution Credits	Accelerated SERP Vesting	SERP "Gross Up" for Tax Purposes	Total SERP Payment	Excise Tax "Gross Up"	Total Pre-Tax Payments	Total Payments Net of "Gross Ups"
Frawley	\$1,408,000	\$4,692,708	N/A	\$5,144,429	\$9,837,137	\$8,215,285	\$19,460,422	\$6,100,708
Thomas	\$680,000	\$853,029	N/A	\$739,929	\$1,592,958	N/A	\$2,272,958	\$1,533,029
Brown	N/A	\$279,256	\$496,538	N/A	\$775,794	N/A	\$775,794	\$775,794
Halloran	\$580,000	\$510,306	\$2,211,496	\$2,555,053	\$5,276,855	\$2,819,763	\$8,676,618	\$3,301,802
Russo	\$225,000	\$346,882	\$652,945	N/A	\$999,827	N/A	\$1,224,827	\$1,224,827
Hassen	\$166,667	\$572,718	N/A	\$496,783	\$1,069,501	N/A	\$1,236,168	\$739,385
Krebs	\$205,000	\$293,576	\$643,061	N/A	\$936,637	N/A	\$1,141,637	\$1,141,637

The above amounts reflect one time sign-on payments to be made to the Executive Officers. Following the Closing, the regular compensation and benefits that the Executive Officers will receive as part of their employment with Centene will be substantially comparable to the regular compensation and benefits that such Executive Officers receive from NYSCHP currently, as well as with the compensation and benefits of similarly situated employees within Centene.

Should you have any questions or comments regarding the sign-on payments described above, please contact Bob Sanders at Centene Corporation.

Sincerely,



Christopher A. Koster  
Senior Vice-President

# **EXHIBIT E**

**Undertaking by Centene Corporation  
to the Attorney General of the State of New York**

These undertakings, dated as of June 13, 2018 (these “Undertakings”), are hereby made and entered into by Centene Corporation, a Delaware corporation (“Centene”) and New York Quality Healthcare Corporation, a New York corporation (“New Fidelis” and, collectively with Centene, the “Centene Companies”), to and for the benefit of the New York State Attorney General (the “Attorney General”).

W I T N E S S E T H:

WHEREAS, Centene is a party to that certain Asset Purchase Agreement, dated as of September 12, 2017 (the “Purchase Agreement”), by and between Centene and New York State Catholic Health Plan, Inc. d/b/a Fidelis Care, a New York not-for-profit corporation (“Fidelis Care”), pursuant to which Fidelis Care has agreed to sell and assign, and Centene has agreed to purchase and assume, substantially all of the assets and liabilities of Fidelis Care subject to the terms and conditions set forth therein (the “Transaction”);

WHEREAS, Fidelis Care is a not-for-profit corporation that offers a variety of New York State-sponsored insurance products through its prepaid health services plan and provides a broad range of charitable grants to fund services for the provision of comprehensive health services across New York State;

WHEREAS, following the completion of the Transaction, Centene, through its newly formed subsidiary, New Fidelis, will continue to operate the healthcare business acquired from Fidelis Care and intends to leverage Centene’s nationwide scale, world-class technology and data analytics to improve the health outcomes of New Yorkers;

WHEREAS, the sale of all or substantially all of the assets of a New York not-for-profit corporation of the type contemplated by the Transaction is subject to approval of the Attorney General under Section 511-a of the New York Not-For-Profit Corporation Law; and

WHEREAS, to further evidence the benefits of the Transaction to the State of New York, Centene has agreed to provide the undertakings set forth herein (the “Undertakings”).

NOW THEREFORE, in consideration of the foregoing, the Centene Companies hereby undertake and agree as follows:

1. Centene hereby acknowledges and agrees that the historic and current statements regarding Centene and its affiliates contained in the petition of Fidelis Care that was submitted to the Attorney General on May 7, 2018 seeking the approval of the Attorney General for the Transaction (the “Petition”) are true and correct as of such date.

2. Centene confirms that, subject to satisfaction of Centene's employment policies regarding employee documentation, drug testing, background screening and similar matters, it will make, or cause an affiliate to make, offers of employment, effective as of the Closing, to all active employees of Fidelis Care as of the day immediately prior to the closing of the Transaction. Centene further confirms and agrees that, for a period of one year following the closing of the Transaction, it will not terminate any employee that was so hired from Fidelis Care other than for cause or due to the occurrence of a material adverse change to the business.
3. Centene confirms that Exhibit A hereto contains a full and complete list of:
  - a. all material litigation and regulatory matters against Centene or its affiliates that are currently known by Centene and pending as of the date hereof, or during the three years prior to the date hereof.
  - b. all litigation and regulatory matters against Centene or its affiliates that are currently known by Centene and pending as of the date hereof and (i) related to fraud or false claims whistleblower retaliation, (ii) investigations relating to out-of-network claims, and (iii) class actions.
4. The Centene Companies agree to cause New Fidelis, upon the closing of the Transaction, to:
  - a. formulate written policies and procedures describing compliance expectations and incorporate these policies into a code of conduct or code of ethics for employees and others;
  - b. designate an employee responsible for New Fidelis's compliance program and the designee will report to New Fidelis's chief executive or a senior administrator designated by Centene's leadership and, periodically, to the Board of Directors of New Fidelis;
  - c. provide training and education to all New Fidelis employees, including executives and members of the Board of Directors of New Fidelis, on compliance issues, expectations, and the compliance program operation; such training shall occur periodically and shall be made a part of the orientation for a new employee or Board member;
  - d. ensure that communication lines to the employee responsible for New Fidelis's compliance program shall be accessible to all employees and that such communication lines shall include a method for anonymous and confidential good-faith reporting of potential compliance issues;
  - e. establish and enforce disciplinary policies to encourage good-faith participation in the compliance program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for:

- i. failing to report suspected problems;
    - ii. participating in non-compliant behavior; or
    - iii. encouraging, directing, facilitating, or permitting non-compliant behavior;
  - f. implement a system for routine identification of compliance risk areas, including both internal audits and appropriate external audits, and for evaluation of potential or actual non-compliance identified by such audits;
  - g. implement a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies, and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues as required to relevant federal and State regulators; and refunding overpayments; and
  - h. ensure that New Fidelis will have a policy of non-intimidation and non-retaliation for good-faith reporting of compliance violations.
5. The Centene Companies agree that each entity shall not, and shall cause its affiliates not to, limit the whistleblower rights of any of its New York-based employees, vendors or consultants before any state or federal law enforcement or regulatory body in any agreements regarding employment or separation from employment entered into by either of the Centene Companies or its affiliates or implement any policies or procedures that would limit such rights.
- Centene's offers of annual compensation (defined as base salary and anticipated bonuses, but not including payments identified in Exhibit B to the Fidelis Care Board's determination of June 11, 2018) for Fidelis Care's officers is substantially equal to such Fidelis Care officer's annual compensation for the current fiscal year. In addition, as set forth in Centene's letter at Exhibit B to the Fidelis Care Board's determination of June 11, 2018, certain payments will be made upon commencement of employment by the Fidelis Care officers.
6. The Centene Companies agree to cause New Fidelis to offer, directly or indirectly, through the end of calendar year 2021 a substantially identical selection of Medicaid, Medicare and New York State of Health Exchange health plans in the same geographical areas as were offered by Fidelis Care immediately prior to the closing of the Transaction.
7. Centene confirms that, prior to the closing of the Transaction, all existing hospital, medical and pharmacy providers to Fidelis Care will be offered the opportunity to transfer to New Fidelis upon the closing of the Transaction, and for the remainder of the 2018 plan year, on the exact same terms and conditions

(including reimbursement rates) as such providers had with Fidelis Care prior to the closing of the Transaction. Centene further confirms it will cause New Fidelis to offer all existing hospital, medical and pharmacy providers the opportunity to participate in the New Fidelis provider network during plan years 2019 through 2021 under terms and conditions substantially similar to those in effect as of the closing date of the Transaction, subject to compliance with New York State Department of Health regulations and guidance in place at the time of contracting.

8. Centene confirms and agrees that it shall cause New Fidelis to maintain NCQA accreditation for New Fidelis for a period of not less than three years following the closing of the Transaction.
9. Centene confirms that it is aware that Attorney General approval will be expressly conditioned upon the provision by New Fidelis of all services, as required by applicable law, for all plans operated by Centene on and after January 1, 2019, and the adoption by New Fidelis, as soon as practicable following the closing of the Transaction, of updated internal manuals, customer service scripts, website materials and other relevant information that proactively provides adequate information on the availability of such services as of the closing through current mechanisms and on the planned transition of services.
10. Centene confirms its intent for New Fidelis to be headquartered at 95-25 Queens Blvd, Rego Park, New York for a period of not less than three years following the closing of the Transaction pursuant to the assumption by New Fidelis of the existing lease held by Fidelis Care as part of the Transaction. Centene further agrees that it shall not seek the modification or early termination of such lease obligation without the consent of the Attorney General and furthermore shall notify the Attorney General prior to any change to the location of New Fidelis' headquarters.
11. Organizational Documents.
  - a. Centene confirms that true and correct copies of the Articles of Incorporation and Bylaws of New Fidelis are attached hereto as Exhibits B and C, respectively. A list of the proposed directors of New Fidelis as of the closing of the Transaction is set forth on Exhibit D.
  - b. True and correct copies of the Articles of Incorporation and Bylaws of Centene Company of New York, LLC, a New York limited liability company and wholly-owned subsidiary of Centene that will serve as the employer for the employees hired from Fidelis Care ("CCNY"), are attached hereto as Exhibits E and F, respectively. A list of the proposed directors of CCNY as of the closing of the Transaction is set forth on Exhibit G.

- c. Centene agrees to notify the Attorney General within 90 days following any changes to the Articles of Incorporation, Bylaws or Directors of New Fidelis or CCNY set forth above.

12. Independent Evaluation of Transaction and Preparation of Report.

- a. Centene acknowledges that the Attorney General desires to retain an independent expert to produce a report of recommendations to the Board of Directors of New Fidelis for its consideration, which recommendations are intended to address the potential impact, if any, of the Transaction on the Medicaid membership of Fidelis Care.
- b. In furtherance of the foregoing, Centene confirms that the Attorney General will select the individual(s) that will be responsible for producing such a report (the "Independent Expert"), which Independent Expert shall be reasonably acceptable to both Centene and the Attorney General. Further, Centene agrees to bear up to \$300,000 of the costs and expenses of the Independent Expert for preparing such a report.
- c. Centene agrees to reasonably cooperate with and assist the Attorney General and the Independent Expert in the preparation of such report. Centene acknowledges that such report shall be produced for three years after the Closing of the Transaction no later than December 1 of each year.
- d. The selection of the Independent Expert to complete the report created under Paragraph 12 shall occur within three months following the closing of the Transaction.
- e. Centene and the Attorney General mutually intend that the due diligence and report of the Independent Expert shall be informed and guided by representations and undertakings of the Centene Companies herein, by any materials and information provided by the Centene Companies to the Attorney General, by the approvals of the New York State Department of Health and Department of Financial Services annexed to the Petition (inclusive of any conditions thereof and undertakings of the Centene Companies), and the letter of September 1, 2017 sent by Centene CEO Michael F. Neidorff to Cardinal Timothy Dolan and Reverend Donald Harrington, and attached hereto as Exhibit H.

13. Selection of Board Member to Advocate for Enrollees and the Findings of Report.

- a. Centene agrees to cause New Fidelis to establish a seven member Board of Directors in compliance with all laws and regulations of the State of New York.
- b. For a period of three years following the Closing of the Transaction, Centene confirms and agrees that it shall appoint one qualified individual to the Board of Directors of New Fidelis, such appointee to advocate for



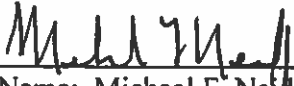
the interests of the Medicaid enrollees of New Fidelis and the implementation of the recommendations contained in the report created under Paragraph 12, above. Centene shall provide notice of the selection thereof to the Attorney General.

- c. In the event the board member selected under this Paragraph resigns or is unable to serve, Centene shall provide notice of such event to the Director of the Charities Bureau of the New York Attorney General within 15 business days.
14. Centene shall make a report to the Director of the Charities Bureau of the New York Attorney General no later than the 31st day of December following the closing of the Transaction and annually thereafter for the succeeding three years, such report to accurately summarize Centene's compliance with these Undertakings and progress on the recommendations of the report prepared in accordance with Paragraph 12.
15. Subject to applicable law, Centene agrees to provide reasonable access to the Attorney General to the books and records (excluding any books and records that are subject to attorney-client or other privileges) and employees of New Fidelis for purposes of monitoring and inspecting Centene's compliance with these Undertakings.
16. Except to the extent a longer period is expressly stated with respect to any of the Undertakings set forth herein, these Undertakings shall expire upon the third anniversary of the closing of the Transaction and shall thereafter be of no further force or effect.
17. These Undertakings are for the sole benefit of the Attorney General and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Undertakings.
18. These Undertakings shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

[Signature page follows]

IN WITNESS WHEREOF, Centene Corporation and New York Quality Healthcare Corporation, d/b/a Fidelis Care hereby execute these Undertakings as of the date first set forth above.

CENTENE CORPORATION

By:   
Name: Michael F. Neidorff  
Title: Chairman & CEO

NEW YORK QUALITY HEALTHCARE CORPORATION, d/b/a FIDELIS CARE

By:   
Name: Jeffrey A. Schwaneke  
Title: Chairman

## **EXHIBIT A**

## ***Kentucky***

**Contract Termination Litigation:** On July 5, 2013, the Company's subsidiary, Kentucky Spirit, terminated its contract with the Commonwealth of Kentucky (the Commonwealth). Kentucky Spirit believed it had a contractual right to terminate the contract and filed a lawsuit in Franklin Circuit Court seeking a declaration of this right. In response, the Commonwealth alleged that Kentucky Spirit's exit constituted a material breach of contract. The Commonwealth sought to recover substantial damages and to enforce its rights under Kentucky Spirit's \$25 million performance bond. The Commonwealth asserted that the Commonwealth's expenditures due to Kentucky Spirit's departure range from \$28 million to \$40 million plus interest, and that the associated CMS expenditures range from \$92 million to \$134 million. Kentucky Spirit disputed the Commonwealth's alleged damages on several grounds. Prior to terminating the contract, Kentucky Spirit filed a legal complaint in April 2013, amended in October 2014, in Franklin Circuit Court seeking damages against the Commonwealth for losses sustained due to the Commonwealth's alleged breaches.

On May 26, 2015, the Commonwealth issued a demand for indemnification to its actuarial firm, for "all defense costs, and any resultant monetary awards in favor of Kentucky Spirit, arising from or related to Kentucky Spirit's claims which are predicated upon the alleged omissions and errors in the Data Book and the certified actuarially sound rates." The actuarial firm moved to intervene in the litigation and the Franklin Circuit Court granted that motion on September 8, 2015. Also, on August 19, 2015, the actuarial firm filed a petition seeking a declaratory judgment that it is not liable to the Commonwealth for indemnification related to the claims asserted by Kentucky Spirit against the Commonwealth. On October 5, 2015, the Commonwealth filed an answer to the actuarial firm's petition and asserted counterclaims/cross-claims against the firm.

On November 3, 2016, all parties entered into a settlement agreement with respect to all lawsuits and complaints associated with the aforementioned contract termination. Under the terms of the settlement agreement, Kentucky Spirit received an immaterial cash payment from the Commonwealth's actuarial firm and each party dismissed all claims related to the litigation with prejudice. In addition, the Commonwealth and Kentucky Spirit have agreed that neither party acted in bad faith; that the parties took reasonable positions in light of the applicable contractual language; and that the parties acted in good faith in attempting to address a difficult situation.

## ***California***

**Gross Premium Tax Litigation:** The Company's California subsidiary, Health Net of California, Inc. (Health Net California), has been named as a defendant in a California taxpayer action filed in Los Angeles County Superior Court, captioned as Michael D. Myers v. State Board of Equalization, et al., Los Angeles Superior Court Case No. BS158655. This action is brought under a California statute that permits an individual taxpayer to sue a governmental agency when the taxpayer believes the agency has failed to enforce governing law. Plaintiff contends that Health Net California, a California licensed Health Care Service Plan (HCSP), is an "insurer" for purposes of taxation despite acknowledging it is not an "insurer" under

regulatory law. Under California law, “insurers” must pay a gross premiums tax (GPT), calculated as 2.35% on gross premiums. As a licensed HCSP, Health Net California has paid the California Corporate Franchise Tax (CFT), the tax generally paid by California businesses. Plaintiff contends that Health Net California must pay the GPT rather than the CFT. Plaintiff seeks a writ of mandate directing the California taxing agencies to collect the GPT, and seeks an order requiring Health Net California to pay GPT, interest and penalties for a period dating to eight years prior to the October 2015 filing of the complaint. This lawsuit is being coordinated with similar lawsuits filed against other entities. In September 2017, the Company filed a demurrer seeking to dismiss the complaint, and a motion to strike the allegations seeking retroactive relief. In January 2018, the Court held a hearing on the Company’s demurrer. No decision has been issued yet. The Company intends to vigorously defend itself against these claims; however, this matter is subject to many uncertainties, and an adverse outcome in this matter could potentially have a materially adverse impact on our financial position, results of operations and cash flows.

**Out of Network Sober Homes Litigation:** In 2015, Health Net experienced a massive and rapid increase in claims from out-of-network sober living facilities in California and Arizona. It became apparent that many facilities were engaged in questionable or unlawful practices including: recruiting people from out of state and submitting false applications for insurance to Health Net; billing for services not provided; paying brokers or “cappers” to recruit patients; dramatically inflating charges for services, and falsifying medical records. Health Net suspended payments to these providers until it could determine whether the claims were legitimate. Health Net has resolved the billing matters with most of these providers. A small number of providers have sued Health Net, and Health Net has filed counterclaims for fraud against several of those providers. Two executives from one former provider have been indicted for defrauding Health Net and other insurers. One of those defendants has been convicted and another is awaiting trial. Several other providers are under fraud investigations by federal and state authorities. Health Net has worked diligently to settle the payment issues with providers who can show that their claims were legitimate. Health Net will vigorously defend itself, and will pursue counterclaims, in any lawsuit where there is evidence of inappropriate billing, fraud or other misconduct by the provider.

### ***Federal Securities Class Action***

In November 2016, a putative federal securities class action was filed against the Company and certain of its executives in the U.S. District Court for the Central District of California. In March 2017, the court entered an order transferring the matter to the U.S. District Court for the Eastern District of Missouri. The plaintiffs in the lawsuit allege that the Company’s accounting and related disclosures for certain liabilities acquired in the acquisition of Health Net violated federal securities laws. In July 2017, the lead plaintiff filed a Consolidated Class Action Complaint. The Company filed a motion to dismiss this complaint in September 2017. The Company denies any wrongdoing and is vigorously defending itself against these claims. Nevertheless, this matter is subject to many uncertainties and the Company cannot predict how long this litigation will last or what the ultimate outcome will be, and an adverse outcome in this matter could potentially have a materially adverse impact on our financial position and results of operations.

Additionally, in January 2018, a separate derivative action was filed on behalf of Centene Corporation against the Company and certain of its officers and directors in the United States District Court for the Eastern District of Missouri. Plaintiff purports to bring suit derivatively on behalf of the Company against certain officers and directors for violation of securities laws, breach of fiduciary duty, waste of corporate assets and unjust enrichment. The derivative complaint repeats many of the allegations in the federal securities class action described above and asserts that defendants made inaccurate or misleading statements, and/or failed to correct the alleged misstatements.

A second shareholder derivative action was filed in March 2018 against the Company and certain of its officers and directors in the United States District Court for the Eastern District of Missouri. This second derivative complaint repeats many of the allegations in the securities class action and the first derivative suit. The Company expects that the derivative suits will be consolidated and a lead plaintiff appointed for the litigation.

### ***Medicare Parts C and D Matter***

In December 2016, a Civil Investigative Demand (CID) was issued to Health Net by the United States Department of Justice regarding Health Net's submission of risk adjustment claims to CMS under Parts C and D of Medicare. The CID may be related to a federal qui tam lawsuit filed under seal in 2011 naming more than a dozen health insurers including Health Net. The lawsuit was unsealed in February 2017 when the Department of Justice intervened in the case with respect to one of the insurers (not Health Net). In subsequent pleadings, both the Department of Justice and the Relator excluded Health Net from the lawsuit. The Company is complying with the CID and will vigorously defend any lawsuits. At this point, it is not possible to determine what level of liability, if any, the Company may face as a result of this matter.

### ***Veterans Administration Matter***

In October 2017, a CID was issued to Health Net Federal Services, LLC (HNFS) by the United States Department of Justice. The CID seeks documents and interrogatory responses concerning whether HNFS submitted, or caused to be submitted, excessive, duplicative or otherwise improper claims to the U.S. Department of Veterans Affairs under a contract to arrange healthcare services for veterans. The contract began in late 2014. In 2016, modifications to the contract were made to allow for possible duplicate billings with a reconciliation period at the end of the contract term. The Company is complying with the CID and believes it has been meeting its contractual obligations. At this point, it is not possible to determine what level of liability, if any, the Company may face as a result of this matter.

### ***Guaranty Fund Assessment***

Under state guaranty association laws, certain insurance companies can be assessed for certain obligations to the policyholders and claimants of impaired or insolvent insurance companies that write the same line or similar lines of business. In 2009, the Pennsylvania Insurance

Commissioner placed long-term care insurer Penn Treaty Network America Insurance Company and its subsidiary (Penn Treaty), neither of which is affiliated with the Company, in rehabilitation and petitioned a state court for approval to liquidate Penn Treaty. In March 2017, the court issued the final liquidation order, and as a result, during the twelve months ended December 31, 2017, the Company recognized \$56 million representing its undiscounted estimated share of the guaranty association assessment as selling, general and administrative expenses.

### ***Ambetter Class Action***

In January 2018, a putative class action lawsuit was filed against the Company and certain subsidiaries in the U.S. District Court for the Eastern District of Washington. The complaint alleges that the Company failed to meet federal and state requirements for provider networks and directories with regard to its Ambetter policies, denied coverage and/or refused to pay for covered benefits, and failed to address grievances adequately, causing some members to incur unexpected costs. The Company intends to vigorously defend itself against these claims. Nevertheless, this matter is subject to many uncertainties and the Company cannot predict how long this litigation will last or what the ultimate outcome will be, and an adverse outcome in this matter could potentially have a materially adverse impact on our financial position and results of operations.

### ***United States ex rel. Porter v. Centene Corp. and Magnolia Health Plan, Inc., Civil Action No. 1:16-cv-00075 (S.D. MS).***

In this qui tam action, plaintiff alleges Centene Corporation and its wholly-owned subsidiary, Magnolia Health Plan, falsely represented in contracts with the Mississippi Division of Medicaid that they would staff case manager positions with registered nurses when they really intended to use licensed practical nurses. Plaintiff contends Defendants' use of licensed practical nurses resulted in their receiving inflated capitated rate payments, a portion of which consisted of federal funds. The Court dismissed Centene in October 2017. Plaintiff also confessed dismissal of all common law claims against Magnolia, leaving only her claims arising under the statutory False Claims Act. Magnolia's motion to dismiss with respect to those claims is pending for decision. If the lawsuit proceeds, Magnolia intends to vigorously defend on the merits. Magnolia has strong arguments and evidence, including the following: (1) its alleged use of licensed practical nurses rather than registered nurses was immaterial to its receipt of federal funds, as evidenced by the Mississippi Division of Medicaid's continued payments and renewals of the contract after knowing of Plaintiff's allegations; (2) its purported commitment to use registered nurses did not cause the government to pay moneys to Magnolia; and (3) Magnolia made no false representations to the government because the contract with the Mississippi Division of Medicaid did not require Magnolia to staff case manager jobs with registered nurses.

### ***Washington Office of Insurance Commission / Coordinated Care Corporation Consent Order No. 17-0477***

On December 12, 2017, the Washington Office of the Insurance Commissioner (the “OIC”) issued a Notice of Suspension ordering Coordinated Care Corporation (“CCC”) to cease offering its Ambetter [ACA/Exchange] product on the Washington Health Benefits Exchange. The Notice stemmed from issues with CCC’s anesthesiologist network in certain counties. As a result of those issues, some Ambetter members were balance-billed by the anesthesiologist providers for services received. Those providers suggested that the affected members direct complaints to the OIC and included form complaint letters with the balance bills. That resulted in complaints to the OIC, which led the OIC to request additional information about Coordinated Care’s network. In the Notice of Suspension, the OIC alleged various deficiencies in Coordinated Care’s network. While Coordinated Care did not admit any liability, on December 15, 2017, Coordinated Care entered into a Consent Order with the OIC. Pursuant to that Consent Decree, Coordinated Care agreed to pay a \$500,000 fine (with an additional \$1,000,000 suspended) and to undergo a Corrective Action Plan (“CAP”) with the assistance of outside auditors. The purpose of the CAP is to ensure that CCC has an adequate network to serve its Washington members and proper policies and procedures in place to address any deficiencies that arise in its network. The auditors are working actively with CCC and progress is being made. The OIC recently levied \$100,000 of the suspended portion of the fine because certain deliverables under the CAP had not been received timely. Coordinated Care is working diligently with the auditors to remedy the timeliness issues and is confident that it will meet the requirements of the CAP by the deadline in the Consent Order.

***Linda Gilmer v. Centene Corporation, Centene Management Company, LLC and Coordinated Care Corporation, Case No. 17-2-07240-6***

Plaintiff Gilmer brought a claim in the Superior Court of Washington for Pierce County for a single cause of action of wrongful discharge in violation of public policy. The action is based in state common law. Ms. Gilmer claims that she engaged in protected activity by raising objections with her employer regarding allegedly improper business practices that she claims violated Washington and federal law. Specifically, Ms. Gilmer claims that she raised concerns about alleged improper denial of claims from a single provider as well as alleged improper reassigning of members from one provider to other providers in the network. Ms. Gilmer alleges that, in response to her raising these concerns, her employment was terminated in June 2015. The Centene entities deny Ms. Gilmer’s allegations and are defending the action vigorously. Ms. Gilmer did not raise any concerns qualifying for protection under Washington law, and her employment was terminated for unrelated reasons due to her violation of company policies and practices.

***Dorian Linnear et al v IlliniCare Health Plan, Inc. and Centene Management Company (Case No. 1:17-cv-07132), US District Court, ND IL***

Former contingent worker in Program Specialist role alleges misclassification of Program Specialist and Care Manager positions resulting in a failure to pay overtime and provide required breaks under FLSA and IL law. Case is plead as a collective FLSA action and class IL action.



***Joy Gudger et al v Centene Management Company and Sunshine Health (Case No. 2:17-cv-14281-JEM) US District Court, SD FL.***

Former employee claiming misclassification of Medical Necessity Specialist and Long Term Care Case Manager positions.

***Andrea Spears v Health Net of CA, Inc. and Thomas Arana v Health Net of CA, Inc. (Case No34-2017-00210560) Superior Court, Sacramento County, CA***

Plaintiffs alleges misclassification of Business Analysts position. Additional allegations include failure to properly calculate and pay overtime, failure to provide appropriate breaks, and other violations of CA wage and hour law.

***Tracie Holmes v. Kelly Services, Inc., Kelly Services, USA, Inc. & Health Net Federal Services, Inc. (Case No. 16-cv-13164 (U.S. District Court, ED MI)***

A temporary employee assigned to call center filed a putative collective action complaint under the Fair Labor Standards Act alleging she was not paid for pre- and post- shift work activities.

***Chapa v Centene of Texas and Superior Health Plan (Case # 7:16-cv-00608) US District Court, S.D. TX.***

Program Coordinator filed a collective action under the FLSA claiming that, as a non-exempt employee, she was expected to and did work before and after clocking in and out and was therefore not paid for all hours worked. Settlement agreement executed 5.1.18

***Hampton et al v Centene Management Company (Case # 16-cv-4693) US Distrcit Court, ND IL***

Class action under the FLSA and Illinois law brought by former customer service representative and a former temporary customer service representative claiming that, as non-exempt employees, they were not paid for all hours worked. Settlement reached and approved by the Court.

***Sampson v Health Net of CA, Inc., (Case No 34-2015-00183785), Superior Court, Sacramento County, CA***

Class action under CA wage and hour law alleging misclassification of employees in Business Analyst positions. Court approved settlement 2.7.18. Funds to be paid out by 5.10.18

***Rebecca Lehman & Heather Womick v. Health Net of California, Inc. and Health Net Life Insurance Company (Case No. BC567361), Superior Court, Los Angeles County, CA***

Class action suit alleging wrongful denial of certain pharmaceutical product.

***Denise Pellegrino v. Health Net of California, Inc., Health Net Life Insurance Company (Case No. BC6455837), Superior Court, Los Angeles County, CA***

Class action complaint alleging Health Net misrepresented scope of its physician network, maintained inadequate directories, and misstated scope of coverage.

## **EXHIBIT B**

FILING RECEIPT

=====

ENTITY NAME: NEW YORK QUALITY HEALTHCARE CORPORATION

DOCUMENT TYPE: AMENDMENT (DOMESTIC BUSINESS) COUNTY: QUEE  
COUNTY PURPOSES PROCESS NAME PROVISIONS RESTATED

=====

FILED:04/11/2018 DURATION:\*\*\*\*\* CASH#:180411000304 FILM #:180411000289

FILER:

-----  
GREENBERG, TRAURIG  
54 STATE STREET, 6TH FLOOR

ALBANY, NY 12207

ADDRESS FOR PROCESS:

-----  
NEW YORK QUALITY HEALTHCARE CORPORATION  
95-25 QUEENS BOULEVARD  
REGO PARK, NY 11374

REGISTERED AGENT:

-----



=====

SERVICE COMPANY: COLBY ATTORNEYS SERVICE COMPANY - 08

SERVICE CODE: 08

FEEs	370.00
-----	
FILING	60.00
TAX	0.00
CERT	0.00
COPIES	10.00
HANDLING	300.00

PAYMENTS	370.00
-----	
CASH	0.00
CHECK	0.00
CHARGE	0.00
DRAWDOWN	370.00
OPAL	0.00
REFUND	0.00

=====

DOS-1025 (04/2007)

FILING RECEIPT

=====

ENTITY NAME: NEW YORK QUALITY HEALTHCARE CORPORATION

DOCUMENT TYPE: AMENDMENT (DOMESTIC BUSINESS) COUNTY: QUEE  
COUNTY PURPOSES PROCESS NAME PROVISIONS RESTATED

=====

FILED:04/11/2018 DURATION:\*\*\*\*\* CASH#:180411000304 FILM #:180411000289

FILER:

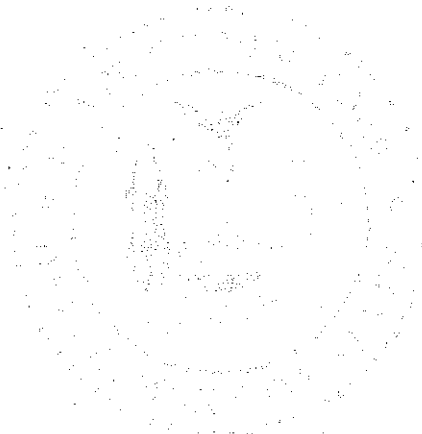
-----  
GREENBERG, TRAUIG  
54 STATE STREET, 6TH FLOOR

ALBANY, NY 12207

ADDRESS FOR PROCESS:

-----  
NEW YORK QUALITY HEALTHCARE CORPORATION  
95-25 QUEENS BOULEVARD  
REGO PARK, NY 11374

REGISTERED AGENT:



=====

SERVICE COMPANY: COLBY ATTORNEYS SERVICE COMPANY - 08

SERVICE CODE: 08

FEEs	370.00
-----	
FILING	60.00
TAX	0.00
CERT	0.00
COPIES	10.00
HANDLING	300.00

PAYMENTS	370.00
-----	
CASH	0.00
CHECK	0.00
CHARGE	0.00
DRAWDOWN	370.00
OPAL	0.00
REFUND	0.00

***STATE OF NEW YORK***

***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
April 11, 2018.

A handwritten signature in dark ink, appearing to read "B. Fitzgerald", with a long horizontal flourish extending to the right.

Brendan Fitzgerald  
Executive Deputy Secretary of State

**RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**OF**  
**CENTENE ACQUISITION CORPORATION**

Pursuant to Section 807 of the New York Business Corporation Law

**First:** The name of the Corporation is Centene Acquisition Corporation.

**Second:** The Certificate of Incorporation of the Corporation was filed by the New York Department of State on November 10, 2017.

**Third:** The Certificate of Incorporation of the Corporation shall be amended and restated as follows:

- a) To change the name of the Corporation from "Centene Acquisition Corporation" to "New York Quality Healthcare Corporation."
- b) To specify that the purposes for which the Corporation is formed includes (i) to maintain a special purpose certificate of authority pursuant to Section 4403-a of the Public Health Law to offer a comprehensive health services plan on a prepaid contractual basis, (ii) to carry on any or all of the activities of a prepaid health services plan including but not limited to, those activities set forth in Section 4405 of the Public Health Law, (iii) to carry out any or all of the activities of a prepaid health services plan, including, but not limited to, those activities set forth in Part 98 of Title 10 of the New York Codes, Rules and Regulations, (iv) to exercise all of the powers necessary to carry out the purposes set forth in the Certificate of Incorporation, including entering into contracts in furtherance of such purposes and all powers granted under New York Public Health Law and Regulations and (v) to engage in any lawful act or activity for which a corporation organized under the New York Business Corporation Law may engage, provided that it is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.
- c) To specify that the office of the Corporation is to be located in Queens County of New York, State of New York instead of County of New York, State of New York.
- d) To specify that the holders of Common Stock of the Corporation shall be entitled to (a) votes upon such matter in such manner as may be provided by law on all matters submitted to a vote at any meeting of shareholders and (b) receive the net assets of the Corporation upon dissolution.

- e) To remove the provisions of Article 4 of the Certificate of Incorporation relating to preemptive rights of holders of the Common Stock.
- f) To remove the provisions included for the management of the business and conduct of affairs of the Corporation and for definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders.
- g) To specify that the Corporation shall, subject to authorization from the Board of Directors, indemnify to the fullest extent permitted under New York law, all directors and officers of the Corporation from and against any expenses, liabilities or other matters as to action in his or her official capacity (such indemnification to continue as to a person who has ceased to be a director or officer and will inure to the benefit of the heirs, executors and administrators of such a person).
- h) To specify that the Corporation reserves the right to amend, or change or repeal any provisions contained in the Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders in the Certificate of Incorporation are subject to this reservation. Additionally, provisions in the Certificate of Incorporation may be amended, , changed or repealed by a resolution adopted by the Board of Directors and, if shareholder approval is required by the New York Business Corporation Law, the approval at a meeting of the shareholders of the Corporation by the affirmative vote of a majority of the votes entitled to be cast by each voting group entitled to vote on the matter, unless a greater vote is required.
- i) The address to which the Secretary of State shall mail process accepted upon of the corporation is amended.
- j) To amend Article Ninth of the Certificate of Incorporation to specify that the personal liability of shareholders is eliminated and to specify the conditions under which such personal liability shall not be eliminated.

**Fourth:** Each of the foregoing amendments were authorized by the unanimous written consent of the Board of Directors of the Corporation dated April 10, 2018 and approved at a meeting of the Shareholders of the Corporation by the required vote of the holders of shares entitled to vote thereon on April 10, 2018.

**Fifth:** In order to effect the changes set forth above, the text of the Certificate of Incorporation of the said Corporation is hereby amended and restated to read in its entirety as follows:

**"First:** The name of the Corporation is New York Quality Healthcare Corporation (hereinafter referred to as the "Corporation").

**Second:** The purposes for which the Corporation is formed are as follows:

- (a) To maintain a special purpose certificate of authority pursuant to Section 4403-a of the Public Health Law to offer a comprehensive health services plan on



a prepaid contractual basis either directly, or through an arrangement, agreement or plan or combination thereof to an enrolled population, which is substantially composed of persons eligible to receive benefits under title XIX of the federal social security act or other public programs; and

(b) To carry on any or all of the activities of a prepaid health services plan ("PHSP"), including but not limited to, those activities set forth in Section 4405 of the Public Health Law, as follows: (i) establishing, maintaining and operating facilities required for the Corporation's principal office or for such other purposes necessary in the transaction of business of the Corporation; (ii) providing comprehensive health care services on a prepaid basis through hospitals and other health care providers, which are under contract with, otherwise associated with, or employed by the Corporation; (iii) accepting from government agencies, private agencies, corporations, associations, groups, individuals or other persons, payments covering all or part of the costs of health care services provided to enrollees, in accordance with the provisions of the health services plan; (iv) marketing, enrolling and administering a comprehensive health services plan; (v) contracting with insurers licensed in the State of New York; (vi) offering, in addition to health care services, benefits covering out-of-area or emergency services; (vii) providing health services not included in the health care plan on a fee-for-services basis; (viii) indemnifying enrollees for the services of health care providers, other than primary care practitioners responsible for supervising and coordinating the care of enrollees, not participating in a plan to the extent authorized in Section 4406 of the Public Health Law; (ix) advertising the comprehensive health services and the plan relating to the rendition of such services in a factual and non-misleading manner; and (x) entering into contracts in furtherance of the purposes of Article 44 of the Public Health Law and

(c) To carry out any or all of the activities of a PHSP, including, but not limited to, those activities set forth in Part 98 of Title 10 of the New York Codes, Rules and Regulations, as follows: (i) to perform studies, feasibility surveys and planning with respect to the development and formation of a PHSP; and in conjunction, to accumulate, compile and analyze statistics and such other data that will promote the health, safety and welfare of the general public; and (ii) upon obtaining a certificate of authority from the New York State Department of Health, to own, operate and manage a PHSP, including providing or arranging for the provisions of comprehensive health services to an enrolled population and to have and exercise all powers necessary and convenient to effect any or all of the foregoing purposes for which the entity is formed, together with all the powers now or hereafter granted to it by the State of New York.

(d) To exercise all of the powers necessary to carry out the purposes set forth herein, including but not limited to, entering into contracts in furtherance of such purposes and all powers granted under New York Public Health Law and Regulations, as the same may be amended from time to time, and to do every other act or thing not inconsistent with said laws and regulations that may be appropriate to promote and attain the purposes set forth herein.

(e) To engage in any lawful act or activity for which a corporation organized under the New York Business Corporation Law may engage, provided that it is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

**Third:** The total number of shares of capital stock which the Corporation shall have the authority to issue is 100. Such shares shall have a par value of \$ 0.01. All such shares are of one class and are shares of common stock ("Common Stock"). The holders of Common Stock shall be entitled to (a) votes upon such matter in such manner as may be provided by law on all matters submitted to a vote at any meeting of shareholders and (b) receive the net assets of the Corporation upon dissolution.

**Fourth:** The Secretary of State is designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process accepted on behalf of the Corporation is:

New York Quality Healthcare Corporation  
95-25 Queens Boulevard  
Rego Park, New York 11374

**Fifth:** The name and address of the registered agent, which is to be the agent of the Corporation upon whom process against the Corporation may be served, is as follows:

CT Corporation System  
111 Eighth Avenue - 13th Floor  
New York, NY 10011

**Sixth:** The office of the Corporation is to be located in the County of Queens, State of New York.

**Seventh:** The name and address of the sole incorporator is as follows:

Michael J. Homison  
Skadden, Arps, Slate, Meagher & Flom LLP  
Four Times Square  
New York, New York 10036-6522

**Eighth:** The liability of the directors to the Corporation or any stockholder of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under New York Law. No such limitation of liability shall eliminate or limit the liability of any director if a judgment or other final adjudication adverse to the director establishes that the director's acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that the director personally gained in fact a financial profit or other advantage to which the director was not legally entitled or that the director's acts violated Section 719 of the New York Business Corporation Law, as amended.

**Ninth:** The Corporation shall indemnify to the fullest extent permitted from time to time under New York law, including, without limitation, the New York Business Corporation Law, as the same may be amended or supplemented, all directors and officers of the Corporation from and against any expenses, liabilities or other matters as to action in his or her official capacity while holding such office; and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person; provided, however, that the Corporation shall indemnify any such indemnitee in connection with a proceeding initiated by such indemnitee only if such proceeding was authorized by the Board of Directors of the Corporation. The modification or repeal of this paragraph shall not affect the indemnification of or advance of expenses to a director or officer for any liability stemming from any acts or omissions occurring prior to such modification or repeal.

The indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, and shall not be deemed to limit the ability of the Corporation to indemnify or advance expenses to any person pursuant to contract, any Bylaw, or a general or specific action of the Board of Directors consistent with applicable law.

**Tenth:** The Corporation reserves the right to amend, change or repeal any provisions contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation. Provisions in this Certificate of Incorporation may be amended, , changed or repealed by a resolution adopted by the Board of Directors and, if shareholder approval is required by the New York Business Corporation Law, the approval at a meeting of the shareholders of the Corporation by the affirmative vote of a majority of the votes entitled to be cast by each voting group entitled to vote on the matter, unless a greater vote is required."

IN WITNESS WHEREOF, Centene Acquisition Corporation has caused this Restated Certificate of Incorporation to be executed by Keith H. Williamson, its Secretary, this 10<sup>th</sup> day of April, 2018.

CENTENE ACQUISITION  
CORPORATION

By Keith H. Williamson

Name: Keith H. Williamson

Title: Secretary

CERTIFICATE OF RESERVATION

=====

ENTITY NAME: NEW YORK QUALITY HEALTHCARE CORPORATION

DOCUMENT TYPE: RESERVATION (DOM. BUSINESS)

=====

FILED:03/06/2018 DURATION:05/07/2018 CASH#:180306000806 FILM #:180306000758

FILER:

-----

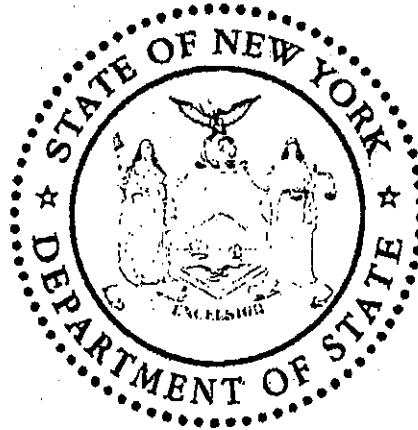
NEW YORK QUALITY HEALTHCARE CORP.  
C/O TRACY BAKER; SKADDEN ET AL LLP  
ONE RODNEY SQUARE, 4TH FLOOR  
WILMINGTON, DE 19801

ADDRESS FOR PROCESS:

-----

REGISTERED AGENT:

-----



\*\* SUBMIT RECEIPT WHEN FILING CERTIFICATE \*\*

APPLICANT NAME : TRACY BAKER

=====

SERVICE COMPANY: C T CORPORATION SYSTEM - 07

SERVICE CODE: 07

FEES . 45.00

-----

FILING 20.00  
TAX 0.00  
CERT 0.00  
COPIES 0.00  
HANDLING 25.00

PAYMENTS 45.00

-----

CASH 0.00  
CHECK 0.00  
CHARGE 0.00  
DRAWDOWN 45.00  
OPAL 0.00  
REFUND 0.00

=====

1846410CS

DOS-1025 (04/2007)



ANDREW M. CUOMO  
Governor

## Department of Health

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

CONSENT

TO FILING

RESTATED

### CERTIFICATE OF INCORPORATION

BY THE

COMMISSIONER

I, Jonathan P. Bick, Director, Division of Health Plan Contracting & Oversight,  
as the Commissioner's designee with authority to approve certificates of  
incorporation of health maintenance organizations, do this 10<sup>th</sup> day of April,  
2018, consent to the filing with the Secretary of State of the Restated Certificate of  
Incorporation of Centene Acquisition Corporation, as executed on the 10th day of  
April, 2018, pursuant to Section 807 of the New York Business Corporation Law and  
Section 4402(2)(a) of the Public Health Law and Section 98-1.5 of Title 10 of the  
Official Compilation Codes, Rules and Regulations of the State of New York.

A handwritten signature in cursive script, reading "Jonathan P. Bick", written over a horizontal line.

Jonathan P. Bick, Director,  
Division of Health Plan Contracting &  
Oversight

289

FILED  
2018 APR 11 AM 11:12

RESTATED  
CERTIFICATE OF INCORPORATION

OF

CENTENE ACQUISITION CORPORATION

RECEIVED  
2018 APR 11 AM 11:01

*Under Section 807 of the Business Corporation Law*

1 CC  
STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED APR 11 2018

TAX \$

BY:

KVA

GT

Filed By:  
Greenberg, Traurig  
14 State Street, 6th Floor  
Albany

NY 12207

DRAWDOWN

D.C. -08

☐ ROUTINE

☐ 24 HOUR

☐ SAME DAY

☒ 2 HOUR

304

## **EXHIBIT C**



**AMENDED AND RESTATED BYLAWS**  
**OF**  
**NEW YORK QUALITY HEALTHCARE CORPORATION**  
**(as amended on April 4, 2018)**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 OFFICES AND RECORDS .....	1
1.1 Registered Office and Resident Agent.....	1
1.2 Other Corporate Offices.....	1
1.3 Books, Accounts and Records, and Inspection Rights .....	1
ARTICLE 2 MEETINGS OF STOCKHOLDERS.....	1
2.1 Place of Meetings.....	1
2.2 Annual Meetings.....	1
2.3 Special Meetings.....	1
2.4 Action Without a Meeting .....	2
2.5 Notice.....	3
2.6 Waiver of Notice.....	3
ARTICLE 3 QUORUM AND VOTING OF STOCK.....	3
3.1 Quorum .....	3
3.2 Proxies.....	4
3.3 Voting .....	4
3.4 Stock Ledger; Voting Rights of Fiduciaries, Pledgors and Joint Owners of Stock .....	4
3.5 Stockholders' Lists.....	5
3.6 Fixing of Date for Determination of Stockholders of Record .....	5
ARTICLE 4 BOARD OF DIRECTORS .....	6
4.1 Number, Qualification; Term.....	6
4.2 Powers of the Board.....	6
4.3 Acceptance of Director .....	6
4.4 Meetings; Notice.....	6
4.5 Quorum; Voting Requirements.....	7
4.6 Vacancies and Newly Created Directorships.....	7
4.7 Committees .....	8
4.8 Compensation .....	9
4.9 Resignations.....	9
4.10 Reliance on Records .....	9
4.11 Removal of Directors by Stockholders .....	9
ARTICLE 5 OFFICERS .....	9
5.1 Designations.....	9
5.2 Term of Office .....	10

5.3	Other Agents .....	10
5.4	Removal .....	10
5.5	Delegation of Authority to Hire, Discharge and Designate Duties .....	10
5.6	Chairman of the Board.....	10
5.7	President.....	10
5.8	Vice Presidents.....	11
5.9	Secretary and Assistant Secretaries .....	11
5.10	Treasurer and Assistant Treasurers .....	12
5.11	Duties of Officers May Be Delegated.....	12
ARTICLE 6 STOCK.....		13
6.1	Certificates Representing Shares .....	13
6.2	Transfers of Stock .....	13
6.3	Record Date .....	13
6.4	Regulations .....	14
6.5	Lost Certificates .....	14
ARTICLE 7 CORPORATE FINANCE .....		15
7.1	Dividends; Redemption .....	15
7.2	Depositories; Checks .....	15
ARTICLE 8 GENERAL PROVISIONS .....		15
8.1	Fiscal Year .....	15
8.2	Corporate Seal.....	15
8.3	Contracts .....	15
8.4	Amendments .....	15

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**NEW YORK QUALITY HEALTHCARE CORPORATION**

**ARTICLE 1**

**OFFICES AND RECORDS**

1.1 Registered Office and Resident Agent. The location of the registered office and the name of the resident agent of New York Quality Healthcare Corporation, a New York prepaid health services plan (the "Corporation"), in the State of New York will be as stated in the Certificate of Incorporation of the Corporation, as amended from time to time (the "Certificate"), or as may be determined from time to time by resolution of the Board of Directors of the Corporation (the "Board") and on file in the appropriate public offices of the State of New York as provided by law.

1.2 Other Corporate Offices. The Corporation may conduct its business, carry on its operations, have other offices and exercise its powers within or outside of the State of New York as the Board may designate or the business of the Corporation may require.

1.3 Books, Accounts and Records, and Inspection Rights. The books, accounts and records of the Corporation, except as may be otherwise required by the laws of the State of New York, may be kept outside of the State of New York, at such place(s) as the Board may from time to time determine. Except as otherwise provided by law, the Board will determine whether, to what extent, and the conditions upon which the books, accounts and records of the Corporation will be open to the inspection of the stockholders of the Corporation.

**ARTICLE 2**

**MEETINGS OF STOCKHOLDERS**

2.1 Place of Meetings. All meetings of the stockholders will be held at the offices of the Corporation in Queens County, State of New York, or at such other place either within or without the State of New York as may be designated from time to time by the Board and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

2.2 Annual Meetings. Unless directors are elected by written consent in lieu of an annual meeting as provided in these Bylaws, an annual meeting of the stockholders will be held within the second quarter of each fiscal year at a time and place specified by the Board. At the annual meeting, the stockholders entitled to vote will elect directors and may also transact such other business as may be desired, whether or not the same was specified in the notice of the meeting, unless the consideration of such other business without its having been specified in the notice of the meeting as one of the purposes thereof is prohibited by law.

2.3 Special Meetings.

(a) Purpose. Special meetings of the stockholders may be held for any purpose(s) stated in the notice of the meeting, unless otherwise prohibited by law or by the Certificate. The business transacted at the special meeting will be confined to the purpose(s) stated in the notice, unless the transaction of other business is consented to by the holders of all of the outstanding shares of stock of the Corporation entitled to vote at the special meeting. The "call" and the "notice" of any such meeting will be deemed to be synonymous.

(b) Who May Call. A special meeting of the stockholders may be called by the Board, by the Chairman of the Board, by the President, by the Secretary, by such other persons as may be authorized in the Certificate, or by the holders of, or by any officer or stockholder upon the written request of the holders of, not less than ten percent (10%) of the outstanding shares of stock of the Corporation entitled to vote at such meeting.

#### 2.4 Action Without a Meeting.

(a) Unanimous Consent. Unless otherwise provided in the Certificate or these Bylaws, any action required to be taken or any action that may be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, are signed by all the holders of outstanding shares of stock entitled to vote, and such consent or consents are delivered, by return receipt or by hand, to the Corporation, its registered agent, or to an officer or agent of the Corporation and filed with the minutes of proceedings of the stockholders.

(b) Election of Directors May Be Non-Unanimous. Notwithstanding Section 2.4(a), unless the Certificate otherwise provides, Stockholders may act by written consent to elect directors; except that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

(c) Dates of Signatures. Every written consent will bear the date of signature of each stockholder who signs such consent or consents. No written consent will be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in compliance with Section 2.4(a), written consent(s) signed by a sufficient number of stockholders to take such action are delivered to the Corporation, its registered agent, or to an officer or agent of the Corporation.

(d) Electronic Transmissions. A telegram, cablegram, or other electronic transmission consenting to an action to be taken and transmitted by a stockholder, proxy holder, or by a person or persons authorized to act for the stockholder or proxy holder, will be deemed to be written, signed and dated for purposes of this Section 2.4 provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder. The date on which the electronic transmission is transmitted will be deemed to be the date on which such consent or consents were signed, provided, however, that no electronic transmission will be deemed delivered until such transmission is reproduced in paper form and delivered in the manner provided in Section 2.4(a).

2.5 Notice. Written notice of each meeting of the stockholders, whether annual or special, which will state the place, if any, date and hour of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose(s) thereof, will be given to each stockholder entitled to vote at such meeting, either personally or by mail, not less than ten (10) days nor more than sixty (60) days before the date of the meeting. If mailed, such notice will be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at the stockholder's address as it appears on the records of the Corporation, unless he/she shall have previously filed with the Secretary of the Corporation a written request that notices intended for him/her be mailed to some other address, in which case, it shall be mailed to the address designated in such request. Notice of any meeting need not be given to any person who may become a stockholder of record after the mailing of such notice and prior to the meeting, or to any shareholder who attends such meeting, in person or by proxy, or to any shareholder who, in person or by proxy, submits a signed waiver of notice either before or after such meeting. Notice of any adjourned meeting of stockholders need not be given, unless otherwise required by law.

2.6 Waiver of Notice. Whenever any notice is required to be given to any stockholder under any law, the Certificate or these Bylaws, a written waiver, signed by the person entitled to such notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, will be deemed equivalent to the giving of such notice. Attendance by a stockholder at a meeting will constitute a waiver of notice of such meeting, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, 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 stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate or these Bylaws.

### ARTICLE 3

#### QUORUM AND VOTING OF STOCK

3.1 Quorum. The holders of a majority of the shares of stock of the Corporation entitled to vote, present in person or represented by proxy, will constitute a quorum (a "Quorum") at all meetings of the stockholders for the transaction of any business, except as otherwise provided by law, the Certificate or these Bylaws.

If a Quorum is not present at a meeting of the stockholders, the holders of a majority of the stock present in person or represented by proxy at such meeting will have the power successively to adjourn the meeting from time to time to a specified time and place, without notice to anyone other than an announcement at the meeting at which such adjournment is taken, until a Quorum is present. At such adjourned meeting at which a Quorum is present, any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after adjournment a new record date is fixed for the subsequent session of the adjourned meeting, a notice of the subsequent session of the adjourned meeting will be given to each stockholder entitled to vote at the meeting.

3.2 Proxies. Each stockholder entitled to a vote at a meeting of stockholders, or to express consent or dissent to corporate action in writing without a meeting, may authorize another person or persons to act for such stockholder by written proxy signed by such stockholder, but no such proxy will be voted or acted upon after three (3) years from its date, unless such proxy provides for a longer period.

3.3 Voting.

(a) One Vote Per Share. Unless otherwise provided in the Certificate, each stockholder entitled to vote will be entitled to one (1) vote for each share of stock held and registered in such stockholder's name on the books of the Corporation. If the Certificate provide for more or less than one (1) vote for any share on any matter, then every reference in these Bylaws to a vote by a majority or other proportion of stock will refer to such majority or other proportion of the votes of such stock on such matters as provided in the Certificate.

(b) Shares Held by the Corporation. No person may vote any shares of Corporation stock that at that time belong to the Corporation, or that at that time belong to an entity controlled by the Corporation.

(c) Voting Otherwise Than by Written Ballot. At all meetings of stockholders, the voting may be otherwise than by written ballot, except (i) that any stockholder entitled to vote may request a vote by written ballot on any matter, and (ii) if the Certificate does not permit the election of directors other than by written ballot, then in either such case the applicable vote will be by written ballot. If authorized by the Board, such requirement of a written ballot will be satisfied by a ballot submitted by electronic transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

(d) Stockholder Action. In all matters other than the election of directors, the affirmative vote of the holders of a majority of the shares of stock of the Corporation who are present in person or represented by proxy at a meeting at which a Quorum is present and who are entitled to vote on the subject matter will be the valid corporate act of the stockholders, except in those specific instances in which a larger vote is required by law, the Certificate or these Bylaws.

(e) Voting for Directors. Directors will be elected by a plurality of the shares present in person or by proxy at a meeting at which a Quorum is present and entitled to vote on the election of directors. Cumulative voting will be permitted in the election of directors.

3.4 Stock Ledger; Voting Rights of Fiduciaries, Pledgors and Joint Owners of Stock.

(a) Stock Ledger. The stock ledger will be prima facie evidence as to who are the stockholders entitled to examine the list required by Section 3.5 below, or to vote in person or by proxy at any meeting of the stockholders. Only stockholders whose names are registered in the stock ledger will be entitled to be treated by the Corporation as the holders and owners in fact of the shares standing in their respective names, and the Corporation will not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other

person, whether or not the Corporation has express or other notice thereof, except as expressly provided by the laws of the State of New York.

(b) Voting Rights of Fiduciaries and Pledgors. Persons holding stock in a fiduciary capacity will be entitled to vote the shares so held. Persons whose stock is pledged will be entitled to vote, unless in the transfer by the pledgor on the books of the Corporation the pledgor has expressly empowered the pledgee to vote thereon, in which case only the pledgee, or the pledgee's proxy, may represent such stock and vote thereon.

(c) Voting Rights of Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two (2) or more persons, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, or as otherwise provided by the laws of the State of New York, their acts with respect to voting will have the following effect: (i) if only one votes, the act binds all; (ii) if more than one vote, the act of the majority so voting binds all; (iii) if more than one vote, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally. If the instrument so filed shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of this subsection will be a majority or even-split in interest rather than in number.

3.5 Stockholders' Lists. The Secretary or an Assistant Secretary, who has charge of the stock ledger of the Corporation, will prepare and make, at least ten (10) days before every meeting of the stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list will be open to the examination of any stockholder entitled to vote at such meeting, for any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided in the notice of the meeting, or (b) during ordinary business hours at the Corporation's principal place of business. Such list will also be produced and kept at the place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by remote communication, such list will be open to the examination of any stockholder during the whole time of the meeting by reasonably accessible electronic network. Failure to comply with this Section 3.5 will not affect the validity of any action taken at such meeting.

3.6 Fixing of Date for Determination of Stockholders of Record. The Board may, by resolution, fix in advance a date as the record date for the purpose of determining stockholders entitled to notice of, or to vote at, any meeting of stockholders or any adjournment/postponement thereof, or stockholders entitled to receive payment of any dividend or the allotment of any rights, or in order to make a determination of stockholders for any other purposes (other than determining stockholders entitled to consent to action by stockholders proposed to be taken without a meeting of stockholders). Such date, in any case, will not be more than sixty (60) days and not less than ten (10) days prior to the date on which the particular action requiring such determination of stockholders is to be taken. If no record date is fixed for the determination of



stockholders entitled to notice of or to vote at a meeting of stockholders, or stockholders entitled to receive payment of a dividend, such date will be at the close of business on the day on which notice of the meeting is mailed or the date on which the resolution of the Board declaring such dividend is adopted, as the case may be, and will be the record date for such determination of stockholders. When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this Section 3.6, such determination will apply to any adjournment/postponement thereof except where the determination has been made through the closing of the stock transfer records and the stated period of closing has expired.

## ARTICLE 4

### BOARD OF DIRECTORS

4.1 Number, Qualification; Term. Unless and until changed by the Board as hereinafter provided, the number of directors to constitute the Board will be not less than three (3) and not more than nine (9) members. One-third of the directors shall be residents of the State of New York. Twenty percent (20%) of the Directors shall be enrollees of the health plan, or, as an alternative, the Corporation will establish an enrollee advisory council which is representative of the interests of the enrollees and which has direct input to the Board. The precise number of directors shall be fixed by resolution of the stockholders from time to time. The directors shall be elected at the annual meeting of the stockholders by a plurality of the votes cast by the shares represented in person or by proxy. Directors need not be stockholders.

4.2 Powers of the Board. The business and affairs of the Corporation will be managed by and under the direction of the Board. In addition to the powers and authorities by these Bylaws and the Certificate expressly conferred upon it, the Board may exercise all such powers of the Corporation, and do all such lawful acts and things, as are not by statute or by the Certificate or by these Bylaws directed or required to be exercised or done by the stockholders.

4.3 Acceptance of Director. Each director, upon election, will qualify by accepting the office of director, and such director's attendance at, or written approval of the minutes of, any meeting of the Board subsequent to the director's election will constitute acceptance of such office by such director; or the director may accept the office of director by executing a separate written acceptance, which will be placed in the minute book.

4.4 Meetings; Notice. Except as otherwise provided below, the Board may hold its meetings within or outside the State of New York.

(a) Annual Meeting. The first meeting of each newly elected Board will be held (i) immediately following and at the same place as the annual meeting of the stockholders at which such Board was elected, and no notice of such meeting will be necessary, provided a quorum is present, (ii) at such time and place as consented to in writing by all of the newly elected directors, or (iii) upon notice of such meeting as provided for in Section 4.4(c) hereof, except that such notice need not state the purpose(s) of the meeting.

(b) Regular Meetings. Regular meetings of the Board may be held without notice at such times and places as adopted by written consent of all directors, and shall be held

no less than four times annually, once each quarter. Any business may be transacted at any regular meeting.

(c) Special Meetings. Special meetings of the Board may be called by the Chairman of the Board, the President, or the Secretary. Special meetings will be held at the place, day and hour specified in the written notice of the meeting which notice will also state the purpose(s) thereof. Such notice will be mailed to each director at the director's residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or sent to the director by confirmed facsimile transmission, confirmed electronic mail or delivered personally to the director, at least two (2) days before the day on which the meeting is to be held. If mailed, such notice will be deemed to be delivered when it is deposited in the United States mail with postage thereon addressed to the director at his residence or usual place of business. If given by facsimile transmission or electronic mail, such notice will be deemed delivered when received. The notice may be given by any person having authority to call the meeting. "Notice" and "call" with respect to such meetings will be deemed to be synonymous.

(d) Waiver of Notice. Whenever any notice is required to be given to any director under any law, the Certificate or these Bylaws, a written waiver thereof, signed by the director entitled to such notice, whether before or after the time stated therein, will be deemed equivalent to notice. Attendance by a director at a meeting will constitute a waiver of notice of such meeting, except when the director attends a meeting for the express purpose of objecting, at the beginning of the meeting, 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 directors need be specified in any written waiver of notice unless so required by the Certificate or these Bylaws.

(e) Meetings by Conference Telephone or Similar Communications Equipment. Unless otherwise restricted by the Certificate or these Bylaws, the directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in such manner will constitute presence in person at such meeting.

(f) Action Without a Meeting. Unless otherwise restricted by the Certificate or these Bylaws, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Any such consent will be filed with the minutes of proceedings of the Board.

4.5 Quorum; Voting Requirements. Unless a greater number is required by the Certificate or these Bylaws, a majority of the total number of directors will constitute a quorum for the transaction of business and the vote of the majority of the directors present at a meeting at which a quorum is present will be the valid corporate act of the Board.

4.6 Vacancies and Newly Created Directorships. Unless otherwise provided in the Certificate or these Bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors to constitute the Board may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and

the directors so chosen will hold office until the next annual election of directors by the stockholders at which such director's successor is duly elected and qualified, or until such director's earlier resignation or removal. If, at any time, by reason of death, resignation or other cause, the Corporation should have no directors in office, then any receiver, officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate or these Bylaws, or as otherwise provided by law for such election.

#### 4.7 Committees.

(a) Designation. The Board may designate one (1) or more committees of the Board. Each committee will consist of one (1) or more designated directors.

(b) Absence; Disqualification. The Board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the members present at any meeting and not disqualified from voting, whether or not such members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

(c) Powers; Limitation. Any such committee, to the extent provided in the resolution of the Board or in these Bylaws, will have and may exercise all of the powers and authority of the Board in the management of the business and affairs of the Corporation; but no such committee will have the power or authority of the Board with respect to (i) approving or adopting, or recommending to the stockholders of the Corporation, any action or matter expressly required by the laws of the State of New York to be submitted to stockholders for approval; or (ii) adopting, amending or repealing these Bylaws.

(d) Recordkeeping. All committees so appointed will, unless otherwise provided by the Board, keep regular minutes of the transactions at their meetings and will cause them to be recorded in books kept for that purpose in the office of the Corporation and will report the same to the Board at its next meeting. The Secretary or an Assistant Secretary of the Corporation may act as Secretary of the committee if the committee or the Board so requests.

(e) Meetings By Conference Telephone or Similar Communications Equipment. Unless otherwise restricted by the Certificate or these Bylaws, members of any committee designated by the Board may participate in a meeting of such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other; and participation in a meeting in such manner will constitute presence in person at such meeting.

(f) Committee Action Without a Meeting. Unless otherwise restricted by the Certificate or these Bylaws, any action required or permitted to be taken at any meeting of a committee may be taken without a meeting if all members of such committee consent thereto in writing or by electronic transmission. Any such writing or electronic transmission will be filed with the minutes of proceedings of such committee.

4.8 Compensation. Unless otherwise restricted by the Certificate or these Bylaws, the Board will have the authority to fix the compensation, if any, of the directors for serving as directors of the Corporation and may, by resolution, fix a sum that will be allowed and paid for attendance at each meeting of the Board and may provide for reimbursement of expenses incurred by directors in attending each meeting; provided that nothing herein contained will be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of committees may be allowed similar compensation for attending committee meetings.

4.9 Resignations. Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation. Such resignation will take effect at the time specified therein or will take effect upon receipt thereof by the Corporation if no time is specified therein, and, unless otherwise specified therein, the acceptance of such resignation will not be necessary to make it effective.

4.10 Reliance on Records. A director, or a member of any committee designated by the Board, will be fully protected in the performance of such director's or committee member's duties in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees of the Board, or by any other person as to matters such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

4.11 Removal of Directors by Stockholders. The stockholders may, by a vote of the holders of a majority of the outstanding shares then entitled to vote, to remove any director or directors from office with or without cause.

## ARTICLE 5

### OFFICERS

#### 5.1 Designations.

(a) Authorized Officers. The Corporation will have a President, a Secretary and a Treasurer and may also have the following officers: a Chairman of the Board, one or more Vice Presidents, a Treasurer, one or more Assistant Secretaries and one or more Assistant Treasurers, each with such duties as are stated in this Article 5 or by resolution of the Board which is not inconsistent with these Bylaws. The Board will elect a President and a Secretary at its annual meeting. The Board then, or from time to time, may elect one or more of the other officers as it may deem advisable, and may further identify or describe the duties of any one or more of the officers of the Corporation.

(b) Qualification of Officers. Officers of the Corporation need not be members of the Board. Any number of offices may be held by the same person.

(c) Acceptance of Office. An officer will be deemed qualified when the officer enters upon the duties of the office to which the officer has been elected or appointed and

furnishes any bond required by the Board; but the Board may also require a written acceptance and promise to faithfully discharge the duties of such office.

(d) Failure to Elect Officers. A failure to elect the Corporation's officers in accordance with these Bylaws will not dissolve or otherwise affect the Corporation.

5.2 Term of Office. Each officer will hold office at the pleasure of the Board or for such other period as the Board may specify at the time of such officer's election or appointment, or until the death, resignation or removal of such officer, whichever first occurs. In any event, each officer of the Corporation who is not reelected or reappointed at the annual election of officers by the Board next succeeding his or her election or appointment will be deemed to have been removed by the Board, unless the Board provides otherwise at the time of such officer's election or appointment.

5.3 Other Agents. The Board from time to time may also appoint such other agents for the Corporation as the Board may deem necessary or advisable. Each such agent will serve at the pleasure of the Board or for such period as the Board may specify, and will exercise such powers, have such titles and perform such duties as may be determined from time to time by the Board or by an officer empowered by these Bylaws or the Board to make such determinations.

5.4 Removal. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in the Board's judgment the best interests of the Corporation would be served thereby, but such removal will be without prejudice to the contract rights, if any, of the person so removed.

5.5 Delegation of Authority to Hire, Discharge and Designate Duties. The Board from time to time may delegate to the Chairman of the Board, the President or other officer or executive employee of the Corporation, authority to hire and discharge and to fix and modify the duties and salary or other compensation of employees of the Corporation under the jurisdiction of such person, and the Board may delegate to such officer or executive employee similar authority with respect to obtaining and retaining for the Corporation the services of attorneys, accountants and other professionals and experts.

5.6 Chairman of the Board. If a Chairman of the Board is elected, the Chairman of the Board will preside at all meetings of the stockholders and directors at which he or she may be present and will have such other duties, powers and authority as may be prescribed elsewhere in these Bylaws. The Board may delegate such other authority and assign such additional duties to the Chairman of the Board, other than those conferred by law exclusively upon the President or another officer, as the Board may from time to time determine, and, to the extent permissible by law, the Board may designate the Chairman of the Board as the chief executive officer of the Corporation with all of the powers otherwise conferred upon the President of the Corporation under Section 5.7 below, or it may, from time to time, divide the responsibilities, duties and authority for the general control and management of the Corporation's business and affairs between the Chairman of the Board and the President.

5.7 President.

(a) Duties. Unless the Board otherwise provides, the President will be the chief executive officer of the Corporation with such general executive powers and duties of supervision and management as are usually vested in the office of the chief executive officer of a corporation, and the President will carry into effect all directions and resolutions of the Board. The President, in the absence of the Chairman of the Board or if there is no Chairman of the Board, will preside at all meetings of the stockholders and directors.

(b) Execute Documents. The President may execute all bonds, notes, debentures, mortgages and other instruments for and in the name of the Corporation, and may execute all other instruments and documents for and in the name of the Corporation.

(c) Vote Securities. Unless the Board otherwise provides, the President, or any person designated in writing by the President, will have full power and authority on behalf of the Corporation to (i) attend and to vote or take action at any meeting of the holders of securities of corporations or other entities in which the Corporation may hold securities, and at such meetings will possess and may exercise any and all rights and powers incident to being a holder of such securities, and (ii) execute and deliver waivers of notice and proxies for and in the name of the Corporation with respect to any securities held by the Corporation.

(d) Member of Committees. The President will, unless the Board otherwise provides, be ex officio a member of all standing committees.

(e) Other Duties. The President will have such other or further duties and authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board.

(f) Absence of Chairman. If a Chairman of the Board is elected or appointed and designated as the chief executive officer of the Corporation, as provided above, the President will perform such duties as may be specifically delegated to the President by the Board or are conferred by law exclusively upon the President, and in the absence or disability of the Chairman of the Board or in the event of the Chairman's inability or refusal to act, the President will perform the duties and exercise the powers of the Chairman of the Board.

5.8 Vice Presidents. In the absence or disability of the President or in the event of the President's inability or refusal to act, any Vice President may perform the duties and exercise the powers of the President until the Board otherwise provides. Vice Presidents will perform such other duties and have such other authority as the Board may from time to time prescribe.

#### 5.9 Secretary and Assistant Secretaries.

(a) Keep Minutes. The Secretary will attend meetings of the Board and the stockholders and will record the minutes of such meetings in a book to be kept for that purpose. The Secretary will perform similar duties for each standing or temporary committee when requested by the Board or such committee.

(b) Duties. The Secretary will have the general duties, powers and responsibilities of a secretary of a corporation and will perform such other duties and have such other responsibility and authority as may be prescribed elsewhere in these Bylaws or from time

to time by the Board or the chief executive officer of the Corporation, under whose direct supervision the Secretary will be.

(c) Absence of Secretary. In the absence or disability of the Secretary or in the event of the inability or refusal of the Secretary to act, any Assistant Secretary or other elected officer may perform the duties and exercise the powers of the Secretary until the Board otherwise provides. Assistant Secretaries will perform such other duties and have such other authority as the Board may from time to time prescribe.

#### 5.10 Treasurer and Assistant Treasurers.

(a) Safekeeping of Funds. The Treasurer will have responsibility for the safekeeping of the funds and securities of the Corporation, will keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Corporation and will keep or cause to be kept all other books of account and accounting records of the Corporation. The Treasurer will deposit or cause to be deposited all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board or by any officer of the Corporation to whom such authority has been granted by the Board.

(b) Disbursal of Funds. The Treasurer will disburse, or permit to be disbursed, the funds of the Corporation as may be ordered, or authorized generally, by the Board, and will render to the chief executive officer of the Corporation and the directors, whenever they may require, an account of all such transactions as Treasurer, and of those under the Treasurer's jurisdiction, and of the financial condition of the Corporation.

(c) Chief Financial Officer: Other Duties. The Treasurer will have the general duties, powers, responsibilities and authorities of a treasurer of a corporation and will, unless otherwise provided by the Board, be the chief financial and accounting officer of the Corporation. The Treasurer will perform such other duties and will have such other responsibility and authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board.

(d) Bond. If required by the Board, the Treasurer will give the Corporation a bond in a sum and with one or more sureties satisfactory to the Board for the faithful performance of the duties of the Treasurer and for the restoration to the Corporation, in the case of such Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in the such Treasurer's possession or under his control that belongs to the Corporation.

(e) Absence of Treasurer. In the absence or disability of the Treasurer or in the event of the Treasurer's inability or refusal to act, any Assistant Treasurer or other elected officer may perform the duties and exercise the powers of the Treasurer until the Board otherwise provides. Assistant Treasurers will perform such other duties and have such other authority as the Board may from time to time prescribe.

5.11 Duties of Officers May Be Delegated. If any officer of the Corporation is absent or unable to act, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, some or all of the functions, duties, powers and responsibilities of

any officer to any other officer, or to any other agent or employee of the Corporation or other responsible person.

## ARTICLE 6

### STOCK

6.1 Certificates Representing Shares. Each stockholder will be entitled to receive a certificate, signed by the Chairman of the Board or the President or a Vice President, and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Corporation, representing the number of shares owned by such stockholder and registered in the stockholder's name. Such certificates will be issued in numerical order. To the extent permitted by law, any or all of the signatures on the certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate ceases to be such officer, transfer agent or registrar before such certificate is issued, such certificate may nevertheless be issued by the Corporation with the same effect as if such officer, transfer agent or registrar who signed such certificate, or whose facsimile signature was placed thereon, were such officer, transfer agent or registrar of the Corporation at the date of issue. The Corporation will not have the power to issue a certificate in bearer form.

6.2 Transfers of Stock. Transfers of stock will be made only upon the stock transfer books of the Corporation, and before a new certificate is issued the old certificate will be surrendered for cancellation, subject to the provisions of Section 6.5 below. Until and unless the Board appoints some other person, firm or corporation as its transfer agent (and upon the revocation of any such appointment, thereafter until a new appointment is similarly made), the Secretary of the Corporation will be the transfer agent of the Corporation without the necessity of any formal action of the Board, and the Secretary, or any person designated by the Secretary, will perform all of the duties of such transfer agent.

6.3 Record Date.

(a) Stockholders' Meetings. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of the stockholders or any adjournment thereof, the Board may fix a record date, which record date will not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date may not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders will be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders entitled to notice of or to vote at a meeting of stockholders will apply to any adjournment of the meeting except that the Board may fix a new record date for the adjourned meeting.

(b) Stockholders' Action Without a Meeting. In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board may fix a record date which record date may not precede the date upon which the resolution fixing the record date is adopted by the Board, which date may not be more than



ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board, and which date will be effective for no more than sixty (60) days after such record date. If no record date has been fixed by the Board, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is required by any statute, the Certificate or these Bylaws, will be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in the State of New York, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded, and which date will be effective for sixty (60) days after such record date. Delivery made to the Corporation's registered office may be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board and prior action by the Board is required by any statute, the Certificate or these Bylaws, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting will be at the close of business on the day on which the Board adopts the resolution taking such prior action, and such date will be effective for sixty (60) days after such record date.

(c) Dividends and Other Distributions. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date may not precede the date upon which the resolution fixing the record date is adopted, and which record date may not be more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose will be at the close of business on the day on which the Board adopts the resolution relating thereto.

6.4 Regulations. The Board will have power and authority to make all such rules and regulations as it may deem expedient concerning the issue, transfer, conversion and registration of certificates for shares of stock of the Corporation, not inconsistent with the laws of the State of New York, the Certificate or these Bylaws.

6.5 Lost Certificates. The Board may direct that a new certificate or certificates of stock or uncertificated shares be issued in place of any certificate or certificates theretofore issued by the Corporation, alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate or certificates to be lost, stolen or destroyed. When authorizing the issue of such replacement certificate or certificates of stock or uncertificated shares, the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such allegedly lost, stolen or destroyed certificate or certificates, or such owner's legal representative, to give the Corporation a bond as the Board may direct sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of the certificate or certificates or the issuance of such new certificate or certificates or uncertificated shares.

## ARTICLE 7

### CORPORATE FINANCE

7.1 Dividends; Redemption. Subject to the Certificate and limitations imposed by the laws of the State of New York, the Board may declare and pay dividends upon the outstanding shares of stock of the Corporation at any meeting, which dividends may be paid in cash, in property or in shares of the Corporation's capital stock, and may cause the Corporation to purchase or redeem any of its outstanding shares of stock. A director or a member of any committee designated by the Board will be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board, or by any other person as to matters the director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation, as to the value and amount of the assets, liabilities or net profits, of the Corporation, or both, or any other facts pertinent to the existence and amount of net profits, surplus or other funds from which dividends may properly be declared and paid, or with which the Corporation's stock may properly be purchased or redeemed.

7.2 Depositories; Checks. The moneys of the Corporation will be deposited in the name of the Corporation in such bank or banks or other depositories as the Board may designate, and all checks or instruments for the payment of money will be signed by persons designated by resolution adopted by the Board. Notwithstanding the foregoing, the Board by resolution may authorize an officer or officers of the Corporation to designate any bank or banks or other depositories in which moneys of the Corporation may be deposited, and to designate the persons who may sign checks or drafts on any particular account or accounts of the Corporation, whether created by direct designation of the Board or by an authorized officer or officers as aforesaid.

## ARTICLE 8

### GENERAL PROVISIONS

8.1 Fiscal Year. The fiscal year of the Corporation shall begin on the 1<sup>st</sup> day of January and end on the 31<sup>st</sup> day of December in each year.

8.2 Corporate Seal. The seal of the Corporation shall be circular in form and bear the name of the Corporation, the year of its organization and the words, "Corporate Seal, New York." The seal on any corporate obligation for the payment of money, or on any other instrument, may be a facsimile, engraved, printed or otherwise reproduced.

8.3 Contracts. The Board may authorize any officer or officers, or agent or agents, to enter into any contract or execute and deliver any instrument or document for, and in the name of, the Corporation, and such authority may be general or confined to specific instances.

8.4 Amendments. These Bylaws may be altered, amended or repealed, or new Bylaws may be adopted, at any regular meeting of the stockholders or of the Board or at any

special meeting called for that purpose, by affirmative vote of a majority of the stock issued and outstanding and entitled to vote or of a majority of the whole Board, as the case may be.

### **CERTIFICATE**

The undersigned Secretary of New York Quality Healthcare Corporation, a New York prepaid health services plan, hereby certifies that the foregoing Amended and Restated Bylaws were adopted by the directors of the Corporation on April 4, 2018 and supersede and replace the original Bylaws in their entirety.

Dated: April 4, 2018

A handwritten signature in blue ink, appearing to read "Keith H. Williamson", is written over a horizontal line.

Name: Keith H. Williamson

Title: Secretary

## **EXHIBIT D**

**EXHIBIT D**

**LIST OF PROPOSED DIRECTORS,  
EXECUTIVE OFFICERS AND MEDICAL DIRECTOR OF  
NEW YORK QUALITY HEALTHCARE CORPORATION**

(Effective Following the Close of the Transaction)

<u>Name</u>	<u>Positions Held</u>	<u>Business Address</u>
Michael F. Neidorff	Director	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
Cynthia Brinkley	Director	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
Christopher D. Bowers	Director	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
Thomas S. Brown	Chief Administrative Officer	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Tricia L. Dinkelman	Vice President, Tax	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
Patrick J. Frawley	Chief Executive Officer and Director	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Thomas J. Halloran	Chief Financial Officer and Director	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Pamela E. Hassen	Chief Marketing Officer	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Martin A. Krebs	Chief Information Officer	New York Quality Healthcare Corporation 95-25 Queens Boulevard

		Rego Park, New York 11374
Vincent Marchello	Chief Medical Officer	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Santo F. Russo	Chief Legal Officer and Secretary	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Jeffrey A. Schwaneke	Treasurer and Director	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
David P. Thomas	President, Chief Operating Officer and Director	New York Quality Healthcare Corporation 95-25 Queens Boulevard Rego Park, New York 11374
Keith H. Williamson	Assistant Secretary	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105

## **EXHIBIT E**



N. Y. S. DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS AND STATE RECORDS

ALBANY, NY 12231-0001

FILING RECEIPT

=====

ENTITY NAME: CENTENE COMPANY OF NEW YORK, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: NEWY

=====

FILED:11/13/2017 DURATION:\*\*\*\*\* CASH#:171113000955 FILM #:171113000935  
DOS ID:5233773

FILER:

EXIST DATE

-----  
SKADDEN, ARPS, SLATE, MEAGHER & FLOM  
ONE RODNEY SQUARE, 920 N. KING ST.

-----  
11/13/2017

WILMINGTON, DE 19801

ADDRESS FOR PROCESS:

-----  
THE LLC

ATTN: C T CORPORATION SYSTEM  
NEW YORK, NY 10011

111 EIGHTH AVENUE

REGISTERED AGENT:

-----  
C T CORPORATION SYSTEM  
111 EIGHTH AVENUE  
NEW YORK, NY 10011

The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the biennial statement is due will only be made via email. Please go to [www.email.ebiennial.dos.ny.gov](http://www.email.ebiennial.dos.ny.gov) to provide an email address to receive an email notification when the Biennial Statement is due.

=====

SERVICE COMPANY: C T CORPORATION SYSTEM - 07

SERVICE CODE: 07 \*

FEES 510.00

PAYMENTS 510.00

FILING 200.00

CASH 0.00

TAX 0.00

CHECK 0.00

CERT 0.00

CHARGE 0.00

COPIES 10.00

DRAWDOWN 510.00

HANDLING 300.00

OPAL 0.00

REFUND 0.00

=====

10713476SD

DOS-1025 (04/2007)

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
November 13, 2017.

A handwritten signature in dark ink, appearing to read "B. Fitzgerald", with a long horizontal flourish extending to the right.

Brendan Fitzgerald  
Executive Deputy Secretary of State

CT-07

171113000<sup>935</sup>

ARTICLES OF ORGANIZATION  
OF  
CENTENE COMPANY OF NEW YORK, LLC

Under Section 203 of the  
Limited Liability Company Law

FIRST: The name of the limited liability company is Centene Company of New York, LLC.

SECOND: The county within this state in which the office of the limited liability company is to be located is New York.


THIRD: The secretary of state is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her is 111 Eighth Avenue, New York, NY 10011; Attention: C T Corporation System.

FOURTH: The limited liability company designated C T Corporation System, 111 Eighth Avenue, New York, NY 10011, as its registered agent upon whom process against it may be served within the State of New York.

FIFTH: The Articles of Organization shall be effective upon filing.

IN WITNESS WHEREOF, this certificate has been subscribed this  
13<sup>th</sup> day of November, 2017.

By:

  
Name: Deborah M. Reusch  
Title: Organizer

N. Y. S. DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS AND STATE RECORDS

ALBANY, NY 12231-0001

CERTIFICATE OF RESERVATION

ENTITY NAME: CENTENE COMPANY OF NEW YORK, LLC

DOCUMENT TYPE: RESERVATION (DOM LLC)

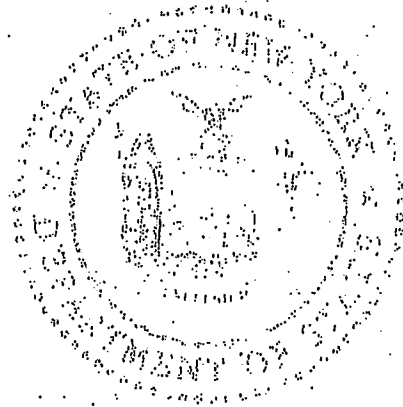
FILED: 11/03/2017 DURATION: 01/03/2018 CASH#: 171103000500 FILM #: 171103000454

FILER:

TRACY BAKER  
ARPS, SLATE MEAGHER & FLOM LLP  
ONE RODNEY SQUARE  
WILMINGTON, DE 19801

ADDRESS FOR PROCESS:

REGISTERED AGENT:



\*\* SUBMIT RECEIPT WHEN FILING CERTIFICATE \*\*  
APPLICANT NAME: TRACY BAKER

SERVICE COMPANY: C T CORPORATION SYSTEM - 07

SERVICE CODE: 07

FEES 95.00  
FILING 20.00  
TAX 0.00  
CERT 0.00  
COPIES 0.00  
HANDLING 75.00

PAYMENTS 95.00  
CASH 0.00  
CHECK 0.00  
CHARGE 0.00  
DRAWDOWN 95.00  
OPAL 0.00  
REFUND 0.00

10699021CS

DOS-1025 (04/2007)

CT-07

925

ARTICLES OF ORGANIZATION  
OF  
CENTENE COMPANY OF NEW YORK, LLC

Under Section 203 of the Limited Liability Company Law

Filed by:

Skadden, Arps, Slate, Meagher & Flom LLP  
One Rodney Square, 920 N. King Street  
Wilmington, DE 19801

FILED

2017 NOV 13 AM 10:36

RECEIVED

2017 NOV 13 AM 10:21

100  
STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED NOV 13 2017

TAX S

NY

150

DRAWDOWN  
CST REF 10713476 SD

955

## **EXHIBIT F**

**LIMITED LIABILITY COMPANY AGREEMENT**  
**OF**  
**CENTENE COMPANY OF NEW YORK, LLC**  
**A New York Limited Liability Company**

**Dated as of November 13, 2017**



This **LIMITED LIABILITY COMPANY AGREEMENT** (this “Agreement”) of Centene Company of New York, LLC, a New York limited liability company (the “Company”), is entered into as of November 13, 2017 (the “Effective Date”), and shall be effective as of the Effective Date by each signatory hereto on the Effective Date, and such other Persons as may become parties to this Agreement and be admitted as Members in accordance with the provisions hereof from time to time (each, a “Member” and, collectively, the “Members”).

## **RECITALS**

WHEREAS, the Articles of Organization of the Company (the “Articles of Organization”) were filed with the Secretary of State of New York on November 13, 2017;

WHEREAS, the Company was formed pursuant to and in accordance with the New York Limited Liability Company Law, as amended from time to time (the “Act”); and

WHEREAS, the parties hereto desire to enter into this Agreement for the purpose of adopting the terms of this Agreement as the complete expression of the covenants, agreements and undertakings of the parties hereto with respect to the affairs of the Company, the conduct of its business and the rights and obligations of the Members.

NOW, THEREFORE, in consideration of the mutual representations, covenants and conditions contained herein, the parties hereto hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings set forth below:

“Act” has the meaning set forth in the Recitals.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “*controlled by*” and “*under common control with*”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” has the meaning set forth in the Preamble.

“Articles of Organization” has the meaning set forth in the Recitals.

“Board” has the meaning set forth in Section 4.1(a).

“Capital Contribution” has the meaning set forth in Section 5.2(a).

“Claims” has the meaning set forth in Section 9.2.

“Code” has the meaning set forth in Section 6.4.

“Committee” has the meaning set forth in Section 4.3.

“Company” has the meaning set forth in the Preamble.

“Covered Person” has the meaning set forth in Section 9.1.

“DRE” has the meaning set forth in Section 2.11(a).

“Effective Date” has the meaning set forth in the Preamble.

“Event of Termination” has the meaning set forth in Section 10.1.

“Fiscal Year” has the meaning set forth in Section 2.10.

“Majority Interest” of the Members, as to any agreement, election, vote or other action of the Members, shall mean those Members whose combined Membership Interest Percentage exceeds fifty percent (50%).

“Manager” has the meaning set forth in Section 4.1(a).

“Member” has the meaning set forth in the Preamble.

“Membership Interest Percentage” has the meaning set forth in Section 3.1.

“Membership Interests” has the meaning set forth in Section 5.1.

“Officer” has the meaning set forth in the Section 4.2.

“Person” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“Transfer” has the meaning set forth in Section 8.2.

## **ARTICLE II**

### **GENERAL PROVISIONS**

Section 2.1 Formation. The Members have formed the Company as a limited liability company pursuant to the Act. The Articles of Organization were filed with the Secretary of State of the State of New York in conformity with the Act. The Company and, if required, each of the Members shall execute or cause to be executed from time to time all other instruments, certificates, notices and documents and shall do or cause to be done all such acts and things as may now or hereafter be required for the formation, valid existence and, when appropriate, termination of the Company as a limited liability company under the laws of the State of New York.

Section 2.2 Company Name. The name of the Company is “Centene Company of New York, LLC” or such other name or names as may be selected by the Board from time to time, and its business shall be carried on in such name with such variations and changes as the Board deems necessary to comply with requirements of the jurisdictions in which the Company’s operations are conducted.

Section 2.3 Registered Office; Registered Agent. The Company shall maintain a registered office in the State of New York at, and the name and address of the Company’s registered agent in the State of New York is, CT Corporation System, 111 Eighth Avenue, New York, NY 10011. The Board may, from time to time, change the Company’s registered office and/or registered agent and shall forthwith amend the Articles of Organization to reflect such change(s).

Section 2.4 Place of Business. The business address of the Company shall be determined by the Board. The Company may from time to time have such other place or places of business within or without the State of New York as the Board may deem advisable.

Section 2.5 Purpose; Nature of Business Permitted; Powers. The Company is formed for the purpose of engaging in any business or activity for which limited liability companies may be formed under the Act. The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law or by this Agreement, together with any powers incidental thereto, insofar as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the Company.

Section 2.6 Business Transactions of a Member with the Company. A Member may lend money to, borrow money from, act as surety, guarantor or endorser for, guarantee or assume one or more obligations of, provide collateral for, and transact other business with, the Company and, subject to applicable law, shall have the same rights and obligations with respect to any such matter as a Person who is not a Member.

Section 2.7 Company Property. No real or other property of the Company shall be deemed to be owned by any Member individually, but shall be owned by and title shall be vested solely in the Company. The Membership Interests held by each of the Members shall constitute personal property of such Members.

Section 2.8 Term. The existence of the Company shall commence on the date of the filing of the Articles of Organization in the office of the Secretary of State of New York in accordance with the Act, and, subject to the provisions of Article X hereof, the Company shall have perpetual life.

Section 2.9 No State Law Partnership. The Members intend that the Company not be a partnership (including a limited partnership) or joint venture and that no Member be a partner or joint venturer of any other Member for any purposes other than applicable tax laws. This Agreement may not be construed to suggest otherwise.

Section 2.10 Fiscal Year. The fiscal year of the Company (the “Fiscal Year”) for financial statement purposes, and, for periods during which the Company is not a DRE, for United States federal income tax purposes, shall be determined by the Board.

## Section 2.11 Tax Treatment.

(a) At all times that the Company is treated, for United States federal income tax purposes, as having only one owner, the Company shall be disregarded as an entity separate from that owner for United States federal and, where applicable, state, local and foreign tax purposes (a “DRE”). If at any time the Company is treated, for United States federal income tax purposes, as having more than one owner, it is the intention of the Member or Members that the Company shall be treated as a partnership for United States federal and, where applicable, state, local and foreign tax purposes.

(b) Any provisions of this Agreement that are inconsistent with the status of the Company as a DRE shall have no effect, to the extent of any such inconsistency, with respect to any periods during which the Company was or is a DRE.

## ARTICLE III

### MEMBERS

Section 3.1 Members. The name, address and ownership percentage in the Company (“Membership Interest Percentage”) of each of the Members are set forth on Schedule A hereto, which shall be amended from time to time to reflect the admission of new Members, additional capital contributions of Members or the Transfer (as hereinafter defined) of Membership Interests by any Member, each, to the extent permitted by the terms of this Agreement.

Section 3.2 Admission of New Members. A Person shall be admitted as a Member of the Company only upon (i) the prior written approval of the Members in accordance with Section 3.4 and (iii) receipt by the Company of a counterpart to this Agreement, executed by such Person, agreeing to be bound by the terms of this Agreement.

Section 3.3 No Liability of Members. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

Section 3.4 Meetings of the Members. Meetings of the Members may be called by the Board upon the written request of any Member. The call shall state the location of the meeting and the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than seven (7) business days nor more than thirty (30) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Whenever a vote, consent or approval of Members is permitted or required under this Agreement, Members shall have the right to vote, consent or approve in proportion to their respective Membership Interest Percentage, and such vote, consent or approval may be given at a meeting of Members as set forth herein or may be given by written consent of the Members. Notwithstanding any other provision contained in this Agreement, each Member shall only have the right to vote on, consent to, or approve such matters set forth in this Agreement as specifically require the vote, consent or approval of all Members. Notwithstanding any other provision contained in this

Agreement, (i) the Company's merger with or consolidation into another limited liability company or other business entity, (ii) the transfer or sale of all or substantially all of the assets of the Company, (iii) the Company's conversion into any other business entity, (iv) the dissolution of the Company, (v) the amendment of the Articles of Organization and (vi) the admission of a new Member shall require the unanimous written approval of the Members, and no such action shall be taken by the Company, the Board, or any officer on behalf of the Company, unless, until, and to the extent that, the unanimous written approval of all of the Members is obtained.

### Section 3.5 Meeting Procedures.

(a) For the purpose of determining the Members entitled to vote on, or to vote at, any meeting of the Members or any adjournment thereof, the Board may fix, in advance, a date as the record date for any such determination. Such date shall not be more than thirty (30) days nor less than ten (10) business days before any such meeting.

(b) Each Member may authorize any Person to act for it by proxy on all matters in which such Members is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member exercising it.

(c) Each meeting of Members shall be conducted by the Board or by such other Person that the Board may designate.

## ARTICLE IV

### MANAGEMENT

#### Section 4.1 Management of the Board.

(a) The Company shall be managed by a Board of Managers (the "Board"). The Board shall consist of one or more managers (each, a "Manager" and, collectively, the "Managers") who will be appointed by a Majority Interest of the Members, and who will constitute "Managers" within the meaning of the Act. As of the Effective Time, the Manager making up the initial Board shall be Michael F. Neidorff. Except as otherwise provided in this Agreement, including Section 3.4, all management powers over the business and affairs of the Company shall be exclusively vested in the Board, and the Members shall have no right of control over the business and affairs of the Company. In addition to the powers now or hereafter granted to managers under the Act or which are granted to the Board under any other provision of this Agreement, the Board shall have full power and authority to do all things deemed necessary or desirable by the Board to conduct the business of the Company in the name of the Company.

(b) Each Manager shall serve until he or she resigns or is removed by a Majority Interest of the Members, with or without cause.

(c) The Board may hold such meetings at such place and at such time as the Board may determine. Notice of a meeting shall be served not less than 24 hours before the date and time fixed for such meeting by confirmed facsimile or other written communication or not less than three days prior to such meeting if notice is provided by overnight delivery service. Notice of a meeting need not be given to any Manager who signs a waiver of notice or provides a waiver by electronic transmission or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, either prior thereto or at its commencement, the lack of notice to such Manager. A special meeting of the Board may be called by any member of the Board. Any member of the Board may participate in a meeting by conference telephone or similar communications equipment. At any meeting of the Board, the presence in person or by telephone or similar electronic communication of Managers representing at least a majority of the Board shall constitute a quorum.

(d) Each Manager serving on the Board shall have one vote on any Company matter. Except as otherwise provided in this Agreement, the business of the Company presented at any meeting of the Board shall be decided by a vote of Managers representing a majority of the entire Board.

(e) In accomplishing all of the foregoing and in fulfilling the Board's obligations pursuant to this Agreement, the Board may, in the Board's sole discretion, retain or use any Company Affiliates' personnel, properties and equipment or the Board may hire or rent those of third parties and may employ on a temporary or continuing basis outside accountants, attorneys, consultants and others on such terms as the Board deems advisable. No Person, firm or corporation dealing with the Company shall be required to inquire into the authority of the Board to take any action or make any decision.

Section 4.2 Officers. The Board may appoint a president, chief financial officer, treasurer, secretary or such other officers ("Officers") of the Company as it deems necessary or appropriate, and may assign or delegate to such Officers the titles, duties, responsibilities, and authorities the Board deems appropriate. An Officer will serve until he or she resigns or is removed by the Board, with or without cause, subject to contractual rights, if any, of such officer. At all times, the actions of the Officers will be subject to the review, delegation, redetermination, direction, and control of the Board. As of the Effective Time, the initial Officers of the Company shall be those Persons set forth on Schedule B hereto.

Section 4.3 Committees. The Board may designate one or more committees (a "Committee") consisting of one or more Managers. A Committee will have and exercise powers to the extent provided in the applicable Board resolutions. Except as may be otherwise determined by the Board, a majority of the members of a Committee will constitute a quorum and the majority vote of the Committee members at a meeting at which a quorum is present will be the act of the Committee.

Section 4.4 Action by the Members, the Board, or Committee. Any action required or permitted to be taken by the Members, the Board, or a Committee may be taken without a meeting if such action is evidenced in writing and signed, as applicable, by all the Members, the Board, or the Committee.

## ARTICLE V

### **CAPITAL STRUCTURE AND CONTRIBUTIONS**

Section 5.1 Capital Structure. The capital structure of the Company shall consist of one class of membership interests (“Membership Interests”). Except as otherwise set forth herein, each of the Membership Interests shall be identical.

Section 5.2 Capital Contributions.

(a) As of the Effective Date, each Member has contributed, as capital contributions (“Capital Contribution”) to the Company, all of its right, title and interest in and to the amount of cash and/or other property listed and described on Schedule A hereto.

(b) In consideration of each Member’s Capital Contribution, the Company has issued to each such Member the Membership Interests in the Company in proportion to the Membership Interest Percentage set forth opposite the name of such Member on Schedule A hereto.

Section 5.3 Additional Contributions. Except with the consent of the Board, no Member shall be obligated or permitted to make any additional contribution to the Company’s capital.

Section 5.4 Maintenance of Capital Accounts. The Company shall establish and maintain capital accounts for each Member on the books and records of the Company. The balance in a Member’s capital account shall be increased by (x) the amount of each contribution made by such Member and (y) the distributive share of net profits of such Member and shall be decreased by (x) the amount of each distribution made to such Member and (y) the distributive share of net losses of such Member.

## ARTICLE VI

### **ALLOCATIONS AND DISTRIBUTIONS**

Section 6.1 Allocations of Net Profits and Net Losses from Operations. Net profits and net losses shall be allocated among the Members ratably in proportion to their respective Membership Interest Percentages for both financial accounting and income tax purposes, unless the Members unanimously agree otherwise.

Section 6.2 No Right to Distributions. No Member shall have the right to demand or receive distributions of any amount, except as expressly provided in this Article VI.

Section 6.3 Distributions. The Board shall determine, in its sole and absolute discretion, the amount of profits available for distribution to Members in compliance with the Act and the amount, if any, to be distributed to Members, and shall authorize and distribute to the Members pro rata in proportion to their respective Membership Interest Percentages, the determined amount when, as and if declared by the Board.

Section 6.4 Withholding. The Company is authorized to withhold from distributions to a Member, or with respect to allocations to a Member, and to pay over to a federal, foreign, state or local government, any amounts required to be withheld pursuant to the Internal Revenue Code of 1986, as amended (the “Code”), or any provisions of any other federal, foreign, state or local law. Any amounts so withheld shall be treated as having been distributed to such Member pursuant to this Article VI for all purposes of this Agreement, and shall be offset against the current or next amounts otherwise distributable to such Member.

## **ARTICLE VII**

### **BOOKS AND REPORTS**

Section 7.1 Books and Records. The Company shall keep or cause to be kept at the office of the Company (or at such other place as the Managing Member in its discretion shall determine) full and accurate books and records regarding the status of the business and financial condition of the Company and shall make the same available to the Members upon request, subject to the provisions of the Act.

Section 7.2 Tax Forms. After the end of each Fiscal Year, the Managing Member shall cause to be prepared and transmitted, as promptly as possible, and in any event within 90 days of the close of the Fiscal Year, a federal income tax Form K-1 (in the event the Company is treated as a partnership for U.S. federal income tax purposes) and any required similar state income tax form, or any such other tax statements as may be required for each Member.

## **ARTICLE VIII**

### **WITHDRAWAL; TRANSFERS OF MEMBERSHIP INTERESTS**

Section 8.1 Right to Withdraw. Each Member shall have the right to withdraw from the Company upon prior written notice to the Members; provided, however, that upon such withdrawal, the withdrawing Member shall not be entitled to a return of its capital contributions, nor to receive any other payment, unless and until the Company shall be dissolved, in which event the withdrawing Member shall be entitled to receive payment, from the remaining net assets of the Company, if any, after payment of, or making reasonable provision for, all liabilities and obligations of the Company in accordance with the Act, in an amount equal to the balance of such Member’s capital account as of the date of such Member’s withdrawal, without interest; provided, however, that in the event that such remaining net assets of the Company shall be insufficient to pay all Members and withdrawn Members an amount equal to the balance of their respective capital accounts, then each of the Members, and each Member that shall have withdrawn prior to dissolution, shall be entitled to share pro rata in such remaining net assets, in accordance with the ratio of their respective capital account balances to the aggregate capital accounts of all Members and withdrawn Members. Subject to the foregoing, from and after the effective date of such withdrawal, the withdrawing Member shall cease to have any further rights as a member of the Company, including without limitation, the right to vote on any matter or to participate in any allocations or distributions of profits of the Company.



Section 8.2 Restriction on Transfers. No Member shall have the right to sell, convey, assign, transfer, pledge, grant a security interest in or otherwise dispose of (each a “Transfer”) all or any part of its Membership Interests, other than (i) to an Affiliate of such Member that agrees to be bound by all of the provisions hereof and (ii) upon the prior written consent of the Board; provided, however, such Person to whom such Membership Interests are Transferred shall be an assignee and shall have no right to participate in the Company’s business and affairs unless and until such Person shall be admitted as a member of the Company upon (i) the prior written approval by Members and (ii) receipt by the Company of a written agreement executed by the Person to whom such Membership Interests are Transferred agreeing to be bound by the terms of this Agreement, in each case pursuant to Section 3.2. All Transfers in violation of this Article VIII are null and void ab initio and of no force or effect.

## ARTICLE IX

### EXCULPATION AND INDEMNIFICATION

Section 9.1 Exculpation. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Members, nor any officers, directors, stockholders, partners, members, managers, employees, affiliates, representatives or agents of any Member, nor any officer, employee, representative or agent of the Company (individually, a “Covered Person” and, collectively, the “Covered Persons”) shall be liable to the Company or any other Person for any act or omission (in relation to the Company, its property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by a Covered Person in the reasonable belief that such act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to such Covered Person by the Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith, or gross negligence.

Section 9.2 Indemnification. To the fullest extent permitted by the Act, the Company shall indemnify and hold harmless each Covered Person from and against any and all losses, claims, demands, liabilities, expenses, judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative (“Claims”), in which the Covered Person may be involved, or threatened to be involved, as a party or otherwise, by reason of the fact that he, she or it is a Covered Person or which relates to or arises out of the Company or its property, business or affairs. A Covered Person shall not be entitled to indemnification under this Section 9.2 with respect to (i) any Claim with respect to which such Covered Person has engaged in fraud, willful misconduct, bad faith or gross negligence or (ii) any Claim initiated by such Covered Person unless such Claim (A) was brought to enforce such Covered Person’s rights to indemnification hereunder or (B) was authorized or consented to by the Members. Expenses incurred in defending any Claim by (y) a Member, officer, director, stockholder, partner, member, manager, or affiliate of any Member shall be paid by the Company and (z) any other Covered Person may be paid by the Company, but only upon the prior written approval of the Members in their sole and absolute discretion, upon such terms and conditions, if any, as the Members deem appropriate, in each case, in advance of the final disposition of such Claim upon receipt by the Company of an undertaking by or on behalf of such Covered Person to repay such amount if it

shall be ultimately determined that such Covered Person is not entitled to be indemnified by the Company as authorized by this Section 9.2.

Section 9.3 Amendments. Any repeal or modification of this Article IX by the Members shall not adversely affect any rights of such Covered Person pursuant to this Article IX, including the right to indemnification and to the advancement of expenses of a Covered Person, existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

## **ARTICLE X**

### **DISSOLUTION OF THE COMPANY**

Section 10.1 Dissolution. The Company shall be dissolved upon the occurrence of either of the following events (an “Event of Termination”):

- (a) a determination by all Members to dissolve the Company; or
- (b) the entry of a decree of judicial dissolution under Section 702 of the Act.

No other event, including the retirement, insolvency, liquidation, dissolution, insanity, expulsion, bankruptcy, death, incapacity or adjudication of incompetency of a Member, shall cause the Company to be dissolved; provided, however, that in the event of any occurrence resulting in the termination of the continued membership of the last remaining member of the Company, the Company shall be dissolved unless, within 90 days following such event, the personal representative of the last remaining member agrees in writing to continue the Company and to the admission of such personal representative (or any other Person designed by such personal representative) as a member of the Company, effective upon the event resulting in the termination of the continued membership of the last remaining member of the Company.

#### Section 10.2 Winding Up.

(a) In the event that an Event of Termination shall occur, then the Company shall be liquidated and its affairs shall be wound up by the Members in accordance with Section 18-803 of the Act. All proceeds from such liquidation shall be distributed in accordance with the provisions of Section 703 of the Act, and all Membership Interests in the Company shall be cancelled.

(b) Upon the completion of the distribution of the winding up of the Company’s affairs and Company’s assets, the Company shall be terminated and the Members shall cause the Company to execute and file Articles of Dissolution in accordance with Section 705 of the Act.

## ARTICLE XI

### MISCELLANEOUS

Section 11.1 Amendment to the Agreement. This Agreement may be amended by, and only by, a written instrument executed by all Members.

Section 11.2 Successors; Counterparts. Subject to Article VIII, this Agreement (a) shall be binding as to the executors, administrators, estates, heirs and legal successors, or nominees or representatives, of the Members and (b) may be executed in several counterparts each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

Section 11.3 Governing Law; Severability. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the principles of conflicts of law. In particular, this Agreement shall be construed to the maximum extent possible to comply with all the terms and conditions of the Act. If it shall be determined by a court of competent jurisdiction that any provisions or wording of this Agreement shall be invalid or unenforceable under the Act or other applicable law, such invalidity or unenforceability shall not invalidate the entire Agreement. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of applicable law, and, in the event such term or provisions cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable terms or provisions. If it shall be determined by a court of competent jurisdiction that any provision relating to the distributions and allocations of the Company or to any expenses payable by the Company is invalid or unenforceable, this Agreement shall be construed or interpreted so as (a) to make it enforceable or valid and (b) to make the distributions and allocations as closely equivalent to those set forth in this Agreement as is permissible under applicable law.

Section 11.4 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Agreement or any provision hereof.

Section 11.5 Additional Documents. Each Member agrees to perform all further acts and execute, acknowledge and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

Section 11.6 Notices. All notices, requests and other communications to any Member shall be in writing (including electronic mail, facsimile or similar writing) and shall be given to such Member (and any other Person designated by such Member) at its address or electronic mail, facsimile number set forth in Schedule A hereto or such other address or electronic mail, facsimile number as such Member may hereafter specify for the purpose by notice. Each such notice, request or other communication shall be effective (a) if given by telecopier, when transmitted to the number specified pursuant to this Section 11.6 and the appropriate confirmation is received, (b) if given by mail, 72 hours after such communication is received by the other party, or (c) if given by electronic or any other means, when delivered to the address specified pursuant to this Section 11.6.

Section 11.7 Waiver of Partition. Each of the Members hereby irrevocably waives any and all rights that such Member may have to maintain any action for partition of any of the Company's property.

Section 11.8 Interpretation. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, the feminine, or the neuter gender shall include the masculine, feminine and neuter.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first above written.

**CENTENE CORPORATION**

By: \_\_\_\_\_

Name:

Title:

**CENTENE COMPANY OF NEW YORK, LLC**

Name of Member	Address	Capital Contribution	Membership Interest Percentage
<b>Centene Corporation</b>	7700 Forsyth Blvd. St. Louis MO 63105	\$ 1,000	100%

**OFFICERS**

Name	Title
Michael F. Neidorff	President
Tricia L. Dinkelman	Vice President, Tax
Jeffrey A. Schwaneke	Vice President and Treasurer
Keith H. Williamson	Secretary

## **EXHIBIT G**



**EXHIBIT G****LIST OF DIRECTORS AND EXECUTIVE OFFICERS OF CENTENE COMPANY  
OF NEW YORK, LLC**

<u>Name</u>	<u>Positions Held</u>	<u>Business Address</u>
Michael F. Neidorff	Director and President	Centene Corporation 7700 Forsyth Blvd. St. Louis, Missouri 63105
Tricia L. Dinkelman	Vice President, Tax	See above
Jeffrey A. Schwaneke	Vice President and Treasurer	See above
Keith H. Williamson	Secretary	See above

## **EXHIBIT H**



**Michael F. Neidorff**  
*Chairman and Chief Executive Officer*

**CONFIDENTIAL**

September 1, 2017

His Eminence Timothy Michael Cardinal Dolan  
President of the Members of New York State Catholic Health Plan, Inc.  
d/b/a Fidelis Care New York  
95-25 Queens Boulevard  
Rego Park, NY 11374

- and -

Rev. Donald Harrington  
Chairman of the Board of Directors  
New York State Catholic Health Plan, Inc.  
d/b/a Fidelis Care New York  
95-25 Queens Boulevard  
Rego Park, NY 11374

Your Eminence and Father Harrington:

As you consider your decision on this transaction, I want to take the time to address Centene's strong interest in consummating this transaction and to communicate as clearly as possible regarding our intentions and how we believe they meet the transaction objectives that you have communicated to us.

**Preservation of the Mission and Vision of Fidelis Care**

We believe that Centene's core mission of delivering healthcare services to under-insured and uninsured individuals is strongly aligned with the mission and vision of Fidelis. Since its inception as a non-profit health plan in 1984, and enhanced under current leadership in 1994, Centene has established itself as a national leader in providing quality, accessible care and services to all persons, particularly those in underserved market segments. Although we are not a faith-affiliated organization, we believe our approach to providing healthcare services enables us to provide accessible, quality, culturally-sensitive healthcare coverage to our communities. Our health management, educational and other initiatives are designed to help our members best utilize the healthcare system to ensure they receive quality care resulting in better health outcomes. At Centene, we take to heart our mission of "transforming the health of the community, one person at a time." We are eager to extend our approach to delivering healthcare services to both current and future Fidelis Care enrollees throughout New York State and in doing so continue to honor the mission and vision of Fidelis.

His Eminence Timothy Michael Cardinal Dolan  
& Rev. Donald Harrington  
Page 2  
September 1, 2017

**Maintenance of Fidelis Care's Workforce and Presence as a Vital NY Employer**

Centene recognizes Fidelis' valued role as a leading statewide employer with a large, highly skilled and engaged workforce. We view this transaction as a strong opportunity to work with Fidelis to leverage our national infrastructure of support functions, including finance, information systems and claims processing, to create scale and increase efficiencies and improve health outcomes in connection with the integration of the assets acquired in the transaction. Centene takes a decentralized, local approach for care, and intends to preserve Fidelis corporate presence in New York as the anchor of Centene's multi-line healthcare business in New York (our New York State health plan). The terms of our transaction provides continuity of employment to the entire Fidelis Care workforce which we view as key to the historical and future success of the business.

**Enable Growth, Expansion of Resources and Enhanced Capabilities**

Centene views growth as an integral part of its strategy, and has traditionally deployed its capital to fuel such growth. In addition to traditional organic business growth, the acquisition of health plans participating in government sponsored healthcare programs is an integral part of Centene's growth strategy. Centene's acquisition of the Fidelis assets will serve to diversify Centene's product portfolio as well as increase its geographic footprint in New York, our 29<sup>th</sup> state. We intend to deploy Centene's capabilities to the Fidelis business and continue to invest in growth throughout the State of New York.

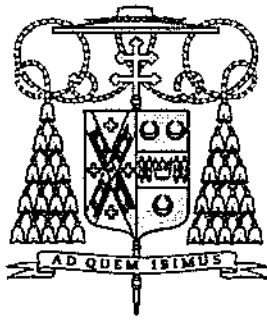
I hope this letter together with the compelling terms of our proposed transaction and the strong commitments contained within the transaction agreements serves to demonstrate our enthusiasm for successfully completing this transaction and serving the over 1.6 million enrollees of Fidelis Care.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael F. Neidorff".

Michael F. Neidorff  
Chairman, President and CEO  
Centene Corporation

# **EXHIBIT F**



OFFICE OF THE CARDINAL  
1011 FIRST AVENUE  
NEW YORK, NY 10022

May 30, 2018

Abigail Young  
Assistant Attorney General, Charities Bureau  
New York State Office of the Attorney General  
28 Liberty Street, 19th Floor  
New York, NY 10005

Re: Mother Cabrini Health Foundation, Inc.  
File No. 2017-3144-NYC

Dear Ms. Young:

On behalf of the Mother Cabrini Health Foundation, Inc. (the "Foundation"), I confirm that the Foundation will take the following actions, which I understand are necessary in order for the New York State Attorney General's Office ("OAG") to approve the Verified Petition submitted on May 7, 2018 (the "Petition") by New York State Catholic Health Plan, Inc. d/b/a Fidelis Care New York ("Fidelis Care") to sell substantially all of Fidelis Care's assets to Centene Corporation pursuant to Sections 510 and 511-a of the Not-for-Profit Corporation Law (the "Transaction") and the subsequent transfer by Fidelis Care of the Transaction proceeds along with other assets to the Foundation:

1. The Foundation will not make any charitable grants prior to receipt of its Internal Revenue Service determination letter recognizing it as tax-exempt under section 501(c)(3) of the Internal Revenue Code.
2. The Foundation will provide annual CHAR 500 reports and independently audited financial statements to the OAG pursuant to Article 7-A of the Executive Law and Section 8-1.4 of the Estates, Powers and Trusts Law.
3. The Foundation will maintain an independent audit committee meeting the requirements of section 712-a of the Not-for-Profit Corporation Law for the duration of the organization's corporate existence in New York State.

4. The initial meeting of the Board of Directors will take place as soon as practicable upon approval of the Petition by the OAG.
5. The Foundation's initial Board members will prepare conflict of interest disclosure forms, which will be made available to the OAG for review.
6. The Foundation will provide to the OAG its Form 1023, *Application for recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, which will contain information consistent with the information contained in the Petition to the extent applicable, as well as its Internal Revenue Service determination letter.
7. The Foundation will provide the OAG its initial investment plan, which will be determined by the Foundation's Investment Committee in accordance with the Foundation's Investment Policy.
8. The Foundation will strive to establish a Board of Directors comprised of individuals who are expert in the fields of health, social welfare, finance and philanthropy, including individuals who reflect the broad diversity of New York State and who have familiarity with the communities and populations served by the Foundation.

In addition, the Foundation accepts and confirms the undertakings and representations contained in the following paragraphs of the Petition: 139 and 147-176.

We thank the OAG for its review of the Petition and look forward to our working together to improve the health and well-being of New York's most vulnerable residents.

MOTHER CABRINI HEALTH FOUNDATION, INC.



By: \_\_\_\_\_

Name: Timothy Cardinal Dolan, Archbishop of New York

Title: President of Membership

cc: Jason R. Lilien, Esq.