

OPTN Board of Directors Meeting Summary

Meeting Information: Agenda and Attendees

Thursday, September 18, 2025 | 1:00–3:00 p.m. ET | Location of Event: Zoom

The following are meeting minutes from the OPTN Board of Directors meeting, which took place on **September 18, 2025, 1:00–3:00 p.m. ET.**

Agenda

- Welcome
- Introduction of Doug Fesler, OPTN Executive Director
- OPTN Fee Collection
- Open Variance for Expedited Placement
- Incorporate Multi-Organ Post-Transplant Graft Survival into Performance Evaluations
- Update on Regional Meetings
- Update on Allocation Out of Sequence (AOOS)
- Litigation Update
- Open Discussion
- Adjourn

Attendees

Attendee Name(s)	Affiliation
John Magee (President), Shelley Hall (Vice President), Alan Reed (Treasurer), Justin Wilkerson (Secretary), Gina Marie-Barletta, George Bayliss, Jen Benson, Vincent Casingal, James Cason, Ari Cohen, Andrew Courtwright, Meelie DeRoy, Samantha Endicott, Nahel Elias, Gitthaline Gagne, John Hodges, Mary Homan, Darren Lahrman, Joseph Magliocca, Dan Meyer, Cathi Murphey, Peter Nicastro, Robert (Cody) Reynolds, Austin Schenk, John Sperzel, Mark Wakefield, Kymberly Watt	OPTN Board of Directors
Aitebueme Aigbe, Mesmin Germain, Amy Harbaugh, Marilyn Levi, Raymond Lynch, Joni Mills, Suma Nair, Nolan Simon	HRSA Representatives
Doug Fesler	OPTN Executive Director
Christine Jones, Rachel Shapiro, Thomas Barker, George Barnette, Melanie Bartlett, Tennille Daniels, Karen Edwards, Emily Elstad, Rebecca Fritz, Tessa Kieffer, Mona Kilany, Anthony LaBarrie, Mary Lavelle, Andrew London, Christina Sledge, Zulma Solis, Vanessa Amankwaa	OPTN Board Support Staff

Attendee Name(s)	Affiliation
Roslyn Mannon, Jon Snyder	Scientific Registry of Transplant Recipients (SRTR)

Meeting Summary

Welcome

After reaching quorum, the OPTN Board (“Board”) President welcomed attendees and began the meeting. The President shared a brief update on the Health and Human Services (HHS) press conference, held earlier that day. The President encouraged Board members to review the specific details of the conference for their awareness, and that there will be continued opportunity for the Board and OPTN to refine the vision for OPTN safety work.

Introduction of Doug Fesler, OPTN Executive Director

The OPTN Executive Director introduced himself to the Board and expressed his excitement to help support the goals of the OPTN. He will meet one-on-one with Board members in the coming weeks.

OPTN Fee Collection

Beginning October 1, 2025, HRSA will take over the direct invoices of OPTN patient registration fees that were previously handled by the Operations Contractor. HRSA will collect, manage, and distribute the funds. HRSA has been communicating with transplant programs to ensure a smooth transition and to avoid gaps in registration fee invoices.

The Board previously voted to release OPTN Reserve Account Funds, previously held by the Operations Contractor, to the Primary account, held by HRSA, to ensure the OPTN continues to function. Board Leadership reviewed modified language in the OPTN Management and Membership Policy to reflect the fee collection and Reserve Account changes.

The proposed modifications to the Management and Membership Policy regarding fee collection are marked in *italics* and underlined below:

Section F.2.d of the Management and Membership Policy (Registration Fees):

- Transplant hospital members are responsible for the payment of an OPTN Registration Fee for each transplant candidate registered by that member on the waiting list database maintained by the OPTN. *Transplant hospital members, or the paying entity delegated by the transplant hospital, will be directly invoiced by HRSA for the outstanding OPTN patient registration fees. Payments must be remitted directly to HRSA in accordance with the invoicing schedule and procedures established by HRSA.*

Appendix M (Definitions):

- The OPTN Registration Fee is proposed by the Board of Directors and determined by the Secretary of HHS. *The OPTN Registration Fee will be invoiced by HRSA and shall be paid in accordance with the invoicing schedule and procedures established by HRSA.*

Discussion points included:

- Revisions to the Management and Membership policy language in relation to the bill that authorized HHS to collect registration fees.
- Given the transition of the Reserve Account, there was discussion around plans to continue OPTN operations in the event additional funds are needed.

The President stated that a single OPTN account would be established, managed, and maintained by HRSA and would ensure necessary funds were available for the continued operation of the OPTN. The President added that the OPTN Board would maintain the ability to recommend the OPTN fee amount and review, approve, and prioritize policy projects within the allocated policy implementation budget.

To reflect HRSA's role in managing and maintaining the OPTN account moving forward, the proposed changes to the Membership and Management Policy were as follows:

Section B:

- B.2 HRSA will establish an OPTN Account that is *managed and maintained by HRSA, and ensure the funds necessary for continued operations of the OPTN are available.*
- The following sections will be removed from the policy to reflect the new paradigm of HRSA collecting registration fees:
 - B.3 – Reserve Fund Creation and Purpose
 - B.4 – Reserve Account
 - B.5 – Use of Reserve Account Fund and Notification

A Board member recommended moving the vote to the next Board Meeting, as several Board members were attending the Region 5 Regional Meeting and the Board could use additional time to review. The recommendation was accepted.

Open Variance for Expedited Placement

In March 2024, the Board of Directors approved Policy 5.4.G with a sunset date of December 31, 2025. This variance allowed participating organ procurement organizations (OPOs) to use or recommend special, Executive Committee–approved protocols for quickly placing organs that might otherwise go unused.

Each protocol must include: (1) criteria for organs eligible for expedited placement; (2) criteria for candidates eligible to receive expedited placement offers; (3) conditions for the use of expedited placement; and (4) OPO and transplant hospitals' responsibilities. All approved protocols will be made available to the public and last no longer than six months unless amended by the Executive Committee.

With the sunset date approaching, the Executive Committee recommends extending the variance through December 31, 2026 (Executive Committee Voting Results: 9 approve, 0 reject, 0 abstain).

The extension provides a mechanism to pilot work developed by the allocation out of sequence (AOOS) workgroup. Any proposed protocols under the variance would have to be approved by the Board, be time-limited, and posted on the OPTN website.

The Board initially considered the following resolution language:

- WHEREAS, at a meeting of the Executive Committee on September 12, 2025, the Executive Committee authorized the amendment of Policy 5.4.G, Line 68 to extend the Open Variance for Expedited Placement through December 31, 2026, unless further extended, modified, or terminated by the OPTN Board of Directors or Executive Committee.

The Executive Committee has the authority, under the Bylaws, to take interim action and move the action to the full Board for ratification. Under the Executive Committee's authority, Policy 5.4.G became effective with the approval vote, and the full Board could choose whether to ratify the vote.

The Board voted on the following:

Be it resolved that Policy 5.4.G, formerly scheduled to sunset no later than December 31, 2025, will henceforth sunset no later than December 31, 2026.

Voting results: 29 approve, 2 reject, 0 abstain.

Incorporate Multi-Organ Post-Transplant Graft Survival into Performance Evaluations

The purpose of the project, sponsored by the Membership and Professional Standards Committee (MPSC), is to encourage best possible outcome for recipients of multi-organ transplants; discourage futile transplants that divert organs from other waiting candidates; and to protect patient safety. The MPSC will need to determine (1) which multi-organ transplant combinations should be evaluated; (2) which program should be held accountable; (3) whether to evaluate multi-organ recipients separately from single-organ recipients; and (4) how to define graft failure. The project does not require policy revision.

Discussion points included:

- The Executive Committee took interim action and voted on the project during the Executive Committee meeting on 9/12.
- Confirmation that the MPSC can review the SRTR data in the evidence gathering phase. The purpose of the Board voting at this meeting is to ratify the Executive Committee's approval of the MPSC to proceed with the evidence gathering phase only, not implementation.
- The project was determined to be low cost. The Board can discuss the cost in more detail during a closed session.
- The role of the Executive Committee:
 - Some Board members expressed that the Executive Committee should take interim actions on urgent items only. However, the Vice President suggested that the Board review the Bylaws to confirm the role of the Executive Committee and its authority to approve projects for subsequent ratification.
- Feedback was shared regarding the difficulty of voting on items without the full scope that was provided to the Executive Committee.
- Following the discussion, the Board agreed to vote on the approval of the project moving to the evidence gathering phase instead of ratifying the Executive Committee's previous vote.

The Board voted on the following:

Pursuant to the recommendations of the Policy Oversight Committee, to approve the project entitled “ Incorporate Multi-Organ Post-Transplant Graft Survival into Performance Evaluations” and direct that this project shall begin the Evidence Gathering phase.

Voting results: 23 approve, 5 reject, 1 abstain.

Update on Regional Meetings

Board Officers have been receiving valuable feedback during the Regional Meetings.

Update on Allocation Out of Sequence (AOOS)

The AOOS sub-workgroup teams (Compliance Team, Offer Team, and Expedited Placement Policy (EPP) Team) have held individual kickoff meetings, and the teams are working on gathering data and looking at information to determine how it can fit into the overall picture of AOOS. The AOOS workgroup Chair shared a public welcome letter via the [AOOS webpage](#) that documents the sub-workgroup teams’ work to date. The September closeout letter will also be posted on the [AOOS webpage](#).

The Chair explained that the Compliance team is working closely with the Vice Chair of the MPSC—who is also a member of the Compliance Team—to discuss how the MPSC’s view of compliance aligns with the work of the Compliance Team. He noted that education and training are potential areas of improvement for compliance processes. In collaboration with HRSA’s Data and Analytics team, the team is extracting data to have a comprehensive view of current compliance.

The Offer Team is working on reviewing bypass codes, common language on creating an offer, defining an offer and the components of what needs to be within an offer.

The EPP Team is currently reviewing gaps in data collection processes and opportunities for improvement.

Litigation Update

A legal representative from the Board Support contractor presented a high-level summary of pending OPTN litigation.

Category 1: Estimated Glomerular Filtration Rate (eGFR) cases

For these cases, various plaintiffs have filed 9 lawsuits (2 purported class actions, 7 single-plaintiff) across multiple federal courts in different states challenging the OPTN’s long-standing policy that did not specify which eGFR calculator could (or could not) be used for the purposes of reporting candidates’ eGFR values to the OPTN. The lawsuits filed challenge the OPTN’s implementation of the waiting time modification policy for those candidates impacted by transplant hospitals’ use of race-inclusive eGFR calculators, specifically asserting that UNOS and its co-defendants discriminated against Black patients by permitting the use of a race-based coefficient that delayed patients’ ability to be added to the transplant list. Additionally, the lawsuits allege violations of federal and state civil rights laws and other associated state law claims. All the eGFR cases are still active but at various stages (e.g., certain claims have been dismissed; discovery is ongoing; parties are awaiting decisions from the courts, etc.).

Category 2: Other Policy Cases

The first, *Callahan v. UNOS and U.S. Department of Health & Human Services*, was filed in April 2019 in the United States District Court, Northern District of Georgia (Atlanta). The case was filed by fifteen transplant hospitals and four liver transplant candidates, who alleged that an OPTN policy for the allocation of deceased donor livers was contrary to the law. Plaintiffs sought injunctive relief through which a new liver allocation policy would be enforced. Currently, the defendants, HHS and UNOS, have filed motions for summary judgment on the two remaining counts that exist. Additionally, there is an ongoing dispute about supplements to the administrative record in the case.

The second case, *Buckeye Transplant Services, LLC – Arbitration*, was filed in July 2023. The case arose from allegations that UNOS engaged in anticompetitive behavior by preventing the use of the plaintiff's data plugin tools on the OPTN computer system, due to UNOS and HRSA's conclusion that Buckeye was scraping data in violation of the Terms of Use of the system. The case began as a lawsuit but moved to arbitration shortly after filing; arbitration proceedings are not public and therefore, there is little public information on the case.

Category 3: Medical Negligence Cases

The *Reber v. Hospital of the University of Pennsylvania et al.*, case filed in Philadelphia County. The case was shared as an example of an instance where UNOS was named as a defendant based on how organs were clinically evaluated for placement.

Category 4: False Claim Act Cases

The *U.S. ex. rel. Chase v. UNOS et. al.*, case was filed in August 2025 in a federal court in the Western District of Texas. The relator (Chase) claims, among other things, that UNOS did not sufficiently monitor members for compliance, the effect of which permitted co-defendant OPTN member organizations to seek impermissible reimbursement from the government. UNOS and other named defendants have separately filed motions to dismiss the claims. The case is still in its early stages and the briefings on the motions will occur over the next months until a decision is made on whether the motions will be dismissed.

Open Discussion

The following topics were raised by Board members during the open discussion:

- A question was raised related to whether there are opportunities for the OPTN to secure additional funding sources. There are only two sources of funding for the OPTN budget: the appropriation funds directly from HRSA and the OPTN registration fees. The OPTN cannot accept philanthropic gifts. The OPTN can reconsider the registration fee amount, if needed.
- Plans to have workgroups address the Normothermic Regional Perfusion (NRP) and Donation after Circulatory Death (DCD) and other HRSA directive work were discussed. The Board plans to hold office hours to discuss the development of a strategic plan to address NRP and DCD.
- Feedback was shared related to Board meeting logistics and engagement during meetings was shared. Feedback shared that meeting materials should be provided to the Board five business days in advance of the meeting. Increased time for the Board to review meeting materials would foster

increased trust and Board engagement during meetings. There was also discussion of ensuring both affirming and dissenting voices are heard.

- The Board has traditionally met on a monthly cadence. The Board President requested the Board Support Contractor review the OPTN Bylaws to confirm there is not a requirement for meeting monthly in accordance with the President's request to meet less frequently if there is no business to address.
- The roles and responsibilities of Board liaisons/visiting Board members on committees.
 - Opportunity for a subset of Board members reviewing the Bylaws within the next year to identify how the Board can interact with the committees going forward.
 - The Operations Contractor will add visiting Board members to committee rosters and meeting invitations once they receive the full list of visiting Board members.

Adjourn

The President thanked the Board of Directors for their engagement and adjourned the meeting.