

ODYSSEY HEALTHCARE, INC.

AUDIT COMMITTEE CHARTER

March 25, 2004

The Board of Directors (the “**Board**”) of Odyssey HealthCare, Inc. (the “**Company**”) has established the Audit Committee of the Board.

Purposes

The purposes of the Audit Committee are to serve as an independent and objective party:

- To oversee the quality and integrity of the financial statements and other financial information the Company provides to any governmental body or the public;
- To oversee the Company’s compliance with legal and regulatory requirements;
- To oversee the independent auditors’ qualifications and independence;
- To oversee the performance of the Company’s internal audit function and independent auditors;
- To oversee the Company’s accounting and financial reporting processes and the audits of the Company’s financial statements;
- To oversee the Company’s systems of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board have established;
- To establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal controls, and other auditing matters and for the confidential, anonymous submission by Company employees of concerns regarding questionable accounting or auditing matters;
- To provide an open avenue of communication among the independent auditors, financial and senior management, the internal auditing department or outside auditors performing the internal audit function, and the Board, always emphasizing that the independent auditors are accountable to the Audit Committee; and
- To perform such other duties as are directed by the Board.

Consistent with these purposes, the Audit Committee should encourage continuous improvement of, and should foster adherence to, the Company’s policies, procedures and practices at all levels.

The Audit Committee shall prepare annually a report meeting the requirements of any applicable regulations of the Securities and Exchange Commission (the “**SEC**”) to be included in the Company’s proxy statement relating to its annual meeting of stockholders.

Function and Limitations

The function of the Audit Committee is oversight in accordance with the responsibilities and powers set forth in this Charter, and management and the independent auditors for the Company are accountable to the Audit Committee. Management of the Company, not the Audit Committee, is responsible for the preparation, presentation and integrity of the Company’s financial statements. Management is responsible for maintaining appropriate accounting and financial reporting principles and policies and internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. The independent auditors, not the Audit Committee, are responsible for planning and carrying out a proper audit of the Company’s annual financial statements, reviews of the Company’s quarterly financial statements prior to the filing of each quarterly report on Form 10-Q, and other procedures. In fulfilling their responsibilities hereunder, it is recognized that members of the Audit Committee are not full-time employees of the Company and, although they meet the applicable membership requirements set forth below, are not, and do not represent themselves to be, accountants or auditors by profession or experts in the fields of accounting or auditing, including in respect of auditor independence. As such, it is not the duty or responsibility of the Audit Committee or its members to (i) determine that the Company’s financial statements are complete and accurate and are in accordance with GAAP; (ii) conduct “field work” or other types of auditing or accounting reviews or procedures; or (iii) set auditor independence standards. Each member of the Audit Committee shall be entitled to rely on (i) the integrity of those persons and organizations within and outside the Company from which it receives information and (ii) the accuracy of the financial and other information provided to the Audit Committee by persons or organizations absent actual knowledge to the contrary (which shall be promptly reported to the Board).

Membership

The Audit Committee shall be comprised of three or more directors, as determined by the Board or a nominating committee of the Board, none of whom shall be an affiliate of the Company or any of its subsidiaries or an employee or a person who receives any compensation from the Company or any of its subsidiaries other than fees paid for service as a director. The members of the Audit Committee shall be elected by the Board or a nominating committee of the Board annually and shall serve until their successors shall be duly elected and qualified.

Unless the Board otherwise determines in accordance with the listing standards of the Nasdaq Stock Market, Inc. (the “**Nasdaq**”) and applicable rules and regulations of the SEC, each member shall be “independent” as defined from time to time by the listing standards of Nasdaq and by applicable rules and regulations of the SEC. If the Company’s securities are listed on any other exchange, the Audit Committee shall meet the independence and experience requirements of such exchange. Accordingly, the Board shall determine annually whether each member is free from any relationship that may interfere with his or her independence from management and the

Company. No member may accept, directly or indirectly, any consulting, advisory, or other compensatory fees from the Company or any of its subsidiaries other than director or committee fees. No member may have participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three years. No member shall serve on an audit committee of more than two public companies unless the Board determines that such simultaneous service would not impair the ability of such director to effectively serve on the Audit Committee.

Each member shall be able to read and understand financial statements at the time of his or her appointment, including balance sheets, income statements and cash flow statements. The Board shall appoint at least one member who is “financially sophisticated” as defined under the applicable Nasdaq listing standards and shall use its reasonable efforts to appoint at least one member who qualifies as an “audit committee financial expert” as defined from time to time by applicable regulations of the SEC, but in any event the Company shall comply with applicable Nasdaq listing standards. Members of the Audit Committee may enhance their familiarity with finance and accounting principles by participating in educational programs that the Company or an outside consultant conducts.

An audit committee financial expert shall not be deemed an “expert” for any purpose, including for purposes of Section 11 of the Securities Act of 1933. The designation of an Audit Committee member as an audit committee financial expert does not impose any duties, obligations or liability on the audit committee financial expert that are greater than those imposed on other Audit Committee members, nor does it affect the duties, obligations or liability of any other Audit Committee member.

Notwithstanding the foregoing membership requirements, no action of the Audit Committee shall be invalid by reason of any such requirement not being met at the time such action is taken.

Meetings and Structure

The Audit Committee shall meet at least four times annually to review and discuss with management the financial information of the Company, consistent with its duties and responsibilities, and as many additional times as the members deem necessary or appropriate to fulfill their duties in accordance with this Charter. The Audit Committee should meet at least annually with management, the director of the internal audit department or the outside auditors engaged to perform the function of an internal audit department, and the independent auditors in separate executive sessions to discuss any matters that the Audit Committee or any of these groups believe should be discussed privately.

The Board shall appoint one member of the Audit Committee as chairperson. He or she shall be responsible for leadership of the Audit Committee, including preparing the agenda, presiding over the meetings, making committee assignments and reporting to the Board. The chairperson will also maintain regular liaison with the Chief Executive Officer, the Chief Financial Officer, the lead audit partner of the Company’s independent auditors, and the Company’s director of internal auditing or outside auditors engaged to perform the function of an internal audit department.

Accountability of the Independent Auditors

The independent auditors are accountable to and report directly to the Audit Committee. The Audit Committee shall have the sole authority and responsibility with respect to the selection, engagement, compensation, oversight, evaluation and, where appropriate, dismissal of the Company's independent auditors engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company. The Audit Committee shall consider whether there should be a regular rotation of the Company's independent auditors. The Audit Committee, or a member thereof, must pre-approve any service, whether an audit or a non-audit service, provided to the Company by the Company's independent auditors, including the plan and scope of any such services and related fees.

Committee Authority and Responsibilities

The Audit Committee shall have the authority to take all actions it deems advisable to fulfill its responsibilities and duties.

The Audit Committee has the authority to retain professional advisors, including, without limitation, special legal counsel, accounting experts or other consultants, to advise the Audit Committee, which may be the same as or different from the Company's primary legal counsel, accounting experts and other consultants, as the Audit Committee deems necessary or advisable in connection with the exercise of its powers and responsibilities as set forth in this Charter, all on such terms as the Audit Committee deems necessary or advisable. The Audit Committee may require any officer or employee of the Company or any of its subsidiaries, the Company's outside legal counsel or the Company's independent auditors to attend a meeting of the Audit Committee or to meet with any members of, or consultants to, the Audit Committee. The Audit Committee chairperson or other designee of the Audit Committee, may also meet with the Company's investment bankers or financial analysts who follow the Company.

The Audit Committee shall be responsible for the resolution of any disagreements between the independent auditors and management regarding the Company's accounting or financial reporting practices.

The Company shall provide for appropriate funding, as determined by the Audit Committee, for payment of (i) compensation to the independent auditors employed by the Company for the purpose of preparing or issuing an audit report or performing other audit, review or attest services; (ii) compensation to any special legal counsel, accounting experts or other consultants employed by the Audit Committee; and (iii) ordinary administrative expenses of the Audit Committee.

In connection with the purposes, powers and responsibilities set forth above, the Audit Committee shall also:

Independent Auditors

1. Annually select and engage the Company's independent auditors retained to audit the financial statements of the Company.

2. Annually review the performance, experience and qualifications of the independent auditors' team and the quality control procedures of the independent auditors and discharge the independent auditors when circumstances warrant.
3. Review and pre-approve the plan and scope of the independent auditor's auditing services (including comfort letters) and all non-audit services provided or to be provided to the Company by its independent auditors, including compensation to be paid to the independent auditors. The Audit Committee may delegate pre-approval authority to one or more Audit Committee members, provided that the decision of such member(s) is presented to the full Audit Committee at the next meeting. Review the Company's disclosures in the Company's periodic reports filed with the SEC regarding any approved non-audit services provided or to be provided by the Company's independent auditors.
4. Ensure that the lead audit partner and reviewing audit partner of the Company's independent auditors are rotated at least every five years.
5. Set, and periodically review and modify as appropriate, clear hiring policies for employees or former employees of the Company's independent auditors.
6. Periodically obtain and review a report from the independent auditors regarding all relationships between the independent auditors and the Company that may impact the independent auditors' objectivity and independence, and discuss such report with the independent auditors. The Audit Committee shall also recommend any appropriate action to the Board in response to the written report necessary to satisfy itself of the independence and objectivity of the independent auditors.
7. Annually obtain and review reports from the independent auditors that include (i) all critical accounting policies and practices used; (ii) all alternative treatments of financial information within generally accepted accounting principles ("**GAAP**") that have been discussed with management, their ramifications and the preferences of the independent auditors; and (iii) other material written communications between the independent auditors and management.

Review

8. Review and approve the appointment, termination or replacement by management of a director of internal auditing or, at the discretion of the Board, select and contract with outside auditors to perform the function of an internal audit department.
9. Direct the scope of the duties and activities of the director of internal auditing or any outside auditors serving as internal auditors, who shall report directly to the Audit Committee.
10. Periodically meet and review with the director of internal auditing or any outside auditors serving as internal auditors the regular internal reports to management

prepared by the internal auditing department or outside auditors serving in such capacity and the progress of activities and any findings of major significance stemming from internal audits.

11. Review and discuss with management and the independent auditors, prior to filing or release, the Company's quarterly and annual financial information contained in the Company's Quarterly Report on Form 10-Q and Annual Report on Form 10-K, and in any earnings release; the information reviewed and discussed shall include management's discussion and analysis of financial condition and results of operations and any other matters required to be reviewed under applicable legal, regulatory or Nasdaq requirements. This review may be performed by the Audit Committee or its chairperson.
12. Review and, as appropriate, discuss with financial management the Company's earnings releases, including the use of any "non-GAAP financial measures," as well as financial information and earnings guidance, if any, provided to analysts or rating agencies.
13. Upon completion of any annual audit, meet separately with the independent auditors and management and review the Company's financial statements and related notes, the results of their audit, any report or opinion rendered in connection therewith, any significant problems or difficulties encountered during the course of the audit, management's response, including any restrictions on the scope of work or access to required information, any significant disagreements with management concerning accounting or disclosure matters, any significant adjustment proposed by the independent auditors, and the adequacy and integrity of the Company's internal accounting controls and the extent to which major recommendations made by the independent auditors have been implemented or resolved.
14. Regularly review with the Company's independent auditors any audit problems or difficulties and management's response.
15. Review and consider with the independent auditors and management the matters required to be discussed by Statement of Auditing Standards Nos. 61, 89 and 90. These discussions shall include consideration of the quality of the Company's accounting principles as applied in its financial reporting, including review of estimates, reserves and accruals, review of judgmental areas, review of audit adjustments whether or not recorded and such other inquiries as may be appropriate. Based on the foregoing review, make its recommendation to the Board as to the inclusion of the Company's audited financial statements in the Company's annual report on Form 10-K.
16. Review any disclosures provided by the Chief Executive Officer, the Chief Financial Officer or the independent auditors to the Audit Committee regarding significant deficiencies in the design or operation of internal control over financial

reporting which could adversely affect the Company's ability to record, process, summarize, and report financial data.

17. Review with management and the independent auditors any significant transactions that are not a normal part of the Company's operations and changes, if any, in the Company's accounting principles or their application.
18. At least annually, obtain and review a report by the independent auditors describing the accounting firm's internal quality-control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and all relationships between the independent auditor and the Company.
19. Review and approve all related-party transactions required to be disclosed pursuant to Item 404 of Regulation S-K.

Financial Reporting Processes

20. Periodically discuss separately with management, the independent auditors and the internal auditors the adequacy and integrity of the Company's accounting policies and procedures and internal accounting controls, the completeness and accuracy of the Company's financial disclosure and the extent to which major recommendations made by the independent auditors or the internal auditors have been implemented or resolved.
21. Consider and approve, if appropriate, major changes to the Company's accounting principles and practices as suggested by the independent auditors, management, or the internal auditing department or outside auditors performing the internal audit function. Review with the independent auditors, management and the internal auditing department or outside auditors performing the internal audit function the extent to which such changes have been implemented. This review should be conducted at an appropriate time subsequent to implementation of changes, as the Audit Committee determines.

Process Improvement

22. Establish regular and separate systems of reporting to the Audit Committee by each of management, the independent auditors and the director of internal auditing or outside auditors performing the internal audit function regarding any significant judgments made in management's preparation of the financial statements and the view of each as to appropriateness of such judgments.
23. Conduct an annual evaluation with the Board regarding the performance of the Audit Committee.

24. Discuss with management the Company's guidelines and policies governing the Company's process of risk assessment and risk management.
25. Regularly apprise the Board, through minutes and special presentations as necessary, of significant developments in the course of performing the Audit Committee's duties.

Ethical and Legal Compliance

26. Establish, and periodically review and modify as appropriate, procedures for the receipt, retention and treatment of complaints received regarding accounting, internal accounting controls, and auditing matters and for the confidential, anonymous submissions by Company employees of concerns regarding questionable accounting or auditing matters.
27. Review any disclosures provided by the Chief Executive Officer or the Chief Financial Officer to the Audit Committee regarding (i) significant deficiencies or weaknesses in the design or operation of internal control over financial reporting which could adversely affect the Company's ability to record, process, summarize, and report financial data; and (ii) any fraud, including that which involves management or other employees who have a significant role in the Company's internal control over financial reporting.
28. Investigate at its discretion any matter brought to its attention by, without limitation, enumeration, reviewing the books, records and facilities of the Company and interviewing Company officers or employees.
29. Review management's monitoring of the Company's compliance programs and evaluate whether management has review systems in place designed to ensure that the Company's financial statements, reports and other financial information disseminated to governmental organizations and the public satisfy applicable legal, regulatory or Nasdaq requirements.
30. Review with the Company's in-house or outside legal counsel any legal matter that could have a significant effect on the Company's financial statements, including the status of pending litigation, taxation matters and other areas of oversight to the legal and compliance area as may be appropriate.
31. Review with management and the independent auditors the Company's policies and procedures regarding compliance with its internal policies as well as applicable laws and regulations, including without limitation with respect to maintaining books, records and accounts and a system of internal accounting controls in accordance with Section 13(b)(2) of the Securities Exchange Act of 1934.

General

32. Perform any other activities consistent with this Charter, the Company's Certificate of Incorporation and Bylaws, the rules of Nasdaq applicable to its listed companies, and governing law as the Audit Committee or the Board deems necessary or appropriate.

Review of Committee Charter

At least annually, the Audit Committee shall review and reassess the adequacy of this Charter. The Audit Committee shall report the results of the review to the Board and, if necessary, make recommendations to the Board to amend this Charter.

**HIRING GUIDELINES FOR
INDEPENDENT AUDITORS' EMPLOYEES**

The Audit Committee has adopted the following guidelines regarding the hiring by the Company of its independent auditors' employees. For the purposes of these guidelines, the independent auditors' employees shall include any partner, director, manager, staff, advising member, reviewing actuary, reviewing tax professional and any other person having the responsibility for providing audit assurance to the independent auditors in any way for the certification of the Company's financial statements. Audit assurance includes all work that results in the expression of an opinion on financial statements.

1. No member of the independent auditors' audit team that is auditing the Company can be hired by the Company for a period of two years following such audit.
2. No former employee of the independent auditors may sign an SEC filing on behalf of the Company for five years following employment with the independent auditors.
3. No former employee of the independent auditor may be named an officer of the Company for three years following employment by the independent auditors.
4. The Audit Committee must approve all executive level and higher hires from the independent auditors.

The Audit Committee shall review these guidelines annually to evaluate whether any amendments are necessary to comply with applicable internal policies or any legal or regulatory requirements.

**PROCEDURE FOR COMPLAINTS
REGARDING ACCOUNTING MATTERS**

The Audit Committee has adopted the following procedures for (i) the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, auditing matters; and (ii) the confidential, anonymous submissions by employees of concerns regarding questionable accounting or auditing matters.

1. The Company will create and post on its website a designated toll-free number receiving complaints regarding accounting, internal accounting controls or auditing matters.
2. Copies of each complaint submitted shall be sent to the Chairman of the Audit Committee.
3. Each complaint will be tracked and handled by the Company's finance and legal staff as appropriate according to the Company's other procedures regarding complaints, except as the Audit Committee, or any member thereof, may specifically request.
4. The Audit Committee shall receive a quarterly report on the status of each complaint until the Audit Committee determines it has been resolved.
5. The Audit Committee has the right to request alternative treatment for any complaint addressed to it. Such alternative treatment may include the retention of outside counsel or other advisors to participate in any part of the process of resolving the complaint.
6. No retaliation or other adverse action against an employee submitting a complaint in good faith under these procedures shall be allowed by the Company.

The Audit Committee shall review these guidelines annually to evaluate whether any amendments are necessary to comply with applicable internal policies or any legal or regulatory requirements.