



Articles of Incorporation

of the

Medical Practitioners' Pension Fund of Berlin
(*Berliner Ärzteversorgung*)

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I
**Organisation of the Medical Practitioners' Pension Fund of Berlin
(the "Pension Fund")**

and membership

**Article 1
Registered office, functions and legal form**

(1) The Pension Fund is a body of the Medical Association of Berlin (*Ärztékammer Berlin*). It operates under the name of "*Berliner Ärzteversorgung, Einrichtung der Ärztekammer Berlin, Körperschaft des öffentlichen Rechts*" (Medical Practitioners' Pension Fund of Berlin, body of the Medical Society of Berlin, a statutory corporation) and has its registered office in Berlin.

(2) The Pension Fund engages in legal dealings in its own name. It is represented in and out of court by two members of the Management Committee (*Verwaltungsausschuss*), one of whom must be the chairperson or deputy chairperson.

(3) The role of the Pension Fund is to provide pension benefits as set forth in sections 21 to 25 of the Berlin Act on Professional Societies in the Health Care Sector (*Berliner Heilberufekammergesetz*) to its members, their surviving dependants and others who are entitled to pension benefits from the Pension Fund ("eligible beneficiaries") in accordance with these Articles of Incorporation. As a special-purpose fund without legal capacity, the assets of the Pension Fund must be held separately from the assets of the Medical Association and may only be used to achieve the purposes stated in sentence 1.

(4) Notices of the Pension Fund are published in the Berlin Gazette (*Amtsblatt für Berlin*).

(5) If the requirements of section 10 (1) of the German Public Notice Act (*Verwaltungszustellungsgesetz*) are met, the Pension Fund may publish notices by way of the public notice procedure. The document to be published must be displayed at the offices of the pension fund under the heading "Public Notices". Public notice of the document is deemed given two weeks from the date on which the notice was put up for display.

(6) Association members and recipients of benefits have an obligation to provide the Pension Fund with the information required under these Articles of Incorporation.

(7) The Pension Fund may enter into an agreement with Deutsche Post AG on the use and transfer of data in accordance with section 101a of the German Social Security Code, Vol. 10 (*Sozialgesetzbuch X, "SGB X"*).

**Article 2
Governing bodies**

(1) The governing bodies of the Pension Fund are:

- a) the Delegates Assembly (*Vertreterversammlung*);
- b) the Supervisory Board (*Aufsichtsausschuss*);
- c) the Management Committee (*Verwaltungsausschuss*).

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(2) The term of office of members of the governing bodies corresponds with the term of office of the members of the Delegates Assembly (*Delegiertenversammlung*) of the Medical Association of Berlin.

(3) Members of the Pension Fund's governing bodies act in an honorary capacity. Their remuneration is governed by separate remuneration rules.

(4) Members of the Pension Fund's governing bodies are only liable to the Pension Fund for loss or damage caused by intentional or grossly negligent acts or omissions.

Article 3 Delegates Assembly

(1) The Delegates Assembly consists of 12 members, who must be members of the Pension Fund and of the Delegates Assembly of the Medical Association of Berlin.

(2) The members of the Pension Fund's Delegates Assembly are elected by the Delegates Assembly of the Medical Association from among its members. The Delegates Assembly elects a chairperson and a deputy chairperson from among its members.

(3) The Delegates Assembly enacts rules of procedure for itself and rules governing the election of its chairperson, deputy chairperson and the members of the Supervisory Board and the Management Committee.

(4) The functions of the Delegates Assembly are:

a) to adopt resolutions on the Articles of Incorporation and on the rules governing the election of the chairperson and deputy chairperson of the Delegates Assembly and the members of the Supervisory Board and the Management Committee of the Medical Practitioners' Pension Fund of Berlin (such resolutions require a majority of two thirds of validly appointed members), and to adopt resolutions on the rules of procedure for the Delegates Assembly and guidelines for the Supervisory Board and the Management Committee (such resolutions require a simple majority);

b) to elect and remove members of the Supervisory Board and the Management Committee;

c) to adopt resolutions on the remuneration rules for honorary members of the Pension Fund's governing bodies;

d) to receive and adopt the annual financial statements;

e) to formally ratify the actions of the members of the Supervisory Board and the Management Committee;

f) to adopt resolutions on the appropriation of net income and measures to cover net losses based on the recommendation of the Management Committee and the Supervisory Board.

(5) The Delegates Assembly is to be convened as necessary, but at least twice a year. Meetings are convened by the chairperson or, if the chairperson is unable to do so, by the deputy chairperson. Three weeks' notice of meetings is required.

(6) The Senate Departments (*Senatsverwaltungen*) responsible for legal and insurance supervision, the President and Vice-president of the Medical Association of Berlin, the chair-
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person and deputy chairperson of the Supervisory Board and of the Management Committee and the Managing Director (*Geschäftsführung*) of the Medical Association of Berlin or a representative appointed by the Managing Director are to be invited to meetings of the Delegates Assembly. Others may be invited to meetings of the Delegates Assembly subject to the rules of procedure. Meetings of the Delegates Assembly are open to all members of the Medical Practitioners' Pension Fund of Berlin. Upon application, a resolution may be adopted to exclude the public.

(7) The Delegates Assembly is deemed to have quorum if at least two thirds of its members are present, including the chairperson or deputy chairperson. Unless the Berlin Act on Professional Societies in the Health Care Sector or the Articles of Incorporation of the Medical Practitioners' Pension Fund of Berlin provide otherwise, resolutions of the Delegates Assembly are adopted by simple majority.

(8) The procedure of the Delegates Assembly is governed in greater detail in the rules of procedure.

Article 4 Supervisory Board

(1) The Supervisory Board consists of six members, who must be members of the Pension Fund and must not be members of the Management Board (*Vorstand*) of the Medical Association or any other governing body of the Pension Fund.

(2) The chairperson, the deputy chairperson and the other four members of the Supervisory Board are elected for their term of office and removed by the Delegates Assembly in accordance with the Rules for the Election of the Supervisory Board and the Management Committee (*Ordnung für die Wahl des Aufsichts- und des Verwaltungsausschusses*). The Supervisory Board continues to manage affairs after its term of office expires until the new Supervisory Board elected by the Delegates Assembly takes over.

(3) The functions of the Supervisory Board are:

- a) to decide on appeals against all administrative decisions made by the Pension Fund's Management Committee;
- b) to oversee business activities, including all matters involving the Pension Fund's assets;
- c) to appoint the auditing firm to audit the annual financial statements and the management report;
- d) to review the annual financial statements and the management report;
- e) to draw up investment guidelines for the Pension Fund.

(4) The Supervisory Board meets at least four times during the calendar year, with one meeting always held one month after the presentation of the annual report and the audit report. It otherwise meets at any time at the request of at least two members of the Supervisory Board. Meetings of the Supervisory Board are convened by the chairperson or, if the chairperson is unable to do so, by the deputy chairperson. Two weeks' notice of meetings is required.

(5) Supervisory Board meetings are not open to the public, however the Senate Departments responsible for legal and insurance supervision and the chairperson and deputy chairperson of the Management Committee are to be invited to meetings. Advisers and experts

appointed or called upon in accordance with paragraph (8) may be invited to meetings if their presence is necessary.

(6) The Supervisory Board is deemed to have quorum if at least four of its members are present, including the chairperson or deputy chairperson. It adopts resolutions by a majority of the validly appointed members of the Supervisory Board.

(7) The Supervisory Board makes decisions by means of resolutions adopted at meetings. Resolutions may also be adopted in written or text form (outside of meetings), provided this procedure is not objected to without undue delay by a Board member.

(8) The Supervisory Board may appoint a legal adviser who must be qualified to serve as a judicial officer (*Richteramt*). It may call upon other experts if necessary to perform the functions assigned to the Supervisory Board.

(9) The Supervisory Board enacts rules of procedure for itself, which govern its procedure in greater detail.

Article 5 Management Committee

(1) The Management Committee consists of six members, who must be members of the Pension Fund and must not be members of the Management Board of the Medical Association or any other governing body of the Pension Fund.

(2) The chairperson, the deputy chairperson and the other four members of the Management Committee are elected for their term of office and removed by the Delegates Assembly in accordance with the Rules for the Election of the Supervisory Board and the Management Committee. The Management Committee continues to manage affairs after its term of office expires until the new Management Committee elected by the Delegates Assembly takes over.

(3) The Management Committee manages the Pension Fund's affairs to the extent that their management has not been delegated to another governing body of the Pension Fund. It is responsible for implementing the resolutions of the Delegates Assembly and the Supervisory Board. Every year, no later than seven months after the end of the financial year, it must present the annual report, including the annual financial statements and the management report, to the Supervisory Board for review.

(4) The Management Committee meets at least six times during the calendar year, and otherwise at any time at the request of at least two members of the Management Committee. Meetings of the Management Committee are convened by the chairperson or, if the chairperson is unable to do so, by the deputy chairperson. One week's notice of meetings is required.

(5) Management Committee meetings are not open to the public, however the Senate Departments responsible for legal and insurance supervision and the chairperson and deputy chairperson of the Delegates Assembly are to be invited to meetings. Advisers and experts appointed or called upon in accordance with paragraph (8) may be invited to meetings if their presence is necessary.

(6) The Management Committee is deemed to have quorum if at least four of its members are present, including the chairperson or deputy chairperson. It adopts resolutions by a majority of the validly appointed members of the Management Committee.

(7) The Management Committee makes decisions by means of resolutions adopted at meetings. Resolutions may also be adopted in written or text form (outside of meetings), provided this procedure is not objected to without undue delay by a Committee member.

(8) The Management Committee may appoint actuarial, legal and investment advisers and call upon other experts if necessary to perform the functions assigned to the Management Committee. Mathematics experts must have a degree in mathematics. Legal advisers must be qualified to serve as judicial officers.

(9) The Management Committee enacts rules of procedure for itself, which govern its procedure in greater detail.

Article 6 Membership

(1) All persons who were already members of the Pension Fund on 31 December 2005 or who satisfied the criteria for membership under the Articles of Incorporation that applied until 31 December 2005 automatically became members of the Pension Fund on 1 January 2006.

(2) Also automatic members of the Pension Fund are all persons who become a member of the Medical Association of Berlin after 31 December 2005 and who, at the time of joining:

- a) have not yet reached 60 years of age; and
- b) are not unable to practise due to ill-health/disability (*berufsunfähig*) as defined in article 10 (1) sentence 1 (c).

(3) Also automatic members of the Pension Fund are all persons who become a member of the Medical Association of Berlin after 31 December 2011 and who, at the time of joining:

- a) have not yet reached 62 years of age; and
- b) are not unable to practise due to ill-health/disability (*berufsunfähig*) as defined in article 10 (1) sentence 1 (c).

(4) Also automatic members of the pension fund are all persons who become a member of the Medical Association of Berlin after 31 December 2013 and who, at the time of joining:

- a) have not yet reached the applicable standard retirement age (*Regelaltersgrenze*) set forth in article 9 (2); and
- b) are not unable to practise due to ill-health/disability as defined in article 10 (1) sentence 1 (c).

(Automatic exemption (*Ausnahme*) from membership)**

(5) Exempt from membership of the Pension Fund are Medical Association members who:

- a) do not engage in medical practice in the jurisdiction of the Medical Association of Berlin;
- b) work on a volunteer basis or receive only a scholarship;
- c) are public servants or permanent or fixed-term officers of the armed forces as referred to in section 5 (1) no.1 SGB VI;

- d) are employees similar to public servants as referred to in section 5 (1) no. 2 SGB VI.

Exemptions from membership depend on the work performed and not the individual.

If the criteria for an exemption under sentence 1 no longer apply, a person will only become a member of the Pension Fund if, at such time, they have not yet turned 60 years of age (for persons who joined the Medical Association on or before 31 December 2011), or not yet turned 62 years of age (for persons who joined the Medical Association after 31 December 2011), or not yet reached the applicable standard retirement age under article 9 (2) (for persons who joined the Medical Association after 31 December 2013) and they are not unable to practise due to ill-health/disability as defined in article 10 (1) (c).

(Exit from the Pension Fund)**

(6) Membership of the Pension Fund ends for members who:

- a) are no longer a member of the Medical Association of Berlin, with membership of the Pension Fund ending when membership of the Medical Association ends;
- b) fulfil the criteria under sub-paragraph (5) (c) or (d) during their membership, with membership of the Pension Fund ending as soon as the criteria are met. The foregoing does not apply if the member also engages in another activity that satisfies the criteria for membership.

(7) The following persons may apply to be released from the rights and obligations associated with membership:

- a) members who are not citizens of a member state of the European Union or of a signatory state to the Agreement on the European Economic Area or of a signatory state to which the Federal Republic of Germany or the European Union has granted a corresponding legal entitlement by way of a treaty;
- b) members who took up marginal employment (*geringfügige Beschäftigung*) as defined in section 8 (1) SGB IV on or before 31 December 2012 and who have not given notice to their employer waiving their exemption from mandatory insurance in favour of the Pension Fund, as well as members who took up marginal employment as defined in section 8 (1) SGB IV on or after 1 January 2013.
- c) members of the Medical Association of Berlin who had applied and were exempted from a statutory obligation to join a pension fund outside the German state (*Land*) of Berlin at the time that this Pension Fund was established, provided that the reason for the exemption still applies;
- d) members who are employed or engage in an activity that is limited by contract from the outset to no more than three months or 70 working days in a single calendar year.

Exemption applications must be submitted within three months of the beginning of membership.

Any exemption granted under this paragraph may be revoked from the time that the relevant criteria no longer apply, unless at such time the member of the Medical Association of Berlin has already turned 62 years of age or is unable to practise due to ill-health/disability as defined in article 10 (1) sentence 1 (c). The above retirement age does not apply if, by virtue of back-dating membership (*Nachversicherung*) in accordance with article 32, membership of the Pension Fund commenced at a point in time prior to the member's 62nd birthday.

(Waiver of membership exemption)**

(8) Any person who is exempted from joining the Pension Fund in accordance with paragraph (7) may, by giving written notice to the Management Committee, waive the exemption with effect from the beginning of the following month, provided they have not yet turned 45 years of age. Such waiver can only be accepted if a medical examination requested by the Management Committee has been conducted and it confirms that there is no increased risk of disability. The Management Committee decides whether to revoke the exemption and admit the member to the Pension Fund based on the outcome of the medical examination.

Article 7 Voluntary membership

(1) Any person who was a member of the Pension Fund and ceases to be a member of the Pension Fund for the reason referred to in article 6 (6) (a) may apply to continue their membership until they are required to become a member of and make compulsory contributions to another occupational pension fund in Germany.

(2) Any person who ceases to be a member of the Pension Fund for the reason referred to in article 6 (6) (b) may apply to continue their membership.

(3) In cases falling under paragraphs (1) and (2), a written declaration of intent must be submitted within three months of the relevant criteria being met.

(4) Members may not terminate voluntary membership.

II Benefits provided by the Pension Fund

Article 8 Pension benefits and duties of cooperation

(1) The Pension Fund grants the following benefits upon written application, subject to the relevant criteria being met:

- a) retirement pension, article 9;
 - aa) standard retirement pension;
 - bb) early retirement pension;
 - cc) early part pension;
 - dd) deferred retirement pension;
- b) disability pension, article 10;
 - aa) temporary disability pension;
 - bb) permanent disability pension;
- c) surviving dependants' pension, article 11;
 - aa) for widows/widowers/registered civil partners;
 - bb) half-orphan's pension;
 - cc) double orphan's pension;
- d) child supplement, article 17;

- e) lump sum payment upon remarriage for widows and widowers, article 18;
- f) additional medical rehabilitation benefits, article 20.

The benefits referred to in sub-paragraphs (a), (c) and (d) are generally paid when the applicable criteria are met. If the benefits are applied for more than six months after that, payment will commence on the first of the month following receipt of the application.

(2) Any person who applies for or receives benefits must:

- a) disclose all facts of material relevance to the benefit and, at the Pension Fund's request, consent to third parties disclosing the necessary information;
- b) notify the Pension Fund without undue delay of changes in circumstances that are of material relevance to the benefit or in relation to which representations have been made in connection with the benefit;
- c) nominate supporting evidence and, at the request of the Pension Fund, present supporting documents or consent to the presentation of such documents.

Any person who applies for or receives benefits should submit to medical, psychological or psychotherapeutic examinations and assessments at the Pension Fund's request, provided these are necessary for a decision to be made in relation to the benefits.

Any person who applies for or receives benefits on the grounds of disability should undergo treatment at the request of the Pension Fund if it is anticipated that such treatment would improve the person's health and would prevent the onset of a disability or restore their ability to practise. The duty to cooperate described in sentences 2 and 3 does not apply if:

- a) compliance with the duty is not reasonably proportionate to the benefit claimed; or
- b) a compelling reason renders it unreasonable for the person concerned to comply with the duty; or
- c) the Pension Fund can procure the necessary information itself with less effort than the applicant or the eligible beneficiary.

Forms of treatment and examinations may be refused if the risk of death or damage to health cannot be excluded with a high degree of certainty, they are associated with considerable pain or would require a serious intervention affecting bodily integrity.

Information may be refused if it could expose the applicant, the eligible beneficiary or persons closely connected with them (*nahestehende Personen*) as defined in section 383 (1) of the German Code of Civil Procedure (*Zivilprozessordnung*) to the risk of criminal prosecution or proceedings under the German Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten*).

Any person who complies with a request by the Pension Fund as described in sentences 2 and 3 may apply for the reimbursement of necessarily incurred expenses and loss of earnings to a reasonable extent.

If the person who applies for or receives a benefit culpably fails to comply with their duties of cooperation described in sentences 1 to 3 and this makes it substantially more difficult to ascertain the facts or prevents or renders any improvement in their circumstances impossible or causes their circumstances to deteriorate, the Pension Fund may refuse or withdraw the benefit without making any further enquiries until the person agrees to cooperate, provided

and to the extent that the criteria for awarding the benefit are not proven or the complaints do not improve or are made worse. The benefits may be wholly or partially refused or withdrawn on the grounds of failure to cooperate only once the eligible beneficiary has been alerted to this consequence in writing and has failed to cooperate within a reasonable grace period.

(Limitations periods applicable to pension benefits)**

(3) Claims for pension benefits become time-barred four years after the end of the calendar year in which they arise. The provisions of the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB") apply *mutatis mutandis* to determining the limitations periods and to the suspension, resumption and effect of limitations periods.

(Assignment of damages claims)**

(4) If the Pension Fund has an obligation to provide benefits to a member of the Pension Fund as a result of loss or damage sustained by the member, any claim for damages on the part of the member shall be assigned to the Pension Fund up to the value of the pension benefits paid. The foregoing also applies to any claim for compensation for loss of contributions, except during any period in which the member's salary continues to be paid or other benefits that are subject to compulsory contributions are paid.

Taking into account periods of disability for pension purposes does not preclude a damages claim for loss of contributions.

**Article 9
Retirement pension**

(1) Every member of the Pension Fund is entitled to a retirement pension for life when they reach the standard retirement age.

(2) Members born prior to 1 January 1950 reach standard retirement age when they turn 65. The standard retirement age increases as follows for members born after 31 December 1949:

Year of birth	Standard retirement age
1950	65 years and 2 months
1951	65 years and 4 months
1952	65 years and 6 months
1953	65 years and 8 months
1954	65 years and 10 months
1955	66 years
1956	66 years and 2 months
1957	66 years and 4 months
1958	66 years and 6 months
1959	66 years and 8 months
1960	66 years and 10 months
1961 and later	67 years.

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(3) The standard retirement age remains 65 for members who were born prior to 1 January 1955 and who, prior to 1 January 2009, agreed to a semi-retirement arrangement (*Altersteilzeit*) as defined in sections 2 and 3 (1) no. 1 of the German Semi-retirement Act (*Altersteilzeitgesetz*) of 23 July 1996 (Federal Law Gazette, p. 1078), most recently amended by article 26a of the Act of 20 December 2007 (Federal Law Gazette I, p. 3150).

(4) The member becomes entitled to payment on the first of the month following attainment of the standard retirement age. The retirement pension is paid in monthly instalments equivalent to one-twelfth of the annual pension amount. The entitlement ends at the end of the month in which the eligible recipient dies.

(5) Subject to the requirements of article 31, payment of the retirement pension may, upon written application, be brought forward during the vesting period by a certain number of whole years without resulting in any pension reduction. In such cases, the member will start receiving the full retirement pension the relevant number of years before attainment of the standard retirement age under paragraph (2) or (3).

(6) Upon written application, a reduced retirement pension may be paid before attainment of the standard retirement age where the member has not made additional payments or the vesting period has already been shortened by a certain number of whole years in accordance with paragraph (5), however the retirement pension will not be paid any earlier than 60 months prior to the member reaching the applicable standard retirement age set forth in paragraph (2) or (3), with payment commencing on the first of the month following receipt of the application. If a person becomes a member of the Medical Association of Berlin or another prescribed or statutory domestic occupational pension fund after 31 December 2011, then by way of derogation from sentence 1, the retirement pension will be paid no earlier than the member's 62nd birthday, with payment commencing on the first of the month following receipt of the application. In cases falling under sentences 1 and 2, the projected retirement pension payable at the applicable standard retirement age is discounted by a fixed rate of 0.5 percentage points for each month by which payment of the pension is brought forward. By way of derogation from sentence 3, future pension entitlements for which contributions are waived ("non-contribution-based future pension entitlements") (*beitragsfreie Rentenanwartschaften*) as referred to in paragraph (14) are discounted by 0.35 percentage points for each month by which payment of the pension is brought forward. Members may also apply in writing to receive part of their retirement pension (30%, 50% or 70%) early, before reaching standard retirement age. The annual amount of any part pension is calculated based on the contributions paid up until payment of the pension starts and in accordance with paragraphs (13) sentences 1 to 5. The part pension will be discounted by 0.35 percentage points for each month earlier than the standard retirement age under paragraph (2) that the part pension is claimed. Application may be made for another part pension, but only up to the amount of the full retirement pension; it may also be applied for early in accordance with sentences 1 to 4.

(7) Where article 31 does not apply, upon written application, which must be lodged at least one month prior to the commencement of the pension as specified in paragraph (2), the retirement pension may be paid from the first of the month following a later time than the time specified in paragraph (2), but no later than 36 months after the applicable standard retirement age, and no earlier than the beginning of the month in which the Pension Fund receives the application. The deferred retirement pension described in sentence 1 applies to retirement pensions that would ordinarily commence on or after 1 September 2020. The additional contributions will be converted in accordance with paragraph (13). The amount of the pension is also increased by a fixed supplement of 0.45 percentage points for each month by which payment of the pension is deferred. This supplement also applies to non-contribution-based future pension entitlements as described in paragraph (14).

(Individual base pension (*Rentenbemessungsgrundlage*))**

(8) Annex 1 of these Articles of Incorporation sets out the individual base pension for members who were members of the Pension Fund on 31 December 2015. For members who joined the Pension Fund after 31 December 2015, the pension is calculated based on the individual base pension approved annually by the Delegates Assembly.

(Accumulation unit)**

(9) By paying contributions, each member acquires an accumulation unit (*Steigerungszahl*) for the year in which they became a member of the Pension Fund and for each calendar year thereafter. This annual accumulation unit is calculated by dividing the contributions paid in a given year by the generally applicable contribution ("general contribution") (*allgemeine Versorgungsabgabe*) under article 30 (1) for the same year, multiplied by the multiplier determined by the member's age at the time of joining the Pension Fund ("age-based multiplier"). Contributions paid by medical interns are deemed equivalent to the annual contribution under article 30 (1). Annex 2 of these Articles of Incorporation sets out the age-based multiplier, however in the case of all members who joined the Pension Fund prior to 1 January 2005, this multiplier is multiplied in each case by a factor rounded to four decimal places in accordance with commercial principles. This factor is determined by taking the future entitlement as at 1 January 2005 calculated in accordance with article 9 (4) of the version of the Articles of Incorporation of the Medical Practitioners' Pension Fund of Berlin that applied until 31 December 2005 and dividing this figure by the same future entitlement but without taking into account eight times the value of the average accumulation unit acquired as referred to in article 9 (4) sentence 2 of the version of the Articles of Incorporation that applied until 31 December 2005.

(10) For members who joined the Pension Fund in the period between 1 January 2005 and 31 December 2008, the age-based multiplier is set forth in Annex 3 of these Articles of Incorporation.

(11) For members who joined the pension fund on or after 1 January 2009, the multiplier based on the member's age at the time of joining and year of birth is set forth in Annex 4 of these Articles of Incorporation.

(12) For the purpose of paragraphs (9) to (11), the age at the time of joining is the difference between the calendar year in which the member joined the Pension Fund and their year of birth.

(13) The annual amount of the retirement pension is calculated by multiplying the member's total accumulation units by their individual base pension under paragraph (8). The total accumulation units are calculated by adding the accumulation units acquired to the accumulation units imputed for periods of recognised disability (the average of the accumulation units calculated pursuant to sentence 1), whereby when calculating the average, periods during which no contributions were paid are generally also taken into account.

The following are disregarded when calculating the average:

- a) periods of disability;
- b) periods of maternity leave in accordance with the statutory provisions, which also applies by analogy to members who do not practise under an employment arrangement;
- c) periods of up to 12 months after the birth of a member's child during which the member of the Pension Fund cares for the child and does not receive any income from employment or self-employment or payments in lieu of such income exceeding, per month, 1/6 of the applicable reference amount under the statutory pension scheme for employees. For children born on or after 1 January 1998, the foregoing applies *mutatis mutandis* for periods of up to

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36 months after the child's birth, and for children born on or after 1 January 2001, it applies *mutatis mutandis* for periods of up to 36 months after the child's birth irrespective of income, unless the contributions paid during this period increase the average accumulation unit already acquired;

d) accumulation units that affect the pension calculation and were acquired as part of an apportionment of pension entitlements on divorce (*Versorgungsausgleich*) or during any period of home care leave (*Kinderbetreuungszeit*);

e) where membership commenced prior to 1 January 2006, the accumulation units acquired in the first three years of membership, provided this increases the average accumulation units acquired in the other years.

If both parents are members of the pension fund, the period of home care leave may be excluded for only one of the parents for the purpose of calculating the average accumulation units, or the period may be apportioned between them if they make concurring, irrevocable declarations of intent to this effect.

If, after the earliest possible date for receiving early payment of the retirement pension in accordance with paragraph (6) sentence 1, the criteria for the award of a disability pension are no longer met, the member's entitlement to the retirement pension will be reduced by 0.5 percentage points for each month or part thereof between the date they could have received early payment of the retirement pension and the date on which the entitlement to the disability pension lapsed.

For the purpose of determining the member's entitlement to the retirement pension, the accumulation units that the member would have acquired had they continued to receive their average accumulation unit until they reached the applicable standard retirement age under paragraph (2) or (3) (determined as at the calculation date) will be added ("deemed accumulation period") (*Hinzurechnungszeit*).

(14) If membership has lapsed for one of the reasons referred to article 6 (6) and was not continued on a voluntary basis, or if membership ended pursuant to article 7 (1) or was terminated pursuant to article 7 (4) or (5) of the version of the Articles of Incorporation that applied until 31 December 2013, both the retirement pension and the future retirement pension entitlement will be calculated based on the actually acquired accumulation units, without taking into account the deemed accumulation period under paragraph (13) sentence 6. By way of derogation from the foregoing, paragraph (12) sentence 2 applies *mutatis mutandis* to any periods of recognised disability during membership.

(15) If a member's pension entitlement when they become entitled to receive payment of the retirement pension does not exceed 1% of the monthly reference figure under section 18 SGB IV, the member will automatically receive, in lieu of pension payments, a lump sum payment equivalent to 15 times this annual pension amount.

Article 10 Disability pension

(Criteria)**

(1) Every member of the Pension Fund:

a) who became a member prior to 1 January 2006 and has paid contributions for at least one month; or

- b) who became a member after this time and has paid contributions for at least 12 months to the Pension Fund or previously to another occupational pension fund in the Federal Republic of Germany; and
- c) whose ability to engage in gainful employment in which health care expertise is or may be applied or used is completely compromised on a not merely temporary basis for health reasons (disability) (*Berufsunfähigkeit*); and
- d) who ceases all medical practice for this reason; and
- e) who is not yet eligible to claim an early retirement pension;

is entitled to a disability pension. The qualifying period of 12 months does not apply to members who suffer from disability as a result of an accident.

If the member's ability to engage in gainful employment as referred to in sub-paragraph (1) (c) is only partially compromised, the impracticality of participating in the labour market will be disregarded for the purpose of assessing entitlement to the benefit. For the purpose of assessing disability, members who are ordinarily resident in another country will be treated as though their usual place of residence was within the territorial scope of the Basic Law (Constitution) of the Federal Republic of Germany (*Grundgesetz*). A member's ability to engage in gainful employment is not deemed compromised while they receive sickness benefits (*Krankengeld*), workers' compensation (*Verletztengeld*) or benefits under income protection insurance (*Krankentagegeld*), they remain a registered provider under the statutory health insurance scheme (*vertragsärztliche Versorgung*), they have not discontinued their private practice or their practice is continued by a locum practitioner, provided the member derives income from this.

(2) If the medical prognosis indicates that it will not be possible for the member to resume practise, a permanent disability pension is granted. In all other cases, the disability pension is paid for a limited term and ends no later than the expiry of this term. The maximum term for payment of the disability pension is three years from the start of the pension, and this term may be repeated. A permanent disability pension will also be paid if it is immediately preceded by receipt of a temporary pension for a period totalling six years.

(Beginning and end of payment eligibility)**

(3) If the criteria are met, members become eligible for payment of the disability pension three months after their written application is received, whereby the month in which the application is submitted counts as a full month. By way of derogation from sentence 1, employed medical practitioners will become eligible for the disability pension when their entitlement to salary continuance payments, sickness benefits, workers' compensation or benefits under income protection insurance ends, however, where applicable, not until the month in which they lodge the application if this occurs more than six months after the criteria under article 10 (1) sentence 1 (c) are met.

The entitlement is extinguished:

- a) at the end of the month in which the eligible recipient dies;
- b) at the end of the month in which the criteria under sub-paragraph (1) sentence 1 (c) or (d) are no longer met;
- c) upon transition to the standard retirement pension.

(4) The member may attempt to work again in order to reintegrate in professional life. They must apply in writing a reasonable time before undertaking any such attempt to work, and may only work for a maximum of three months. Payment of the disability pension is suspended during any attempt to undertake paid work. However, the Management Committee may provide a living allowance to the extent necessary. If the disability persists after the attempt to work, payment of the disability pension will resume. If the attempt to undertake paid work results in the member becoming able to practise medicine again, their entitlement to the disability pension will be extinguished at the end of the month in which the attempt to work commenced.

(Pension amount)**

(5) Subject to the overriding transitional provision under article 36, if the onset of disability occurs prior to the earliest possible date for receiving early payment of the retirement pension in accordance with article 9 (6) sentence 1, the disability pension will amount to 70% of the member's future entitlement to the retirement pension calculated in accordance with article 9 (13) or (14) at the time of the onset of the disability. By way of derogation from article 9 (13) sentence 6, for the purpose of the deemed accumulation period however, the accumulation units acquired by virtue of voluntary additional contributions in the year in which payment of the disability pension starts and the year before that will be disregarded.

If, upon the onset of disability, a member has already brought forward payment of the retirement pension by means of voluntary additional payments in accordance with article 31, their entitlement to the disability pension will increase as follows, subject to the overriding provision under article 36:

Retirement pension brought forward by	Percent of future retirement pension entitlement
one year	76%
two years	82%
three years	88%
four years	94%
five years	100%

Once the earliest possible date for receiving early payment of the retirement pension in accordance with article 9 (6) sentence 1 is reached, or from the time when the criteria for the award of a disability pension are no longer met, the entitlement to the disability pension will be equivalent to the amount of the early retirement pension under article 9 (6) sentence 2 or 3 at the relevant time.

(6) The disability pension is paid in monthly instalments equivalent to one-twelfth of the annual pension. When the applicable standard retirement age under article 9 (2) or (3) is reached, the disability pension is replaced by a retirement pension of an equivalent amount.

(7) Members shall not be entitled to the disability pension if they intentionally brought about their disability.

(8) If, when the qualifying event (*Versorgungsfall*) occurs (disability or death), a former member who is not yet receiving the retirement pension is required to make compulsory contributions to another statutory pension institution which falls within the scope of Regulation (EC) No 883/04, then instead of paying the pension based on the non-contribution-based entitlement referred to in article 9 (14), the Pension Fund will pay a higher pro rata benefit. This pro rata benefit will be calculated based on the ratio between the period of membership

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of the Medical Practitioners' Pension Fund of Berlin and the total period of insurance with all statutory pension institutions in accordance with Article 52(1) to (3) of Regulation (EC) No 883/04 up until the qualifying event.

The pension is calculated in such a way that both the periods of insurance prior to joining the Medical Practitioners' Pension Fund of Berlin and the period between leaving the Pension Fund and reaching the applicable standard retirement age under article 9 (2) or (3) are taken into account. These periods are taken into account as follows: the accumulation units that the member would have received during these periods if they had received the average accumulation units acquired previously are added to the total accumulation units acquired during membership of the pension fund.

(9) Where a member of the Medical Practitioners' Pension Fund of Berlin is also entitled to benefits in the event of disability or death from other statutory pension institutions falling within the scope of Regulation (EC) No 883/04, only a pro rata benefit will be paid. The pro rata benefit is calculated in accordance with paragraph (8) sentence 2. For the purpose of the calculation, periods of insurance prior to joining the Pension Fund are also taken into account. These periods are taken into account in accordance with paragraph (8) sentence 4.

Article 11 **Surviving dependants' pension**

(1) The surviving dependants' pensions are:

- a) widow's pensions;
- b) widower's pensions;
- c) pensions for surviving registered civil partners;
- d) pensions for half-orphans and double orphans.

(2) Surviving dependants are not entitled to a pension if they intentionally brought about the death of the member of the Pension Fund.

Article 12 **Widow's and widower's pension**

Widows and widowers of persons who were insured with the Pension Fund are entitled to a widow's or widower's pension following the death of their spouse, provided they have not remarried. No entitlement to the pension exists if the marriage was entered into after the member's 60th birthday or after the onset of a disability within the meaning of article 10 (1) sentence 1 (c), and the marriage did not last for at least three years. If the age difference between the spouses was more than ten years, the marriage must have lasted for at least four years for a pension entitlement to exist, and if the age difference was more than 20 years, the marriage must have lasted for at least five years for a pension entitlement to exist. For members who joined after 31 December 2011, the relevant point in time is the member's 62nd birthday rather than their 60th birthday. Surviving dependants from a registered civil partnership are considered equivalent to widows and widowers. Section 46 (4) SGB VI applies *mutatis mutandis*.

Article 13 **Pensions for former spouses**

(1) Former spouses of the eligible recipient whose marriage to the eligible recipient was dissolved, revoked or annulled pursuant to the law on divorce applicable until 30 June 1977 will receive a pension after the death of the eligible recipient if they have not remarried in the meantime (article 18 (1)) and, at the time of the eligible recipient's death, the eligible recipient was required under the provisions of the German Marriage Act (*Ehegesetz*) or on some other basis to pay maintenance to the former spouse.

(2) The former spouse of a member who divorced the member pursuant to the law on divorce applicable since 1 July 1977 does not qualify as a surviving dependant for the purposes of the Articles of Incorporation.

Article 14

Apportionment of pension entitlements on divorce (*Versorgungsausgleich*)

(1) Under the German Act on the Apportionment of Pension Entitlements on Divorce (*Versorgungsausgleichsgesetz*), acquired pension entitlements are either apportioned internally (*interne Teilung*) or a share is transferred to an external pension fund (*externe Teilung*) based on the decision of the Family Court (*Familiengericht*).

(2) Internal apportionment under sections 10 to 13 of the German Act on the Apportionment of Pension Entitlements on Divorce is carried out as follows: once the Family Court's decision on the apportionment of pension entitlements becomes final and binding, pension entitlements that accrued during the marriage (converted to accumulation units) are deducted from the spouse who is obligated to transfer a share of their entitlements ("obligated spouse") and allocated to the spouse entitled to receive the entitlements ("beneficiary spouse") as the beneficiary spouse's own pension entitlements. These entitlements are treated as though they had accrued in the periods for which the apportionment is carried out. For the purpose of determining age at the time of joining, the relevant date is the start of the marriage as referred to in section 3 (1) of the German Act on the Apportionment of Pension Entitlements on Divorce, however it shall not be earlier than the date on which the obligated spouse joined the Pension Fund.

If both spouses are members of the Medical Practitioners' Pension Fund of Berlin and the entitlements of both spouses with the Pension Fund are subject to internal apportionment by the Family Court, the Medical Practitioners' Pension Fund of Berlin will offset the respective apportionments against each other and transfer the difference to the relevant party.

If only one spouse is a member of the Medical Practitioners' Pension Fund of Berlin, and provided the other spouse is not licensed to practise as a medical practitioner, the other spouse's entitlement established by the apportionment of the pension benefits is limited to the retirement pension under article 9 and does not give rise to eligibility for a disability or surviving dependants' pension. To compensate for this limitation of benefits, the other spouse's entitlement to the retirement pension is supplemented in accordance with the following table, whereby the amount of the supplement is determined based on the age of the beneficiary spouse at the end of the marriage.

Age	Supplement	Age	Supplement
younger than 25	14.9%	55	10.3%
26	14.8%	56	10.0%
27	14.8%	57	9.6%
28	14.7%	58	9.3%
29	14.7%	59	9.0%
30	14.6%	60	8.7%

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31	14.6%	61	8.4%
32	14.5%	62	8.2%
33	14.5%	63	8.0%
34	14.4%	64	7.8%
35	14.3%	65	7.6%
36	14.2%	66	7.3%
37	14.1%	67	7.0%
38	14.0%	68	7.3%
39	13.9%	69	7.7%
40	13.7%	70	8.1%
41	13.6%	71	8.5%
42	13.4%	72	8.9%
43	13.2%	73	9.4%
44	13.1%	74	9.8%
45	12.9%	75	10.3%
46	12.7%	76	10.8%
47	12.5%	77	11.4%
48	12.2%	78	11.9%
49	12.0%	79	12.5%
50	11.7%	80	13.1%
51	11.5%	81	13.8%
52	11.2%	82	14.4%
53	10.9%	83	14.7%
54	10.6%	84 or older	14.9%

The entitlement established by virtue of the apportionment of pension benefits on divorce cannot be increased by paying contributions.

(3) The Medical Practitioners' Pension Fund of Berlin may agree to an external transfer of pension entitlements with the beneficiary spouse or require that the pension entitlements be transferred to an external pension fund if the settlement amount at the end of the marriage is not more than 2% in terms of pension amount or not more than 240% in terms of net present value of the monthly reference figure under section 18 SGB IV. External transfers ordered by the Family Court are governed by sections 14 to 17 of the German Act on the Apportionment of Pension Entitlements on Divorce.

(4) In the event that contributions are rolled over in accordance with article 19, then of the contributions paid by the obligated spouse, those paid during the marriage will be reduced by a percentage reflecting the ratio between the rolled over monthly amount and the total monthly pension entitlement acquired by the obligated spouse during the marriage.

(5) Article 14 of the version of the Articles of Incorporation of the Medical Practitioners' Pension Fund of Berlin that applied until 31 August 2009 applies to legally binding decisions of the Family Court under the German Act to Resolve Hardship during the Apportionment of Pension Entitlements on Divorce (*Gesetz zur Regelung von Härten im Versorgungsausgleich*).

(6) Until such time as the qualifying event occurs, future pension entitlements that are reduced as a result of the apportionment of pension entitlements on divorce may be topped by up by paying a single lump sum or by paying higher recurring contributions. These payments together with the contributions paid for the current year may not exceed 15 times the contributions that would result from a contribution base (*Beitragsbemessungsgrundlage*) of twice the monthly contribution ceiling (*Bemessungsgrenze*) under the *Deutsche Rentenversicherung* statutory pension scheme.

Article 15 Orphan's pension

(1) Following a member's death, their children receive an orphan's pension until they reach 18 years of age. The orphan's pension will continue to be paid after a child's 18th birthday, but not beyond their 27th birthday, if the orphan:

- a) is at school or completing vocational education or is performing a voluntary service as described in section 32 (4) sentence 1 no. 2 (d) of the German Income Tax Act (*Einkommensteuergesetz*); or
- b) is unable to earn their own living due to a physical, intellectual or psychological disability.

Periods of compulsory military or civil service do not qualify as education. The age limit for the orphan's pension is increased by the duration of any such periods of service that are completed prior to the child's 27th birthday. Work placements only qualify as education if they are required under the applicable education, study or examination regulations.

Interruptions to education of up to four calendar months do not cancel the entitlement to the orphan's pension.

(2) The following persons are deemed children:

- a) legitimate children;
- b) adopted children;
- c) the illegitimate children of a member if the member has sole or shared parental care (section 1626a BGB) or the member has an established legal obligation to pay maintenance and evidence of the ongoing payment of maintenance is provided;
- d) foster children and stepchildren (section 56 (2) nos. 1 and 2 SGB I).

Article 16 Components and calculation of surviving dependants' pensions

(Widow's/widower's pension)**

(1) Where a member dies before receiving the retirement pension or a disability pension, their widow or widower will receive a pension amounting to 55% of the member's existing future entitlement to the retirement pension at that time, calculated in accordance with article 9 (13) or (14) in conjunction with paragraph (7), unless article 10 (8) or (9) takes precedence. If the member is already receiving the retirement pension or a disability pension at the time of their death, their widow or widower is entitled to 55% of the pension the member was receiving at the time, not including child supplements. If the member dies within 36 months of no

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longer meeting the criteria for continued payments of a disability pension, their widow or widower will be entitled to 55% of the disability pension last received by the member.

(Double orphan's pension)**

(2) Where a member dies before receiving the retirement pension or a disability pension, each double orphan will receive a pension amounting to 30% of the member's existing future entitlement to the retirement pension at that time, calculated in accordance with article 9 (13) or (14) in conjunction with paragraph (7), unless article 10 (8) or (9) takes precedence. If the member is already receiving the retirement pension or a disability pension at the time of their death, each double orphan is entitled to 30% of the pension the member was receiving at the time. If the member dies within 36 months of no longer meeting the criteria for continued payments of the disability pension, each double orphan will be entitled to 30% of the disability pension last received by the member.

(Half-orphan's pension)**

(3) Where a member dies before receiving the retirement pension or a disability pension, each half-orphan will receive a pension amounting to 15% of the member's existing future entitlement to the retirement pension at that time, calculated in accordance with article 9 (13) or (14) in conjunction with paragraph (7), unless article 10 (8) or (9) takes precedence. If the member is already receiving the retirement pension or a disability pension at the time of their death, each half-orphan is entitled to 15% of the pension the member was receiving at the time. If the member dies within 36 months of no longer meeting the criteria for continued payments of the disability pension, each half-orphan will be entitled to 15% of the disability pension last received by the member.

(4) Surviving dependants' pensions are also granted if the member of the Pension Fund is declared legally dead.

(5) If there are several former spouses from previous marriages with the member to whom article 12 or article 13 apply, the widow's or widower's pension or pension for the former spouse will be apportioned between them for the entire duration of pension receipt in a manner proportionate to the relative duration of their marriages.

(Beginning and end of payment eligibility)**

(6) Subject to article 8 (1) sentence 3, surviving dependants' pensions are first paid in the month following the month in which the member dies and are discontinued in the month in which the surviving dependant dies or the month in which the surviving dependant reaches the relevant age.

**Article 17
Child supplement**

(1) Disability pensions are supplemented for each child (article 15 (2)) by a child supplement amounting to 10% of the pension the member receives. The child supplement does not apply if a third party is responsible for the care of the child and the member does not pay any maintenance for the child. In such cases, the child supplement is available to the third party upon application.

(2) Paragraph (1) applies *mutatis mutandis* to retirement pensions that commenced prior to 1 January 2010. Child supplements already paid before this time on top of the retirement pension will continue to be paid as long as the criteria under article 15 are met.

(3) The criteria for payment of the child supplement are based on the terms of article 15. Article 16 (6) applies *mutatis mutandis*. The child supplement is a component of the retirement or disability pension.

Article 18 **Lump sum payment upon remarriage**

(1) The widow's or widower's pension or the future entitlements to such pension lapse in the case of widows or widowers who remarry. Entitlement to the pension is extinguished upon expiry of the month in which the widow or widower remarries.

(2) Widows and widowers who remarry will receive a lump sum payment as follows:

- a) equal to 60 times their previous monthly pension if they remarry before turning 35 years of age;
- b) equal to 48 times their previous monthly pension if they remarry between 35 and 45 years of age;
- c) equal to 36 times their previous monthly pension if they remarry after turning 45 years of age.

Article 19 **Rollover of contributions**

(1) If a member leaves the Medical Practitioners' Pension Fund of Berlin before the age of 50 on account of leaving the jurisdiction of the Medical Association of Berlin and moving to the jurisdiction of another medical association, and if contributions have not yet been payable for a period of more than 96 months, the contributions paid by and on behalf of the member will be rolled over to another occupational pension fund upon application, provided a rollover agreement as referred to in paragraph (3) exists and the criteria for rolling over the contributions have been met. All claims against the Medical Practitioners' Pension Fund of Berlin are extinguished upon completion of the rollover.

(2) The foregoing applies *mutatis mutandis* where a member leaves another statutory pension institution in the Federal Republic of Germany and becomes a member of the Medical Practitioners' Pension Fund of Berlin.

(3) The Management Committee may enter into such rollover agreements with other occupational pension funds in the Federal Republic of Germany. Such agreements form part of the Articles of Incorporation and must be approved by the supervisory authority and published.

Article 20 **Medical rehabilitation measures**

(1) A member who is not yet receiving a retirement pension under article 9 (1) to (3) or paragraph (6) sentence 1 or 2 and whose membership has not lapsed pursuant to article 6 (6) or has not been terminated pursuant to article 7 (4) or (5) of the version of the Articles of Incorporation

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poration that applied until 31 December 2013 may apply for a one-off or recurring, revocable additional benefit towards the costs of necessary, exclusively medical rehabilitation measures if their ability to practise is genuinely at risk or partially or completely compromised due to poor health and it is expected that the rehabilitation measures would preserve or substantially improve the member's ability to practise. Voluntary members of the Medical Practitioners' Pension Fund of Berlin who are concurrently required to be members of another occupational pension fund are not entitled to this additional benefit. If the member is receiving a disability pension, an additional benefit can only be paid if it is expected that the rehabilitation measures will restore the member's ability to practise. The additional benefit must be applied for at least two months prior to the commencement of rehabilitation measures. The Management Committee may make exceptions to this prior application requirement in pressing cases.

(2) The applicant must demonstrate that they meet the criteria for the additional benefit by submitting a medical opinion. The pension fund may require an additional assessment at its expense. It may make its coverage of a share of the costs subject to conditions relating to the commencement, duration, location and manner of treatment.

(3) The applicant must provide an estimate of the necessary costs of the rehabilitation measures by attaching supporting documents (quotes/invoices/receipts). Such costs will not be accepted to the extent that another agency has an obligation to reimburse them by law or under its articles of incorporation. The Pension Fund decides on the amount it will contribute towards costs at its discretion having regard to all of the circumstances of the specific case.

(4) The Management Committee may issue guidelines for granting additional benefits for medical rehabilitation measures.

Article 21

Right to pension following the death of the eligible recipient

If, when a member dies:

- a) the pension has not yet been paid out; or
- b) contributions have been paid in respect of periods after the qualifying event; or
- c) a member or a surviving dependant dies after the claim for the pension was made;

the member's beneficiaries are entitled to continue the pension arrangement and claim the pensions payable up until the date of death or any overpaid contributions.

III

Contributions

Article 22

Payment of contributions

(1) Every member is required to pay contributions if they generate income from medical practice, and the contribution requirement applies from the date of joining the Pension Fund until a qualifying event occurs, or until membership ends as described in article 6 (6) or in article 7 (4) or (5) of the version of the Articles of Incorporation that applied until 31 Decem-

ber 2013. For the purpose of these Articles of Incorporation, medical practice means any activity in which health care expertise is or may be applied or used.

(2) If a qualifying event occurs as described in article 10, members who practised under an employment arrangement must pay contributions until their salary continuance payments cease and their sickness benefits or workers' compensation payments end. Self-employed medical practitioners in this situation must pay contributions until they cease medical practice, unless they are de-registered as a provider under the statutory health insurance scheme at a later date. Contributions must be paid during any attempt to work as referred to in article 10 (4), and they will affect the amount of the pension unless the attempt to work fails. Where, after the onset of disability, pension contributions are paid on behalf of a member on the basis of informal caregiving, such contributions will affect the amount of the pension unless article 10 (6) sentence 2 applies.

(3) Contributions are payable monthly by no later than the last day of each month.

(4) Cashless payments are required. Contributions are deemed paid only if they are credited to one of the pension fund's bank accounts. If the Pension Fund has been authorised to direct debit the Association of Medical Practitioners registered as Providers under the Statutory Health Insurance Scheme (*Kassenärztliche Vereinigung*) or if the member participates in the public service direct payment system (*Direktabführungsverfahren des öffentlichen Dienstes*), the contributions will be deemed to have been paid on time. The same applies if the member has authorised direct debits, provided there are sufficient funds in the member's account.

(5) Contributions paid after a qualifying event are disregarded for the purpose of calculating the pension.

(6) The Pension Fund's claims for the payment of contributions become time-barred four years after the end of the calendar year in which the contributions fell due. The provisions of the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB") apply *mutatis mutandis* to determining the limitations periods and to the suspension, resumption and effect of limitations periods.

(7) Members may apply in writing for a refund of overpaid contributions, however refunds are only possible if they are applied for within three months of receipt of the contribution statement. After this period, any overpayments are deemed voluntary payments that affect the pension calculation.

(8) The Pension Fund only accepts voluntary contributions up to the amount of the general contribution under article 25 (1) and additional contributions as referred to in article 25 (2) for the current financial year and only factors them into the pension calculation if they are credited to the Pension Fund's accounts by 31 December of that year. Contributions of the type described in sentence 1 that have already been received cannot be subsequently refunded.

Article 23 **Dunning charges, late payment fee, interest**

(1) Members who are more than two weeks late with payment of all or part of their contribution (calculated from the date of the payment request) are charged a dunning charge of EUR 10 and a one-off late payment fee of 2% of the overdue contribution. If they are more than three months late with payment (calculated from the date of the payment request), interest of 6% will be charged from the date on which the contribution was due. The member must also bear the costs associated with enforcing contribution payments.

(2) Late payments will be applied against outstanding amounts in the following order: Dunning charges, late payment fees, interest and contributions. Where several claims for payment exist on account of overdue contributions, the older debt associated with the relevant practice or employment will always be paid off first. The debtor has no right to determine a different order of debt repayment.

Article 24

Payment plan, waiver, set-off

(1) If contribution payments are overdue, the Management Committee may agree to a payment plan (*Abzahlungsvereinbarung*) with the member in order to avoid any extreme hardship associated with collection of the payment. If it is agreed that the outstanding amount is to be paid in instalments more than three months apart, 6% interest is to be charged from the due date of each instalment.

(2) If it is clear that it will not be possible to collect the outstanding amounts or if the costs of debt collection are out of proportion with the value of the claim, the Management Committee may temporarily waive the contributions until such time as the member becomes solvent again. If, due to the special circumstances of the particular case, it is unlikely that the member will become solvent again in the foreseeable future, the Management Committee may decide to permanently waive the claim, which will reduce the member's future pension entitlement.

(3) The Pension Fund is entitled to offset its claims for the refund of benefits paid in error against up to half of a member's claims for the payment of recurring pension benefits, provided the benefits may be the subject of an attachment order and this would not render the member or eligible beneficiary vulnerable (*hilfsbedürftig*) within the meaning of the provisions of SGB XII.

Article 25

General and higher contributions

(1) Subject to articles 26 to 29, every member is required to pay the general contribution under article 30 (1) or (2).

(2) Members may also pay a higher contribution of 1.1, 1.3, 1.5 or 1.8 times the contribution under article 30 (1), and may elect to pay contributions in accordance with this provision if article 30 (2) applies.

Article 26

Contributions for employed medical practitioners

(1) By way of derogation from article 25 (1), members who are in an employment relationship shall at least pay the applicable pension contributions under sections 157 *et seq.* or section 228 a SGB VI. The foregoing also applies to members who are temporarily engaged in an activity unrelated to the profession, provided they remain exempt from mandatory insurance with *Deutsche Rentenversicherung* pursuant to section 6 (5) sentence 2 SGB VI.

(2) For members in an employment relationship who are exempt from mandatory insurance with *Deutsche Rentenversicherung* under section 6 (1) sentence 1 no. 1 SGB VI, contributions may also be paid by the employer directly, subject to the member's consent.

(3) Members in an employment relationship who are not exempt from mandatory insurance with *Deutsche Rentenversicherung* pursuant to section 6 (1) no. 1 SGB VI while they practise as a medical practitioner, or who engage only temporarily in an activity unrelated to the profession, must pay 0.2 times the contribution under article 30 (1) or (2) on top of their contributions to *Deutsche Rentenversicherung*.

(4) Members who are exempt from mandatory insurance with *Deutsche Rentenversicherung* pursuant to section 6 (1) no. 1 and who receive unemployment benefits, sickness benefits, workers' compensation or other benefits from third parties must pay contributions for those periods equivalent to the amount that would have been payable to *Deutsche Rentenversicherung* had they not been exempt from mandatory insurance.

(5) During periods of voluntary federal government service, members must pay a contribution equivalent to the amount payable to them by third parties during this time.

(6) Members who pay contributions in accordance with paragraph (1) must also pay contributions on income generated from other medical work (e.g. work at an additional practice, locum work, provision of medical opinions, voluntary work). However, the contributions payable on their total professional income need not exceed the contribution under article 25 (1). Negative income from a job referred to in sentence 1 cannot be offset against the employment income from a job referred to in paragraphs (1) to (3).

(7) If a member holds multiple jobs concurrently as an employee and their total employment income exceeds the contribution ceiling, then for the purposes of calculating the contribution, their income from each job shall be proportionately reduced so that together they do not exceed the contribution ceiling.

Article 27

Contributions for voluntary members

(1) Voluntary members who work in the jurisdiction of another public pension fund without being subject to an obligation to join that fund, or who are exempt from compulsory membership of another public insurance scheme or pension fund on account of their voluntary membership of the Pension Fund, shall pay contributions for the period of voluntary membership based on the analogous application of articles 25 to 31.

(2) Voluntary members who practise medicine, became a voluntary member of the Pension Fund prior to 1 January 2006 and who are also subject to compulsory membership of another public insurance scheme or pension fund for their professional group must pay a contribution of at least 0.1 times the contribution under article 30 (1).

(3) Voluntary members who are public servants or have a status equivalent to a public servant must pay at least 0.1 times the general contribution under article 30 (1).

(4) Voluntary members who live abroad must pay a monthly contribution of at least 0.1 times the contribution under article 30 (1).

Article 28

Contributions in specific cases

(1) Members who do not engage in medical practice but are willing to continue to pay contributions must pay at least 0.1 times the contribution under article 30 (1).

(2) Self-employed members who are required to be insured with *Deutsche Versicherung* must pay at least 0.1 times the contribution under article 25 (1).

(3) Members who are engaged in marginal employment or work and have not been exempted from membership in accordance with article 6 (5) (b) must pay at least 0.1 times the contribution under article 25 (1).

(4) Members who act as informal carers and who have applied to their long-term care insurer for contributions to be paid to the Pension Fund must pay contributions equivalent to the amount that would otherwise be payable to *Deutsche Rentenversicherung*.

(5) Members of the Medical Association of Berlin who temporarily reside in countries outside the European Union or signatory states to the Agreement on the European Economic Area must pay at least 0.1 times the contribution under article 30 (1).

Article 29

Reduction of contributions

(1) Upon written application and without having to provide evidence of income, a member may be granted a contribution reduction to bring their contribution down to no less than 0.2 times the contribution under article 25 (1), with the reduction applicable from the date of first opening a medical practice until the end of the following calendar year.

(2) Upon written application, the general contribution may also be reduced at a later date (subject to the provision of evidence at least of provisional income for the previous year) if the general contribution exceeds 15% of all income generated for income tax purposes, rounded down to the nearest 100 euros.

(3) Upon application, the general contribution may be provisionally reduced to bring it down to no less than 0.2 times the general contribution under article 25 (1) from the date of commencing any other independent contract work (e.g. locum practitioner, university lecturer), provided the general contribution exceeds 15% of all income generated for income tax purposes, rounded down to the nearest 100 euros.

If the income generated is less than 25% of the applicable contribution ceiling under the *Deutsche Rentenversicherung* statutory pension scheme, the member may apply in writing to reduce their contribution to 10% of all income generated for income tax purposes, rounded down to the nearest 100 euros.

Applications for a reduction in accordance with paragraphs (1) to (3) must be received by the Pension Fund no later than six months after the beginning of the period for which the reduction is claimed.

(5) Evidence of actual (final) income required in order to verify eligibility for the contribution reduction must be provided by submitting:

a) (where paragraph (2) applies) the tax assessment notice for the year preceding the year for which the reduction is claimed ("reduction year") by the end of the reduction year;

a) (where paragraph (3) applies) the tax assessment notice for the reduction year by the end of the following year.

A confirmation from a tax professional may be provided instead of the tax assessment notice.

The amount of the provisionally payable recurring contributions shall also be reassessed based on the individually calculated contributions.

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(6) If income is generated from work or activities falling under both paragraph (3) and paragraph (1) or (2) at the same time, the contributions will be assessed based on the work or activity to which the most time is dedicated ("primary activity"). The primary activity may be changed by giving written notice, but only with prospective effect, and is binding for one calendar year in each case.

Article 30 Amount of annual contribution

(1) The annual (1.0x) contribution is equivalent to the sum of the maximum monthly compulsory contributions under sections 157 to 159 SGB VI in the same year.

(2) By way of derogation from paragraph (1), for members who generate their income from medical practice in the former East Germany (the "new" (re-established) *Länder* of the former East Germany and East Berlin), the annual (1.0x) contribution is equivalent to the sum of the maximum monthly compulsory contributions under section 228a (1) sentence 1 SGB VI in the same year.

Article 31 Additional payments to bring forward payment of the retirement pension

(1) If a member wishes to bring forward payment of the retirement pension (to no earlier than the member's 60th birthday), they may make voluntary additional payments to avoid a reduction of the pension amount, however only if the additional payments were made prior to 1 January 2006, or additional payments were commenced prior to such time but require supplementing in order to bring the retirement pension forward by a whole number of years.

(2) The member determines the amount of the additional payments. These payments together with the recurring contributions paid for the relevant calendar year may not in aggregate exceed 12 times the contributions that would result from a contribution base of twice the monthly contribution ceiling under the *Deutsche Rentenversicherung* statutory pension scheme.

(3) In the event of disability, additional payments made in accordance with paragraph (2) will be automatically refunded to the member, or if the member dies, to the eligible recipient under article 21. The foregoing does not apply to the amount that was necessary to bring forward payment of the retirement pension by a whole number of years, provided the member applies to have the age of pension commencement determined in accordance with paragraphs (1) and (4).

(4) The amounts necessary to bring forward payment of the retirement pension are calculated as fixed rates in accordance with actuarial principles, and the amounts necessary to bring forward payment of the pension by one year in each case is shown in Annex 5 of these Articles of Incorporation. The member's age at the time of joining is determined in accordance with article 9 (12). The duration of membership is the difference between the year in which the vesting period was shortened and the year in which membership commenced. The percentage derived from Annex 5 in accordance with sentence 2 is multiplied by the annual contribution under article 30 (1).

Article 32

Back-dated membership based on retrospective contributions (*Nachversicherung*)

- (1) Upon application, the Pension Fund will back-date membership in accordance with section 186 SGB VI.
- (2) Medical practitioners can have their membership of the Pension Fund back-dated if:
 - a) they were a member immediately prior to the start of the period of back-dated membership; or
 - b) they become a member of the Pension Fund within a year of the end of the period of back-dated membership, and back-dating their membership results in an age at the time of joining of less than 60 years.
- (3) If the criteria are met, the Pension Fund is required to accept from the employer of the person seeking back-dated membership the contributions that would have been payable to *Deutsche Rentenversicherung* during the period for which membership is back-dated. These contributions are to be treated as though they were paid as contributions in the periods for which membership is back-dated. This does not apply to the portion of the contributions that is attributable to increases in the wage or salary required to be used as the basis for retrospective contributions as referred to in section 181 (4) SGB VI, which flows to members as a whole. Back-dated membership does not affect the contributions paid by the relevant person to the Pension Fund during the period for which membership is back-dated, provided these contributions together with the retrospective contributions paid in the relevant year for the purpose of back-dating membership do not in aggregate exceed 12 times the contributions that would result from a contribution base of twice the monthly contribution ceiling under the *Deutsche Rentenversicherung* statutory pension scheme. Contributions in excess of this amount will be refunded. The second half of sentence 2 applies *mutatis mutandis* to the portion of the contributions that is attributable to increases in the wage or salary required to be used as the basis for retrospective contributions as referred to in section 181 (4) SGB VI.
- (4) The person seeking back-dated membership is retrospectively deemed subject to compulsory membership of the Pension Fund. Back-dated membership shall not be precluded by the occurrence of a qualifying event.

Article 33

Contribution and benefit statements

Every year, the Pension Fund will send members a statement showing the contributions paid in the past financial year and the value of their future pension entitlements.

IV

Purpose and appropriation of funds, funding model

Article 34

Purpose and appropriation of funds, funding model

- (1) The funds of the Pension Fund may only be used to pay the benefits prescribed in these Articles of Incorporation, meet the necessary administrative costs and recognise the requisite

provisions and reserves (including the amounts recognised in the technical business plan for technical provisions (*Deckungsrückstellung*), the low interest rate bridging reserve (*Zinsschwankungsreserve*), the provision for adjustments due to changed calculation inputs (*Rückstellung für Anpassung an veränderte Rechnungsgrundlagen*), the net income reserve (*Gewinnrückstellung*), contingency reserves (*Sicherheitsrücklage*).

Based on the number of existing members at the time of calculation and assuming the future admission, indefinitely, of a certain number of new members who are subject to compulsory contributions, the actuarial value of all future contributions and other income as well as the Pension Fund's assets must cover the amount required to meet all future expenses according to a probability calculation including interest and compound interest (partially funded hybrid model (*Modifizierte Kapitaldeckung im Offenen Deckungsplanverfahren*))

(2) The Pension Fund must arrange for an actuary to prepare an actuarial report each year. If this report identifies net income, at least 2.5% thereof is to be allocated to contingency reserves until these reserves amount to 5% of technical provisions, or reaches this amount again after having been used. The contingency reserves may only be used in order to cover losses. The remaining net income is to be allocated in full to the net income reserve, from which amounts may be withdrawn only in order to increase the base pension or to otherwise improve pension benefits, to top up technical provisions due to changed calculation inputs, particularly expected interest rate fluctuations and expected changes in actuarial probabilities or to cover losses to the extent that the contingency reserve is not sufficient for that purpose. Any withdrawal equates to the designation of a special purpose within the net income reserve.

A technical provision must be recognised for amounts (pension entitlements) reduced in connection with an apportionment of pension entitlements on divorce in view of the refund obligation to *Deutsche Rentenversicherung*.

The base pension is to be adjusted in accordance with article 9 (7) and any other improvement of pension benefits is to be implemented provided this is not inconsistent with the ability to meet pension commitments at all times. Improvements are subject to a resolution by the Delegates Assembly and require the approval of the supervisory authority.

(3) The annual audit of the annual financial statements must be completed by the publicly appointed auditor no later than eight months after the end of the financial year.

Article 35 Assignment, pledge

Pension entitlements cannot be assigned or transferred.

V

Transitional provisions

Article 36 Transitional provision concerning article 10 (5)

(1) For members who joined the Pension Fund on or before 31 December 2008, the amount of the disability pension will be as follows for a transitional period of five years commencing on 1 January 2009: the future entitlement to the disability pension amounting to 76% of the retirement pension calculated in accordance with article 9 (13) or (14) will be reduced by 0.1 percentage points per month. The foregoing applies *mutatis mutandis* to members whose

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membership commenced prior to 1 January 2009 and for whom contributions were transferred to the Medical Practitioners' Pension Fund of Berlin by way of a rollover or as retrospective contributions for the purpose of back-dating membership.

(2) Where a member has already brought forward payment of the pension by making additional payments, the monthly/annual discounts will be as follows:

Retirement pension brought forward by	Discount (%) monthly/annual
one year	0.08 pp/0.96 pp
two years	0.06 pp/0.72 pp
three years	0.04 pp/0.48 pp
four years	0.02 pp/0.24 pp
five years	0.00 pp/0.00 pp

Once the earliest date for receiving early payment of the retirement pension is reached as referred to in article 9 (6) sentence 1, a member's entitlement to the disability pension will correspond with the amount of the early retirement pension they would receive at the relevant time.

VI

Entry into force, repeal

Article 37

Entry into force, repeal

The Articles of Incorporation enter into force on the day following publication in the Berlin Gazette. At such time, the Articles of Incorporation of the Medical Practitioners' Pension Fund of Berlin dated 23 November 2005 (Berlin Gazette, p. 4755), most recently amended on 28 September 2011 (Berlin Gazette, p. 2805) shall be repealed.

Annexes to the Articles of Incorporation

- Annex 1 (relating to article 9 (8))
- Annex 2 (relating to article 9 (9))
- Annex 3 (relating to article 9 (10))
- Annex 4 (relating to article 9 (11))
- Annex 5 (relating to article 31 (4))

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