

# Declaration of Compliance

*Fresenius Medical Care AG & Co. KGaA*

**Declaration by the Management Board of  
the general partner of Fresenius Medical Care AG & Co. KGaA, Fresenius  
Medical Care Management AG,  
and by the Supervisory Board of  
Fresenius Medical Care AG & Co. KGaA  
on the German Corporate Governance Code  
pursuant to Section 161 German Stock Corporation Act (Aktiengesetz)**

The Management Board of the general partner of Fresenius Medical Care AG & Co. KGaA, Fresenius Medical Care Management AG, (hereafter: the Management Board) and the Supervisory Board of Fresenius Medical Care AG & Co. KGaA declare that since issuance of the previous declaration of compliance in December 2016 the recommendations of the "German Corporate Governance Code Government Commission" published by the Federal Ministry of Justice and Consumer Protection in the official section of the Federal Gazette (hereafter: the Code) in the version of May 5, 2015 as well as in the version of February 7, 2017 since publication thereof in the Federal Gazette have been met and that the recommendations of the Code in the version of February 7, 2017 will be met in the future. Only the following recommendations of the Code in its versions of May 5, 2015 and February 7, 2017 have not been met and will not be met to the extent described below:

**Code number 4.2.3 paragraph 2 sentence 6:  
Caps regarding specific compensation amounts**

Pursuant to Code number 4.2.3 paragraph 2 sentence 6, the amount of compensation for Management Board members shall be capped, both overall and for variable compensation components.

This recommendation is not met. The service agreements with members of the Management Board do not provide for caps regarding specific amounts for all compensation components and accordingly not for caps regarding specific amounts for the overall compensation. The performance-oriented short-term compensation (the variable bonus) is capped. As regards stock options, phantom stock and performance shares as compensation components with long-term incentives, the service agreements with members of the Management Board do provide for a possibility of limitation but not for caps regarding specific amounts. Introducing caps regarding specific amounts in relation to such stock-based compensation components would contradict the basic idea of the members of the Management Board participating appropriately in the economic risks and opportunities of the Company. Instead of that, Fresenius Medical Care pursues a flexible concept considering each individual case. In situations of extraordinary developments in relation to the stock-based compensation which are not related to the performance of the Management Board, the Supervisory Board may cap the stock-based compensation.

**Code number 4.2.3 paragraph 4:  
Severance payment cap**

Pursuant to Code number 4.2.3 paragraph 4, in concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his/her contract, including fringe benefits, do not exceed the value of two years' compensation (severance payment cap) and compensate no more than the remaining term of the employment contract. The severance payment cap shall be calculated on the basis of the total compensation for the past full financial year and if appropriate also the expected total compensation for the current financial year.

These recommendations are not met insofar as the employment contracts of the members of the Management Board do not contain severance payment arrangements for the case of premature termination of the contract and consequentially do not contain a limitation of any severance payment amount insofar. Uniform severance payment arrangements of this kind would contradict the concept practiced by Fresenius Medical Care in accordance with the German Stock Corporation Act according to which employment contracts of the members of the Management Board are, in principle, concluded for the period of their appointment. They would also not allow for a well-balanced assessment in the individual case.

**Code number 4.2.5 paragraph 3:  
Presentation in the compensation report**

Pursuant to Code number 4.2.5 paragraph 3, the presentation of the compensation for each individual member of the Management Board in the compensation report shall inter alia present the maximum and minimum achievable compensation for variable compensation components by using corresponding model tables.

Fresenius Medical Care, in deviation from Code number 4.2.3 paragraph 2 sentence 6, does not provide for caps regarding specific amounts for all variable compensation components and, therefore, does not provide for caps regarding specific amounts for the overall compensation. In this respect, the compensation report cannot meet the recommendations of the code. Irrespective thereof, Fresenius Medical Care will continue to present its compensation system and the amounts paid to members of the Management Board in its compensation report in a comprehensive and transparent manner. The compensation report will include tables relating to the value of the benefits granted as well as to the allocation in the year under review which follow the structure and largely also the specifications of the model tables.

**Code number 5.1.2 paragraph 2 sentence 3:  
Age limit for members of the Management Board**

Pursuant to Code number 5.1.2 paragraph 2 sentence 3 an age limit shall be specified for members of the Management Board. As in the past, Fresenius Medical Care will refrain from determining an age limit for members of the Management Board in the future. Complying with this recommendation would unduly limit the selection of qualified candidates.

**Code number 5.4.1 paragraph 2 and paragraph 4:  
Specification of concrete objectives regarding the composition of the Supervisory Board, preparation of a profile of competence and their consideration when making election proposals**

Pursuant to Code number 5.4.1 paragraph 2 and paragraph 4, the Supervisory Board shall specify concrete objectives regarding its composition and shall prepare a profile of competence for the entire Supervisory Board. Within the company-specific situation the composition of the Supervisory Board shall reflect appropriately the international activities of the company, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of Code number 5.4.2, an age limit and a regular limit to Supervisory Board members' term of office, both to be specified, as well as diversity. Proposals by the Supervisory Board to the General Meeting shall take these targets into account, while simultaneously aiming at fulfilling the profile of competence of the entire Supervisory Board. The status of the implementation shall be published in the Corporate Governance Report. These recommendations are partly not met.

*Convenience translation*

The composition of the Supervisory Board needs to be aligned to the enterprise's interest and has to ensure the effective supervision and consultation of the Management Board. Hence, it is a matter of principle and of prime importance that each member is suitably qualified. When discussing its election proposals to the General Meeting, the Supervisory Board will take into account the international activities of the enterprise, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of Code number 5.4.2, and diversity.

In the enterprise's interest not to limit the selection of qualified candidates in a general way, the Supervisory Board, however, confines itself to pursue self-defined targets for the representation of female Supervisory Board members and particularly refrains from an age limit and from a duration limit on the term of membership.

The Supervisory Board is – in its own initiative – already today paying attention to the requirement to have in its entirety the knowledge, capabilities and professional expertise required for the due observation of the duties of the Supervisory Board of a listed company operating internationally in the dialysis business. Since no election proposals for Supervisory Board members were required in the reporting period, the implementation of the profile of competence for the entire Supervisory Board, as now newly recommended by Code number 5.4.1 paragraph 2 sentence 1 in the Code version of February 7, 2017, was, and is prospectively also for the near future, of no practical relevance. Following the necessary detailed preparation, the Supervisory Board will expectedly prepare and resolve the profile of competence for the entire Supervisory Board in the first quarter of the financial year 2018. As of this point in time the Supervisory Board will take into consideration such profile of competence when discussing its election proposals to the General Meeting and the recommendations pursuant to Code number 5.4.1 paragraph 2 sentence 1 and paragraph 4 sentence 1 in the Code version of February 7, 2017 thus will insofar be met.

Bad Homburg v.d.H., December 2017

Management Board of the general partner of  
Fresenius Medical Care AG & Co. KGaA,  
Fresenius Medical Care Management AG,  
and Supervisory Board of Fresenius Medical Care AG & Co. KGaA