

**Declaration by the Management Board and Supervisory Board
of Fresenius SE
on the recommendations of the
“Government Commission on the German Corporate Governance Code”
as amended on 18 June 2009, pursuant to Section 161 of the
German Stock Corporation Act (AktG)**

The Management Board and the Supervisory Board of Fresenius SE declare that the recommendations of the “Government Commission on the German Corporate Governance Code” published by the Federal Ministry of Justice (Justizministerium) in the official section of the electronic Federal Gazette (Bundesanzeiger) are being complied with and that they were complied with in the past. The Management Board and the Supervisory Board also intend to follow the recommendations of the German Corporate Governance Code in the future. Only the following recommendations have not been or are not being adhered to:

- Pursuant to clause 5.4.1 of the Code, an age limit should be determined for the members of the Supervisory Board. According to clause 5.1.2 paragraph 2, the same should apply to the members of the Management Board. As in the past, Fresenius will refrain from introducing an age limit for members of the Management Board and the Supervisory Board, as this would generally limit the selection of qualified candidates.
- Regarding the composition of the Management Board and in respect of the proposals for the election of members to the Supervisory Board (clauses 5.1.2 paragraph 1 and 5.4.1 of the Code), the Supervisory Board of Fresenius SE will, in future, continue to take diversity into account. Already now, the company’s international engagement is borne in mind for both bodies.
- Pursuant to clause 4.2.3 paragraph 4 of the Code, upon termination of an employment agreement for a Management Board member, it should be ensured that the payments to the Management Board member whose service for the company is prematurely terminated shall not, including all ancillary payments, exceed the value of two annual remunerations (compensation cap) and shall remunerate for no more than the remaining term of the service agreement. The service agreements of the Fresenius SE Management Board members do not include a provision dealing with the early termination of service for the company without cause. Such compensation provision would contradict the concept to conclude the service agreements with the Management Board members for the period of their

appointment, such concept practiced by Fresenius since long and in accordance with the German Stock Corporation Act (Aktiengesetz). Applying this concept, any early termination of the service agreement requires cause.

- Pursuant to clause 3.8 paragraph 2 of the Code, any D&O insurance for the Supervisory Board should provide for a deductible which reflects the mandatory deductible for Management Board members as introduced by the Act on the Appropriateness of Executive Board Compensation (VorstAG). Such deductible amounts to 10% of the damage, but up to a maximum amount of one and a half times the fixed annual remuneration. The D&O insurance currently taken out for the Fresenius group is a group insurance for a multitude of individuals which does not contain a deductible in the recommended amount. For the Management Board of Fresenius SE, the next periodic renewal of the D&O insurance in July 1, 2010 will provide for a deductible that complies with the requirements of the Act on the Appropriateness of Executive Board Compensation (VorstAG). It has been decided to introduce a corresponding deductible also for the Supervisory Board as from July 1, 2010.

Since the delivery of the last declaration of conformity in May 2009 with the in May 2009 declared and explained divergences from the recommendations pursuant to clauses 4.2.2 paragraph 1, 4.2.3 paragraph 3, 4.2.3 paragraph 4, 5.1.2 paragraph 2 and 5.4.1, Fresenius SE has complied with the recommendations of the "Government Commission on the German Corporate Governance Code" as amended on 6 June, 2008.

Bad Homburg, March 2010

Supervisory Board

Management Board