

# **Corporate Governance Statement**

ARBN 152 854 923

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## CORPORATE GOVERNANCE STATEMENT

The Board of Directors of Osprey Medical Inc. is responsible for the governance of the Company and its controlled entity. Good corporate governance is a fundamental part of the culture and business practices of the Company.

The Board of Directors confirms that the Company's corporate governance framework complies in almost all respects with the ASX's Corporate Governance Council's *Corporate Governance Principles and Recommendations* (3<sup>rd</sup> Edition) ("Recommendations") and that where it does not comply, it is due to the current relative size of the Company, its stage of development, and the scale and nature of its operations. The Council recognises that different entities may legitimately adopt different governance practices, based on a range of factors, including their size, complexity, history and corporate culture.

The Company provides below a review of its corporate governance framework using the same numbering as adopted for the Recommendations within the ASX Corporate Governance Recommendations.

Further details in relation to the Company's governance framework are set out in a dedicated corporate governance information section on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php). This section of the Company's website contains copies of all of the corporate governance policies and Board Committee charters.

This Corporate Governance Statement was been approved by the Board of Directors of the Company on, and is current as at 24 February 2017.

### **Principle 1: Lay solid foundations for management and oversight**

The Company did not comply with Recommendations 1.3 and 1.5, but it did comply with Recommendations 1.1, 1.2, 1.4, 1.6 and 1.7 for the financial year ended 31 December 2016.
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#### **Recommendation 1.1:**

*A listed entity should disclose:*

- (a) the respective roles and responsibilities of its board and management; and*
- (b) those matters expressly reserved to the board and those delegated to management.*

The Board's responsibilities are defined in the Board Charter, a copy of which is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php) and there is a clear delineation between the functions reserved for the Board and those conferred upon the chief executive officer and certain other officers of the Company for the day-to-day management of operations.

#### **Recommendation 1.2:**

*A listed entity should:*

- (a) undertake appropriate checks before appointing a person, or putting forward to security holders a candidate for election, as a director; and*
- (b) provide security holders with all material information in its possession relevant to a decision on whether or not to elect or re-elect a director.*

The Company will undertake appropriate checks before appointing a person, or putting forward to security holders a candidate for election, as a director. However this will not apply to the re-election of existing directors.

The Company will provide security holders with all material information in its possession relevant to a decision on whether or not to elect or re-elect a director.

#### **Recommendation 1.3:**

*A listed entity should have a written agreement with each director and senior executive setting out the terms of their appointment.*

The Company has formal contracts with its two independent directors Mr. John Erb and Mr. Neville Mitchell setting out the terms of their appointment. There are currently no formal contracts with Dr. Chris Nave or Mr.

Andrew Jane. The Company considers that there is sufficient certainty as to the terms of their appointment that written agreements are not necessary at this stage.

The Company has written agreements with senior executives setting out the terms of their appointment.

**Recommendation 1.4:**

*The company secretary of a listed entity should be accountable directly to the board, through the chair, on all matters to do with the proper functioning of the board.*

The Company Secretary is accountable to the Board, through the Chairman, on all matters relating to governance and the effective operation of the Board.

**Recommendation 1.5:**

*A listed entity should:*

- (a) have a diversity policy which includes requirements for the board or a relevant committee of the board to set measurable objectives for achieving gender diversity and to assess annually both the objectives and the entity's progress in achieving them;*
- (b) disclose that policy or a summary of it; and*
- (c) disclose as at the end of each reporting period the measurable objectives for achieving gender diversity set by the board or a relevant committee of the board in accordance with the entity's diversity policy and its progress towards achieving them, and either:*
  - 1) the respective proportions of men and women on the board, in senior executive positions and across the whole organisation (including how the entity has defined "senior executive" for these purposes);*
  - or*
  - 2) if the entity is a "relevant employer" under the Workplace Gender Equality Act, the entity's most recent "Gender Equality Indicators", as defined in and published under that Act.*

The Company has adopted a Diversity Policy. However the Policy does not require the Board or a relevant committee of the Board to set measurable objectives for achieving gender diversity and to assess annually both the objectives and the Company's progress in achieving them.

The Company's Diversity Policy confirms that as the Company moves closer to achieving its commercialisation goals and increases its number of employees, it will:

- (a) establish appropriate and measurable objectives for achieving gender diversity and annually review; and*
- (b) assess both the measurable objectives for achieving gender diversity and the Group's progress in achieving them.*

There were no women on the Board during the 2016 financial year.

As at the date of the report, the proportion of women in the company as a percentage of its total employees was 9 out of 29, or 31%. The Company employs an Independent Executive, Ms. Nancy Ness, as its Vice President of Finance. Ms. Ness reports to the CEO and is a member of the Company's Executive Staff. In addition Ms. Michele Shepard, is the Company's Vice President of Clinical Affairs. Ms. Shepherd reports to the CEO and is a member of the Company's Executive Staff. Ms. Melanie Hess, is the Company's Vice President of Regulatory Affairs. Ms. Hess reports to the CEO and is a member of the Company's Executive Staff.

The proportion of women as a total of the senior executive positions is 3 out of 8, or 37.5%.

A copy of the Diversity Policy is available on the Company's website at [www.ospreyimed.com/corp-governance.php](http://www.ospreyimed.com/corp-governance.php)

**Recommendation 1.6:**

*A listed entity should:*

- (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and*
- (b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.*

A formal review of the performance of the Board, its committees and individual directors was conducted during the financial year, taking into each director's assessment of the performance of the Board including:

- the effectiveness of the Board and each committee on which they served;
- the extent to which the responsibilities set forth in the respective charters of the Board and each committee were met;
- the quality of reporting from and interaction with management; and
- the extent to which substantive issues were appropriately prioritised and considered during Board meetings.

Constructive feedback was provided to the Chairman by each director and from the Chairman to each director. Based on the assessments performed, it was determined that the Board and its committees were operating effectively.

**Recommendation 1.7:**

*A listed entity should:*

- (a) *have and disclose a process for periodically evaluating the performance of its senior executives; and*
- (b) *disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.*

In accordance with the Board Charter, the directors' responsibilities include monitoring the performance of senior executives (including the CEO) and ensuring that succession plans are in place. The Board has established a Nomination and Remuneration Committee which is responsible for reviewing executive remuneration and incentive policies and practices, and ensuring that the policies and practices are performance based and aligned with the Company's vision, values and overall business objectives.

The Board and Nomination and Remuneration Committee ensure that an evaluation of the senior management team is undertaken at least annually.

The Nomination and Remuneration Committee annually reviews the performance of the CEO and recommends to the Board the key performance targets of the CEO.

In addition, the Board has established a process whereby it reviews senior executive performance at each meeting of the Board.

A copy of the Nomination and Remuneration Committee Charter is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

**Principle 2: Structure the board to add value**

The Company did not comply with Recommendations 2.1 and 2.4, but it did comply with Recommendations 2.2, 2.3, 2.5 and 2.6 for the financial year ended 31 December 2016.
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**Recommendation 2.1:**

*The board of a listed entity should:*

- (a) *have a nomination committee which:*
  - 1) *has at least three members, a majority of whom are independent directors; and*
  - 2) *is chaired by an independent director,**and disclose:*
  - 3) *the charter of the committee;*
  - 4) *the members of the committee; and*
  - 5) *as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*
- (b) *if it does not have a nomination committee, disclose that fact and the processes it employs to address board succession issues and to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively.*

The Board has established a Nomination and Remuneration Committee.

The current members of the Nomination and Remuneration Committee are: Mr. John Erb, Dr. Chris Nave and Mr. Andrew Jane. A majority of the Committee were not independent. Having regard to the Company's stage of development and the collective experience and expertise of the members of the Nomination and Remuneration Committee, the Board considers the current composition of the Committee to be appropriate.

The Nomination and Remuneration Committee's authority, responsibilities, composition and membership requirements are documented in the Nomination and Remuneration Committee charter approved by Board, which is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php). Details of directors' attendance at meetings during the reporting period are disclosed below.

**Recommendation 2.2:**

*A listed entity should have and disclose a board skills matrix setting out the mix of skills and diversity that the board currently has or is looking to achieve in its membership.*

The Board has determined that, in terms of the mix of skills and diversity it is looking for in its membership, it is best served by having a mix of individuals with different perspectives that have expertise and a breadth of experience in the following areas:

- strategy and innovation;
- leading, managing and overseeing corporations in a range of industry sectors (including the medical technology sector), at both executive and Board level;
- corporate governance, finance and risk management; and
- medical technology/life science companies.

Details in relation to the skills and diversity of each director may be found on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

The Board considered as part of its performance review during the 2016 financial year its skills, experience and composition and considered its current composition to be appropriate given the strategic direction of the Company and its stage of development.

**Recommendation 2.3:**

*A listed entity should disclose:*

- (a) the names of the directors considered by the board to be independent directors;*
- (b) if a director has an interest, position, association or relationship of the type described in [Box 2.3 of the Recommendations] but the board is of the opinion that it does not compromise the independence of the director, the nature of the interest, position, association or relationship in question and an explanation of why the board is of that opinion; and*
- (c) the length of service of each director.*

The Company has assessed the independence of its directors regarding the requirements for independence which are set out in Principle 2 of the ASX Corporate Governance Principles and Recommendations. Mr. John Erb, the Company's chairman, and Mr. Neville Mitchell are independent directors.

Mr. Andrew Jane and Dr. Chris Nave are not considered to be independent directors of the Company under the ASX Corporate Governance Principles and Recommendations due to their respective positions as fund managers of two of the Company's substantial shareholders (in respect of Mr. Jane, Managing Director of Talu Ventures and in respect of Dr. Nave, being a Partner of Brandon Capital Partners).

Accordingly, the majority of the Company's Board is not comprised of independent directors, however the roles of Chairman and CEO are exercised by two separate individuals.

The current composition of the Board of directors and length of tenure of each member is as follows:

<i>Name</i>	<i>Position</i>	<i>Date appointed</i>	<i>Independent</i>	<i>Audit &amp; Risk Committee</i>	<i>Nomination &amp; Remuneration Committee</i>
Mr. John Erb	Chairman (non-executive)	21 June 2007	YES	YES	CHAIR
Mr. Andrew Jane	Director (non-executive)	13 November 2012	NO	NO	YES
Dr. Christopher Nave	Director (non-executive)	24 October 2005	NO	YES	YES
Mr. Neville Mitchell	Director (non-executive)	1 July 2012	YES	CHAIR	NO
Mr. Michael McCormick	Director (executive)	1 March 2010	NO	NO	NO

The number of directors' meetings (including meetings of committees) and number of meetings attended by each of the directors during the reporting period are as follows:

<i>Director</i>	<i>Committee Meetings</i>					
	<i>Board Meetings</i>		<i>Audit &amp; Risk Committee</i>		<i>Nomination and Remuneration Committee</i>	
	<i>A</i>	<i>B</i>	<i>A</i>	<i>B</i>	<i>A</i>	<i>B</i>
Mr. John Erb	6	6	2	2	1	1
Mr. Andrew Jane	6	6	-	-	1	1
Dr. Christopher Nave	6	6	2	2	1	1
Mr. Neville Mitchell	6	6	2	2	-	-
Mr. Michael McCormick	6	6	-	-	-	-

A – Number of meetings attended.

B – Number of meetings held during the time the director held office during the reporting period.

**Recommendation 2.4:**

*A majority of the board of a listed entity should be independent directors.*

A majority of the Board was not independent during the 2016 financial year.

**Recommendation 2.5:**

*The chair of the board of a listed entity should be an independent director and, in particular, should not be the same person as the CEO of the entity.*

The roles of Chairman and CEO are exercised by two separate individuals and the Company's Chairman is an independent director.

**Recommendation 2.6:**

*A listed entity should have a program for inducting new directors and provide appropriate professional development opportunities for directors to develop and maintain the skills and knowledge needed to perform their role as directors effectively.*

The Company has an induction program for new directors which provides a summary of the company and its products and activities to assist a new director to become effective in their role.

### Principle 3: Act ethically and responsibly

The Company complied with Recommendation 3.1 for the financial year ended 31 December 2016.

#### Recommendation 3.1:

*A listed entity should disclose in the Corporate Governance section of its annual report or on its website its code of conduct for its directors, senior executives and employees.*

The Company has adopted a Code of Conduct which applies to all directors and employees of the Company, as well as a Share Trading Policy.

Copies of the Code of Conduct and the Share Trading Policy are available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

### Principle 4: Safeguard integrity in corporate reporting

The Company did not comply with Recommendation 4.3, but it did comply Recommendations 4.1 and 4.2 for the financial year ended 31 December 2016.

#### Recommendation 4.1:

*The board of a listed entity should:*

*(a) have an audit committee which:*

*1) has at least three members, all of whom are non-executive directors and a majority of whom are independent directors; and*

*2) is chaired by an independent director, who is not the chair of the board,*

*and disclose:*

*3) the charter of the committee;*

*4) the relevant qualifications and experience of the members of the committee; and*

*5) in relation to each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*

*(b) if it does not have an audit committee, disclose that fact and the processes it employs that independently verify and safeguard the integrity of its corporate reporting, including the processes for the appointment and removal of the external auditor and the rotation of the audit engagement partner.*

The Audit and Risk Committee consists of three non-executive directors: Mr. Neville Mitchell, Dr. Chris Nave and Mr. John Erb. The Audit and Risk Committee is comprised of a majority of independent Directors.

The Chairman of the Audit and Risk Committee, Mr. Mitchell, is an independent director; the roles of Chairman of the Board and Chairman of the Audit Committee are exercised by two separate individuals.

The qualifications and experience of the members of the committee are disclosed separately on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

The Audit and Risk Committee's authority, responsibilities, composition and membership requirements are documented in the Audit and Risk Committee charter approved by Board, which is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

#### Recommendation 4.2:

*The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.*

The CEO and the Vice President of Finance have declared in writing to the Board that, in their opinion, the financial records of the Company have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and

performance of the Company, and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.

The Board is responsible for the overall internal control framework, but recognises that no cost-effective internal control system will preclude all errors and irregularities. The Company places considerable reliance on the skill, experience and judgement of its employees to make decisions within the policy framework and to communicate openly on all risk related matters.

**Recommendation 4.3:**

*A listed entity that has an AGM should ensure that its external auditor attends its AGM and is available to answer questions from security holders relevant to the audit.*

The Company's auditor, Baker Tilly Virchow Krause, LLP, is based in Minneapolis, Minnesota, USA and will not attend the Company's Annual Meeting of Stockholders to be held on 18 May 2017.

Australian stockholders may submit questions relevant to the Company's audit to the Company's registered office at level 13, 41 Exhibition Street, Melbourne, Victoria. The Australian Secretary will ensure that the questions are responded to by the Company's auditor.

**Principle 5: Make timely and balanced disclosure**

The Company complied with Recommendation 5.1 for the financial year ended 31 December 2016.
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**Recommendation 5.1:**

*A listed entity should:*

- (a) *have a written policy for complying with its continuous disclosure obligations under the Listing Rules; and*
- (b) *disclose that policy or a summary of it.*

The Company has adopted a Continuous Disclosure Policy.

A copy of the Company's Continuous Disclosure Policy is available on the Company's website at [www.osprey.com/corp-governance.php](http://www.osprey.com/corp-governance.php)

**Principle 6: Respect the rights of security holders**

The Company complied with Recommendations 6.1 to 6.4 for the financial year ended 31 December 2016.
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**Recommendation 6.1:**

*A listed entity should provide information about itself and its governance to investors via its website.*

Information about the Company and its corporate governance framework and practices are disclosed on the Company's website at [www.osprey.com/corp-governance.php](http://www.osprey.com/corp-governance.php)

**Recommendation 6.2:**

*A listed entity should design and implement an investor relations program to facilitate effective two-way communication with investors.*

The Company engages an external investor relations consultant, to facilitate engagement with investors and address queries which arise from time to time from stockholders. The Company through its investor relations consultant, Continuous Disclosure Policy, Investor Newsletters, market updates, financial reporting and website, provides investors with the opportunity to have an understanding of the Company's business, governance and financial performance. The CEO also meets with major stockholders.

**Recommendation 6.3:**

*A listed entity should disclose the policies and processes it has in place to facilitate and encourage participation at meetings of security holders.*



The Company has adopted a Communications Policy for stockholders wishing to communicate with the Board. All stockholders are invited to attend the Company's annual meeting of stockholders, either in person or by representative, being the forum in which to discuss issues relevant to the Company. Stockholders will have an opportunity to address questions directly to the Board at the May 2017 annual meeting.

A copy of the Company's Communications Policy is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)

**Recommendation 6.4:**

*A listed entity should give security holders the option to receive communications from, and send communications to, the entity and its security registry electronically.*

Stockholders are able to contact the Company or, its share registrar, Link, by mail, telephone, email or via online access. Stockholders may choose to receive communication from, and send communications to, the Company and Link electronically.

**Principle 7: Recognise and manage risk**

The Company complied with Recommendations 7.1 to 7.4, for the financial year ended 31 December 2016.
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**Recommendation 7.1:**

*The board of a listed entity should:*

- (a) have a committee or committees to oversee risk, each of which:
  - 1) has at least three members, a majority of whom are independent directors; and*
  - 2) is chaired by an independent director,*and disclose:
  - 3) the charter of the committee;*
  - 4) the members of the committee; and*
  - 5) as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or**
- (b) if it does not have a risk committee or committees that satisfy (a) above, disclose that fact and the processes it employs for overseeing the entity's risk management framework.*

Please refer to the response to Recommendation 4.1.

**Recommendation 7.2:**

*The board or a committee of the board should:*

- (a) review the entity's risk management framework at least annually to satisfy itself that it continues to be sound; and*
- (b) disclose, in relation to each reporting period, whether such a review has taken place.*

The Board has confirmed that management is responsible for designing and implementing risk management and internal compliance and control systems which identify material risks of the Company. The Board is responsible for reviewing and ratifying the risk management structure, processes and guidelines which are developed and maintained by management.

Management, with the oversight of the Audit and Risk Committee and Board, has established and implemented the risk management system for assessing, monitoring and managing the Company's material risks.

The Board has reviewed the Company's risk management framework in the last 12 months to satisfy itself that it continues to be sound.

**Recommendation 7.3:**

*A listed entity should:*

- (a) if it has an internal audit function, how the function is structured and what role it performs; or*

*(b) if it does not have an internal audit function, that fact and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes.*

The Company does not have an internal audit function.

In conjunction with the Company's other corporate governance policies, the Company has adopted policies and processes to assist it to identify, evaluate and mitigate technological, economic, operational and other risks. The Audit and Risk Committee with oversight from the Board reviews and assesses the Company's processes for evaluating and continually improving the effectiveness of its risk management and internal control processes. The Board reviews the Company's key risks and the mitigation strategies that are in place.

The Company has established a Risk Management Policy. A copy of the Risk Management Policy is available on the Company's website at [www.osprey-med.com/corp-governance.php](http://www.osprey-med.com/corp-governance.php)

#### **Recommendation 7.4:**

*A listed entity should disclose whether it has any material exposure to economic, environmental and social sustainability risks and, if it does, how it manages or intends to manage those risks.*

The Board has overseen the development by management of a comprehensive process to identify and manage key business risks, including economic risk.

The Company is not subject to material economic, environmental and social sustainability risks.

#### **Principle 8: Remunerate fairly and responsibly**

The Company did not comply with Recommendation 8.1, but did comply with Recommendations 8.2 and 8.3, for the financial year ended 31 December 2016.
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#### **Recommendation 8.1:**

*The board of a listed entity should:*

*(a) have a remuneration committee which:*

- 1) has at least three members, a majority of whom are independent directors; and*
- 2) is chaired by an independent director,*

*and disclose:*

- 3) the charter of the committee;*
- 4) the members of the committee; and*
- 5) as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*

*(b) if it does not have a remuneration committee, disclose that fact and the processes it employs for setting the level and composition of remuneration for directors and senior executives and ensuring that such remuneration is appropriate and not excessive.*

Please refer to the responses to Recommendation 2.1.

#### **Recommendation 8.2:**

*A listed entity should disclose policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives.*

The Board and its Nomination and Remuneration Committee are responsible for reviewing and approving executive remuneration and incentive policies and practices, and ensuring that the policies and practices are performance based and aligned with the Company's vision, values and overall business objectives. The Company has a clear distinction between the structure of non-executive directors' remuneration and that of executive directors and senior executives.

Disclosure in relation to the Company's stock incentive plan that provides for the issuance of incentive and

non-qualified stock options to employees and directors is provided in the Annual Report.

Dr. Chris Nave and Mr. Andrew Jane, being non-independent non-executive directors, are not paid directors' fees by the Company. The two independent directors, Mr. John Erb, Chairman, and Mr Neville Mitchell, Chairman of the Audit and Risk Committee, are paid directors fees of US\$80,000 and US\$50,000 respectively.

Directors may however be reimbursed for travel and other expenses incurred in attending to the Company's affairs.

All senior executives of the Company are subject to an annual performance review. Each year the CEO sets senior executive key performance targets. These targets are aligned to the overall business goals and the Company's requirements. In the case of the CEO, these key performance targets are negotiated between the CEO and the Board. The Nomination and Remuneration Committee reviews the evaluation process as required. Short term incentives are dependent on the outcome of these evaluations.

The Board ensures that an evaluation of the senior management team is undertaken at least annually.

**Recommendation 8.3:**

*A listed entity which has an equity-based remuneration scheme should:*

- (a) have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and*
- (b) disclose that policy or a summary of it.*

The Company's Share Trading Policy prohibits participants in the Company's share or option plans from using derivatives or engaging in any conduct that seeks to have the effect of providing greater benefit than would otherwise have been realised by the participant in respect of unvested Company securities.

Please refer to the Policy for further details. A copy of the Policy is available on the Company's website at [www.ospreymed.com/corp-governance.php](http://www.ospreymed.com/corp-governance.php)