

**Council on Ethics, Bylaws and Judicial Affairs
Unofficial Report of Major Actions
March 26-27, 2020 Meeting**

The Council met via videoconference on Thursday and Friday, March 26-27, 2020, considered and discussed the following matters and took the following major actions:

1. The Council spent a substantial portion of its meeting discussing the myriad of ethical issues arising as a result of the coronavirus pandemic and resulting recommendations to dentists on the cessation of performing elective procedures during the crisis and discussing the most appropriate methods of providing ethical advice and counsel on those issues. Reviewed and discussed potential updates to ethics-based guidance documents developed by collaboration of Council members and staff to support the Association's outreach efforts supporting members and dentistry during the Covid-19 pandemic. The Council directed staff to continue working with the Council leadership and members to develop ethics-based FAQs and other content as needed and requested by the ADA taskforces engaged in various efforts to assist ADA members and disseminate information pertinent to the dental profession during the novel coronavirus outbreak. Among the issues discussed were responses to requests for donations of personal protective equipment and the Pennsylvania executive order requiring that dental procedures generating aerosols be conducted in negative pressure operatories.
2. Dr. Seth W. Griffin, chair of the Administrative and Policy Review Subcommittee, reported on the committee's consideration and review of the policy up for review this term under the provisions of Res. 170H-2012. The subcommittee reported that it reviewed this policy – Criteria for Restructure of Trustee Districts (*Trans.*1986:498) – and determined that the policy should be maintained without revision. The Council concurred, and approved a resolution to report that determination in the Council's next annual report.
3. Dr. Griffin reported that the Administrative and Policy Review Subcommittee conducted a review of the Council's statement entitled "Statement on Dental Tourism – Ethical Obligations of Dentists." It was stated that the subcommittee believes that patients continue to seek dental treatment outside of the United States and thus that the statement is still relevant to the membership of the Association. It was also indicated that the subcommittee found the statement to be accurate and complete and should continue to be available without revision. Following discussion of the subcommittee's report and findings, the Council adopted a resolution stating that the statement should be retained and continue to be available to the ADA membership via ADA.org.

4. Dr. Griffin also reported that the Administrative and Policy Review Subcommittee reviewed the Council's statement entitled "Ethical Aspects of Dental Practice Arrangements," and found that it continues to be highly relevant, and not in need of any editorial or substantive revision. The subcommittee also urged the Council to consider investigating ways of bringing this statement to the attention of the membership in light of the percentage of dental school graduates who begin their careers in corporate or large group practices or in practices affiliated with dental service organizations. Following discussion of the subcommittee's report, the Council accepted the subcommittee's recommendation of continuing to make the statement available to membership and instructed staff to investigate methods of bringing this statement to the attention of the membership.
5. The Administrative and Policy Review Subcommittee reported on its consideration of the CEBJA statement entitled "Ethical Considerations When Using Patients in the Examination Process," indicating that the subcommittee found it highly relevant and not in need of any editorial or substantive revision. However, the subcommittee requested that the statement be forwarded to the Council on Dental Education and Licensure as a secondary reviewer in light of CDEL's greater familiarity with the status of licensure examinations in the United States. The Council concurred in this view, and directed Council staff to forward the statement to CDEL and request that review.
6. Dr. Griffin reported that the Administrative and Policy Subcommittee began the review of the Council statement entitled "Statement on the Ethics of the Measles Crisis" but that the subcommittee referred the review of the statement to the Ethics subcommittee in light of the Ethics Subcommittee's work in developing a white paper on the ethics of vaccinations.
7. The Council also received a report from the Administrative and Policy Review Subcommittee regarding the review of the Council statement entitled "Gift Giving to Dentists from Patients, Colleagues and Industry: Is it a Problem in Dentistry Today?", and the subcommittee's recommendation that the statement be retained but amended to include reference to the Physicians Payments Sunshine Act. The Council reviewed and discussed the recommendation and amendment proposed by the subcommittee, following which the Council approved the subcommittee's recommendation and amendment.
8. On behalf of the Administrative and Policy Review Subcommittee, Dr. Griffin also reported on the subcommittee's consideration of the Council statement entitled "The Ethics of Temporary Charitable Events." Dr. Griffin indicated that the subcommittee found the policy to have continued relevance and that no revisions were needed to the statement. The

subcommittee, therefore recommended that the statement continue to be posted on ADA.com, which recommendation was adopted by the Council. The subcommittee also requested that the Council consider requesting that the staff investigate whether a mechanism exists that will allow the statement to be redistributed periodically to agencies that sponsor Give Kids a Smile events, MOM events or other events during which charitable dental treatment is provided. That request was forwarded to the appropriate staff member of the Council.

9. Dr. Griffin also reported that the Administrative and Policy Review Subcommittee conducted a secondary review of two policies on behalf of the Council. The first such review, on the Association's Teledentistry policy, was requested by the Council on Dental Practice; the request was received in late November 2019 and was responded to on December 4, 2019. The second request, involving the policies entitled "Dentistry" and "Dentistry as an Independent Profession," was received on November 26, 2019 and responded to on December 4, 2019. In both cases, it was reported that the subcommittee made suggested revisions to the policies in question.

10. On behalf of the Bylaws Subcommittee, Dr. Robert J. Wilson, Jr., Council vice chair and subcommittee chair, delivered a report to the Council on the subcommittee's editorial review of Chapters I through IV and XII of the ADA *Bylaws* and the *Governance Manual of the American Dental Association* ("the *Governance Manual*") pursuant to the Council's responsibilities as delineated in Chapter VIII., Section K.6.b. of the *Governance Manual*. Various proposed minor revisions or corrections forwarded by the subcommittee's report were reviewed by the Council and, following discussion, each proposed revision was unanimously approved. Staff was directed to (1) conform the *Bylaws* and the *Governance Manual* by incorporating the revisions to the electronic versions of the documents available on ADA.org and in the printed versions of the *Bylaws* and *Governance Manual*, and (2) prepare the requisite report to the House of Delegates on the revisions made and unanimously adopted by the Council pursuant to Chapter VIII., Section K.6.b.iii. of the *Governance Manual*.

11. Dr. Wilson also reported on the subcommittee's consideration of potential amendments to three provisions in the *Bylaws* or the *Governance Manual* – *Bylaws* Chapters I, Section 20.B.d. and III, Section 120 and *Governance Manual* Chapter III, Section A.1. The Council discussed the issues giving rise to the proposal to recommend amendment of these provisions and asked the Bylaws subcommittee to move forward with the proposals by forwarding draft reports to the Council for its consideration in July 2020.

12. The Council received reports from the Ethics Subcommittee and the Continuing Education Subcommittee on their activities since the annual meeting in San Francisco.

13. Further to a request by Dr. Chad P. Gehani, ADA president, Dr. Kurkowski led a discussion designed to identify any Council programs that might be considered nonessential. Because of the nature of the Council's responsibilities, much of the Council's work involves either the Bylaws and Governance Manual or the ADA Principles of Ethics and Code of Professional Conduct (the ADA Code), both of which are considered to be essential as they are elements specified in the governing documents of the Association. Consequently, only a few discrete programs of the Council were identified during the discussion: (1) the preparation of and printing of hard copies of the ADA Bylaws, the Governance Manual and the ADA Code, (2) the sponsorship of the annual Student Ethics video contest, (3) the preparation and delivery of continuing education programming in ethics at the annual meeting of the Association, and (4) the preparation and delivery of ethics programming and papers in *The Journal of the American Dental Association* and to state and local dental societies, dental schools, study clubs and at annual meetings of national ethics organizations. The Council judged each of those programs to support the objectives and goals identified in the 2020-2025 strategic plan and of minimal consequence economically.

14. The Council received a report from its representative to the CDEL CE Oversight Committee, Dr. Alma J. Clark.

15. The Council discussed the need for members of the Council attending the annual meeting to volunteer to serve on the Standing Committee for Constitution and Bylaws, and a call for volunteers to serve on the committee was made.

16. Dr. Kurkowski and Mr. Elliott informed the Council of the mechanism for electing a vice chair of the Council and selecting the Chair, and the desired attributes that Council leaders should have. The Council was informed that the election of vice chair and selection of chair shall occur during the Council's meeting in July 2020.

17. The Council received a presentation from Dr. Kathleen T. O'Loughlin on the ADA's response to the novel coronavirus pandemic and the impact that the pandemic has had on the Association and a summary of the newly adopted ADA 2020-2025 Strategic Plan, Common Ground.