

ADA COUNCIL ON ETHICS, BYLAWS, AND JUDICIAL AFFAIRS
Minutes of the March 25-26, 2021 Meeting

The regular meeting of the Council on Ethics, Bylaws, and Judicial Affairs (CEBJA or the Council) was called to order at 9:30 a.m. on Thursday, March 25, 2021. Council chair Dr. Robert Wilson presided at the meeting which took place via the Zoom videoconference platform.

Roll call: Council members in attendance for the meeting: Dr. Robert J. Wilson, Jr., Chair, Dr. Meredith A. Bailey, Vice Chair, Dr. Jill M. Burns, Dr. Guenter J. Jonke, Dr. Onika R. Patel, Dr. William D. Cranford, Dr. Alma Clark, Dr. Jay A. ("Drew") Johnson, Dr. Bruce A. Burton, Dr. Gary S. Davis, Dr. Ansley H. Depp, Dr. Renee P. Pappas, Dr. Chris Adkins, Dr. Kathleen Nichols, Dr. Allen Reavis, Dr. Debra A. Peters, and Dr. Alex Mellion (New Dentist Committee). Following the roll call, a quorum was announced as being present.

Also present for all or a portion of the meeting were: Dr. Gary D. Oyster, 16th District Trustee and Board Liaison to the Council and Mr. Joseph Manzella, American Student Dental Association Liaison to the Council.

CEBJA staff present for all or a portion of the meeting: Thomas C. Elliott, Jr. Esq., deputy general counsel and director of the Council on Ethics, Bylaws and Judicial Affairs; Nanette Elster, Esq., manager, Ethics Outreach Programs; and Mr. Earl Sewell, council coordinator.

ADA personnel present for all or a portion of the meeting: Dr. Kathleen T. O'Loughlin, executive director; Cathryn E. Albrecht, Esq., senior associate general counsel; Ms. Gabrielle O'Connor, Legal Affairs Division coordinator.

Participant Disclosures: The ADA Disclosure Policy was referenced. No disclosures were made.

Call for New Business: Two items of New Business were added to the agenda.

Adoption of the Agenda: By voice vote, the Council adopted the agenda for the meeting:

Resolved, that the printed agenda of the March 25-26, 2021, meeting of the Council on Ethics, Bylaws and Judicial Affairs be adopted as the official order of business with the stipulation that the chair is authorized to change the order of items for discussion to expedite the business of the Council and to accommodate scheduling issues and special presentations.

Adoption of Consent Agenda: A consent agenda was prepared to expedite the business of the Council. By voice vote, the Council adopted the consent agenda for the meeting:

Resolved, that the items of business marked on the agenda as being on consent for

the March 25-26, 2021 meeting of the Council on Ethics, Bylaws and Judicial Affairs and listed below be approved, the reports thereon filed and resolutions therein adopted

Items on Consent

- Item 3.7 Approval of the Minutes of the July 24, 2020 CEBJA Meeting
- Item 3.8 Approval of the Minutes of the August 12, 2020 CEBJA Meeting
- Item 3.9 Approval of the Minutes of the March 2, 2021 CEBJA Meeting
- Item 5.1 Reports of the ADA Trustee Districts – (Written Reports Only)
- Item 6.1.4 Periodic Review of Council Alignment with Strategic Plan and Budgeting of Council Programming Activities
- Item 6.2.5 Status of Printing and Publication of Revised *Bylaws* and *Governance Manual* Booklets

Future Meeting Dates: Due to a scheduling conflict with a Board of Trustees meeting, alternative meeting dates of April 27-28, 2023 were presented to the Council. A discussion on the subject ensued, and a motion to accept the new dates was made and adopted by voice vote.

Professional Conduct Policy: Legal Counsel presented on the Association’s Professional Conduct Policy. Afterward, the floor opened to questions and discussion.

SPECIAL PRESENTATIONS

Executive Director’s Presentation: The Executive Director presented on the long-term effects of COVID-19 on membership and the budget and the status of the five-year strategic plan Common Ground 2025. The floor opened to questions and discussion.

SmileCon™ and Annual Meeting Rebranding: Senior staff from the Division of Conference Services and Dr. H. Charles McKelvey, member volunteer with the Advisory Committee on Annual Meetings (“CAM”), presented on rebranding the ADA’s Annual Meeting and offered the Council guidelines to consider when submitting annual meeting programming topics to CAM. The floor opened to questions and discussion. A motion to have the CE Subcommittee develop a course aligned with the new guidelines was made and adopted by voice vote.

Reducing Health Care Disparities to Promote Equity and Social Justice in Healthcare: Dr. Jessica Meeske, chair, Council on Advocacy for Access and Prevention, gave a presentation on health equity and a 2021 House of Delegates Resolution by CAAP on the subject. Afterward, the floor opened to questions and discussion. A motion was offered and adopted by voice vote to authorize the CEBJA chair and staff to provide additional comments on the 2021 CAAP resolution if deemed necessary.

COUNCIL LEADERSHIP AND STAFF REPORTS

Report of the Chair: Dr. Wilson welcomed attendees to the meeting and highlighted the Council’s response to the pandemic.

Report of the Vice Chair: Dr. Bailey welcomed attendees to the meeting and highlighted the importance of members staying connected virtually. Additionally, the mentoring effort Council Connections announced by Dr. Bailey earlier this year by which members in their first and second

year are partnered with members in their third and fourth year to create more balanced social bonding was discussed. Following that discussion the consensus of the Council was that the mentoring groups should be periodically rotated to allow first and second year members to become acquainted with a broader segment of third and fourth year members. The Council also discussed using the mentor pairings to collaborate on the development of potential Ethical Moment topics and the authoring of draft Ethical Moment articles for submission to The Journal of the American Dental Association (JADA).

Report of the Board of Trustees Liaison: Dr. Oyster thanked the Council for the work that was produced related to Covid-19.

District Report Updates: Members reported on various issues from their districts. A motion was seconded and approved by voice vote that directed staff to work with a committee of council members to update the District Reports Survey Questions. Staff was also asked to forward reports received from constituent societies to the relevant CEBJA member as the reports are received. Finally, staff was requested to begin compiling data received via the District Reports for review and possible use by the Council.

Report of the Council Director: The Council Director submitted a written report reflecting on the duties of Council and policies of the Association that affect volunteer members and thanked the Council for its work.

Report of the Council Manager: The Council Manager reported on the work of the Joint Subcommittee (Continuing Education and Ethics) related to the Vaccine White Paper, Ethical Moment submissions to JADA, and the 2021 Annual Meeting continuing education course.

COUNCIL BUSINESS

Administrative and Policy Review Subcommittee: Dr. Meredith Bailey, subcommittee chair, presented the following reports from the Administrative and Policy Review Subcommittee:

Periodic Policy Review: Dr. Bailey reported that the Council has no policies for which it has primary responsibility in need of review in 2021. She also reported that five policies for which the Council is designated as a secondary reviewer are up for review in 2021. It was reported that the subcommittee recommends that no changes in those policies from the perspective of the Council's responsibilities are needed and, on behalf of the Administrative and Policy Review subcommittee, moved that the recommendation be accepted by the Council. The motion was adopted by a voice vote of the Council.

Periodic Review of Council Statements: Dr. Bailey stated that the subcommittee recommends the adoption of a systematic periodic review of statements developed and distributed by CEBJA to ensure that the Council's statements remain relevant and up-to-date. A chart illustrating a proposed review cycle was reviewed and discussed by the Council, following which Dr. Bailey, on behalf of the subcommittee, moved that the recommendation for a system of periodic review of Council statements illustrated in the presented chart be adopted. A discussion of that motion followed, after which the recommendation was adopted by voice vote of the Council.

Review of Programs and Budget: Dr. Bailey also reported that the subcommittee had reviewed the Council's programs and projects and found that they supported the goals of

the Association's current strategic plan, Common Ground 2025, and that several of the Council's tasks are required by the Association's governance structure. Dr. Bailey indicated that the subcommittee has also reviewed the Council's programming budget and found the budget to be adequate to support the Council's current activities.

Report on Current Trends and Events Relevant to the Responsibilities of the Council: Dr. Bailey reported on recent health trends relevant to CEBJA. The floor then opened to a discussion where the Council members reached a consensus that relevant trends should be used as subjects for Ethical Moment articles.

Student Video Contest Update: Council coordinator Earl Sewell provided an informational report on the results of the 2020 student ethics video contest and displayed the grand prize and honorable mention videos from that contest for the Council. Mr. Sewell also gave the Council information on the 2021 contest timeline, and requested that Council members solicit students in their Districts to submit ethics videos to the contest when it opens.

Bylaws Subcommittee: Dr. Jill Burns, subcommittee chair, presented the following report from the Bylaws Subcommittee.

Amendment to Resolution 64H-2020: Dr. Jill Burns summarized the subcommittee's report as it relates to Resolution 64H-2020. Due to the pandemic, the 2020 House of Delegates was held virtually. Because of the meeting's virtual nature, many non-critical resolutions, including Resolution 64H-2020, submitted to the 2020 House of Delegates, were placed on a special order of referral consent calendar by the Speaker of the House. That referral's effect was to return resolutions to the originating agencies who may bring the referred resolution back to the 2021 House. Subsequently, the Speaker of the House has ruled that resolutions so-referred can be amended and the amended resolution brought to the 2021 House of Delegates. For ease of understanding and clarity, the subcommittee took the opportunity to consider amending Resolution 64H-2020. After the Council engaged in discussion concerning the resolution, Dr. Burns, on behalf of the subcommittee, moved the following resolution, which was adopted by voice vote.

Resolved, that Resolution 64H-2020 be amended as follows (single underscoring and ~~strikeouts~~ signify original additions and deletions in Resolution 64; additions to Resolution 64 are double underscored, and deletions to Resolution 64 are ~~double stricken~~):

64H. Resolved, that Chapter III., Section 120 of the ADA Bylaws be amended as follows

2. When more than one is to be elected, and the nominees exceed the number to be elected, ~~the votes cast shall be non-cumulative, the following~~ applies:

a. ~~votes equal to or less than the number to be elected may be cast by each voting member, but only~~ Only one vote may be cast per nominee by each voting member;

- b. Each voting member may vote for a number of nominees not to exceed the number to be elected; and
- c. ~~the~~ The candidates receiving the greatest number of votes shall be elected.

Review of the Duties of the Treasurer: Dr. Wilson and Dr. Burns reported on the request that the Council review the duties of the Treasurer found in Chapter VI., Section 90.F. of the ADA *Bylaws* and the preliminary work that the subcommittee had done to clarify and modernize the duties, as well as differentiate the Treasurer's duties from those of the Budget and Finance Committee of the Board of Trustees and the Chief Financial Officer. The Council discussed the project and offered suggestions for achieving clarity in reciting the Treasurer's duties in the *Bylaws*. Following the discussion, the chair requested that the subcommittee continue its work on this task and return with a recommended set of revisions at the next Council meeting.

Review of Chapter III, Section A.1. of the Governance Manual: Dr. Burns next reported on the subcommittee's review of Chapter III, Section A.1. of the *Governance and Organizational Manual of the American Dental Association* ("Governance Manual") pursuant to a request that the time within which a special session of the House of Delegates can be convened following receipt of a request for a special session. It was reported that the subcommittee saw no need for an amendment as the provision as currently written provides that a special session must be convened within forty-five days, but can be convened anytime within that forty-five day period. Consequently, no action was proposed by the subcommittee.

Periodic Review of Governance Material: Dr. Burns also reported that the subcommittee has begun the periodic editorial review of approximately twenty-five percent of the ADA *Bylaws* and the *Governance Manual* in accordance with the schedule previously agreed upon by the Council. It was also reported that the printed versions of the *Bylaws* and *Governance Manual* incorporating the amendments adopted by the 2020 House of Delegates and the editorial and conforming amendments unanimously adopted by the Council during the special meeting held on March 2, 2021 have been received and that copies would be mailed to Council members when possible.

Ethics Subcommittee: Dr. Guenter Jonke, subcommittee chair, presented the following report from the Ethics Subcommittee.

Vaccine White Paper: Dr. Jonke summarized the subcommittee's report, stating that dentists are in a unique position of seeing many patients at least once but often twice a year for preventive care, provides a convenient opportunity for patients to stay current on vaccinations. The Vaccine White Paper drafted by the subcommittee considers the complex ethics concerns of providing vaccinations for preventable diseases and offers commentary on those concerns. Dr. Jonke requested that each council member perform an in-depth review and critique of the Vaccination White Paper, and provide the subcommittee with suggestions and recommendations. Following discussions about the need to finalize the paper as soon as possible, Dr. Jonke moved that the subcommittee be allowed to make any final edits to the document before it is circulated to other communities of interest. After discussion, by voice vote the council approved the white paper and authorized the subcommittee make further edits as deemed necessary and forward the document to relevant communities of interest for review and comment.

CE Subcommittee: Dr. Alma Clark, subcommittee chair, presented the following report from the CE Subcommittee.

Continuing Education at the Annual Meeting: Dr. Clark summarized the subcommittee's report. Noting the rebranding of the Annual Meeting, and its new guidelines for submitting continuing education courses, Dr. Clark requested that the entire council consider interactive content suggestions and asked that any council member who would like to be considered for a continuing education speaker position identify themselves. The floor opened to discussion, and the following council members indicated their interest in helping develop content and serving as a continuing education speaker. Dr. Meredith Bailey, Dr. Robert Wilson, Dr. Guenter Jonke, Dr. Ansley Depp, Dr. Kathy Nichols, and Dr. Alma Clark. Dr. Vishruti Patel, a past council member, was also recommended for service. The floor opened to discussion, and the council approved the request by voice vote.

Ethical Implications of Teledentistry Policy: Dr. Wilson reported that ethical ramifications of the Teledentistry Policy approved by the House of Delegates in 2020 have been discovered. Specifically, under the policy as written, a dentist with patients residing in states other than that in which the dentist is licensed and practices are unable to provide dental treatment via teledentistry means; during periods when in-person dental office visits and consultations are not possible (such as during a public health emergency), the dentist may be forced to abandon out-of-state patients. After a detailed and lengthy discussion, a recommendation to refer this issue to the *Bylaws* subcommittee was made. During the ensuing discussion, it was suggested that the subcommittee might wish to involve other councils with relevant responsibilities to collaborate in arriving at a recommendations to report back to the Council during its July 30-31, 2021 meeting. After the discussion, the motion as made was approved by voice vote.

NEW BUSINESS

Ethical Implications of Insurance Company Ratings: Dr. Gary D. Oyster, Board of Trustees Liaison, reported on ethical concerns related to insurance companies' practice rating or scoring dentists that may lead to claims of superiority which may be false and misleading in material respects. Dr. Oyster asked that the council consider investigating the methods and procedures used by payers to rate dentists and whether the rating systems employed are ethical or lead to unethical practices by practitioners. After discussion, it was moved and approved by voice vote to forward this issue to the Ethics Subcommittee for review and formulation of a recommendation should one be needed to the Council at its July 30-31, 2021 meeting.

July 2021 Council Meeting: In anticipation of holding the first in-person Council meeting since April 2019, it was suggested that Council members consider arriving in Chicago a day prior to the Council meeting in time to attend a Chicago Cubs baseball game (vs. the Cincinnati Reds at 1:20 p.m. CDT on July 29, 2021). Staff, Council liaisons, spouses and significant others are welcome to attend as well.

FOR THE GOOD OF THE COUNCIL

The members of the Council, Dr. Oyster, Mr. Manzella, and Council staff participated in the traditional For the Good of the Council closing of the meeting.

ADJOURNMENT

On motion duly seconded, there being no remaining business on the Council's agenda, the chair declared the meeting adjourned at approximately 11:30 A.M. CDT on Friday, March 26, 2021.