

ADA COUNCIL ON ETHICS, BYLAWS, AND JUDICIAL AFFAIRS

Minutes of the July 29-30, 2022 Meeting

The regular meeting of the Council on Ethics, Bylaws, and Judicial Affairs (CEBJA or the Council) was called to order at 8:30 a.m. on Friday, July 29, 2022. Council chair Dr. Meredith A. Bailey presided at the meeting which took place in the Boardroom on the 22nd Floor of the ADA Headquarters Building located at 211 E. Chicago Avenue, Chicago, IL 60611, and via Zoom web conference.

Roll Call: Council members in attendance for the meeting: Dr. Meredith A. Bailey, Chair, Dr. Bruce Burton, Vice Chair, Dr. Chris Adkins, Dr. Alma Clark, Dr. William D. Cranford, Jr., Dr. Gary S. Davis, Dr. Ansley H. Depp, Dr. Karen Foster, Dr. Jay A. (“Drew”) Johnson, Dr. Leslie Grant, Dr. Alex Mellion (New Dentist Committee), Dr. Kathleen Nichols, Dr. Renee P. Pappas, Dr. Debra A. Peters, Dr. Allen Reavis, Dr. Kelly Roth, Dr. Richard Serchuk, and Dr. Debra West. Following the roll call, a quorum was announced as being present.

Also present for all or a portion of the meeting were: Dr. Scott Morrison, Tenth District Trustee and Board Liaison to the Council; and Ms. Heather Moore, 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 (via Zoom); and Ms. Alyna Johnson, legal specialist.

ADA personnel present for all or portions of the meeting: Dr. Raymond A. Cohlmiya, executive director; Scott W. Fowkes, Esq., general counsel; Cathryn E. Albrecht, Esq., senior associate general counsel; and Sandra Eitel, senior director, research, analytics and member growth.

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

Call for New Business: Dr. Bailey asked if there were any items of new business; no new business was identified.

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

Resolved, that the printed agenda of the July 29-30, 2022 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 July 29-30, 2022, 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 3.4 Future Meeting Dates
- Item 3.5 Report on the Approval of Mail Ballots
(Ballot 2022-01: Approval of Minutes of March 24-25, 2022 Meeting)

CEBJA Mission Statement: The chair read aloud the Council mission statement.

SPECIAL PRESENTATIONS

Executive Director's Presentation: Dr. Cohlma presented an oral report on the strategic forecasting governance changes being proposed to the 2022 House of Delegates. He also spoke about the move to mission-based accounting, the upcoming implementation of Office 365 and the development of the new ADA phone app. Finally, he remarked on the changing dental workforce, the intersection of member value and values, and the importance of diversity and inclusion. After the presentation, the floor was opened for questions and discussion.

General Counsel Report: Mr. Fowkes summarized the status of legal proceedings in which the ADA is involved. He also spoke about the cyber incident that took place in April 2022 and discussed the ADA's risk management preparedness and internal controls. Finally, he updated the committee on the latest events related to the cyber incident recovery, including the application for reimbursement of out of pocket expenses under the ADA's cyber security insurance coverage and the issuance of breach notifications where required by law.

Division of Membership Presentation: Ms. Eitel presented an oral report on the Division of Membership Value and Values proposition. She discussed navigating the generational demographic membership shift, the current state of membership, and the work and efforts needed to increase future relevancy and market share. Afterward, the floor was opened for questions and discussion. As part of this discussion, the Council requested that Ms. Eitel send members additional information on the Diversity, Equity & Inclusion (DEI) Champions Network.

Reports of ADA Council Leadership: Representatives from the Council on Government Affairs, Council on Advocacy for Access and Prevention, Council on Dental Education and Licensure, and Council on Membership attended a portion of the meeting via Zoom. They each gave a short presentation on the topics their councils are addressing and other issues of interest to the Council on Ethics, Bylaws and Judicial Affairs.

COUNCIL LEADERSHIP AND STAFF REPORTS

Report of the Chair: Dr. Bailey spoke about her goals in joining organized dentistry, of improving the profession and giving members not only what they want but what they need. She also remarked on the council's mission and achievements, and highlighted the council's new ethics podcast and facilitator guides.

Report of the Vice Chair: Dr. Burton spoke about the accomplishments of the council, thanking the council members for the quality of their work and their contributions throughout the year.

Report of the Board of Trustees Liaison: Dr. Morrison commented on current initiatives at the American Dental Association and touched on strategic forecasting, the recovery from the cyber incident, digital transformation efforts and the upcoming debut of the ADA app at SmileCon. He commended and congratulated the council on its ethics podcast and thanked the council for its leadership.

Report of the New Dentist Member: Dr. Mellion's report emphasized membership growth and opportunities for new dentist engagement and leadership. The New Dentist Committee is also working to support dentist well-being and help dental students prepare for their transition into practice.

Report of the ASDA Liaison: Ms. Moore gave a brief update on American Student Dental Association activities. She reported that two new ASDA chapters have been established, bringing the total to 68 nationally, and an "ASDA Community" site has been created to strengthen online presence and encourage networking.

Report of the CEBJA Liaison to the CDEL CE Committee: Dr. Clark reviewed the duties of the Council on Dental Education and Licensure's Continuing Education Committee, discussed types of courses currently available, and asked the Council to consider suggestions for future topics and formats. After her

report, the Council engaged in a brief discussion centering on the varied cost and availability of CE across different states.

Report of the Council Director: The Council Director updated the Council on staffing and reported a new hire. He commended the Council, observing that it operates at a very high level and produces an impressive amount of work. He remarked on the importance of the Council's role as the conscience of the ADA and the profession, and thanked the Council members for their commitment and dedication.

District Report Updates: Members reported briefly on various issues of interest from their districts, including state laws governing insurance practices and lobbying efforts. Afterward, the chair opened the floor for discussion.

Ad Hoc Campaign Rules Workgroup: On behalf of the Ad Hoc Campaign Rules Workgroup, Dr. Drew Johnson, chair, presented the workgroup's report. The report detailed the committee's charge to review and examine aspects of the campaign rules related to social media, and summarized its discussion and observations. The Council then engaged in discussion with and asked questions of the workgroup members. Afterward, Dr. Johnson moved the following resolution that was proposed by the workgroup and adopted by unanimous Council vote:

Resolved, that the amendments to the Election Commission and Campaign Rules shown in Appendix 1 to this report (additions underscored) are hereby approved for forwarding to the 2022 House with the recommendation that the amendments be adopted.

COUNCIL BUSINESS

Bylaws Subcommittee: On behalf of the Bylaws Subcommittee, Dr. Gary S. Davis, chair, presented the following reports:

Report on the Referral of Resolution 106H-2021 – Amendment to the Delegate Reapportionment Formula in the Manual of the House of Delegates: Dr. Davis presented the subcommittee's report on the referral of Resolution 106H-2021 and the request to develop a proposal to amend the House of Delegates reapportionment process that would ensure that each of the Federal Dental Services would be allocated a minimum of two delegates irrespective of size. At the conclusion of his report, the Council reviewed and approved CEBJA Report 1 containing the proposed revisions and directed that the report be forwarded to the House of Delegates, thereby fulfilling the directive of Resolution 106H-2021.

Report on the Simplification of Chapter XI of the *Governance and Organizational Manual of the American Dental Association*: Dr. Davis presented the report on the simplification of Chapter XI of the *Governance and Organizational Manual of the American Dental Association* ("*Governance Manual*"). The Council reviewed the proposed Frequently Asked Questions and judicial procedures flowcharts that resulted from the subcommittee's work. Following discussion, on behalf of the subcommittee, Dr. Davis moved the following resolution, which was adopted by voice vote:

Resolved, that the *Governance Manual* Chapter XI. FAQs and Flowcharts are hereby approved, and be it further

Resolved, that the *Governance Manual* Chapter XI. FAQs and Flowcharts be appended to the *Governance Manual* as appendices.

Administrative and Policy Review Subcommittee: On behalf of the Administrative and Policy Review Subcommittee, Dr. William Cranford, chair, presented five reports.

Report and Recommendation on Policy Entitled “Guidelines for Dentist Advertising”: The subcommittee reviewed and discussed the policy entitled “Guidelines for Dentist Advertising,” noting that in the period that has elapsed since its adoption (over 40 years ago), many constituents and state boards of dentistry have adopted rules and regulations concerning the content of advertising relating to dentistry and dental treatment. The subcommittee believes it to be appropriate to revise the present policy to offer assistance to constituent dental societies and to encourage cooperation with state dental boards to develop and maintain meaningful guidelines on advertising related to dentistry. Further, it was added that the Council on Dental Practice is in agreement with and supportive of the proposed amendment to the policy. After discussion, on behalf of the subcommittee, Dr. Cranford moved the following resolution, which was adopted by voice vote:

Resolved, that the ADA policy entitled “Guidelines for Dentist Advertising” (*Trans.*1979:647) be amended as follows (additions underscored):

Resolved, that the American Dental Association offer its assistance to constituent dental societies and encourage them to cooperate with state boards of dental examiners in the development and maintenance of meaningful guidelines based on rules and regulations related to dentist advertising.

Report and Recommendation on Policy Entitled “Freedom of Choice”: The subcommittee reviewed the policy entitled “Freedom of Choice,” observing that over the last several years, the ADA has focused on making the Association more inclusive for members of diverse backgrounds by ensuring its policies embrace the qualities of equity and inclusion. In keeping with the Association’s work, the Council has revised the ADA *Bylaws* and *Governance Manual* by removing gender specific pronouns from those governance documents. On behalf of the subcommittee, Dr. Cranford moved the following resolution, which was adopted by voice vote:

Resolved, that the ADA policy entitled “Freedom of Choice” (*Trans.*1994:667) be amended as follows (deletions ~~stricken through~~):

Freedom of Choice. The concept that a patient has the right to choose any licensed dentist to deliver ~~his or her~~ oral health care without any type of coercion.

Report and Recommendation on Referral of a Request for Issuance of Reminder Concerning Homeopathic Product and Treatments: Dr. Cranford reported that, at the request of Dr. Sabates, the subcommittee reviewed a request to issue a reminder to members to refrain from selling homeopathic products and offering homeopathic treatments to patients. He reported that the subcommittee determined that Section 5 of the *ADA Principles of Ethics and Code of Professional Conduct* adequately addresses the issue of homeopathic products and treatments, and that the issuance of a reminder was not warranted. The subcommittee recommended that a draft letter from the Council be approved and forwarded to Dr. Sabates with the recommendation that it be sent to the requesting organization, thus completing the Council’s work under the referral. On behalf of the subcommittee, Dr. Cranford moved the following resolution, which was adopted by voice vote:

Resolved, that the correspondence from Dr. Cesar R. Sabates to the Center for Inquiry, Inc., responding to its request for a reminder of the obligation of dentists to recommend and sell only treatments and products that are grounded in scientific knowledge and research, appended to this report as Appendix 3, be approved; and be it further

Resolved, that the approved correspondence be forwarded to Dr. Sabates with the recommendation that it be sent to the Center for Inquiry, Inc., thus completing the referral of the request to the Council.

Report Proposing a Council Statement on Treating Patients with Infectious Diseases: Dr. Cranford reported on the subcommittee’s consideration of the need for a statement respecting the treatment of patients who have contracted infectious diseases with unknown transmissibility parameters. After

discussion, the Council added an additional resource link to the proposed statement. On behalf of the subcommittee, Dr. Cranford moved the following resolution as amended, which was adopted by voice vote:

Resolved, that the Council on Ethics, Bylaws and Judicial Affairs adopt the following as the Council's statement on the ethical considerations to be examined when treating patients with infectious diseases having unknown transmission qualities:

CEBJA STATEMENT ON TREATING PATIENTS WITH INFECTIOUS DISEASES HAVING UNKNOWN TRANSMISSION PARAMETERS

The American Dental Association considers the delivery of necessary dental care to patients to be the fundamental responsibility of every practicing dentist. This obligation is expressed in the principle of beneficence in the *ADA Principles of Ethics and Code of Professional Conduct*.

If a patient is suspected of having an infectious disease with uncertain transmission parameters where effective infection control procedures have not been identified or scientifically supported, dentists should balance the needs of the patient with the safety of other individuals to arrive at an appropriate treatment decision. The following links may be useful to practitioners in arriving at that decision:

Centers for Disease Control and Prevention Oral Health Infection Control Resources:
<https://www.cdc.gov/oralhealth/infectioncontrol/guidelines/index.htm>

Centers for Disease Control and Prevention Infection Control Resources:
<https://www.cdc.gov/infectioncontrol/>

American Dental Association Infection Control Resources:
[https://www.ada.org/search-results#q=infection%20control&sort=relevancy&f:@adasites=\[ADA.org\]](https://www.ada.org/search-results#q=infection%20control&sort=relevancy&f:@adasites=[ADA.org])

Report on Constituent Ethics, Judicial Affairs and Peer Review Survey Results: The Council passed a resolution at its March meeting to conduct a survey of constituent executive directors to assist the Council in ascertaining whether assistance is needed or desired in developing ethics, judicial affairs or peer review committees. Dr. Cranford presented the subcommittee's report on the results of the peer review survey. The Council engaged in discussion with and asked questions of the subcommittee members, and concluded that no further action was needed on this item.

Ethics Subcommittee: On behalf of the Ethics Subcommittee, Dr. Renee Pappas, chair, presented the following reports:

Report on *Ethical Moment* Submissions to JADA: Dr. Pappas reported on the status of *Ethical Moment* manuscript submissions and the review of those manuscripts by the editorial staff of *The Journal of the American Dental Association*. The Council engaged in a discussion of the submission process, including the mechanics of the JADA dashboard and the peer review process.

Report on the Use of the *Ethical Moment* Template: Dr. Pappas reported that Council members are making good use of the recently created template designed to assist Council members in the preparation of *Ethical Moment* articles. The Council engaged in discussion and it was requested that the Council manager send a list of potential topic ideas for future articles to Council members.

Report on the Development of *Ethical Moment* Facilitator Guides: Dr. Pappas presented two facilitator guides for previously published *Ethical Moment* articles that have been developed by the Ethics subcommittee. The guides are designed to assist constituent and component societies, among

others, in preparing and giving ethics continuing education courses to their members that focus on the ethical issues and scenarios presented in an *Ethical Moment* article. The Council discussed the facilitator guides that were presented as well as the preparation of further facilitator guides for *Ethical Moment* articles that have been, or will be, featured on the Council's *Dental Dilemmas* podcast. At the conclusion of the report, no action was taken; the subcommittee's proposed resolution was postponed definitely to the Council's April 2023 meeting.

Continuing Education Subcommittee: On behalf of the Continuing Education Subcommittee, Dr. Ansley Depp, chair, presented the subcommittee's reports.

Report and Recommendation on Continuing Education and Other Ethics-Related Activities for SmileCon 2022: Dr. Depp reported on the ethics continuing education events that will be held at SmileCon in Houston. She remarked that the events will be interactive and held in the dental lounge area of the exhibit hall, rather than being in the course presentation format typically used by the Council in past years at the annual meeting.

Report on Development of the *Dental Dilemmas* Podcast Series: Dr. Depp also reported on the creation and initial roll out of the Council's dental ethics podcast, branded *Dental Dilemmas*. She noted that the duties of hosting and creating the podcast episodes had been assumed by Dr. Alex Mellion, the Council's member representing the New Dentist Committee. Four episodes have been created so far and a fifth is scheduled. Dr. Depp and Dr. Mellion also reported that the *Dental Dilemmas* podcast has been invited to participate in the live podcasting event that will be held during SmileCon 2022. Council members were urged to listen to episodes and promote the podcast within their districts and among dental colleagues and friends. Finally, the Council commended Dr. Mellion for his service to the Council and for his work in developing the *Dental Dilemmas* podcast.

Report on the Student Ethics Video Contest: The Council Director provided a status report on the annual Student Ethics Video Contest and commented that a follow-up reminder that included marketing material for the 2022 contest has been distributed via, among other channels, the American Student Dental Association and the Student Professionalism & Ethics Association as well as the ADA's office of student affairs. The chair requested that Council members encourage dental students in their districts to develop and submit entries for the contest and to publicize the contest to the constituent and component dental societies in their districts.

Update on Judicial Proceedings: The Council Director provided an update on an upcoming hearing that was postponed until mid-August. There was a discussion about the hearing and deliberation process and the Council's responsibilities.

Strategic Forecast Presentation: At the request of the Council, Dr. Peters, a member of the House of Delegates Strategic Forecasting Task Force, presented on the strategic forecasting initiative and engaged in a question and answer session with the Council about the proposal.

Standing Committee on Constitution and Bylaws to the House of Delegates: The Council Director provided an overview of the committee's duties and responsibilities at the upcoming House of Delegates meeting in Houston. Seven members of the Council will serve on the standing committee and it will be chaired by Dr. Bailey.

Presentation of Plaques: Plaques were presented to Dr. Alma J. Clark, Dr. William D. Cranford, Jr., Dr. Jay A. (Drew) Johnson, Dr. Alex T. Mellion and chair Dr. Meredith A. Bailey to commemorate their years of service to the council, the American Dental Association and the profession of dentistry.

Selection of Council Chair: Dr. Bruce A. Burton (11th District, Oregon) was selected as chair of the council for the 2022-2023 term.

Selection of Council Vice-Chair: Dr. Debra A. Peters (9th District, Michigan) was elected as vice chair of the council for the 2022-2023 term.

For the Good of the Council: As the last item of business, Council members and staff shared their thoughts in the long-standing tradition known as “For the Good of the Council.”

ADJOURNMENT

On motion duly seconded, there being no remaining business on the Council’s agenda, the chair declared the meeting adjourned at approximately 12:32 P.M. CDT on Saturday, July 30, 2022.