

January 2022-H

Amendment to the Massachusetts Dental Society Manual of the House of Delegates to Implement a Deadline for Changes to District Delegations

Resolution No. 1-22

Submitted by: MDS Board of Trustees

Financial Implication: None

Background: The American Dental Association uses electronic voting during its House of Delegates meeting each year. The Massachusetts Dental Society (MDS) plans to transition to utilizing an online voting platform as well. By implementing a deadline for a District to make changes to its delegation, it allows the MDS to properly credential all voting delegates in an online voting platform to ensure the security of all votes taken during the MDS House of Delegates.

Therefore, be it

1-22 **Resolved,** that the following amendment be made to the Massachusetts Dental Society Manual of the House of Delegates that implements a deadline for a District to make changes to its delegation.

GENERAL INFORMATION FOR DELEGATES AND ALTERNATES

Substitution

Substitution of alternates for delegates may be made prior to the start of the House of Delegates by the Component ~~Trustee~~, Chair or Secretary by completing the delegate substitution form available from the MDS. at the registration desk. Districts must make any changes to their delegation by 72 hours prior to the House of Delegates. The MDS Secretary will review all such forms prior to the Call to Order of the House.

In the event a District Component does not have enough elected delegates and alternates to fill its quota at any meeting, the District Executive Committee may appoint members of its district to fill its quota for that meeting. See paragraph above for protocol.

Board Recommendation: Vote yes.

January 2022-H

Ratification of a New Massachusetts Dental Society Conflict of Interest Policy and Amendment the *Constitution and Bylaws* to include the new policy

Resolution No. 2-22

Submitted by: MDS Board of Trustees

Financial Implication: None

Background: At the 2003 Massachusetts Dental Society (MDS) House of Delegates, the House approved the following:

- **Resolution 11H-03**
Resolved, that members of the Massachusetts Dental Society who serve in any voluntary capacity have an obligation to disclose any personal or business relationship they or a member of their immediate family may have with a company or individual doing business with the Massachusetts Dental Society when such company or individual is being discussed at a meeting. This includes any business or party with which the Society conducts its business or is considering for a business relationship. Having made this disclosure, the member will be allowed to discuss and vote on the issue.

The MDS Board felt that this policy needed revisions to bring it in line with the American Institute of Parliamentarians *Standard Code of Parliamentary Procedure*. At its November 2, 2021, meeting the MDS Board of Trustees approved a new Conflict of Interest Policy, which should be ratified by the MDS House of Delegates.

Therefore, be it

2-21 **Resolved**, that Massachusetts Dental Society House of Delegates ratify the Conflict of Interest Policy approved by the Board of Trustee in November 2021. (The policy is included in the appendix section of these resolutions.)
And be it further,

Resolved, that the Massachusetts Dental Society *Constitution and Bylaws* be amended to eliminate the section on conflicts of interest in Chapter VIII of the *Bylaws* and add a new Chapter XIII to include the Conflict of Interest Policy, as outlined in the appendix section of these resolutions, in its entirety in the *Bylaws*.

CHAPTER VIII • FINANCES

Section 30. Conflict of Interest

~~No Trustee or member of any Committee of the Society shall have any conflict of interest in any purchase, contract, or loan by or to the Society, or sell materials or services to the Society without the approval of the Board of Trustees.~~

~~No contract or transaction between the Society and one or more of its Trustees or Officers, or between the Society and any other corporation, partnership, society, association, or other organization in which one or more of its Trustees or Officers are trustees, directors, or stockholders or have a financial interest, shall be binding unless at the meeting of the Board of Trustees at which the contract or transaction is authorized, such Trustee or Officer disqualifies themselves from voting and if:~~

- ~~A. The material facts as to their relationship or interest and as to the contract or transaction are disclosed and are known to the Board of Trustees, and the Board of Trustees in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Trustees, even though the disinterested Trustees be less than a quorum.~~
- ~~B. If, and to the extent that, any contract must be approved by the House of Delegates, the material facts as to their relationship or interest and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the members.~~
- ~~C. The contract or transaction is fair as to the Society as to the time it is authorized, approved, or ratified by the Board of Trustees or the members of the House of Delegates, if necessary.~~

*Section 40***30. Special Assessments**

As provided in these *Bylaws*, in addition to the payment of dues, a special assessment may be levied by the House of Delegates upon active, active life, retired, and associate members of this Society for the purpose of funding a specific project of limited duration. Such an assessment may be levied at any Annual Session or Special Session of the House of Delegates by a majority vote of the Delegates present and voting, provided notice of the proposed assessment has been presented in the written compilation provided to the delegates prior to the first session of the House of Delegates at which it is to be considered. The specific project to be funded by the proposed assessment, the time frame of the project, and the amount and duration of the proposed assessment shall be clearly presented in giving notice to the members of the House. The House of Delegates may approve or reject such proposed special assessment, or may approve a greater or lesser amount. All revenues and expenditures related to such special assessment project shall be designated as restricted and separately accounted for within the Society's accounting records.

CHAPTER XIII • CONFLICT OF INTEREST

The Conflict of Interest Policy as ratified by the MDS House of Delegates will be included in its entirety in this chapter of the MDS Constitution and Bylaws.

Board Recommendation: Vote yes.

RESOLUTIONS APPENDIX

CONFLICT OF INTEREST POLICY

ARTICLE I

PURPOSE

The purpose of this Conflict of Interest Policy (this “**Policy**”) is to protect the interests of the Massachusetts Dental Society (the “**Society**”) when it is considering a transaction, arrangement, or decision that might benefit or compete with the private or professional interest of (i) an officer of the Society, (ii) a member of the Board of Trustees (“**Trustee**”), (iii) a member of any Committee of the Society (“**Committee Member**”), or (iv) a key employee of the Society (the persons in (i)-(iv), collectively, “**Covered Persons**”). This policy is intended to supplement but not replace any applicable state laws governing conflict of interest applicable to nonprofit and charitable organizations.

ARTICLE II

DEFINITIONS

1. “**Conflict of Interest**”: Arises when, in the judgment of the Board of Trustees as determined under the procedures set forth in Article III, Section 2:
 - a) The outside interests or activities (such as Covered Interests) of a Covered Person interfere or compete with the Society’s interests;
 - b) The stake of a Covered Person in a transaction, arrangement, or decision is such that it reduces the likelihood that such person's influence can be exercised impartially in the best interests of the Society; and/or
 - c) A Covered Person has divided loyalties.
2. “**Covered Interest**”: Exists when a Covered Person has directly, or indirectly through business, investment, or Family:
 - a) An ownership or investment interest in any Mutual Person;
 - b) A compensation arrangement with any Mutual Person;
 - c) A potential ownership or investment interest in, or compensation arrangement with, any Mutual Person; or
 - d) A legal commitment or financial interest, including by virtue of a board appointment, employment position, or volunteer arrangement, to act in the interests of any Mutual Person.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A Covered Interest is not necessarily a Conflict of Interest. Under Article III, Section 2, a person who has a Covered Interest may have a Conflict of Interest only if the Board of Trustees decides that a Conflict of Interest exists.

3. “**Interested Person**”: Any Covered Person who has a direct or indirect Covered Interest.
4. “**Family**”: An Interested Person’s (i) spouse (or spousal equivalent), (ii) ancestors, (iii) siblings (whether whole or half blood), (iv) children (whether natural or adopted), (v) grandchildren, (vi) great-grandchildren, and (vii) spouses (or spousal equivalent) of an Interested Person’s siblings, children, grandchildren, and great-grandchildren.
5. “**Mutual Person**”: Any entity or individual with which the Society has or is considering or negotiating a transaction or arrangement. A Mutual Person shall also include the Covered Person if such Covered Person proposes to enter into such transaction or arrangement directly with the Society.

ARTICLE III PROCEDURES

1. Duty to Disclose

In connection with any actual or possible Conflict of Interest, an Interested Person must disclose the existence of their Covered Interest and all material facts to the Board of Trustees considering or discussing any matters relating to the Mutual Person giving rise to such Conflict of Interest, including any proposed transaction, arrangement, or decision with respect to such Mutual Person. The disclosure should be made prior to any consideration or discussion of any such matters by the Board of Trustees, or promptly after such person has knowledge of the relevant facts if they have no actual knowledge prior to the relevant action by the Board of Trustees.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the Covered Interest and all material facts, and after any discussion with the Interested Person, such Interested Person shall leave the Board of Trustees meeting while the determination of a Conflict of Interest is discussed and voted upon. The remaining Trustees shall decide whether a Conflict of Interest exists.

If the remaining Trustees determine by majority vote that no Conflict of Interest exists, (i) no further review by the Board of Trustees of the Covered Interest is required if not ordinarily required in the normal course of business, and (ii) the Interested Person cleared of such Conflict of Interest shall be permitted to participate in any discussion or vote with respect to such matters relating to the Mutual Person if such Interested Person would ordinarily be permitted to participate in the normal course of business. The discussion and determination of the existence of a Conflict of Interest shall be documented in accordance with the procedures outlined in Article IV below.

The determination that a Conflict of Interest exists shall not preclude the Board of Trustees (other than the conflicted Interested Person(s)) from approving the matter, but such determination shall require the Board of Trustees to follow the procedures outlined in Article III, Section 3 below.

3. Procedures for Addressing the Conflict of Interest. To address a Conflict of Interest, the Board of Trustees shall follow the procedures described in this Section 3:

- An Interested Person may make a presentation at the Board of Trustees meeting, but after such presentation, they shall leave the meeting during the discussion of, and the vote on, such matter giving rise to the Conflict of Interest.
- The Interested Person shall not attempt to intervene with or improperly influence the deliberations or voting on the matter giving rise to the Conflict of Interest.
- The President of the Society may, at their discretion, appoint a disinterested person or committee to investigate potential alternatives to the proposed transaction or arrangement.
- To the extent applicable, after exercising due diligence, the Board of Trustees shall determine whether the Society can obtain a more advantageous transaction or arrangement from a person or entity that would not give rise to a Conflict of Interest.
- If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a Conflict of Interest, the Board of Trustees shall determine by a majority vote of the disinterested Trustees whether the transaction or arrangement is (i) in the Society's best interest, (ii) for its own benefit, and (iii) fair and reasonable to the Society. In conformity with such determination, the Board of Trustees shall make its decision as to whether to enter into such transaction or arrangement.
- If, and to the extent that, the transaction or arrangement decision needs to be further approved or ratified by the House of Delegates pursuant to the Society's Constitution and Bylaws (the "**Bylaws**"), (i) the Conflict of Interest and all material facts related thereto shall be disclosed to the House of Delegates by a designee of the Board of Trustees (other than the Interested Person), and (ii) the transaction or arrangement must be approved by the House of Delegates (excluding the Interested Person) in good faith.

4. Violations of the Conflict of Interest Policy

- If the Board of Trustees has reasonable cause to believe that an Interested Person has failed to disclose actual or possible Conflicts of Interest, it shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose.

- If, after hearing the response of the Interested Person and making such further investigation as may be warranted under the circumstances, the Board of Trustees determines that the Interested Person has in fact failed to disclose an actual or possible Conflict of Interest, it shall take appropriate disciplinary and corrective action.

ARTICLE IV

RECORDS OF PROCEEDINGS

The minutes of the Board of Trustees shall contain:

- the names of the persons who disclosed or otherwise were found to have a Covered Interest in connection with an actual or possible Conflict of Interest, the nature of the Covered Interest, any action taken to determine whether a Conflict of Interest was present, and the Board of Trustees' decision as to whether a Conflict of Interest in fact existed, and
- the names of the persons who were present for discussions and votes relating to the transaction, arrangement, or decision, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

ARTICLE V

COMPENSATION

A voting Committee Member whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Society for services is precluded from voting on matters pertaining to that member's compensation.

ARTICLE VI

ANNUAL STATEMENTS

Each Covered Person shall annually sign a statement (attached as Exhibit A) which affirms that such person:

- has received a copy of this Policy,;
- has read and understands the Policy,
- has agreed to comply with the Policy, and

- understands that the Society is a charitable organization and that, in order to maintain its federal tax exemption, it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

ARTICLE VII

INTERACTION WITH BYLAWS AND DISCLOSURE POLICY

This Policy is intended to supersede and replace the Society's Disclosure Policy in its entirety.

This Policy is intended to supplement the conflict of interest policy in Section 40 of Chapter VIII of the Bylaws (the "**Bylaws Conflict Policy**"). In the event of a direct conflict between this Policy and the Bylaws Conflict Policy, the Bylaws Conflict Policy shall govern solely with respect to such conflicting matter unless and until this Policy is ratified by the House of Delegates. It is the intent of the Board of Trustees to recommend to the House of Delegates that this Policy be ratified and replace the Bylaws Conflict Policy in its entirety.

The Board of Trustees expressly reserves the right to change, modify, or delete the provisions of this Policy without notice.