



**BEXAR COUNTY MEDICAL SOCIETY**

**BYLAWS**

**June 1, 2018**

**APPROVED BY**

**BCMS BOARD OF DIRECTORS**

**February 7, 2018**

**ADOPTED February 20, 2018**

## CHAPTER I – MEMBERSHIP

**SECTION 1. AGREEMENT.** By applying for, accepting, and maintaining membership in this county medical society, each member voluntarily agrees:

- A. To be bound by, and comply with all provisions of the Bexar County Medical Society’s (“BCMS”) Constitution and Bylaws, the Texas Medical Association (“TMA”) Constitution and Bylaws, the American Medical Association (“AMA”) Principles of Medical Ethics, and the current opinions of the TMA Board of Councilors in relationships with members of BCMS, the TMA, and the public.<sup>1</sup>
- B. To be subject to disciplinary action (including expulsion, probation or censure) in accordance with the disciplinary procedures for:
  - 1. Violation of the constitutions and bylaws of TMA, BCMS or both.
  - 2. Violation of the AMA Principles of Medical Ethics.
  - 3. Criminal conduct and/or any other unethical or unprofessional conduct likely to deceive or defraud, or injure the public.<sup>2</sup>

**SECTION 2. QUALIFICATIONS.** Physicians who are Doctors of Medicine and/or Doctors of Osteopathic Medicine who subscribe to the "Principles of Medical Ethics" of the American Medical Association and, except as provided by these Bylaws, who are licensed to practice medicine in Texas are eligible for membership.

A temporary license, certificate or permit shall not be adequate. Only residents of Bexar County shall be eligible for membership, except as specified in Chapter 2, Section 2.E of these Bylaws. Deans of medical schools in Bexar County and presidents of Texas health science centers in Bexar County who hold other doctoral degrees also shall be eligible for membership. House staff physicians who, in Bexar County, are serving in training programs approved by the Accreditation Council for Graduate Medical Education and who are licensed by or who hold institutional permits from the Texas Medical Board shall be eligible for intern and resident membership. Full-time students who are pursuing a course of study in a medical school in Bexar County recognized by the Texas Medical Board leading to the degree of Doctor of Medicine or Doctor of Osteopathy shall be eligible for student membership.

### **SECTION 3. RIGHTS AND PRIVILEGES.**

#### A. Rights

All members shall be equally privileged to attend all meetings. Members may take part in the proceedings of BCMS so long as they conform to these Bylaws, including payment of dues.

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<sup>1</sup> *ref.* TMA Constitution, Article III, Sec. 3: “All members shall subscribe to the Principles of Medical Ethics of the American Medical Association...”

<sup>2</sup> *ref.* TMA Bylaws, Chapter 1.11: “An otherwise qualified physician may be denied membership or continued membership in a county medical society only for a violation of the TMA or county medical society constitution and bylaws, a violation of the Principles of Medical Ethics, criminal conduct, or unprofessional conduct likely to deceive, defraud or injure the public.”

B. Limitations

Active, life, honorary, retired and emeritus members shall be entitled to all the privileges of membership as outlined in these Bylaws, except where specific exceptions are provided.

C. Effect of disciplinary action

A member, who has been disciplined by probation or expulsion, and in whose case no appeals are pending, shall be denied participation in any of the proceedings of BCMS and shall not be eligible to hold any office until the disciplinary sanction has been lifted.

**SECTION 4. MEMBERSHIP CLASSIFICATIONS.** The following shall constitute the categories of membership in BCMS.

A. Active members

Every physician who meets the qualifications described in Section 1 of this chapter and elsewhere in the TMA Constitution and Bylaws shall be eligible for active membership. The acceptance of the privilege of active membership carries with it the obligation and privilege to assume the duties of any office to which the member may be elected or appointed by BCMS or the TMA.

B. Retired members

1. Qualifications. A physician member who has fully retired from the active practice of medicine, upon recommendation of the Board of Ethics, may be elected by BCMS as a retired member. A physician shall be in good fiscal standing with BCMS at the time of nomination to retired status.
2. Dues obligation. When a physician, who in the preceding year was in good fiscal standing, is nominated for retired membership, payment of dues will not be required for the year in which the physician's name is presented to BCMS, provided the name of the nominee is received by BCMS or TMA prior to March 1.
3. Applicability to special situations. A physician member of another state medical society, who has established residence in Texas and is fully retired from medical practice, may be elected to retired membership. Dues shall not be required of a physician elected to retired membership, who at the time of retirement was a member in good standing of another state medical society.
4. Rights and privileges. Retired members shall be entitled to all privileges of membership, except the right to vote and hold elective position.

C. Life members

1. Qualifications. A physician member in good fiscal standing who has been a dues-paying member of organized medicine for 35 years, of which 25 years must have been dues paying years in the TMA and who has reached a point of comparative inactivity, as determined by BCMS, upon recommendation of the Board of Ethics, may be elected by BCMS as a life member.
2. Dues obligation. Life members shall pay no dues. When a physician, who in the preceding year was in good fiscal standing, is nominated for life membership, payment of dues will not be required for the year in which the physician is nominated if the nominee's name is received by BCMS or TMA prior to March 1.

3. Rights and privileges. Life members shall be entitled to all of the privileges of membership except the right to vote and hold elective position.

D. Honorary members

1. Qualifications. A physician member of honorable standing who has reached a point of comparative inactivity in the practice of medicine as determined by BCMS and who has rendered outstanding service to organized medicine and made noteworthy contributions to scientific medicine, may be nominated by BCMS upon recommendation of the Board of Ethics and after review and approval by the TMA Board of Councilors, may be elected to honorary membership by the House of Delegates. Physicians shall be in good fiscal standing with BCMS at the time of nomination.
2. Dues obligation. When a physician, who in the preceding year was in good fiscal standing, is nominated for honorary membership, payment of dues will not be required for the year in which the physician's name is presented to the House of Delegates, provided the nomination is received by BCMS or TMA prior to March 1.
3. Rights and privileges. Honorary members shall have all the rights and privileges of membership except the right to vote and hold elective position, and shall not be required to pay dues.
4. Retention of rights and privileges. A physician elected to honorary membership may retain the rights to vote, hold office or other elective positions, or serve as delegates or alternate delegates to the TMA by immediately paying current dues in the same amount as required by active members. The decision to continue dues payment on a year-to-year basis shall be the option of the newly-elected honorary member. However, once dues payment is discontinued, it may not be reinstated at a later date, and loss of the rights described in the above section shall occur.

E. Emeritus members

1. Qualifications. Upon nomination by the TMA Board of Councilors and approval of BCMS, the House of Delegates may elect to the status of emeritus membership any member of BCMS who has given exceptional and distinguished service to scientific or organized medicine, or both. A two-thirds majority vote of the House of Delegates shall be required for election. The distinction thus conferred may not be removed except by action of the House of Delegates upon recommendation of the TMA Board of Councilors.
2. Dues obligation. Emeritus members are exempt from payment of dues. When a physician, who in the preceding year was in good standing, has been nominated for emeritus membership, payment of dues will not be required for the year in which the physician's name is presented to the House of Delegates.
3. Rights and privileges. Member emeritus shall have all rights and privileges of membership including the right to vote.

F. Resident members

1. Qualifications. Physicians serving internships, fellowships, or residencies in hospitals within the geographic jurisdiction of BCMS, who are not in private practice, shall be eligible for resident membership.
2. Dues obligations. Resident members shall pay annual dues as required in the Bylaws.
3. Rights and privileges. Resident members shall be entitled to all of the privileges of membership, except the right to vote and hold office. Voting privileges on BCMS committees may be granted to resident members at BCMS's discretion.
4. Termination of status. Resident membership shall cease upon completion of the internship, fellowship or residency program.

G. Military members

1. Qualifications. Physicians serving in the armed forces within the geographical jurisdiction of BCMS (except as provided in the TMA Bylaws, Leave of Absence) are eligible for military membership.
2. Rights and privileges. Military members shall not vote, hold elective office or serve as delegates or alternate delegates to the TMA.
3. Dues obligation and annual report status. Military members shall pay dues as provided in the bylaws, and shall not be included in the number of members of BCMS when calculating the number of delegates or alternate delegates to the TMA.
4. Termination of status. Military membership shall terminate when the physician is transferred from the jurisdiction of BCMS, or when his/her tour of duty terminates.
5. Application for active membership. A physician who has been a military member of BCMS, who is a member in good standing against whom no charges of unethical conduct are pending, and who meets other requirements for active membership, may apply for active membership.

H. Student members

1. Qualifications. Full-time students pursuing a course of study in a Texas medical school approved by the Texas Medical Board who are seeking the degree of Doctor of Medicine or Doctor of Osteopathy shall be eligible for student membership if this school is located within the geographic boundaries of BCMS
2. Rights and privileges. Student members shall be entitled to all the privileges of membership, except the right to vote, hold office or serve as a delegate or alternate delegate to the TMA. However, student members may serve as voting Medical Student Section delegates or alternate delegates, may be elected to the designated position on the AMA delegation, may serve as special appointees to the Board of Trustees with the right to vote, may be appointed to the designated member position on the Committee on Membership, and may serve as special appointees to councils and committees. Voting privileges on committees of BCMS may be granted to student members at BCMS's discretion.
3. Calculating delegates. Student members shall not be included in calculating the number of BCMS's delegates to the TMA.
4. Termination of status. Student membership shall cease upon termination of student status.

**SECTION 5. LEAVE OF ABSENCE FOR PHYSICIAN MEMBERS.** BCMS may grant a leave of absence for a period of one year or more to physician members who leave an active practice of medicine for:

- a. further training in an approved graduate training program;
- b. service as a missionary outside the geographical limits of the United States of America;
- c. temporary service in the armed forces of the United State of America;
- d. temporary civilian service outside the geographical limits of the United States of America;
- e. illness;
- f. family leave, including but not limited to, maternity leave, paternity leave, care of an elderly parent, or care of a child; or
- g. such other cause as BCMS, in its sole discretion, determines sufficient.

A physician member of BCMS on Leave of Absence will be exempt from dues but will pay a nominal dues fee to TMA during such time.

**SECTION 6. LEAVE OF ABSENCE FOR RESIDENT OR STUDENT MEMBERS.** Resident members or graduating medical student members who are accepted to an out-of-state graduate training program approved by the Accreditation Council for Graduate Medical Education, or its equivalent, may be granted a leave of absence by BCMS for the period of the training program. While on leave, these members may hold direct membership in BCMS and TMA; society membership may be continued at the discretion of the member.

**SECTION 7. SABBATICAL LEAVE.** BCMS may grant a leave of absence of one year, with an option of one additional year, to physicians temporarily out of state on sabbatical leave or who accept non-clinical or administrative positions that do not require a transfer of licensure to practice medicine.

**SECTION 8. OUT-OF-STATE MEMBERS.** BCMS may grant out-of-state membership to physicians who are emeritus, honorary, life or retired members.

A. Qualifications

Emeritus, honorary, life and retired members against whom no charges of unethical or unprofessional conduct are pending which could lead to denial of membership shall be granted out-of-state membership on request. Physicians who are accorded out-of-state membership shall remain members of BCMS.

B. Rights and privileges

When so designated, these physicians shall retain all rights and privileges of membership, except the right to vote, hold office or serve as delegates or alternate delegates to the Association.

## CHAPTER II – ADMINISTRATION

### SECTION 1. APPLICATION FOR MEMBERSHIP.

#### A. General

A physician applying for membership shall fill out the appropriate application form as promulgated by BCMS and TMA from time to time. The application form shall be submitted to the Membership Department of BCMS, who shall retain the original application and forward a copy along with dues to the TMA Membership Department.

#### B. Ethics

A physician applying for active membership in BCMS shall agree to abide by the AMA Principles of Medical Ethics and the ethics opinions of the TMA Board of Councilors.

#### C. Board of Ethics' examination

Within 120 days from the date an application is completed, the BCMS Board of Ethics shall complete its examination of the applicant's qualifications. The BCMS Board of Ethics shall, in general, determine that the applicant is duly licensed to practice medicine according to Texas law, and eligible for the membership classification that is requested.

After investigation, the BCMS Board of Ethics shall provide to the BCMS Board of Directors with a recommendation for approval or disapproval of membership.

#### D. Procedure on recommendation for approval of application

If the report of the BCMS Board of Ethics recommends approval of an application for membership, the BCMS Board of Directors shall declare the applicant a member at the next regularly scheduled meeting of the BCMS Board of Directors.

#### E. Procedure on recommendation for disapproval of application

If the BCMS Board of Ethics recommends disapproval of an application for membership, the applicant may request a hearing before the BCMS Executive Committee. In such case, BCMS will follow the procedures set forth in the *TMA Hearings Procedures Manual*. If the applicant fails to request a hearing, or after completion of a hearing, the Executive Board shall vote to either accept or deny the applicant for membership.

#### F. Reporting to Board of Councilors after denial of membership application

When, after such hearing, or after the time for requesting such hearing has expired without a request for a hearing, an application for membership has been denied on the basis of investigation which discloses unethical or unprofessional practices, the Secretary/Treasurer of BCMS shall report promptly to the TMA Board of Councilors the name of the physician thus denied membership. The physician denied membership shall also, after such hearing, receive a copy of the final decision of the applicable executive committee, including a statement of the basis of the decision.

- G. Right of appeal to Board of Councilors. If no action is taken on a completed application within the specified periods of time, the applicant may appeal to the TMA Board of Councilors. The applicant may appeal to the TMA Board of Councilors after the executive committee has conducted a hearing on the membership application and denied the application after the hearing.
- H. Moratorium on reapplication  
When an application for membership is disapproved following the “Procedure on Recommendation for Disapproval of Application” set forth above, the physician may not re-apply to BCMS for membership for a period of one year. Time shall be calculated as follows:
1. One year from the deadline to request a hearing before the TMA Board of Councilors following a hearing before the applicable executive board and rendition of judgment when no hearing has been requested.
  2. One year from the deadline to perfect an appeal to the TMA Board of Councilors following a hearing before the applicable executive committee and rendition of judgment when no appeal has been perfected.

## **SECTION 2. TRANSFER OF MEMBERSHIP.<sup>3</sup>**

### A. Transfer to another society

A member of BCMS, regardless of membership classification, who relocates from the jurisdiction of BCMS to another county medical society, shall notify the TMA executive vice president. At that time, the member’s status will be changed to reciprocal until the following procedure is completed: (1) the TMA will inform the original society and BCMS to which the member is transferring; (2) a copy of the member’s current application will be forwarded to the county medical society to which the member is transferring; that society will collect any additional information needed from the member; (3) membership benefits of the TMA will continue, those from the original society will cease and those of the county medical society to which the member is transferring will begin.

If after 90 days BCMS has neither disapproved the member nor asked for an extension, the member shall automatically become a member of that society and reciprocal status shall terminate.

1. Dues obligations. When transferring from another county medical society to BCMS after dues have been paid for that year to the former county medical society, dues to BCMS will not be required until the first day of January of the following year. However, if such dues have not been paid, the member shall pay dues as provided in Chapter 13 of the TMA bylaws. In the event membership in BCMS to which the member is transferring disapproves the membership, only after any appeals procedure will membership in the TMA be terminated according to the provisions of 1.11 and 1.19 of the TMA bylaws, the payment of current TMA dues notwithstanding.

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<sup>3</sup> Ref. TMA Bylaws Chapter 1.60.



B. Transfer from another society

A physician member, who relocates from the jurisdiction of another county medical society to BCMS, shall apply for membership according to the terms set forth in Section 1 of this Chapter, except that the ethics orientation requirement shall not be required.

C. Transfer of retired, life, honorary and emeritus members.

1. Retired and fully retired members. Physicians who are retired members and those who are fully retired from the practice of medicine and who relocate from the jurisdiction of another society to BCMS shall be granted the right to transfer to BCMS, or may retain membership in the original society. Such physicians who are members of BCMS and who relocate to the jurisdiction of another county society may retain membership in BCMS.
2. Return to active status by emeritus, honorary, life or retired members. An emeritus, honorary, life or retired member of another society who has moved to the jurisdiction of BCMS may return to active membership status only by returning to the jurisdiction of the original county society or by applying for active membership in BCMS and complying with all requirements for membership. An emeritus, honorary, life or retired member of BCMS who has moved to the jurisdiction of another county medical society may return to active membership status only by returning to the jurisdiction of BCMS or by applying for active membership in the new county medical society and complying with all requirements for membership.

D. Charges against a relocating physician.

1. Charges brought during relocation procedures. If charges are brought against a relocating member of BCMS, arising from events occurring during membership in BCMS, which could lead to a denial of membership, then BCMS shall process the complaint according to these bylaws and the *TMA Hearings Procedures Manual*. If such charges are brought against a physician who is relocating from another society, arising from events occurring during membership in that society, all relocation procedures in BCMS shall cease until such time as the complaint is resolved by that society.
2. Charges brought after relocation. In the event that charges are brought after relocation to BCMS is complete, BCMS shall process the complaint according to these bylaws and the *TMA Hearings Procedures Manual* and notify the original society of all circumstances of the charges, and the Secretary/Treasurer shall notify the TMA of the transaction.

E. Membership in contiguous county medical society.<sup>4</sup>

1. Membership in BCMS. A physician in another contiguous county medical society may apply for membership in BCMS in the same manner and upon the same terms as a physician living within the jurisdiction of BCMS. However, such physician must first obtain the permission of the county medical society in the jurisdiction of which he or she resides and present evidence of such at the time of application.

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<sup>4</sup> ref: TMA Bylaws Chapter 1.40.

2. Membership in contiguous society. A physician living within the jurisdiction of BCMS may request permission to apply for membership in another contiguous county medical society. If granted, BCMS shall furnish evidence of permission to the physician.
3. Denial of permission and appeal. Permission for a physician to apply for membership in a contiguous county medical society, and consideration of the application for membership received from a physician in a contiguous county medical society, shall be denied only for a violation of the constitution and bylaws of the TMA or BCMS, a violation of Principles of Medical Ethics of the AMA, criminal conduct, or unprofessional conduct likely to deceive, defraud or injure the public. Should this request be denied, the physician shall have the right to appeal to the TMA Board of Councilors, which, on a majority vote, may permit the physician to apply for membership in an adjacent county medical society.
4. Dual membership prohibited. A physician may not be a member of BCMS and another county medical society of the TMA at the same time.
5. Dues payment. When transferring from another county medical society to BCMS after dues have already been paid for that year to the former county medical society, dues to BCMS will not be required until the first day of January of the following year.

### **SECTION 3. PAYMENT OF DUES.**

#### **A. Amount**

The dues shall be established annually by vote of the Board of Directors of BCMS for the fiscal year. These dues shall be returned if the applicant is not accepted for membership.

#### **B. Deadline for dues payment**

The annual dues of BCMS and TMA shall be payable on January 1<sup>st</sup> of each year. If paying by installments, payment is due no later than the first business day of the month payment it is due.

#### **C. Special Assessments**

Special assessments may be made for such purposes as the Board deems necessary, and such assessments shall be due and payable upon notice. Failure to pay the special assessment shall be treated in the same manner as not paying required annual dues.

### **SECTION 4. DELINQUENCY.**

#### **A. Date of Delinquency**

Members who pay annually and have not paid dues by February 1<sup>st</sup> shall automatically be considered delinquent. Members who pay dues on an installment basis and have not paid an installment payment by the last business day of the month the payment is payable shall automatically be considered delinquent.

#### **B. Loss of privileges**

A delinquent member shall not have the privileges of voting, holding office or attending the TMA annual session.

C. Reinstatement

A delinquent member may be reinstated as a member in good standing upon payment of unpaid dues. Delinquency for nonpayment of dues is not a disciplinary matter; hence, the provisions of the TMA *Hearings Procedures Manual* do not govern whether a member is considered delinquent. There is no right to a hearing on the question of delinquency for nonpayment of dues. However, a former member who forfeits membership may be reinstated as a Member in good standing at any time during the same calendar year upon payment of current year dues.

**SECTION 5. FUNDS.**

A. General Fund

The general fund shall be used for the ordinary current expenses for BCMS, and for such other purposes as shall be authorized by the Board of Directors.

B. Special Funds

Special funds may be created by BCMS to provide for the income derived from assessments, gifts or appropriations from the general fund.

C. Annual Budget

The preparation of the annual BCMS budget shall be the responsibility of the Executive Director. The Executive Director shall prepare an annual budget of anticipated receipts and expenditures which shall be presented to the Finance Committee and Executive Committee and approved by the Board of Directors.

**SECTION 6. FISCAL YEAR.** The fiscal year of BCMS shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

**CHAPTER III – OFFICERS**

**SECTION 1. DESIGNATION.** The elected officers of BCMS shall be a President, President-elect, Vice President, Treasurer, Secretary, Immediate Past President and unelected officers shall consist only of the Executive Director (ex-officio). No member shall hold more than one office at the same time. These elected officers shall be elected by the BCMS membership and constitute, along with the executive director, the executive committee of BCMS. All candidates for positions as officers in BCMS are required to have actively served at least one term on the Board of Directors of BCMS as well as a minimum of one year on the Membership Committee of BCMS before assuming any position as an officer of BCMS. Exceptions to this requirement may only be made by majority approval of each of the Nominating and Executive Committees.

**SECTION 2. TERM OF OFFICE.** The term of office for all elected officers shall be for one fiscal year.

**SECTION 3. TIME OF ELECTIONS.** Election of officers of BCMS shall be according to Chapter VI, Section 7 of these bylaws.

**SECTION 4. THE PRESIDENT.** The President is the principal officer of BCMS and the representative leader of the medical profession in Bexar County. The President presides at all meetings of BCMS and performs such other duties as custom and parliamentary usage require.

The President, ex-officio, is a member of all society boards and committees and chairs the Executive Committee.

**SECTION 5. THE PRESIDENT-ELECT.** The President-elect assists the President in the performance of duties. The President-elect shall be an ex-officio member of all boards and committees. The President-elect shall become acquainted with all matters pertaining to the work and affairs of BCMS in order to properly prepare for the office of President, which office is automatically assumed at the expiration of the term as President-elect. A member may only be elected once as President-elect. The President-elect shall have been a member of BCMS for a minimum of five years, shall have been elected and served as vice president of BCMS, and shall have served three years in elected position(s) or as appointed chair(s) of a Bexar County Medical Society committee(s).

**SECTION 6. VICE PRESIDENT.** The Vice President shall assist the President in the performance of duties, shall preside in the President's absence, and, on the President's death, resignation or removal, shall succeed to the presidency. The tenure of office of Vice President shall not exceed one term. The Vice President shall have been a member of BCMS for a minimum of five years and shall have served in elected or appointed positions for a minimum of three years.

**SECTION 7. SECRETARY.** The Secretary shall make certain that adequate records of the meetings of BCMS and the Board of Directors are maintained. The Secretary shall be responsible for such records and reports as may be required by the Board of Directors or the Bylaws of BCMS or the Texas Medical Association. The tenure of office of Secretary shall not exceed two terms. The Secretary shall have been a member of BCMS for a minimum of five years.

**SECTION 8. TREASURER.** The Treasurer shall make regular reports to the Board of Directors on the financial status of BCMS. The tenure of office of Treasurer shall not exceed two terms. The Treasurer shall have been a member of BCMS for a minimum of five years.

**SECTION 9. IMMEDIATE PAST PRESIDENT.** The Immediate Past President shall be a member of the Board of Directors and shall perform such duties as may be directed by the President or the Board.

**SECTION 10. EXECUTIVE DIRECTOR.** The Executive Director shall be an ex-officio member, without vote, of all boards and committees and shall perform such duties as may be prescribed under the terms and conditions of employment. The Executive Director shall be the chief executive officer of BCMS, responsible for all management functions. The Executive Director shall manage and direct activities of BCMS as prescribed by the Board of Directors and shall be responsible to the Board. The Executive Director shall employ and may terminate the employment of members of the staff necessary to carry on the work of BCMS and fix their compensation within the approved budget. The Executive Director shall design the duties of the staff, supervise their performance, establish their titles, and may delegate responsibilities of management. Further, the responsibilities of the Executive Director are additionally defined in the contract between BCMS and the Executive Director. Review of and establishment of the Executive Director's compensation and benefits are to be confidentially handled by the BCMS Executive Committee.

**SECTION 11. VACANCIES.** Vacancies in the elected offices referred to in this Chapter shall be appointed by the President from amongst the membership of BCMS who fulfill all the requirements of a member elected to that position, to serve temporarily until the next annual election.

**SECTION 12. REMOVAL.** An officer or committee or board member is automatically removed from his/her position upon any of the following circumstances:

1. Resignation
2. Death
3. Physical or mental incapacity of the Member materially impacting the Member's ability to meaningfully fulfill the obligations of his/her position if such incapacity is present, or is reasonably expected to be present, for a period of ninety or more consecutive days.
4. Failure to attend a majority of the non-emergent, specially called meetings of the Board.

**SECTION 13. ATTENDANCE.** Any meeting of the Board of Directors or a Committee may be held (1) in person, or (2) electronically including, without limitation, a generally reliable telecommunication method, or (3) any combination of the two with some people physically present and others attending electronically shall be considered physically present at the meeting.

#### **CHAPTER IV – EXECUTIVE COMMITTEE**

**SECTION 1. COMPOSITION.** According to Chapter III, Section 1, BCMS shall form an Executive Committee composed of the President, Vice President, Secretary, Treasurer, President-elect, Immediate Past President and the Executive Director.

**SECTION 2. DUTIES.** The Executive Committee shall:

1. Transact the routine business of BCMS;
2. Employ, direct, evaluate and determine compensation of an Executive Director;
3. Refer to BCMS questions of policy;
4. Provide for and superintend all publications and public interactions of BCMS including oversight of *San Antonio Medicine* magazine, electronic communications and all proceedings, transactions and memoirs of BCMS. It shall have full discretionary powers to publish or deny publication in whole or in abstract submitted scientific papers, articles, editorials, advertising or other material;
5. Perform such other duties as may be required by the Constitution and these Bylaws; and
6. Conduct all meetings, in the absence of provisions to the contrary, under the procedures of *The American Institute of Parliamentarians Standard Code of Parliamentary Procedure*.

**SECTION 3. MEETINGS.** The Executive Committee shall meet every month, except in conditions of force majeure, upon call of the president at such times and places as he/she may designate, and shall be called to meet upon demand of a majority of its members. Notice of all meetings of the Executive Committee shall be sent by email or other mode of transmittal to each member

of the Executive Committee at his/her last recorded address at least five (5) days in advance of such meeting.

**SECTION 4. QUORUM.** A majority of the voting members of the Executive Committee shall constitute a quorum at any meeting of the committee. Any less number may adjourn from time to time until a quorum is present.

## **CHAPTER V – BOARD OF DIRECTORS**

**SECTION 1. COMPOSITION.** The Board of Directors shall consist of the officers of BCMS, the Chair of the Board of Ethics, one representative from the Bexar County delegation to the Texas Medical Association, the President of University of Texas Health San Antonio Medical School (or a designated representative selected from the membership of BCMS), the President of the University of the Incarnate Word University Medical School (or a designated representative selected from the membership of BCMS), and nine members at large elected by BCMS for staggered three-year terms with three members being elected each year. The tenure of office of at-large directors shall not exceed two terms.

One representative of the Medical Student Section and one representative of the Resident and Fellows Section shall be members, without vote, of the Board for one-year terms. The President of the BCMS Alliance shall be an ex-officio member, without vote, of the Board. The President of the BCM Library Association, if not an elected member of the BCMS Board of Directors, shall become an ex-officio member, without vote, of the Board. The Executive Director shall be an ex-officio member, without vote, of the Board. The General Counsel shall be an ex-officio member, without vote, of the Board.

**SECTION 2. DUTIES.** The Board of Directors shall perform the functions as provided in the Constitution and Bylaws of the Texas Medical Association, and shall, at all times and acting for BCMS, perform the following duties:

1. Establish and implement policies of BCMS and be responsible for the business affairs of BCMS;
2. Approve the employ of an Executive Director;
3. Act on applications for membership upon recommendation from the Board of Ethics;
4. Serve as the disciplinary board within the meaning of the *TMA Hearings Procedures Manual* of the Texas Medical Association;
5. Serve as the governing board within the meaning of the corporate laws of the State of Texas;
6. Be responsible for long range planning of BCMS;
7. Decide all questions not specifically delegated to other authorities by these Bylaws and exercise all authority for BCMS not expressly reserved to the members of BCMS by the terms of these Bylaws.

**SECTION 3. MEETINGS.** The Board of Directors shall meet six or more times per year, except in conditions of force majeure. Special meetings of the Board may be called by the President, or by a petition to the President of five members of the Board. Eight voting members of the Board

of Directors shall constitute a quorum. All meetings of the Board of Directors shall be open to the general membership. Executive sessions of the Board of Directors may be called by vote of two-thirds majority of Board members present and voting.

**SECTION 4. ATTENDANCE.** Any Society member who, during the calendar year, fails to attend at least 50 percent of the meetings of a Board, Delegation or Committee to which he has been elected or appointed, shall be removed from that Board, Delegation or Committee at the end of the calendar year.

## CHAPTER VI – COMMITTEES & BOARDS

### SECTION 1. BOARD OF ETHICS.

#### A. Composition<sup>5</sup>

The Board of Ethics shall have fifteen members, each elected for a term of three years; five to be elected each year. Nominees for this Board shall have been active members in the Bexar County Medical Society for at least ten years. The member receiving the largest number of votes at the time of election shall become the chair during the third year. The member receiving the second highest number of votes at the time of election shall serve as vice-chair during the third year. Eight members shall constitute a quorum.

#### B. Duties

The Board of Ethics shall supervise the medical ethics of the membership and shall counsel individual members where circumstances warrant. As provided in the Texas Medical Association *Hearings Procedures Manual*, the Board of Ethics shall have the authority on their own initiative to investigate suspected violations of the code of conduct and to prefer charges when indicated after thorough investigation. They shall receive the investigative charges of unethical conduct made against Society members by another member.

The Board of Ethics shall receive, investigate and mediate complaints from patients or insurance companies which are brought against a member of the Bexar County Medical Society. It shall hear matters of unprofessional conduct, violations of the principles of medical ethics or any other matter involving the patient/physician relationship. It shall hear and/or review insurance complaints. Serving as the public grievance committee, this Board shall have the duty of investigating and supervising the ethical department of the membership and shall receive complaints from the general public. The Board of Ethics may take any and all such action as allowed by law including, but not limited to, issuing public or private reprimands, reporting to or filing complaints with any governmental or administrative authority, issuing decisions and/or opinions to affected parties regarding its conclusions and actions, and such other action as may be appropriate.

### SECTION 2. COMMITTEE ON PHYSICIAN HEALTH AND REHABILITATION.

#### A. Composition

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<sup>5</sup> BCMS bylaws were amended in 2018; BCMS combined the Board of Mediations and the Board of Censors, forming in their place a single Board of Ethics. As a result, there were initially 21 Board of Ethics members from the combination, which will be reduced by 2 members each year until the targeted number of 15 members is achieved.

This Committee shall consist of three or more members. The Chair shall be appointed by the President.

B. Duties

It shall be the duty of the Committee to identify, strongly urge treatment, review rehabilitation provided to, and evaluate the competence of impaired physicians within the geographic boundaries of BCMS. The causes of impairment include, but are not limited to, drugs, alcohol, mental or physical illness, injury or disease, or any other personal or professional issue which may impact a physician's ability to practice medicine.

Confidentiality for all records, documents, and any other materials is to be afforded the maximum protection available under law.

**SECTION 3. FINANCE COMMITTEE.**

A. Composition

There shall be a Finance Committee of the Board of Directors comprised of the members of the Executive Committee plus the chief financial staff employee of BCMS. The Treasurer shall serve as committee chair.

B. Duties

The Finance Committee shall meet at least every other month to study and prepare financial reports and recommendations for the full Board. Decisions of the Finance Committee shall be presented to the Board of Directors for their information and review. The Finance Committee shall serve as the financial oversight committee to review all finances and report to the Board of Directors.

**SECTION 4. COMMUNICATIONS & PUBLICATIONS.**

A. Composition

This committee is to consist of a minimum of six committee members, with the chair appointed by the BCMS president.

B. Duties

The committee is charged with developing, defining and promoting a positive image for BCMS in the communities served. The committee is to meet monthly and manage the content for BCMS's magazine, electronic newsletters, social media and press relations.

**SECTION 5. EMERGENCY PREPAREDNESS.**

A. Composition

This committee is to consist of a minimum of six committee members, with the chair appointed by the BCMS president.



B. Duties

The committee is to coordinate physician preparedness, cooperation and participation with other community medical and emergency organizations in response to significant and unexpected emergency situations affecting the community.

**SECTION 7. NOMINATING, CONSTITUTION AND BYLAWS COMMITTEE.**

A. Composition

This committee shall consist of the two immediate, living, past presidents, the president-elect, the chair of, or a designee from, the Board of Ethics, and the President may appoint three at-large members. The past president once removed shall serve as chair. The vice chair shall be the immediate past president. Members of the committee will not seek an elected position (other than Delegate or Alternate Delegate) in BCMS.

B. Duties

The committee shall study the challenges and leadership requirements of the organization as well as ensure BCMS Bylaws are kept current to the needs, functions and obligations of BCMS. The committee will commence its functions from January 1 of each year. Meetings of the committee shall be held at least two times a year and as often as necessary. Four members of the committee shall constitute a quorum.

C. Nominations

At least 120 days prior to the annual election of officers (the election being held on the second Tuesday in October), the membership shall be notified of the "Call for Nominations." The method of notification shall be through one or more of BCMS's publications, facsimile, electronic mail, hard mail or such other mechanism of notification the Committee deems reasonable. Each member shall have the opportunity to correspond in writing for the purpose of submitting nominations to the Nominating Committee. Nominations shall be submitted no later than 90 days prior to the annual election date and shall reflect nominee's character, integrity, and attributes and qualifications for the position. Nominees shall sign attestations provided by BCMS allowing background and credential checks on nominee.

The Nominating Committee shall approve or deny all nominations for any elected office. The Committee shall review each nomination to determine if the nominee is eligible for office. The Committee may conduct such background or investigational research on each nominee as the Committee deems appropriate, including interviews of each nominee or such other research as the Committee, in its sole discretion, deems reasonable, necessary or appropriate. Upon completion of its investigation, the Committee shall either approve or reject each nomination. A nominee may not be elected to office unless the Committee has approved the nomination.

The Nominating Committee shall notify the membership of the slate of candidates by the second Tuesday in August.

Decisions of the Nominating Committee considered unfavorable to the nominee may be appealed by the nominee to the Executive Committee within five (5) calendar days of being advised of such. Any such appeal of the decision of the Nominating Committee

must be made in writing by the nominee; the Executive Committee may in its sole discretion affirm, reverse or modify the decision. The Executive Committee may consider such information and/or evidence as the Executive Committee, in its sole discretion, deems appropriate, including statements of current members, including the nominee, in support of or against the decision of the Nominating Committee. The decision of the Executive Committee shall be by majority vote of the Executive Committee and shall be final and not subject to further appeal or reconsideration. The nominee shall be provided with a succinct statement forming the basis of the Nominating Committee's decision. Any information provided to the Executive Committee in its review of the matter shall also be provided to the nominee unless otherwise prohibited by law.

D. Ballots

Voting shall be by prepared ballots which shall be sent (including transmission via email, facsimile, text, electronic ballot and such other means as the Nominating Committee determines to be satisfactory) to the membership at least thirty (30) days prior to the deadline for voting. Notice of the voting deadline shall be prominently shown on the face of the ballot. If more than one person is nominated for any position, the nominees shall appear on the ballot in alphabetical order.

E. Voting

A voting member will vote for the nominee of choice on the ballot. In order to be included in the vote count, ballots must be received in BCMS office by 5 p.m. on the second Tuesday in October.

F. Elections

The Nominating Committee, acting as an election committee, shall count or verify the election results, including a tally sheet showing the number of votes received for each candidate. The Nominating Committee shall discard any ballot not prepared in accordance with voting instructions.

The person receiving the greatest number of votes for a position shall be declared elected, except where more than two names are submitted for any position, more than 50 percent of the vote shall be necessary to be elected. In the event no candidate received more than 50 percent of the vote, a runoff election will be held between the two candidates receiving the highest number of votes. If a runoff election is required, ballots shall be sent out (including transmission via email, facsimile, text, electronic ballot and such other means as the Nominating Committee determines to be satisfactory) a minimum of 15 days before the run-off election. The deadline for submitting votes for the run-off election shall be 5 p.m. on the second Tuesday of November. Notice of the voting deadline shall be prominently shown on the face of the ballot. The candidate receiving the highest number of votes in the runoff election will be declared the winner.

G. Certification

Each member of the Nominating Committee present shall duly certify the tally sheet and it shall be promptly delivered to the President of BCMS who shall make the results of

the elections known to the Nominees by 5 p.m. on the Friday following the election (by whatever means the President deems satisfactory), and to the entire Membership by the Sunday following the election. The tally sheet and all ballots shall be kept intact subject to call of the Board of Directors for a period of 30 calendar days following the election.

All ballots shall be destroyed 30 working days after the election, if uncontested, or five days after the final disposition of a contest.

H. Contests

Contests of election results must be submitted in writing within five working days after the results have been announced. No person whose office is contested shall assume office until after such contest is decided. The Board of Directors shall decide a contested election within 14 days, at a special called meeting of the Board of Directors.

I. Assumption of Office

All positions filled by regular election shall become effective on January 1 following the election, and persons elected to these positions shall automatically assume office on that date, although a formal installation may be held at another time.

J. Bylaws

The committee may review the Bylaws of BCMS on an annual basis and propose changes to the full board of directors as necessary to keep the Bylaws current.

**SECTION 8. LEGISLATIVE AND SOCIOECONOMICS**

A. Composition

This committee is to consist of a minimum of twelve committee members, with the chair appointed by BCMS president.

B. Duties

The committee is to develop, contest, monitor and implement local legislative strategy and recommend legislative policy at state and federal levels, as well as to study, recommend and engage in activities related to the socioeconomic aspects of medical practice management, regulations and managed care issues, including participating in meetings and forums with health plans. The committee also meets with elected government officials of the city, county and state legislatures to keep them informed on issues affecting medicine.

**SECTION 9. MEMBERSHIP.**

A. Composition

This committee is to consist of members of the Executive Committee and other members as appointed by the BCMS President, with the chair being the BCMS president.

B. Duties

The membership committee creates, implements and conducts membership recruitment and retention programs and assists in the organization of various new membership drives, phone-a-thons and new membership programs.

## **SECTION 10. PUBLIC HEALTH AND PATIENT ADVOCACY**

### **A. Composition**

The chair is appointed by the BCMS President. All other members, through expressed preference, are selected by the President based upon the desire to actively participate in committee functions and interest in the goals and purpose of the committee.

### **B. Duties**

The public health and patient advocacy committee evaluates and makes recommendations to the Board of Directors on BCMS' position concerning overall public health issues, including support for the public health infrastructure, preventive medicine, and health aspects of environmental affairs.

The committee provides a forum for open communication among patients, doctors, employees and employers, conducts focus-group meetings with employers and employees to determine their attitudes and preferences as they relate to the evolving healthcare market in San Antonio and advocates and promulgates preventive care and public education for a healthier community.

## **SECTION 11. WOMEN IN MEDICINE**

### **A. Composition**

The chair is appointed by the BCMS President. All other members, through expressed preference, are selected by the President based upon the desire to actively participate in committee functions and interest in the goals and purpose of the committee.

### **B. Duties**

To promote women leaders in medicine; recruit and retain women members in Bexar County Medical Society and the TMA; address special needs and issues for women physicians.

- Identifies and promotes women leadership in Bexar County Medical Society
- Promotes membership and participation of women physicians in the activities of the Society
- Identifies special needs of women physicians
- Plans the annual “Women in Medicine appreciation event” (choose speaker, solicit underwriting, and develop budget and logistics)

## **SECTION 12. ADVISORY COUNCIL**

### **A. Composition**

There shall be an Advisory Council composed of all past presidents who are members of BCMS, the current President and President-elect. The President of BCMS shall be the chairman of the Council.

### **B. Duties**

The Council shall make their experience and knowledge available to the Board of Directors of BCMS.

C. Meetings

The Council shall meet at the call of the President.

**SECTION 13. AD HOC COMMITTEES.** BCMS may appoint ad hoc committees for specific tasks. Such committees shall consist of as many members as the appointing officer or committee of BCMS deems necessary. Ad hoc committees shall serve for a limited period of time, normally not to exceed three years, and may be renewed for additional periods following completion of their charge.

**SECTION 14. APPOINTMENTS AND LENGTH OF SERVICE.** With exception as noted, all standing committee appointments shall be made by the President. Committee chairs, except as noted, shall be appointed by the President. Committee members shall be appointed for terms of one year and may be reappointed to additional terms at the discretion of the President.

**SECTION 15. LIAISON WITH TEXAS MEDICAL ASSOCIATION.** Where appropriate, all committees may maintain contact and liaison with similar committees of the Texas Medical Association.

**SECTION 16. COMMITTEE REALIGNMENT.** The President, with the approval of the Board of Directors, may create, combine, or discontinue all committees in accordance with the needs of BCMS.

## CHAPTER VII – DELEGATES

### SECTION 1 – TMA DELEGATES.

A. Election

BCMS shall elect delegates and alternate delegates for terms and in such numbers as provided in the Bylaws of the Texas Medical Association, and by such method as is provided in these Bylaws.

B. Duties

It shall be the duty of the delegates and alternates, individually and collectively, to study the needs and desires of the medical profession of Bexar County in its relation to the State and National Associations, so that they may effectively and intelligently represent the membership of the Bexar County Medical Society in the House of Delegates of the Texas Medical Association.

C. Organization

Within 90 days after the annual election of officers of the Bexar County Medical Society, and upon call of the Delegation Chair, the Delegation shall organize and elect a chair, a vice-chair, and a representative to the Board of Directors.

D. Report

The Bexar County Medical Society delegation representative to the Board of Directors shall present reports on delegation activities as appropriate.

E. Vacancies

At such time that vacancies on the Delegation occur after BCMS's annual election, BCMS's president shall appoint a replacement recommended by the Delegation Chair, and if there is no agreement between the president and the chairman, the appointment will be made by the Board of Directors. The newly appointed delegate or alternate delegate will hold a seat on the Delegation for the unexpired term of that position at which time the individual may stand for re-election.

## CHAPTER VIII – DISCIPLINARY PROCESS AND RULES OF CONDUCT

**SECTION 1. REFERRAL OF CHARGES.**<sup>6</sup> Complaints from the general public against physician members and complaints from physicians, whether members or not, against physician members shall be referred to the Board of Ethics. All charges shall be referred and processed in accordance with the *TMA Hearings Procedures Manual*.

**SECTION 2. DISCIPLINARY PRINCIPLES.**<sup>7</sup> All matters of a disciplinary nature, including hearings and proceedings that involve any member of BCMS, shall be conducted in accordance with the following procedures:

1. To the maximum extent possible, all disciplinary matters should be handled and decided on a physician-to-physician peer basis and on the merits of the substantive issues involved instead of on procedural or technical grounds.
2. Due process for such disciplinary matters does not require a judicial court-type trial, hearing, or proceeding. What is required is fundamental fairness to the respondent member consisting of adequate notice of the nature of the complaint or charge, adequate notice of any disciplinary hearing, adequate opportunity to be heard and to present a defense, and a fair and good faith proceeding.
3. Not being subject to strict judicial rules of procedure or evidence, all county society boards and committees exercising any disciplinary authority or conducting any hearing relating to an application for membership described in the *Hearings Procedures Manual* shall have reasonable discretion as to what to consider as relevant and material, in what form and manner to receive relevant and materials items, and how much credibility and weight to give each item.
4. All hearings and proceedings that involve any member of BCMS shall be conducted in accordance with the *Hearings Procedures Manual*.

### SECTION 3. REPORTING RESULTS OF DISCIPLINARY ACTIONS.

- A. Information to be reported to the TMA Board of Councilors  
Information concerning the final resolution of all disciplinary actions by BCMS resulting in expulsion, probation, or censure shall be communicated by the General Counsel of BCMS to the TMA Board of Councilors. Such information shall consist only of the

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<sup>6</sup> *Ref. Hearings Procedures Manual.*

<sup>7</sup> Texas courts have held that the essential elements of due process applicable to a voluntary association's disciplinary proceeding are 1) notice and 2) an opportunity to be heard and 3) to defend in an orderly proceeding adapted to the nature of the cases. Masonic Grand Lodge Chap. Order of Eastern Star v. Sweatt, 329 S.W. 2d 334, 337 (Tex. Civ. App. – 1959, writ ref'd n.r.e.). Only where the bylaws of the organization do not cover such procedures (as do those of the Texas Medical Association) are members entitled to a "procedure analogous to judicial proceedings." Adams v. American Quarter Horse Association, 583 S.W. 2d 828, 834 (Tex. App. 1990). The *Hearings Procedures Manual* specifically does not require "procedure analogous to judicial proceedings."

respondent member's name, the charges or complaints, and the final resolution or other status, including disciplinary action taken and appropriate dates.

B. Information to be reported to the Texas Medical Board

BCMS shall report information concerning final resolution of all disciplinary actions resulting in expulsion or probation to the Texas Medical Board. BCMS's General Counsel shall report the respondent members' name, the charges or complaints, and the final resolution, and the results and circumstances of such disciplinary action.

C. Information to be reported to the National Practitioner Data Bank

Information concerning the final resolution of all disciplinary actions by BCMS resulting in expulsion or probation shall be communicated by the Executive Director or General Counsel of BCMS to the National Practitioner Data Bank (NPDB). BCMS shall report such information as the NPDB shall require as published from time to time.

**SECTION 4. EFFECT OF DISCIPLINE ON MEMBERSHIP.** Members placed on probation or expelled under the provisions of these Bylaws and those of the TMA will be denied all privileges of BCMS and the TMA through the effective period of their probation or non-membership. Loss of membership privileges shall commence after final resolution of any appeals.

**SECTION 5. DISCIPLINARY RESPONSIBILITIES OF MEMBERS.** Members notified of the referral of charges against them in accordance with the *Hearings Procedures Manual* shall respond to the appropriate investigating committee/board within a reasonable time, or show good cause why a response is not possible. Members summoned before an investigating committee/board in accordance with the *Hearings Procedures Manual* shall comply with such summons or show good cause why compliance is not possible. When a reason for non-response or non-compliance is offered, the appropriate investigating committee/board shall determine whether such reason is acceptable and may take further action under the *Hearings Procedures Manual*. Failure to respond to the appropriate investigating committee/board shall constitute a violation of the Bylaws of BCMS and is an independent ground for disciplinary action.

## CHAPTER IX – MEETINGS

**SECTION 1. GENERAL.** BCMS shall meet upon call of the President at such times and places as he/she designate and shall be called to meet upon demand of a majority of its members.

**SECTION 2. NOTICE.** Notice of all meetings of BCMS shall be sent to each member of BCMS according to their last provided contact information in advance of such meetings.

**SECTION 3. QUORUM.** More than 50% of the invited members entitled to vote at any meeting of BCMS shall constitute a quorum, and in case there is less than this number, the President or other presiding officer may adjourn the meeting from time to time until a quorum is present.

**SECTION 4. PARLIAMENTARY PROCEDURE.** All meetings shall be conducted under the procedures of *The American Institute of Parliamentarians Standard Code of Parliamentary Procedure*.

**SECTION 5. ORDER OF BUSINESS.**<sup>8</sup> The typical order of business at meetings is as follows, but may be adapted to the needs of the individual meetings:

1. Call to order.
2. Disposition of minutes of previous meetings.
3. Reports of officers.
4. Reports of board and standing committees.
5. Reports of ad hoc and special committees.
6. Unfinished business.
7. New business.
8. Announcements.
9. Adjournment.

**SECTION 6. BUSINESS MEETING.** The first Board of Directors meeting each year shall be set apart for discussion of the business affairs of BCMS. This meeting shall be used to approve the financial budget and strategic objectives of BCMS.

**SECTION 7. ACTION WITHOUT MEETING BY MEMBERS.**

A. Unanimous Vote

Members may take action without holding a meeting if each member entitled to vote on the action signs a written consent stating the action taken. This vote may be conducted by mail, by facsimile transmission, by electronic message or any combination of those methods.

B. Less than Unanimous Vote

Members may take action without holding a meeting with less than a unanimous vote if members having at least the minimum number of votes that would be necessary to take the action that is the subject of the consent at a meeting in which each member entitled to vote on the action is present and votes, sign a written consent stating the action taken. Prompt notice of the taking of an action by directors or a committee without a meeting, by less than unanimous written consent, shall be given to each director or committee member who did not consent in writing to the action.

## **CHAPTER X – AMENDMENTS**

**SECTION 1. PROPOSED AMENDMENTS.**

A. Procedures

Amendments to these Bylaws may be proposed by the Board of Directors, or by a petition endorsed by any twenty-five members eligible to vote. Proposed amendments will be given to the Nominating and Constitution and Bylaws Committee for evaluation as to appropriateness for inclusion in the Bylaws of BCMS. After fulfilling its responsibility, the Committee will issue a report to the Board of Directors on proposed amendments.

A proposed amendment, along with present provisions, shall be presented to the membership by physical or electronic mail. Marked amendment provision ballots must

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<sup>8</sup> This section is modeled after Sturgis' *The Standard Code of Parliamentary Procedure*.



be returned to BCMS no later than 30 days following mailing of the ballots. The voting period for the amendment shall be determined by the Board of Directors and shall be printed on the ballot. After the close of the voting period, the Nominating and Constitution and Bylaws Committee of BCMS shall convene as the Election Committee and supervise the vote count.

Each member of the Nominating and Constitution and Bylaws Committee present shall duly certify the tally sheet and promptly deliver it to the President of BCMS who will make the results of the election known to the membership.

B. Votes required – Constitution

A two-thirds vote of the members voting shall be required to amend the constitution.

C. Votes required – Bylaws

A majority vote of the members voting shall be required to amend the Bylaws.

D. Compliance Amendments

If, at any time, there arises a conflict between the provisions of the Constitution and Bylaws of the Texas Medical Association and the Constitution and Bylaws of the Bexar County Medical Society, the Constitution and Bylaws of the Texas Medical Association shall prevail. The conflict shall be referred to the TMA Committee on Constitution and Bylaws. The Committee shall draft language to bring the Constitution and Bylaws of the Bexar County Medical Society into compliance with the Constitution and Bylaws of the Texas Medical Association, and shall report such changes to the Board of Directors and then to the membership. The TMA Committee on Constitution and Bylaws shall make efforts to explain conflicts to the Board of Directors of BCMS to encourage adoption of necessary changes. Implementation of such "compliance" changes shall be automatic and shall require no vote of the membership.

## **CHAPTER XI – INDEMNIFICATION**

### **SECTION 1. INDEMNIFICATION**

A. Nature of Indemnity

BCMS shall indemnify any person (an "Indemnitee") who was, is, or is threatened to be made a named defendant or respondent in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, including any appeal in any such action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding (a "proceeding"), because such person is or was a director, officer, employee or agent of BCMS, or because such person is or was serving at the request of BCMS as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, employee benefit plan, other enterprise or other entity, from and against any and all judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses actually incurred by such person in connection with any such proceeding; provided, however, that for such indemnification to be effective, BCMS must determine in the manner set out in

paragraph (b) below that the person conducted himself or herself (i) in good faith, (ii) in a manner reasonably believed to be in or not opposed to the best interests of BCMS, and (iii), with respect to any criminal proceeding, that the person had no reasonable cause to believe the person's conduct was unlawful.

Irrespective of any determination as to the conduct of any Indemnitee under paragraph (b), below, BCMS shall indemnify the Indemnitee against reasonable expenses incurred by the Indemnitee in connection with any proceeding in which the Indemnitee is a named defendant or respondent because the Indemnitee is or was a director, officer, employee or agent, but only if the Indemnitee has been wholly successful, on the merits or otherwise, in the defense of such proceeding. BCMS may also pay or reimburse expenses incurred by any Indemnitee in connection with the Indemnitee's appearance as a witness or other participation in a proceeding at a time when the Indemnitee is not a named defendant or a respondent in the proceeding. If any proceeding is brought by or on behalf of BCMS, the indemnification of the Indemnitee shall be limited to reasonable expenses actually incurred by the Indemnitee in connection with said proceeding.

The indemnification of an Indemnitee hereunder shall expressly exclude any obligations resulting from any proceeding in which the Indemnitee is found liable on the basis that personal benefit was improperly received by the Indemnitee, or in which the Indemnitee is found liable to BCMS. Notwithstanding any provision of these Bylaws to the contrary, the Indemnitee shall be entitled to apply to a court of competent jurisdiction to seek indemnification to the fullest extent authorized by these Bylaws or by any applicable law.

BCMS may indemnify and advance expenses to persons who are not or were not officers, employees, or agents of BCMS but who are or were serving at the request of BCMS as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, employee benefit plan, other enterprise or other entity to the same extent that it may indemnify and advance expenses to directors under this Bylaw Section.

**B. Determination that Indemnification is Proper**

A determination of entitlement to indemnification hereunder (unless otherwise ordered by a court of competent jurisdiction) shall be made by a majority vote of a quorum consisting of Directors of BCMS who at the time of such vote are not named defendants or respondents in the particular proceeding, or, if a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors designated to act in the matter by a majority vote of all Directors, consisting solely of two or more Directors who at the time of the vote are not named defendants or respondents in the proceeding. In addition, special legal counsel may be selected by the Board of Directors or by a committee of the Board by the vote set out above, but, if a quorum cannot be obtained or a committee cannot be established, special legal counsel may be selected by a majority vote of all Directors of BCMS.

Finally, a determination of indemnification can also be made by the voting Members of BCMS in a vote that excludes the votes of Indemnitees who are named defendants or respondents in the proceeding.

In determining the entitlement to indemnification hereunder, it shall not be determinative of itself that any proceeding has been terminated by judgment, order, settlement, or conviction, or on a plea of nolo contendere or its equivalent. Determination of the reasonableness of any expenses shall also be made in the manner set out above, provided, however, that if special legal counsel is utilized, the determination of reasonableness of expenses must be made by such special legal counsel.

C. Procedure for Indemnification

Any indemnification or reimbursement of expenses, or any necessary determination of entitlement thereof, shall be made promptly, and in any event within thirty (30) days from receipt of a written request for the same by an Indemnitee. If a determination by BCMS that an Indemnitee is entitled to indemnification pursuant hereto is required, and BCMS fails to respond within sixty (60) days to a written request for indemnity, BCMS shall be deemed to have approved the request.

If BCMS denies a written request for indemnity or reimbursement of expenses, in whole or in part, or if payment in full pursuant to such request is not made within thirty (30) days of receipt of it by BCMS, the right to indemnification or reimbursement as granted hereunder shall be enforceable by an Indemnitee in any court of competent jurisdiction.

The Indemnitee's costs and expenses incurred in connection with successfully establishing the Indemnitee's right to indemnification, in whole or in part, in any such action shall also be indemnified by BCMS. It shall be a defense to any such action that the claimant has not met the standard of conduct set forth in this Bylaw, but the burden of proving that defense shall be on BCMS. Neither the failure of BCMS to have made a determination prior to the commencement of such action that indemnification of Indemnitee is proper under the circumstances because the Indemnitee has met the applicable standard of conduct hereunder, nor the fact that there has been an actual determination by BCMS that Indemnitee has not met the applicable standard of conduct, shall be a defense to the action nor create a presumption that the Indemnitee has not met the applicable standard of conduct.

D. Advance Payment of Expenses

BCMS shall pay or reimburse reasonable expenses incurred by an Indemnitee who was, is, or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of such proceeding, but only if BCMS receives a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the Indemnitee has met the standard of conduct necessary for indemnification hereunder, accompanied by a written undertaking by or on behalf of the Indemnitee to repay any amount so paid or reimbursed if it is ultimately determined that the Indemnitee has not met the requirements, and then only if BCMS makes a determination that the facts then known would not preclude indemnification hereunder. The written undertaking to repay required hereunder must be

an unlimited general obligation of the Indemnitee, shall not be secured, shall be accepted without reference to the Indemnitee's financial ability to make repayment, and shall be determined in the manner set out in paragraph (a) above for determination of the entitlement to indemnification.

E. Report to Members of BCMS

Any indemnification of or advance of expenses to an Indemnitee in accordance herewith shall be reported in writing to the Members of BCMS with or before the notice or waiver of notice of the next meeting of Members, or with or before the next submission to Members of a consent to action without a meeting pursuant to the provisions hereof, and, in any case, within 12 months following the date of the indemnification or advance.

F. Employee Benefit Plans

For the purposes hereof, BCMS shall be deemed to have requested an Indemnitee to serve as a trustee, employee, agent or similar functionary of an employee benefit plan whenever the performance by the Indemnitee of the Indemnitee's duties to BCMS also imposes duties on or otherwise involve services by the Indemnitee to the plan or participants or beneficiaries of the plan. Excise taxes assessed on an Indemnitee with respect to any employee benefit plan in the performance of the Indemnitee's duties for a purpose reasonably believed by the Indemnitee to be in the interest of the participants and beneficiaries of the plan is deemed to be for a purpose which is not opposed to the best interests of BCMS.

G. Insurance

BCMS may purchase and maintain insurance on behalf of any Indemnitee against any liability asserted against the Indemnitee and incurred by the Indemnitee in the capacity of an Indemnitee or arising out of the Indemnitee's status as such, whether or not BCMS would have the power to indemnify any person hereunder against any such liability.

H. Miscellaneous

The indemnification and expense reimbursement provisions hereof shall be deemed to be a contract between BCMS and each Indemnitee, and the contract rights may not be modified retroactively without the written consent of any Indemnitee. The indemnification and reimbursement rights of an Indemnitee hereunder shall continue as to a person who has ceased to be an officer, director, employee or agent of BCMS, and shall inure to the person's heirs, executors and administrators. In the event of any merger, conversion, consolidation or sale of substantially all of the assets of BCMS, BCMS shall take such steps as are reasonably necessary to insure that the entity that remains responsible for all obligations hereunder has and retains the financial ability to honor such obligations. The indemnification and reimbursement rights hereunder shall be expressly made subject to the provisions of applicable laws, including but not limited to the provisions of Article 2.22A of the Texas Non-Profit Act (or its successor). BCMS in adopting these Bylaws hereby intends, in order to attract and to retain the best qualified directors, officers, employees and agents, that the indemnification and reimbursement rights hereby contractually conferred shall be construed so as to obligate BCMS to provide the fullest amount of indemnity and reimbursement to the persons covered hereby. If any provision hereof shall, for any reason, be found to be violative of any applicable law, rule or regulation, the invalidity of the provision shall not affect the remainder hereof, but these Bylaws shall be deemed to be amended so as to comply with any such law, rule or regulation.