

ADA COUNCIL ON ETHICS, BYLAWS, AND JUDICIAL AFFAIRS

Minutes of March 28-29, 2024 Meeting

The regular meeting of the Council on Ethics, Bylaws, and Judicial Affairs (CEBJA or the Council) was called to order at 8:30 a.m. on March 28, 2024. Council Chair Dr. Debra A. Peters presided at the meeting, which took place in the Boardroom on the twenty-second floor of the ADA Headquarters Building in Chicago.

Roll call: Council members in attendance for the meeting:

Dr. Debra A. (Deb) Peters, chair (9th District, Michigan), Dr. Kelly A. Roth, vice chair (7th District, Ohio), Dr. Chris L. Adkins (5th District, Georgia), Dr. Karen D. Foster (14th District, Colorado), Dr. Leslie E. Grant (4th District, Maryland), Dr. Scott Hansen (11th District, Oregon), Dr. C. Danielle (Dani) Howell (16th District, Virginia), Dr. Peter Korch (3rd District, Pennsylvania), Dr. Kathleen M. (Kathy) Nichols (15th District, Texas), Dr. R. Pierce Osborne II (12th District, Arkansas), Dr. Paul A. Palo (17th District, Florida), Dr. James T. Purvis (New Dentist Committee), Dr. Ken Rawson (8th District, Illinois), Dr. Jonathan W. Rich (6th District, Kentucky), Dr. Richard B. (Rich) Serchuk (2nd District, New York), Dr. Jennifer A. (Jen) Torbett (1st District, Rhode Island), Dr. Debra S. (Deb) West (10th District, Nebraska).

Absent: Dr. Amy Tran (13th District, California).

Following the calling of the roll, a quorum was announced to be present.

Also present for all or a portion of the entirety of the meeting were: Dr. Jeffrey A. (Jeff) Kahl, Board of Trustees liaison and Mr. Joseph Linser, American Student Dental Association Liaison.

CEBJA staff present for all or a portion of the meeting: Thomas Elliott, Jr., Esq., deputy general counsel and council director; Francine D. Lynch, Esq., senior manager, ethics and judicial affairs; and Daniel (Dan) Franklin, manager, CEBJA Operations.

ADA personnel present for all or a portion of the meeting: Dr. Linda J. Edgar, president; Dr. Raymond A. Cohlma, executive director; Christy Picker Rothchild, Esq., senior associate general counsel.

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

Confidentiality: Council members were reminded that any sensitive or confidential information or material that is disclosed or discussed during the meeting must remain confidential and members shall not disclose that sensitive or confidential information to any individual or entity to whom access has not been provided by the ADA in the ordinary course of its operations and dealings.

Call for New Business: Dr. Peters asked whether there were any items of new business; the Council identified and added to the agenda an item concerning the Standing Committee on Constitution and Bylaws at the 2024 House of Delegates meeting.

Adoption of Agenda: By general consent, the Council adopted the agenda for the meeting.

Resolved, that the printed agenda of the March 28-29, 2024, meeting of the Council on Ethics, Bylaws, and Judicial Affairs be adopted as the official order of business with the stipulation that the chair is authorized to change the order of items for discussion to expedite the business of the Council and to accommodate scheduling issues and special presentations.

Adoption of Consent Calendar: A consent calendar was prepared to expedite the business of the Council. By general consent, the Council adopted the consent agenda for the meeting, with the exception of four items:

Resolved, that the items of business marked on the agenda as being on consent for the March 28-29, 2024 meeting of the Council on Ethics, Bylaws, and Judicial Affairs and listed below be approved, the reports thereon filed and any resolutions therein adopted, except for items 6.1.5, 6.2.3, 6.3.1 and 6.4.2, to be discussed later in the meeting.

Items on Consent:

Item 3.6 Future Meeting Dates—CEBJA meeting dates for 2024 through 2029 are listed as “confirmed.”

Item 3.7 Report on Mail Ballots—Approval of Revised Council Meeting Dates for 2025-2029, BOT Code of Conduct, and Approval of Minutes of the July 7-8, 2023 Meeting.

Resolved, that the resolutions setting the Council meeting dates for the years 2025 through 2029 be rescinded,
and be it further

Resolved, that the meeting dates of the in-person meetings of the Council on Ethics, Bylaws and Judicial Affairs for the years 2025 through 2029 be set as follows, as listed in Item 3.7 Appendix 1.

Resolved, that the proposed Board of Trustees Code of Conduct submitted by the Bylaws subcommittee of the Council on Ethics, Bylaws and Judicial Affairs accompanying this ballot is hereby approved,
and be it further

Resolved, that Council staff is directed to forward the approved Board of Trustees Code of Conduct to the Governance Committee of the ADA Board of Trustees.

Resolved, that the minutes of the July 7-8, 2023 meeting of the Council on Ethics, Bylaws and Judicial Affairs, accompanying this mail ballot as Appendix 1 be approved.

Item 5.1 Reports of the CEBJA Ambassadors on Matters of Council Interest within Their Trustee Districts—The reports that Council members have obtained from ADA constituent societies concerning any hearings, amendments, or legislation within the respective districts.

Item 6.1.1 Report on the Review of ADA Policies Over Which CEBJA Is Named as a Primary and Secondary Reviewer—Primary review of two policies, as well as initial review with pending reexamination of policy to be secondarily reviewed by the Council on Dental Education and Licensure, the Council on Advocacy for Access and Prevention and the Council on Dental Education.

Resolved, the Administrative and Policy Review subcommittee recommends that the Council on Ethics, Bylaws and Judicial Affairs approve to retain without revision the policy entitled *Election of Delegates* (Trans.1979:646).

Resolved, the Administrative and Policy Review subcommittee recommends that the Council on Ethics, Bylaws and Judicial Affairs approve to retain without revision the policy entitled *The Dentist's Pledge* (Trans.1991:598; 2014:479).

Resolved, that, subject to reexamination after comments from secondary reviewers are received, the Administrative and Policy Review subcommittee preliminarily recommends that the Council on Ethics, Bylaws and Judicial Affairs approve to retain without revision the policy entitled *ADA Dental Patient Rights and Responsibilities* (Trans.2009:477).

Item 6.1.2 Report of the Administrative and Policy Review Subcommittee on Self-Assessment Survey Tool—Approval of quinquennial self-assessment survey questionnaire for distribution to Council members, allowing for its completion following this meeting and discussion of its results at subsequent meeting.

Resolved, that the self-assessment survey questionnaire attached to this report as **Appendix 8** be adopted for use in completing the Council's 2024 self-assessment, and be it further

Resolved, that staff be directed to distribute the approved self-assessment survey questionnaire to the Council with a return date that will allow the Council to review and discuss the self-assessment results at its July 2024 meeting.

Item 6.1.4 Status Report on the Periodic Review of CEBJA Statements—Review of five CEBJA statements scheduled for review in 2024 is currently in process, with anticipated completion before CEBJA's July meeting.

Item 6.2.1 Report and Recommendation of the Bylaws Subcommittee on the Referral of Resolution 217-2023—Revision of *ADA Member Conduct Policy* to focus on objectionable conduct as well as fiduciary responsibilities and level of expected decorum rather than types of activities where this might occur.

Resolved, that in response to the referral of Resolution 217-2023 by the 2023 House of Delegates, the Council on Ethics, Bylaws and Judicial Affairs recommends that the *ADA Member Conduct Policy* be revised by amending Paragraph 1 and inserting a new Paragraph 2, as follows:

1. Members' discussions, ~~social media activities, communications and or interactions with other dentists, dentist members, Association officers, trustees and staff~~ that refer or relate to, reflect on or represent dentist(s) or the profession of dentistry, should be respectful and free of demeaning, derogatory, profane, offensive or defamatory language.

2. Members, at meetings of the American Dental Association and constituent and component society meetings, and at all other times when serving in the capacity of an ADA, constituent or component society representative, will act in good faith, with honesty and integrity, and conduct themselves in a professional and respectful manner.

and be it further

Resolved, that current Paragraphs 2 through 10 of the *ADA Member Conduct Policy* be renumbered as Paragraphs 3 through 11, respectively.

Resolved, that the council chair and staff collaborate to develop a response to the referral of Resolution 217-2023, incorporating the revisions to the *Member Conduct Policy* and transmit that response to the ADA Board of Trustees and, ultimately, the House of Delegates.

Item 6.2.4 Report and Recommendation of the Bylaws Subcommittee on the Development of a Template Board Code of Conduct—Initiative to develop, distribute and promote a template Board Code of Conduct to constituent dental societies.

Resolved, that the template Board Code of Conduct attached to this report as **Appendix 6** is hereby approved, and be it further

Resolved, that the chair of the Council direct the staff of the Council to disseminate the template Board Code of Conduct to the constituent dental societies and their Executive Directors, and be it further

Resolved, that the constituent dental societies and their Executive Directors be urged to transmit the template Board Code of Conduct to their component dental societies.

Item 6.2.5 Informational Report of the Bylaws Subcommittee on the Publication of Revised Editions of the ADA Bylaws and Governance Manual—Publication and distribution of revised ADA *Bylaws and Governance Manual*, incorporating any changes resulting from resolutions adopted by 2023 House of Delegates.

Item 6.3.2 Status Report of the Ethics and Continuing Education Subcommittee on Development of Continuing Education Programming for SmileCon® 2024, New Orleans, Louisiana (“Integrity and Professionalism: Addressing Inappropriate Behaviors” and “Promoting Ethical Practices: Identifying Concerns Arising from Health and Wellness Issues”)— Presentation of survey results from SmileCon® 2023 continuing education courses as well as acceptance of courses currently in development for SmileCon® 2024 on dental wellness and inappropriate behaviors between members.

Item 6.3.3 Council Update from the Ethics and Continuing Education Subcommittee on Discussions with the Continuing Education Department on Creating Ethics Videos Available through the ADA CE Portal—Report concerning discussions with Continuing Education and Learner Experiences & Technology staff about developing educational videos using content from SmileCon® sessions and other dental ethics topics.

Item 6.3.4 Council Update from the Ethics and Continuing Education Subcommittee on Collaboration with the Council on Dental Practice regarding Res. 517H-2023— Collaborative effort with the Council on Dental Practice to act on resolutions from the 2023 House of Delegates meeting that seek to prevent discrimination against dental practitioners who have completed counseling, therapy, or treatment for mental health issues.

Item 6.4.1 Status Report on Ethical Moment Submissions to JADA—Report covering Ethical Moment article submissions and publication as well as initiatives to drive further article development.

Item 7.4 Report on Council Chair and Vice Chair Selection/Election—Explanation of process and timeline for selection of council chair and vice chair for 2024-2025 in anticipation of election at the July CEBJA meeting.

Item 7.5 Ethics CE Requirements by Jurisdiction—Comprehensive findings concerning continuing education requirements for renewal of dental practitioner licensure.

For the Good of the Council: Council members expressed items of personal importance as well as their appreciation for work of the Council in the current year thus far.

SPECIAL PRESENTATIONS

President's Presentation: Dr. Edgar emphasized communication, collaboration, and connection in her presentation. She followed up on the membership concern with the California Dental Association and the sale of the ADA's Washington, D.C. building. Dr. Edgar also discussed a number of in-process initiatives, including the Give Kids a Smile program, the ADA's consideration of the NCOIL (National Council of Insurance Legislators) model, a membership recruitment contest, the Lessons in a Lunchbox elementary school program, the Wellness Ambassador Program, and the task force on sugar. Dr. Edgar then responded to questions from CEBJA members.

Executive Director's Update: Dr. Cohlmiya delivered his Creating New Value presentation, which included discussion of prospective changes to the ADA membership model, changes in demographics that necessitate this, the implementation and capabilities of a new customer relationship management platform, an association credit union, and goals for the ADA Forsyth Institute. Dr. Cohlmiya then answered questions from CEBJA members concerning potential changes to the procedures for implementing governance changes, challenges for constituent implementation of membership model changes and other topics related to the rationale and approach for impending changes.

Leadership Presentation on Ambassadorship: Dr. Peters provided an overview of the Working Genius concept, including the representation of each of the types of Genius within the Council. She discussed Ambassador responsibilities on which Council members will focus in the coming months—preparation and dissemination of Ethics Toolkits, reporting any developments among constituents and components and promotion of and eliciting feedback on Member Conduct Template prior to the ADA annual meeting.

COUNCIL LEADERSHIP AND STAFF REPORTS

Report of the Chair: Dr. Peters welcomed attendees to the meeting.

Report of the Board of Trustees Liaison: Dr. Kahl recalled matters alluded to in Dr. Cohlmiya's presentation, as the Board of Trustees is working to bring about the membership model changes. He conveyed that while CEBJA protects the profession of dentistry, there will be considerable implications for the Council resulting from the planned procedural and structural changes at the ADA.

Report of the New Dentist Committee Member: Dr. Purvis conveyed that the New Dentist Committee acts as a sounding board for matters to go before the Board of Trustees. He anticipates that the committee will be instrumental in disseminating information concerning the ADA's new membership model to constituents and components.

Report of the ASDA Liaison: Mr. Linser reported to the Council on the ASDA's recent annual meeting and Board of Trustees meeting, including progress toward its three-year strategic plan, national initiatives and appointing of leadership for the 2024-2025 year.

Report of CEBJA Liaison to the Council on Dental Education and Licensure: Dr. West conveyed that CDEL will be evaluating its duties in the coming months, as the Continuing Education Committee will manage all continuing education and CDEL would potentially remove CE oversight from its defined responsibilities. Dr. West inquired whether CEBJA could help CDEL in this endeavor in any way and reminded CDEL of the vision of all ADA activities passing through a lens of ethics.

Report of the Senior Associate General Counsel: Ms. Rothchild discussed the American Dental Association's Policy on Professional Conduct and Prohibition against Harassment, as well as Council members' duty of fiduciary responsibility that entails a focus on the principles of care, loyalty, and obedience.

Report of the Vice Chair: Dr. Roth inquired of the Council as to any preferences for subcommittee assignment in the coming year. She expressed that Council members are free to attend subcommittee meetings outside of their assigned subcommittee. She mentioned that the Ethics and Continuing Education Subcommittee might be renamed.

Ambassadors Reports: Council members expressed difficulty in determining ethics faculty members at district dental schools; some strategies were discussed that might facilitate this process. Council members discussed reaching out to components and constituents within their respective districts to elicit information about any developments; responses are included in appendix materials. Mr. Elliott proposed generating a one-page version of the Unofficial Report of Major Actions.

COUNCIL BUSINESS

Administrative and Policy Review Subcommittee Reports:

Items 6.1.1, 6.1.2 and 6.1.4 approved on consent (including any Resolutions contained therein).

Item 6.1.3 Self-Assessment Survey Pool. The subcommittee chair, Dr. Karen Foster, indicated that the subcommittee reexamined the pool of Council member participants in the survey in light of the new simplified and streamlined format of survey questionnaire that was proposed for adoption. While the first-year members have limited experience on the Council, they do have prior leadership experience from which to draw on in responding to the Council's self-assessment survey. Dr. Foster moved the following resolution to rescind an earlier Council resolution concerning participants in the Council Self-Assessment Survey; the resolution was seconded by subcommittee action. Following discussion among the Council members, the resolution was adopted.

Resolved, that the resolution adopted by the Council at its July 2023 meeting that appears below be rescinded:

Resolved, that data collected for the Council's periodic self-assessments be gathered from members of the Council on Ethics, Bylaws and Judicial Affairs who are in their second, third and fourth years of service in the Council when the survey is distributed and from the class of immediate past Council members.

Dr. Foster then moved a resolution (seconded by subcommittee action) that all current members and the class of immediate past members participate in the Council's self-assessment survey. Following discussion, the following resolution was duly adopted by Council vote:

Resolved, that data collected for the Council's periodic self-assessments be gathered from all current members of the Council on Ethics, Bylaws and Judicial Affairs and from the class of immediate past Council members.

Item 6.1.5 Possible Code of Ethics Revision or Advisory Statement on the Use of Social Media Influencers to Market Dental Treatments or Practices. To assist the Administrative and Policy Review subcommittee in considering this issue, the Council held a generative discussion on dental influencers. Dr. Peters led the discussion that began with Dr. Peters presenting two dental influencer scenarios that

raise ethical questions. Council members considered how each of the five ADA ethical principles might be applied to the scenarios, raised questions of their own and provided feedback on their personal responses to the concerns. Dr. Peters concluded by asking the subcommittee to consider whether an advisory opinion on the topic might be warranted.

Bylaws Subcommittee Reports:

Items 6.2.1 and 6.2.3 through 6.2.5 adopted on consent (including any Resolutions contained therein).

Item 6.2.2 Proposed Revisions to Member Conduct Policy Procedures in Chapter XI. Of the Governance Manual. Dr. Debra S. West, Bylaws Subcommittee chair, addressed the Council concerning proposed revisions to the Member Conduct Policy to align procedures for adjudicating alleged violations of the *ADA Principles of Ethics & Code of Professional Conduct*, and moved resolutions to approve the proposed revisions to the Member Conduct Policy shown in Appendix 2 of the report on this topic, the revisions to Chapter XI. of the *Governance Manual* shown in Appendix 3A to the report, the revisions to Chapter II. and XI. of the *ADA Bylaws* shown in Appendix 3B of the report, and the revisions to Chapter II. of the *Governance Manual* shown in Appendix 3C of the report (each of the resolutions being seconded by subcommittee action). The Council engaged in a lengthy period of discussion concerning the rationale for the revisions and the best approach to use for educating communities of interest in the proposed amendments, gathering and reviewing comments on the proposed revisions, and ensuring success of the amendments at the upcoming House of Delegates session. Following that discussion, each of the tendered resolutions were adopted by Council vote.

Ethics and Continuing Education Subcommittee Report:

Items 6.3.2-6.3.4 adopted on consent (including any Resolutions contained therein).

Item 6.3.1 Workshop on Presentation and Discussion Guides: Dr. Nichols, chair of the Ethics and Continuing Education Subcommittee led a workshop to demonstrate the steps of generating a Presentation and Discussion Guide, with the ultimate goal of producing more Ethics Toolkits. She tied in a call for Ethical Moment article submissions as well and elicited commitments for Council members to prepare five Presentation and Discussion Guides.

Item 6.3.5 Periodic Review of the ADA Principles of Ethics and Code of Professional Conduct. Dr. Nichols informed the Council that the subcommittee was recommending instituting a periodic review of the *ADA Principles of Ethics and Code of Professional Conduct*, structured so that a complete review is completed every five years. Following discussion and a review of the proposed schedule, Dr. Nichols moved the following resolution which was seconded by subcommittee action and duly adopted by the Council:

Resolved, that a five-year review cycle be adopted for the *ADA Principles of Ethics and Code of Professional Conduct*, with the initial review for each Section of the *ADA Code* to occur as listed below:

Principle Title	First Five-Year Review to Occur in
Principle of Veracity	2025
Principle of Patient Autonomy	2026
Principle of Nonmaleficence	2027
Principle of Beneficence	2028
Principle of Justice	2029

and be it further

Resolved, that the year that any Principle is reviewed, and the result of the review be noted in in the *Principles of Ethics and Code of Professional Conduct* in proximity to the Principle reviewed.

Item 6.4 Ethical Moment and Dental Dilemmas™ Podcast Subcommittee Report. The report for Item 6.4.1 was approved on consent (including any Resolutions contained therein).

Item 6.4.2 Report on the Dental Dilemmas Podcast. Dr. Peters and Dr. Roth led a discussion concerning the status of the Dental Dilemmas™ podcast, and particularly the discussions being held with the Student Professionalism & Ethics Association in Dentistry (SPEA), the American College of Dentists (ACD), and CEBJA on jointly collaborating on the production of a dental ethics podcast. The Council considered potential competing priorities, alignment with Council objectives, existing resources, efficient practices, staffing/volunteer requirements and episode format. The idea emerged that members of the American Student Dental Association might be another source of participants in the project. No action was taken by the Council on this subject.

Item 7.1 Report on the Student Ethics Video Contest: Mr. Franklin expressed that the 2024 Student Ethics Video Contest began on March 15, two months earlier than when it has begun in prior years, and will again close on September 6, in an effort to allow for increased submissions during the academic calendar. SPEA will once again co-sponsor the contest, and Mr. Elliott has requested that SPEA chapters each submit an entry. The contest is being promoted through a number of publications and avenues.

NEW BUSINESS

Availability to Serve on the Standing Committee on Constitution and Bylaws: Mr. Elliott inquired about Council members who would be acting as delegates for their districts at the ADA's 2024 annual meeting in New Orleans, Louisiana and explained the functions and process of selection for the Standing Committee on Constitution and Bylaws.

FOR THE GOOD OF THE COUNCIL

The members of the Council and the Council Staff participated in the traditional For the Good of the Council closing of the meeting, each citing their highlight of the meeting ("rose") and what they most look forward to for the association ("rosebud").

ADJOURNMENT

On motion duly seconded, there being no remaining business on the Council's meeting agenda, the chair declared the meeting adjourned at approximately 11:20 am on March 29, 2024.