

REPORT OF THE COUNCIL ON CONSTITUTION AND BYLAWS

CCB Report 03-A-24

Subject: AMA Bylaws—Removal of Officers, Council Members, Committee Members
and Section Governing Council Members
(D-610.997)

Presented by: Mark Bair, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws

1 At the 2023 Interim meeting of the American Medical Association (AMA), the House of Delegates
2 adopted as amended Recommendation 26 from Speakers Report 3: Report of the Election Task
3 Force 2 (D-610.997). Policy [D-610.997](#) asked that our AMA consider developing bylaw language
4 regarding the removal of elected individuals or candidates and the criteria by which such removal
5 would be accomplished and to report back at A-24.

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7 The Council on Constitution and Bylaws (the Council) has developed this report specifically to
8 comprehensively address the removal of officers, council members, and section governing council
9 members. The report does not address candidates as the Council strongly believes this is more
10 appropriately addressed by the Election Committee. Successfully elected candidates would be
11 considered officers or council members and would be covered under the Council’s
12 recommendations in this report.

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14 Recommendations are presented for consideration by the House of Delegates.

15 16 BACKGROUND

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18 As part of its fact-finding mission, the Council reviewed applicable bylaws, policies and statutes
19 that address the removal of such parties from office:

20 21 Bylaws

- 22
- 23 • AMA Bylaw [3.2.1](#) specifies that AMA membership is a condition for holding office.
24 Nonrenewal of AMA membership would make a candidate or incumbent ineligible to hold
25 office.
 - 26 • AMA Bylaws for the Resident/Fellow Trustee [[3.5.5.1](#)] and the Medical Student Trustee
27 [[3.5.6.3](#)] have provisions specifying termination of their terms should they no longer
28 qualify as a resident/fellow or medical student (there also is a grace period if this occurs
29 within 90 days of the annual meeting). Similar bylaw provisions exist for residents and
30 medical student members of AMA councils [[6.11](#)].
 - 31 • Bylaw [1.5](#) states that the Council on Ethical and Judicial Affairs (CEJA) after due notice
32 and hearing, may censure, expel, or place on probation any member of the AMA for an

1 infraction of the Constitution or these Bylaws, for violation of the Principles of Medical
2 Ethics, or for unethical or illegal conduct.

- 3 • Bylaw [3.6.4](#) states that if an officer misses six consecutive regular meetings of the Board of
4 Trustees (Board), this matter shall be reported to the House of Delegates by the Board and
5 the office shall be considered vacant.
- 6 • AMA Bylaws provide a mechanism for filling vacancies for all Officers and for the elected
7 and appointed Councils.
- 8 • AMA Bylaws do not prohibit the resignation of any Board member or Council member for
9 any reason.
- 10 • AMA's Parliamentary Authority, as specified in Bylaw [11.1](#) is the current edition of The
11 American Institute of Parliamentarians Standard Code of Parliamentary Procedure
12 (AIPSC). AIPSC (2nd ed.) acknowledges in Section 3.15 the rights of an organization to
13 discipline, suspend and/or expel members, directors and officers in accordance with its
14 bylaws, the parliamentary authority, and within the law.

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16 Policies

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18 • The [AMA Principles of Medical Ethics](#) ("Principles") were last revised in June 2001 but
19 initially adopted as the AMA's Code of Conduct when AMA was formed in 1847. The
20 Principles are standards of conduct that define the essentials of honorable behavior for
21 physicians. Principles applicable to this report include:
 - 22 ○ II. A physician shall uphold the standards of professionalism, be honest in all
23 professional interactions, and strive to report physicians deficient in character or
24 competence, or engaging in fraud or deception, to appropriate entities.
 - 25 ○ III. A physician shall respect the law and also recognize a responsibility to seek
26 changes in those requirements which are contrary to the best interests of the
27 patient.
 - 28 ○ IV. A physician shall respect the rights of patients, colleagues, and other health
29 professionals, and shall safeguard patient confidences and privacy within the
30 constraints of the law.
- 31
32 • Policy [H-140.837](#), "Policy on Conduct at AMA Meetings and Events," includes language
33 to the effect that "The CCAM (Committee on Conduct at AMA Meetings and Events) will
34 review all incident reports, perform further investigation (if needed) and recommend to the
35 Office of General Counsel any additional commensurate disciplinary and/or corrective
36 action, which may include but is not limited to the following: prohibiting the violator from
37 attending future AMA events or activities; removing the violator from leadership or other
38 roles in AMA activities; prohibiting the violator from assuming a leadership or other role
39 in future AMA activities; notifying the violator's employer and/or sponsoring organization
40 of the actions taken by AMA; referral to the CEJA for further review and action; and
41 referral to law enforcement.

42
43 Law

- 44
45 • Our AMA is incorporated in the State of Illinois under the General Not For Profit
46 Corporation Act of 1986 (the "Act"). As such, the following provisions apply:
47
48 Sec. 108.35. Removal of directors.
49 (a) One or more of the directors may be removed, with or without cause. In the case of a
50 corporation having a board of directors which is classified in accordance with

1 subsection 108.10(e) of this Act, the articles of incorporation or bylaws may provide
2 that such directors may only be removed for cause.
3 (b) In the case of a corporation with no members or with no members entitled to vote on
4 directors, a director may be removed by the affirmative vote of a majority of the
5 directors then in office present and voting at a meeting of the board of directors at
6 which a quorum is present.
7 (c) In the case of a corporation with members entitled to vote for directors, no director may
8 be removed, except as follows:
9 (1) A director may be removed by the affirmative vote of two-thirds of the votes present
10 and voted, either in person or by proxy.
11 (2) No director shall be removed at a meeting of members entitled to vote unless the
12 written notice of such meeting is delivered to all members entitled to vote on removal of
13 directors. Such notice shall state that a purpose of the meeting is to vote upon the
14 removal of one or more directors named in the notice. Only the named director or
15 directors may be removed at such meeting.
16 (3) In the case of a corporation having cumulative voting, if less than the entire board is
17 to be removed, no director may be removed, with or without cause, if the votes cast
18 against his or her removal would be sufficient to elect him or her if then cumulatively
19 voted at an election of the entire board of directors.
20 (4) If a director is elected by a class of voting members entitled to vote, directors or
21 other electors, that director may be removed only by the same class of members entitled
22 to vote, directors or electors which elected the director.
23 (d) The provisions of subsections (a), (b) and (c) shall not preclude the Circuit Court from
24 removing a director of the corporation from office in a proceeding commenced either by
25 the corporation or by members entitled to vote holding at least 10 percent of the
26 outstanding votes of any class if the court finds (1) the director is engaged in fraudulent
27 or dishonest conduct or has grossly abused his or her position to the detriment of the
28 corporation, and (2) removal is in the best interest of the corporation. If the court
29 removes a director, it may bar the director from reelection for a period prescribed by the
30 court. If such a proceeding is commenced by a member entitled to vote, such member
31 shall make the corporation a party defendant.
32 (Source: P.A. 96-649, eff. 1-1-10.)
33

- 34 • While the AMA’s Office of the General Counsel (OGC) notes that the Act does not
35 directly apply to elected or appointed Council members or appointed committee members,
36 it should be noted that the Illinois statute is broad and vague. Thus, our AMA is fully
37 empowered and has the authority to provide that “all elected and/or appointed individuals”
38 would be required to be bound by the removal language in the statute if it so desired.
39 Lastly, OGC advised that whatever is the final determination of the House of Delegates
40 (the “House”), to the extent it conflicts with Illinois law, Illinois law will govern.
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42 DISCUSSION

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44 As part of its fact-finding, the Council read with interest an article from the American Hospital
45 Association’s Trustee Insights, entitled “When a Board Member Crosses the Line: Removing a
46 Trustee Midterm,¹ whereby organizations are urged to define the desired behaviors of its board
47 members, clarify behaviors that are clearly unacceptable and create a standard process to

¹ Orlikoff, J, When a Board Member Crosses the Line: Removing a Trustee Midterm: Addressing problem behaviors is key to a high performing board. AHA Trustee Insights, September 2023
[\[https://trustees.aha.org/when-board-member-crosses-line-removing-trustee-midterm\]](https://trustees.aha.org/when-board-member-crosses-line-removing-trustee-midterm)

1 immediately address them if exhibited by any board member. Board members are classified into
2 four categories: superstars, solid performers, nonperforming/deadweight members, and toxic
3 members. While nonperforming members are typically managed by an organization through peer
4 pressure, not being re-elected or appointed, or resignations due to personal or health reasons, the
5 article supports removal of a toxic member for reasons such as violating the conflict-of-interest
6 policy, including failure to disclose a conflict; attempting to use information obtained as a board
7 member in such a way as to derive personal, financial or other benefit; violating the confidentiality
8 policy; verbally abusing board members, staff or patients/families; any physical assault on board
9 members, staff or patients/families at any time, in any place; actively working to subvert stated
10 board policy or decisions; accusation or conviction of felony; speaking against the organization or
11 the board or the CEO or staff in public; or racist or sexist comments or behavior, failure to attend a
12 minimum of 50% (or other specified percentage) of board meetings; failing to attend three
13 consecutive board meetings; and sleeping during board or board committee meetings (two or more
14 instances).

15

16 The Council notes that the Standing Rules of the AMA Board of Trustees provide for the removal
17 of the chair-elect or chair, positions elected internally by Board members. The Council also
18 emphasizes that existing AMA bylaws, policies and Illinois law cover most but not all, of the other
19 behaviors defined as unacceptable.

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21 In further discussing the issue, the Council noted that only AMA Trustees have a fiduciary
22 responsibility, and those who do not complete their responsibilities (through negligence or blatant
23 recklessness) could cause the AMA to incur unnecessary liability.

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25 The Council also found that while the Speakers Report did not address the removal of individuals
26 who serve on appointed councils, the Council believes there should be a comparable process for
27 removal similar to those who serve on elected councils, with those procedures to be adopted by the
28 House. Similarly, while Section governing council members have no fiduciary responsibilities, the
29 bylaws also should incorporate a removal provision, with those Rules to be approved by the AMA
30 Board of Trustees. Several Section Internal Operating Procedures already provide for the removal
31 of a governing council member. The Council would work collaboratively with the Council on Long
32 Range Planning and Development, CEJA, OGC, and the House of Delegates to develop the
33 procedures to be employed.

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35 In perusing other published literature, personal one-on-one intervention is often cited as a less
36 formal solution to managing problematic board, council or committee members. For example, if an
37 individual has failed to attend a specified number of meetings in a row, has a specified number of
38 unexcused absences or has become an impediment to the group's work, the most senior member
39 often meets informally with the individual in question. Additionally, offering or granting a leave of
40 absence is another option to make it possible for individuals to take a leave of absence from a
41 board, council or committee if they have health, work or other reasons why they cannot participate
42 fully during the current term. AMA Bylaws, Council Rules and Section Internal Operating
43 Procedures all provide a mechanism for filling vacancies. Lastly, term limits are cited as ways to
44 minimize less than effective performance, and there are already term limits for AMA Trustees,
45 Council members and Section governing council members in place.

46

47 The Council learned that the bylaws or governing documents of several other organizations
48 incorporated in Illinois, such as the American Dental Association, American Bar Association,
49 Illinois Association for Behavior Analysis, include provisions that allow for the removal of elected
50 trustees, council members or committee members, with varying language and detail:

- 1 • **American Dental Association:** ADA Bylaws state that “The House of Delegates may
2 remove a trustee for cause in accordance with procedures established by the House of
3 Delegates. The procedures shall provide for notice of the charges alleged and an
4 opportunity for the accused to be heard in their defense. A two-thirds (2/3) affirmative vote
5 of the delegates present and voting is required to remove a trustee from office.” The ADA
6 Governance Manual provides further details that include: The House of Delegates may
7 remove an elective officer for cause in accordance with procedures established by the
8 House of Delegates. The procedures shall provide for notice of the charges alleged and an
9 opportunity for the accused to be heard in his or her defense. A two-thirds (2/3) affirmative
10 vote of the delegates present and voting is required to remove a trustee from office.
11
- 12 • Similarly, the ADA Governance Manual includes language to address removal of elected
13 or appointed Council members: “Removal for Cause. The Board of Trustees may remove a
14 council member for cause in accordance with procedures established by the Board of
15 Trustees. Those procedures shall provide for notice of the charges, including allegations of
16 the conduct purported to constitute each violation and a decision in writing which shall
17 specify the findings of fact which substantiate any and all of the charges. Prior to issuance
18 of the decision by the Board of Trustees, no council member shall be excused from
19 attending any meeting of a council unless there is an opportunity to be heard or compelling
20 reasons exist which are specified in writing by the Board of Trustees.” Similar language
21 also exists for the removal of Commission members, “Removal for Cause. Any of the
22 commissions of this Association shall have the sole authority to remove any of its members
23 for cause pursuant to its Rules, with notice of such removal being given to the ADA Board
24 of Trustees.”
25
- 26 • **Illinois Association for Behavior Analysis -- Removal of Board Member.** An elected
27 Board Member may be removed from their positions on the Board without cause if such
28 removal is approved by a majority vote of the membership. An appointed Board Member
29 may be removed by a majority vote of the Board.
30
- 31 • **American Psychological Association --** If a standing board or committee believes that
32 there is reasonable cause to remove a member from said body, a vote may be taken by the
33 board or committee to petition the Board of Directors to remove said member. If, with the
34 exception of the individual in question, two-thirds of all members vote to remove said
35 member, then a petition requesting removal shall inform the Board of Directors of the basis
36 for, and the evidence supporting, said removal. The Board of Directors shall give said
37 member the opportunity to fully respond in writing to the petition. The Board of Directors,
38 by a two-thirds vote of all members, may remove said member if it determines that there is
39 reasonable cause for removal and that removal is in the best interest of the Association.
40
- 41 • **American Bar Association –** Bylaw 31.2 allows the President to replace any committee
42 member who does not participate in the activities of the committee.
43

44 In conclusion, the Council supports bylaw language that addresses removal of individuals currently
45 holding a position within the AMA in accordance with procedures approved by the House or the
46 Board of Trustees. While removal is already possible under Illinois statute, the Council would
47 support bylaw language for the sake of transparency.

1 RECOMMENDATIONS

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3 The Council on Constitution and Bylaws recommends that the following recommendations be
4 adopted, that Policy D-610.997 be rescinded, and that the remainder of this report be filed.

- 5
6 1) That our AMA Bylaws be amended by insertion to add the following provisions. Adoption
7 requires the affirmative vote of two-thirds of the members of the House of Delegates
8 present and voting:
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10 **3. Officers**

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14 **3.6 Vacancies.**

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17 **3.6.4 Absences.** If an officer misses 6 consecutive regular meetings of the Board,
18 this matter shall be reported to the House of Delegates by the Board of
19 Trustees and the office shall be considered vacant. The vacancy shall be filled
20 as provided in Bylaw 3.6.1 or Bylaw 3.6.3.

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22 **3.6.5 Removal for Cause.** Any officer may be removed for cause in accordance
23 with procedures established by the House of Delegates.

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25 **6. Councils**

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29 **6.0.1.4 Removal.** A Council member may be removed for cause in accordance with
30 procedures approved by the House of Delegates.

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32 **7. Sections**

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36 **7.0.3.4 Removal.** A Governing Council member may be removed for cause in
37 accordance with procedures approved by the House of Delegates.

38
39 (Modify Bylaws)

- 40
41 2) That the Councils on Constitution and Bylaws, Long Range Planning and Development
42 and the Ethical and Judicial Affairs and the House develop the procedures to remove a
43 trustee, council member or governing council member for cause. (Directive to Take
44 Action)
45
46 3) That the Election Committee address the need for policy to remove candidates who are
47 found to violate AMA policy G-610.090, AMA Election Rules and Guiding Principles.
48 (Directive to Take Action)

Fiscal Note: No Significant Fiscal Impact

RELEVANT AMA POLICY

D-610.997, Criteria Regarding Removal of Elected Individuals or Candidates
Our American Medical Association will consider developing bylaw language regarding removal of elected individuals or candidates and the criteria by which this would be accomplished and to report back at A-24.