

**BYLAWS OF THE
AMERICAN BOARD OF BARIATRIC MEDICINE**

**Amended by ABBM Board of Directors September 8, 1998, January 6, 1999, October 14, 1999,
May 10, 2000, and September 17, 2002, May 2005.**

ARTICLE I. Name

The name of the corporation, American Board of Bariatric Medicine, shall be referred to in these Bylaws as the "Board".

ARTICLE II. Purpose

The Board shall exist to serve the public and the field of bariatric medicine through the establishment and maintenance of criteria and procedures for examination and certification of candidates who wish certification of their accomplishment in bariatrics. Such certified specialists shall be designated Diplomates of the American Board of Bariatric Medicine.

ARTICLE III. Certification by the Board

Section 1. Qualifications for Certification.

In order to apply for certification as a Diplomate of the American Board of Bariatric Medicine, a candidate must satisfy all the requirements listed in ABBM's Policies and Procedures at the time of his/her application.

Any person who has satisfied the qualifications for certification must then satisfactorily pass written and oral examinations in those areas of bariatric science and patient care consistent with current, accepted standards as reflected in the Society's Bariatric Practice Guidelines. The Board will provide advance notice of the subject matter of the exam on an annual basis. An applicant shall be entitled to retake the examination one time, upon payment of a retesting fee, without resubmitting evidence of compliance with the qualifications set forth above. Any additional retesting will require submission of evidence of compliance to the Board.

Once an applicant has passed the written and oral examination, the applicant must then apply for a patient care review administered by the Board within 21 months of passage of the written and oral examination. The patient care review must be completed within two years of passage of the written and oral examinations. If the patient care review is not passed the first time, the applicant may submit for another review after six months' time.

Once a person has met all the qualifications for certification including passage of the written and oral examination and the patient care review, the person's name shall be submitted to the Board for certification as a Diplomate. Certification shall require a two-thirds vote of the Board.

Section 2. Recertification. Diplomates who are awarded their designation after February 7, 1997, shall be required to be recertified every five (5) years in accordance with the following provisions in a manner prescribed in the current ABBM Policies and Procedures at the time of his/her recertification application.

Board Members who are due for recertification during their tenure on the Board may waive taking the exam, although they must pay the recertification exam fee. These Board members will be granted certification for an additional 5 years. They must take the recertification exam at that time unless they are still on the Board.

Section 4. Use of the Diplomate Designation. Use of Diplomate status, membership in the Society or of the Board's or the Society's official logo in advertising media to imply official

endorsement of the Diplomate or the Diplomate's practice, methods, programs or products will be considered a violation of the terms and conditions of certification. The Board may terminate the Diplomate's status upon a three-fourths affirmative vote of the Board. A Diplomate may indicate status as a Diplomate, American Board of Bariatric Medicine, in advertising media provided the professional qualification does not indicate that the Diplomate's practice, methods, programs or products are endorsed by the Board.

ARTICLE IV. Board of Directors

Section 1. Number and term. The Board shall be composed of nine directors (one of whom shall be the Chair) who shall serve two-year terms from the date of appointment or until their successors take office; provided, however, that of the initial directors, four (including the Chair) shall hold office until October 1997 and five shall hold office until October 1998 or until their successors are elected. Thereafter, the President of the Society shall appoint the Chair who shall, in turn, appoint three directors in odd-numbered years and three directors in even-numbered years subject to approval of the Board of Directors. The Board of Trustees of the Society shall appoint two directors in even-numbered years. Directors shall be appointed in the fall and take office on January 1st of the year following their appointment.

Section 2. Selection and Appointment. All of the directors must be board certified by the Board. Those appointed to serve shall execute their duties diligently and agree to give of their time to the activities of the Board.

Section 3. Vacancies. In the case of a vacancy, resignation or removal of a Director, the organization or person appointing the Director shall designate a person to fill the unexpired portion of the previous director's term.

Section 4. Resignation. A director may resign at any time by filing a written resignation with the Chairman of the Board.

Section 5. Duties and functions of the Board. The Board shall:

- [a] have full authority to establish policies, rules, regulations and requirements for the certification program;
- [b] circulate among the Directors any proposed changes in policies, rules, regulations and requirements at least fifteen (15) days prior to any meeting at which the Board will vote on any proposed changes, for review and comment. The Board may waive the sixty (60) day requirement if necessary. Upon Board approval, reasonable advance notice will be given prior to implementation;
- [c] establish and maintain fee structures for its certification program;
- [d] revoke the Diplomate status of any Diplomate who: fails to comply with the continuing requirements for Diplomate status; misuses the Diplomate designation; commits fraud or misrepresentation in the application or recertification process; fails to abide by these bylaws or any rules or requirements established by the Board; or has a license or certificate to practice medicine suspended or revoked. Such revocation will require a three-fourths affirmative vote of the Board. Such Diplomate will be afforded the right of due process in all hearings concerning such action. The Board may adopt procedures for such actions;
- [e] direct the establishment and implementation of certification criteria and procedures for its certification;
- [f] employ an Executive Director to carry out the administration of Board policy and programs;
- [g] designate all standing and special committees and designate additional committees according to current needs. Such committees shall be appointed by the Chair, except as

provided elsewhere in these Bylaws; and,
[g] carry out any other lawful activities deemed necessary to further the objectives of the Board.

Section 6. Removal. Any member of the Board of Directors may be removed by the affirmative vote of two-thirds of the Board of Directors present at a meeting at which a quorum is present whenever in its judgment such removal would serve the best interests of the Board.

Section 7. Action Without a Meeting. Any action required by law to be taken at a meeting of the Board of Directors, or any other action which may be taken at a meeting of directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, which consent may be signed in counterparts.

Section 8. Compensation. No member of the Board of Directors shall receive any compensation for serving in such office, provided that the Board may reimburse any member of the Board of Directors for reasonable expenses incurred in connection with service on the Board.

ARTICLE V. Meetings of the Board of Directors

Section 1. Annual and Regular Meeting. The annual meeting of the Board of Directors shall be held in the same place and immediately before or after the annual meeting of the Board of Directors of the American Society of Bariatric Physicians in each calendar year, or on such other date and at such time and at such place as the Chair may determine. The annual meeting of the Board of Directors shall be for the purpose of electing officers and directors and for the transaction of such other business as may come before the meeting. There shall be one other regular meeting of the Board each year at a place designated by a majority of the Board for the transaction of such business as may come before the Board. Written notice stating the place, day, and hour of the meeting, as well as an agenda for the meeting, shall be given personally, mailed to each member of the Board of Directors at least thirty (30) days prior to the date fixed for the annual meeting.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called at any time by the Chair or by a majority of the Board. Special meetings shall be held at such time and place as may be designated by the authority calling such meeting. Notice stating the place, day, and hour of every special meeting shall be given to each member of the Board of Directors either by mailing such notice at least twenty (20) days before the date fixed for the meeting. The notice of such special meeting shall specify the business to be transacted at and the purpose of any special meeting of the Board of Directors.

Section 3. Quorum; Voting. A quorum at all meetings of the Board of Directors shall consist of a majority of the directors holding office. Less than a quorum may adjourn from time to time without further notice until a quorum is secured. Except as provided specifically to the contrary by these Bylaws, the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 4. Proxies. Voting by proxies is not permitted.

Section 5. Committees. The Board of Directors of the Board may designate from among its members, by a resolution adopted by a majority of the entire Board of Directors, one or more committees, each of which shall have and may exercise such authority as shall be provided in such resolution or in these Bylaws. No such committee shall have the power or authority to amend, restate, alter, or repeal the Articles of Incorporation; to amend, alter, or repeal these or any other Bylaws of the Board; to elect, appoint, or remove any member of any such committee

or any officer or director of the Board; to adopt a plan of merger or consolidation with any other corporation; to authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Board; to authorize the voluntary dissolution of the Board or to revoke any proceedings for the voluntary dissolution of the Board; to adopt any plan for the distribution of the assets of the Board; to amend, alter, or repeal any resolution of the Board of Directors which by its terms provides that it may not be amended, altered, or repealed by such committee; or to take any other action prohibited by law. All committees of the Board shall keep regular minutes of their respective transactions and shall report their actions to the Board at the meeting of the Board next following such actions. The Chairman of each committee shall be designated at the time of appointment of such committee.

ARTICLE VI. Officers.

Section 1. Officers. The officers of the Board shall be the President to be known as Chair; Vice President to be known as Vice Chair; and Secretary/Treasurer. The terms of each office shall be two years. An individual may not hold more than one office during his term. The Chair of the Board shall be appointed by the President of the American Society of Bariatric Physicians. The Board of Directors shall elect the remaining officers at its Fall annual meeting.

Section 2. Powers and Duties. The officers of the Board shall exercise and perform the respective powers, duties, and functions as are set forth in the Board Policy Manual.

Section 3. Compensation. No compensation shall be paid to officers of the Board for serving in such capacity. The Board shall reimburse any officer for all reasonable expenses incurred by such individual in connection with services rendered to or for the Board.

Section 4. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment such removal will serve the best interests of the Board. The officer may be removed by the affirmative vote of two-thirds of the entire Board of Directors. Votes may be either at a meeting or in writing.

Section 5. Vacancies. A vacancy in any office because of the death, resignation, removal, disqualification, or otherwise, of an officer elected or appointed by the Board of Directors may be filled by the Board of Directors for the unexpired portion of the term; provided, however, that the office of President may only be filled by the President of the American Society of Bariatric Physicians.

ARTICLE VII. - Executive Committee

Section 1. Composition. The Executive Committee shall consist of the Chair, the Vice-Chair, and the Secretary/Treasurer. The Executive Director shall serve as an ex-officio member.

Section 2. Duties. The Executive Committee shall transact the business of the Board between meetings. It shall present a report of such business transactions to the Board at the next meeting of the Board.

Section 3. Meetings. A meeting of the Executive Committee may be called upon request of a majority of the members of the Committee or by the Chair. The Executive Director shall issue notice of such meetings to all Executive Committee members and arrange a time and location of the meeting as is most expedient in the circumstances. In all instances, the time and location of the meeting must be agreed to by a majority of the Executive Committee.

ARTICLE VIII. Executive Director.

The Executive Director, subject to the control of the Board of Directors and of the Executive Committee,

shall be the principal Administrative Officer of the Board and shall:

- [a] implement the decisions of the Board of Directors and the Executive Committee;
- [b] supervise the books and financial records of the Board;
- [c] receive and deposit to the credit of the Board, all monies due and payable to the Board from any source whatsoever in any such banks, trust companies or other depositories as the Board of Directors may designate;
- [d] keep proper account of all monies received and all monies disbursed on behalf of the Board and of all records in connection therewith;
- [e] maintain the role of the Diplomates of the Board;
- [f] give notice of meetings of the Board, the Board of Directors and the Executive Committee;
- [g] preserve communications pertaining to the affairs of the Board;
- [h] have general charge of the operating activities of the Board;
- [i] employ, supervise, terminate and determine the compensation of the professional staff of the Board; and
- [j] perform such other duties as may be assigned by the Board of Directors or Executive Committee.

ARTICLE IX. - Financial Matters

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Board, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted for on behalf of the Board and no evidence of indebtedness shall be issued in the name of the Board unless authorized by a resolution of the Board of Directors. Such authority may be general if confined to a specific dollar limit determined from time to time by resolution of the Board of Directors and shall otherwise be confined to specific instances. No loan shall be made to any officer or director of the Board.

Section 3. Checks, Drafts, and Notes. All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness issued in the name of the Board shall be signed by such officer or officers, agent or agents of the Board and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Board not otherwise employed shall be deposited from time to time the credit of the Board in such banks, trust companies, or other custodians as the Board of Directors may select.

Section 5. Fiscal Year. The fiscal year of the Board shall be determined by the Board of Directors.

ARTICLE X - Indemnification

Section 1. Definitions. For purposes of this Article:

- [a] The terms "director or officer" shall include a person who, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan. A director or officer shall be considered to be serving an employee benefit plan at the request of the Corporation if his duties to the Corporation also impose duties on or otherwise involve services by him to the plan or to participants in or beneficiaries of the

- plan. The term "director or officer" shall also include the estate or personal representative of a director or officer, unless the context otherwise requires.
- [b] The term "proceeding" shall mean any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, whether formal or informal, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.
 - [c] The term "party" includes an individual who is, was, or is threatened to be made a named defendant or respondent in a proceeding.
 - [d] The term "liability" shall mean any obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expense incurred with respect to a proceeding.
 - [e] When used with respect to a director, the phrase "official capacity" shall mean the office of director in the Corporation, and, when used with respect to a person other than a director, shall mean the office in the Corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation, but in neither case shall include service for any foreign or domestic corporation or for any partnership, joint venture, trust, employee benefit plan, or other enterprise.

Section 2. General Provisions. The Corporation shall indemnify any person who is or was a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was a director or officer of the Corporation, against expenses (including attorneys, fees), liability, judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding if such person [a] conducted himself in good faith, [b] reasonably believed, in the case of conduct in his official capacity with the Corporation, that his conduct was in the best interests of the Corporation, and, in all other cases, that his conduct was at least not opposed to the best interests of the Corporation, and [c] with respect to any criminal proceeding, had no reasonable cause to believe that his conduct was unlawful. However, no person shall be entitled to indemnification under this Section 2 either [a] in connection with a proceeding brought by or in the right of the Corporation in which the director or officer was adjudged liable to the Corporation or [b] in connection with any other proceeding charging improper personal benefit to the director or officer, whether or not involving action in his official capacity, in which he is ultimately adjudged liable on the basis that he improperly received personal benefit. Indemnification under this Section 2 in connection with a proceeding brought by or in the right of the Corporation shall be limited to reasonable expenses incurred in connection with the proceeding. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith or otherwise failed to meet the standard of conduct set forth in this Section 2.

Section 3. Successful Defense on the Merits: Expenses. To the extent that a director or officer of the Corporation has been wholly successful on the merits in defense of any proceeding to which he was a party, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with such proceeding.

Section 4. Determination of Right to Indemnification. Any indemnification under Section 2 of this Article (unless ordered by a court) shall be made by the Corporation only as authorized in each specific case upon a determination that indemnification of the director or officer is permissible under the circumstances because such person met the applicable standard of conduct set forth in such Section 2. Such determination shall be made [a] by the Board of Directors by a majority vote of a quorum of disinterested directors who at the time of the vote are not, were not, and are not threatened to be made parties to the proceeding, or [b] if such a quorum cannot be obtained, by the vote of a majority of the members of a committee of the Board of Directors designated the board, which committee shall consist of two or more directors who are not parties to the proceeding (directors who are parties to the proceeding may

participate in the designation of directors to serve on such committee), or [c] if such a quorum of the Board of Directors cannot be obtained or such a committee cannot be established, or even if such a quorum is obtained or such a committee is so designated, but such quorum or committee so directs, then by independent legal counsel selected by the Board of Directors in accordance with the preceding procedures, or [d] by the Member. Authorization of indemnification and evaluation as to the reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that, if the determination that indemnification is permissible is made by independent legal counsel, authorization of indemnification and evaluation of legal expenses shall be made by the body that selected such counsel.

Section 5. Advance Payment of Expenses: Undertaking to Repay. The Corporation shall pay for or reimburse the reasonable expenses (including attorneys, fees) incurred by a director or officer who is a party to proceeding in advance of the final disposition of the proceeding if [a] the director or officer furnishes the Corporation a written affirmation of his good faith belief that he conducted himself in good faith, [b] the director or officer furnishes the Corporation with a written undertaking, executed personally or on his behalf, to repay the advance if it is determined that he did not conduct himself in good faith, which undertaking shall be an unlimited general obligation of the director or officer but which need not be secured and which may be accepted without reference to financial ability to make repayment, and [c] a determination is made by the body authorizing indemnification that the facts then known to such body would not preclude indemnification.

Section 6. Reports to member. In the event that the Corporation indemnifies, or advances the expenses of, a director or officer in accordance with this Article in connection with a proceeding by or on behalf of the Corporation, a report of that fact shall be made in writing to the member with or before the delivery of the notice of the next meeting of the member.

Section 7. Other Employees and Agents. The Corporation shall indemnify such other employees and agents of the Corporation to the same extent and in the same manner as is provided above in Section 2 with respect to directors and officers, by adopting a resolution by a majority of the members of the Board of Directors specifically identifying by name or by position the employees or agents entitled to indemnification.

Section 8. Insurance. The Board of Directors may exercise the Corporation's power to purchase and maintain insurance (including without limitation insurance for legal expenses and costs incurred in connection with defending any claim, proceeding, or lawsuit) on behalf of any person who is or was a director or officer of the Corporation against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article.

Section 9. Nonexclusivity of Article. The indemnification provided by this Article shall not be deemed exclusive of any other rights and procedures to which one indemnified may be entitled under the Articles of Incorporation, any bylaw, agreement, resolution of disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director or officer, and shall inure to the benefit of such person's heirs, executors, and administrators.

ARTICLE XI - Amendments

These Bylaws may be amended, altered, or repealed and new Bylaws may be adopted by the Board of Directors of the Board by a vote of two-thirds of the directors present at any meeting of the Board at which a quorum is present, provided that notice of the proposed amendment, alteration, or repeal shall

have been delivered to each director of the Board with the notice of the meeting at which the proposed amendment, alteration, or repeal will be presented to the Board for action. Further, no amendment to the Articles of Incorporation or the Bylaws concerning the requirements that the Corporation shall have nine directors who shall serve for two year terms and that the Board of Trustees of the American Society of Bariatric Physicians shall appoint four directors and the remainder shall be appointed by the Chair of the Corporation may only be amended, altered or repealed with the prior approval of the Board of Trustees of the American Society of Bariatric Physicians.

The above Bylaws with revisions were approved and adopted by the Board of Directors on the 8th day of September, 1998.

Jules R. Altfas, M.D.
Secretary/Treasurer