

# American Board of Medical Malpractice By-Laws

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# American Board of Medical Malpractice

## By-Laws

### **PREAMBLE**

#### ***Section 1 - Name***

The name of this organization shall be the American Board of Medical Malpractice (ABMM), herein also referred to as the "Board". It is administered by the American Board of Legal Medicine, Inc., which is incorporated as a nonprofit corporation in the state of Delaware.

#### ***Section 2 - Location and Authority to Locate***

The corporate office of ABMM shall be located where the President of ABMM resides, and/or such other locations as determined by the Board of Trustees of ABMM.

#### ***Section 3 - Objectives***

The ABMM, although under the umbrella of the American College of Legal Medicine (ACLM), is in fact autonomous in terms of governance. Its objectives are:

- a. To promote the discipline and ethics of the medical malpractice litigation process and procedure through education and certification;
  - b. To prepare and administer examinations for certifying appropriate applicants as Diplomates of ABMM;
  - c. To establish public policy, through ABMM member participation and agreement, on issues that affect the ABMM members at all levels, and to take concerted action that secure policies consistent with the ABMM and the American College of Legal Medicine;
  - d. To provide for a general fund by levying an annual assessment or periodic special assessment; to receive payments; to administer and apply such funds and income for such objectives and purposes of the Board; to enable the Board to exercise its powers, duties and responsibilities as delineated in the bylaws; and
  - e. To take any other action necessary to effectuate the purposes of the By-Laws.
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## **ARTICLE 1 - BOARD OF TRUSTEES**

### ***Section 1 - Members***

The Board shall consist of nine voting Trustees, all of whom shall be Members of the American College of Legal Medicine (ACLM). Six of the Trustees shall be Diplomates of ABMM, and three shall be Diplomates of the American Board of Legal Medicine (ABLM). There shall be three classes of three Trustees each, for the purpose of staggering their terms of office at one, two and three years. The Trustees shall be appointed for three years, and they may serve several consecutive terms.

### ***Section 2 - Vacancy***

Any vacancy that may occur in the membership of the Board, by reason of death, resignation, or otherwise, shall be filled by appointment by the President of the Board. The Trustee appointed shall serve for the completion of the term of the vacating Trustee, after which he/she will be eligible to participate for nomination for a new term, if duly elected under the By-Laws.

### ***Section 3 - Removal from Office***

Any or all of Trustees may be removed from office by vote of two-thirds of voting members of the Board at any regular or duly called meeting of the Board. Reasonable needs will be taken to assure due process proceedings, including rights of appeal.

### ***Section 4 - Resignation***

Any Trustee may resign by oral tender of resignation at any meeting of the Board, or by oral tender to the President, or by giving written notice to the Board. Any such resignation shall take effect at the time specified therein, or if time is not specified, on receipt thereof.

Acceptance of such resignation, unless requested by terms thereof, shall not be necessary to make such resignation effective.

### ***Section 5 - Remuneration***

No member of the Board shall, directly or indirectly, receive any salary or compensation for his or her services as an Officer or Member of the Board.

### ***Section 6 - Meetings***

Meetings of the Board may be regular or special, and may be held in person or by any means, including telephonic, e-mail or video communication. The Board may fix times and places for its regular meetings. The notice shall be delivered to the designated members of the Board not less than seven and no more than sixty days in advance of the meeting. Special meetings may be called by the President or by at least one-third of the members of the Board, at such time and place as specified in a notice of waiver thereof. An annual meeting of the Board shall be held after each annual election of Trustees.

If such election occurs at an Annual meeting of the American College of Legal Medicine, the Annual meeting of the ABMM Board shall be held at the same place and immediately following such meeting of the College, and no notice thereof need be given.

### ***Section 7 - Quorum and Voting***

Two-thirds of all members of the Board, but not less than six, shall constitute a quorum for the transaction of business, but if there is less than a quorum at any meeting of the Board, the majority of the Trustees present may adjourn the meeting from time to time, and no further notice thereof need be given other than announcement at the meeting, which shall be so adjourned. A quorum meeting must be rescheduled within a period of eight weeks to complete the scheduled business of the board. Except as otherwise provided by law or by these by-laws, the vote of the majority of the Trustees present at a meeting at which a quorum is present, shall be the act of the Board.

### ***Section 8 - Written Consent of Trustees in Lieu of Meeting***

Any action required or permitted to be taken at any meeting of the Board or of any committee thereof, other than action on applications to the examination system and approval, or disapproval of issuance of certificates of qualification, may be taken without a meeting, if the majority of the members of the Board, or if such a committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of the proceedings of the Board or Committee.

### ***Section 9 - Duties of the Board of Trustees***

The Board shall establish examination and re-examination fees, determine time and location of examinations, determine the time and place of its regular meeting and any special meetings, advise the President on any committee appointments, review and approve recommendations made by the Credentials Committee, approve issuance of certificates of qualification, meet as a Committee of the whole to review any disputes arising from the processes at review of credentials and examination, and conduct any other business to come before it.

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## **ARTICLE 2 - OFFICERS**

### ***Section 1 - Election and Term of Office***

The officers of the Board shall consist of a President, Secretary, and Treasurer. All officers shall be elected by the Trustees from among its membership at the annual regular meeting, to serve for a term of three years, and may serve several consecutive terms.

***Section 2 - Appointed Office***

Except as may be prescribed otherwise by these by-laws, the Board may appoint such other officers, agents and employees, as it may deem necessary and proper, who shall hold their offices or positions for such terms, and such authority, and perform such duties as may from time to time be determined by or be pursuant to the authorization of the Board.

***Section 3 - Resignation and Removal***

Any Officer may resign at any time upon written notice to the Board. Any Officer may be removed from office for cause by a two-thirds majority of the whole Board. Any agent or employee of the Board may be removed by the Board or by a duly authorized committee thereof, with or without cause, at any time. Such removal shall be without prejudice to the person's contract rights, if any, but the appointment of any person as an officer, agent, or employee of the Board, shall not of itself create contract rights.

***Section 4 - Bond***

The Board may secure the fidelity of any or all of its officers, agents or employees by bond or otherwise.

***Section 5 - President***

The President shall be the Chief Executive Officer of the Board. The President shall preside at all the meetings of the Board, shall have general charge of the business and affairs of the Board, and according to the customary rights and prerogatives attached to the office and the policies established by the Board, may employ and discharge employees and agents of ABMM, except such as shall be appointed by the Board.

***Section 6 - Treasurer***

The Treasurer shall be responsible for proposing an annual budget to the Board, shall keep account of, make periodic reports on, and safeguard the funds of the Board, as approved by the Board in accordance with accepted accounting methods and procedures. The Treasurer will be responsible for all Internal Revenue/State filings required of a not for profit organization.

***Section 7 - Secretary***

The Secretary shall be responsible for the official minutes of the Board, shall give notice to members of the time, place and agenda of Board meetings, and shall perform or supervise the execution of such additional tasks as assigned by the Board. The Secretary will maintain all necessary files required by law to meet the requirements of a not for profit organization.

## **ARTICLE 3 - INDEMNIFICATION**

### ***Section 1 - Indemnification of Trustees. Officers. Employees and Agents***

Each present and future Board Trustee and officer, whether or not then in office, shall be indemnified by the Board, by an appropriate directors and officers insurance policy, against expenses actually and necessarily incurred by or imposed upon him or her (including, but not without being limited to, judgments, costs and counsel fees) in connection with the defense of the action, suit or proceeding in which he or she is made a party by reason of being or having been a member of the Board or an elected officer of the Board, except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty for the Board. Such indemnification shall not be deemed exclusive of other rights to which such Trustee or officer may be entitled, under any other by-laws, agreement, a vote of the members, or as a matter of law, or otherwise.

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## **ARTICLE 4 - THE EXAMINATIONS COMMITTEE**

### ***Section 1 - Qualifications***

All members of this committee shall be certified as ABMM Diplomates in Medical Malpractice or ABLM Diplomates in Legal Medicine, and shall be appointed by the President, with approval of the Board.

### ***Section 2 - Duties***

The President shall appoint an Examinations Committee consisting of three Trustees. It shall advise the Board with regard to the scope of the subject of Medical Malpractice to be covered in the examinations. The Committee shall be responsible for the development of a written examination covering those subjects to be offered to applicants for certification as Diplomates in Medical Malpractice. The Committee may consult with an appropriate testing service for the evaluation and verification of questions selected for the written certifying examination. The Committee shall recommend to the Board the passing grade for those taking the written examination each year it is administered. The Committee shall recommend to the Board, for its approval, any other criteria for certification. The Committee shall recommend to the Board for certification as Diplomates those candidates who have achieved the requirements for certification.

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## **ARTICLE 5 - OTHER COMMITTEES**

### ***Section 1 - Credentials Committee***

The President shall appoint a Credentials Committee, consisting of three or more Trustees. The Committee shall review the credentials of all applicants for certification, and shall recommend to the Board the action that should be taken. The final decision as to the eligibility of each applicant shall rest with the Board.

### ***Section 2 - Judicial Committee***

When necessary, the President shall appoint a Judicial Committee consisting of three Trustees. This committee shall be established to investigate and consider either allegations or charges submitted in writing, or on its own initiative, consider any alleged or apparent offense by any Diplomate, and to investigate and make recommendations in regard to same.

The rules, regulations and findings of the Judicial Committee shall remain confidential, and must be approved, and are subject to review, by the ABMM Board of Trustees in a special meeting.

### ***Section 3 - Other Committees***

The President shall appoint such other Committees as deemed necessary for the operation of the Board.

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## **ARTICLE 6 - ELIGIBILITY AND APPLICATION PROCESS**

### ***Section 1 - Eligibility***

Each applicant for certification shall present evidence acceptable to the Board of high ethical and professional standing and good moral character, and

- a. Be a member of the American College of Legal Medicine or in the process of applying for membership in ACLM, and
- b. Be a graduate of an AMA approved medical school or an AOA approved osteopathic school; or
- c. Be a graduate of an ADA approved dental school; or
- d. Be a Pharmacist, Physician Assistant, Nurse Practitioner, Registered Nurse, or have earned any other paramedical scientific university degree.

### ***Section 2 - The Application***

The application form for certification eligibility shall be recommended by the Examinations Committee and approved by the Board. The fee for application shall be recommended by the Examinations Committee and approved by the Board.

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## **ARTICLE 7 - EXAMINATION, CERTIFICATION, RE-EXAMINATION AND REVOCATION PROCESS**

### ***Section 1 - Written Examination***

Applicants whom the Board has deemed eligible for the certification examination shall be required to take a written examination within two years after acceptance of the application. The examination will be proctored either by a Trustee or by a member of the Examinations Committee, or by persons specially designated by the Board.

### ***Section 2 - Certification***

Applicants who have passed the written examination shall be certified as Diplomates in Medical Malpractice.

### ***Section 3 - Reexamination***

An eligible applicant who fails to successfully pass the written examination shall be permitted to be re-examined two times within the succeeding three years. After a third failure of the examination, such individual shall no longer be considered an eligible applicant. However, any applicant who has failed three examinations may reapply for eligibility for certification through the same channel as other applicants.

### ***Section 4 - Revocation and Forfeiture of Certificate***

Any certificate of qualification issued under the procedure contained in these By-laws shall be subject to revocation and forfeiture in the event that the person certified:

- a. Was not eligible to receive such certificate, whether the facts making the person ineligible were or were not known to, or could or could not have reasonably been ascertained by the Board at the time of the issuance of such certificate; or
- b. Made any misstatement of fact in his or her application for such certificate; or
- (c) had his or her license to practice medicine or law revoked for any reason except for nonpayment of license fees; or
- c. Failed to maintain moral, ethical, and professional standing satisfactory to the Board, or
- d. Is no longer a member in good standing of the ACLM for three years, for any reason, or failure to attend one ACLM Annual or Mid-Year meeting every four (4) consecutive years. In that event, recertification will be required five (5) years after the last certification.

### ***Section 5 - Investigation of Allegations/Complaints***

The Judicial Committee shall determine whether the complaint(s) or allegation(s) is sufficient to create probable cause to believe that the complaint(s) or allegation(s) may be well founded. If the Judicial Committee finds that there is probable cause to believe that the complaint(s) or allegation(s) may be well founded, it shall give

notice of the filing of the complaint(s) or allegation(s) to the Diplomate, and, in accordance with rules and regulations formulated by the Judicial Committee and approved by the Board, shall assemble such written data from both the sparaged and the sparager(s) which shall permit the Judicial Committee to determine whether the complaint(s) or allegation(s) requires further investigation. Following receipt of the report of the Judicial Committee and upon a vote of three-quarters of the members of the Board present and voting, the party accused of unethical or wrongful conduct may have his or her certificate revoked or suspended. The Judicial Committee shall formulate internal rules and procedures which together with any subsequent deletions, additions or amendments thereto, shall be subject to the approval of the Board.

### ***Section 6 - Appeal***

Any Diplomate in Medical Malpractice may petition in writing to the Chair for a hearing before the Board on any matter involving revocation or suspension of a certificate. If the committee of the Board determines there is sufficient evidence to warrant disciplinary action, it shall make appropriate recommendation(s) for Board action. The Board may order a lighter or harsher action. The Secretary of the Board shall timely notify the disparaged Diplomate of the action by the Board.

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## **ARTICLE 8 - MISCELLANEOUS**

### ***Section 1 - Proxy Voting***

No voting by proxy shall be permitted in the conduct of Board business, or at any Board meetings or any of its committees.

### ***Section 2 - Parliamentary Authority***

The official parliamentary authority for all Board meetings shall be *Roberts Rules of Order, Revised*. The Board may, by unanimous consent, grant any motion, action or request, even though inconsistent with accepted parliamentary procedure. However, no motion, action or request shall be valid if in violation of these by-laws.

### ***Section 3 - Administrative Procedure***

The Board shall adopt procedural rules necessary or convenient to carry out any provision of these By-laws.

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## ARTICLE 9 - AMENDMENTS

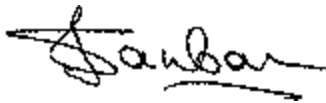
### *Section 1 - Amendments of the By-laws*

The By-laws may only be amended at the Annual Meeting of the Board by a two-thirds majority of all the Trustees. Furthermore,

1. These By-Laws may be altered, amended, added to, or repealed at any general meeting of the members by a majority of then-present members in good standing, with each member and each member of the Board of Trustees having a single vote.
2. Notice of any proposed amendment must be made in writing to each member at least fourteen (14) days prior to the meeting.
3. Voting should either be by ballot or by a show of hands, as the board of trustees determines in its sole discretion.

### IN WITNESS THEREOF

The undersigned certify that this is a true copy of the bylaws of the American Board of Medical Malpractice, as of December 8, 2007.



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**S. Sandy Sanbar, MD, PhD, JD, FCLM**  
**President, ABMM**

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**Bruce H. Seidberg, DDS, MScD, JD, FCLM**  
**Secretary, ABMM**

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**Robert W. Buckman, PhD, FCLM**  
**Treasurer, ABMM**