

COLORADO MEDICAL SOCIETY

STANDARDS OF CONDUCT
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Adopted by the Board of Directors effective as of November 18, 2016

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STANDARDS OF CONDUCT

On November 18, 2016, the Colorado Medical Society (“CMS”) Board of Directors (Board) adopted the following Standards of Conduct as provided for under Chapter XVIII, Section 1 of the Amended and Restated Bylaws of CMS dated September 20, 2015 (Bylaws), to be effective as immediately.

1. Duties of Care & Loyalty

A. Overview

The Colorado Revised Nonprofit Corporations Act (Act) sets forth the standards of conduct for directors and officers of nonprofit organizations and requires directors and officers to act “in good faith; with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and in a manner the director or officer reasonably believes to be in the best interests of the nonprofit corporation.” These standards are applied based upon the facts and circumstances of each situation. However, the key is for directors and officers to act and make decisions in a manner that serves the best interests of CMS. Those interests are identified in the CMS mission statement:

The purposes of this society are to promote the science and art of medicine, the betterment of public health, and the welfare of the medical profession and the patients it serves; and to promote the similar interests of its component county and district medical societies.

B. Fiduciary Duties

CMS Board members are fiduciaries of CMS. Generally, the term “fiduciary” embraces a relationship of trust and honesty. Fiduciary duties include the following:

(1) *Duty of Good Faith*

Board members must carry out their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances. The term “good faith” most obviously means an absence of any intent to take advantage of the nonprofit organization, but it also includes a state of mind characterized by both honesty and faithfulness to a director’s obligations and duties. The term also means some level of diligence in discharging the director’s responsibilities.

(2) *Duty of Care*

The duty of care includes the responsibility of a board member to act as a good steward for the organization by using reasonable care and good judgment when making decisions on behalf of the organization. The duty of care requires each board member, officer, and each committee

comprised exclusively of board members to be appropriately informed about issues requiring their consideration, to devote appropriate attention to oversight of the organization's activities, and to act with the care that an ordinarily prudent person would reasonably be expected to exercise in a similar situation. The duty of care can be thought of as "the duty to be informed."

(3) *Duty of Loyalty*

The duty of loyalty requires each board member, officer, and each committee comprised exclusively of board members to act in a manner that the board member, the board or the committee member reasonably believes to be in the best interest of the organization, without regard to his or her personal interests or the interests of others, and to avoid impermissible conflicts of interest. Included in the duty of loyalty is the duty to maintain confidentiality and to stand behind board policy decisions. Board members should be aware that when they speak, they are perceived as board members, and, perhaps, speaking for the board. The duty of loyalty also includes the duty to avoid or disclose transactions or actions that may conflict with CMS policy or positions or that may relate to a Board member's participation in a Board decision - a so-called "conflict of interest transaction."

C. Conflict of Interest Policy

Conflicts of interest may exist where a Board member participates in deciding an issue while, at the same time, having other material financial, business, professional or personal interests that could lead the Board member toward bias or predisposition on the issue or appear to present such a conflict. Potential conflicts should be disclosed so that the CMS Board can decide whether or not a conflict exists and how to deal with it. CMS has adopted a Statement of Policy on Conflicts of Interest which is incorporated into these Standards of Conduct. Each Board member is expected to review and sign the statement annually and update throughout the year as necessary. This is to ensure that any conflicts of interest (as defined in the Statement of Policy on Conflicts of Interest) are identified and disclosed so that the Board can take appropriate action.

D. Confidentiality & Executive Sessions

Another element of the duty of loyalty is to maintain the confidentiality of information presented or discussed in executive sessions. Matters relating to personnel issues or legal advice from CMS legal counsel are matters that are typically addressed in executive session. Board members must always maintain the confidentiality of such information learned in executive sessions as part of their duty of loyalty to CMS. In addition, there may be matters of a proprietary nature or relating to legislative strategies that are discussed during Board meetings which should also be treated as sensitive and confidential.

2. Conduct of Board Members

A. Prior to Board Meetings

As part of a board member's duty of care, board members must come prepared to board meetings. Thus, in order to be prepared to discuss and decide issues presented at a Board meeting, members of the Board should review all written and electronically delivered materials prior to the Board meeting. In addition, and where appropriate, Board members should seek out and solicit information from the membership, constituent specialty groups or local societies and other resources which may contribute to the discussion and decisions. Board members may also ask the Chief Executive Officer (CEO) or CMS President questions prior to the meeting in order to clarify issues.

B. Attendance at Board Meetings

Board members are expected to attend each meeting of the Board either in person, by telephone, or by such other means as allowed by applicable law, and to actively participate in those meetings. If a Board member knows that he/she will not be able to attend, the Board member should advise the CEO. If a Board member misses more than two (2) regularly scheduled Board meetings in any one Board calendar year, the President shall confer with the Board member to determine whether or not the person should continue to serve on the Board. Additionally, at the President's discretion, the President may advise the District or Section which appointed the Board member of the Board member's absences.

C. During Board Meetings

Board members are expected to conduct themselves in a professional and courteous manner at all times during Board discussions, including but not limited to:

- respecting opposing views and encouraging diverse opinions and attitudes during the discussion;
- giving consideration to all points of view;
- seeking input from various constituencies;
- considering the financial resources available to CMS;
- focusing on strategy; and
- addressing each issue and actively participating during Board meetings.

Once the Board makes a decision, the duty of loyalty requires each Board member to support that decision. Board members should never criticize fellow Board members inside or outside Board meetings.

Members of a board of directors (whether CMS, a Component Society or otherwise) have a duty of care and loyalty to that organization regardless of who appoints, nominates or elects the person to the board. CMS Board members who serve on other boards, including Component Society boards, or who are appointed by Districts or Sections, are reminded that their duty of loyalty while acting as a CMS Board member is to CMS, and that the Board members must make decisions in the best interest of CMS and its members.

D. After Board Meetings

(1) *Information to communicate*

Except as set forth in Section 1(D) above regarding the strict confidentiality of executive sessions, in order to further transparency and full disclosure, Board members are encouraged to communicate actions, positions or policies adopted at CMS Board meetings to the membership and/or Component Societies. Care should always be taken to ensure accuracy and to not criticize or discredit CMS, the Board or other Board members. Board members should not discuss confidential proceedings (e.g. executive sessions or other confidential Board discussions) outside the Boardroom; interfere with the duties of staff; or speak on behalf of CMS unless authorized to do so.

(2) *Options for Board members who do not prevail on issues*

Pursuant to their fiduciary duty of loyalty owed to CMS, Board members shall be respectful and supportive of all decisions made by the CMS Board regardless of the person's individual opinion. Once the Board has made a decision after input and discussion, each Board member shall support and stand by the Board decision even if the Board member did not approve or vote for the decision.

In the event that a Board member's position does not prevail at the Board meeting, the Board member has several options. First, the Board member may seek re-consideration of the decision at the meeting or at a future Board meeting. Typically, this is the result of additional information coming to light. A Board member may also seek the support of Districts or Sections when seeking reconsideration by the Board. A Board member could seek to have the CMS position augmented by seeking the publication of a "minority" report to accompany the CMS position. Finally, a Board member may resign from the Board if the Board member believes it to be in the best interest of the Board member and CMS to do so.

Under limited circumstances and with clear disclaimers, a Board member could address a legislative committee in his or her individual capacity or as a representative of another organization; however, the Board member should use his/her best efforts to identify another person to speak on behalf of the other entity whenever possible. It is not appropriate for a

Board member to organize opposition or campaign against a Board position or policy which includes, but is not limited to, legislative hearings, ballot initiatives and amendments, discussions with the media/press, public meetings, or private meetings with legislators or decision makers.

The Board of Directors recognizes that there may be unique situations in which a Board member wants to support a policy or position which is different than that of CMS. In such a case, the Board member should first notify the CMS President of his or her intent to engage in the activity. The CMS President has the authority to approve the request or, in the alternative, the President may notify the Board of the request. The Board shall have seventy-two (72) hours after receiving notice of the request via mail, telephone or electronic means to take action, if any.

If the request is approved by the Board, the Board member may proceed; provided, however, that he/she makes clear in any written or oral communication that the Board member is not speaking on behalf of or as a representative of CMS; that the Board member is only speaking in his/her individual capacity or on behalf of another organization; that the Board member discloses the position of CMS in any oral or written communications; and that the Board member does not discredit or criticize CMS, other Board members or staff. If the CMS President or Board objects after receiving notice, the Board member shall not act or speak in support of the other position so long as that person is a Board member of CMS. The President shall report to the Board at every Board meeting, or as otherwise necessary, on any notifications received under this Section as well as the action taken by the Board member in question in response to such requests.

If the CMS President or Board is asked to make a decision in these rare circumstances, the CMS President or Board shall consider the impact of where such an action may do damage to either CMS or its positions. The issue of the “integrity” of a CMS Board decision will also be considered. If the Board member’s request is denied, the Board member who wants to take an opposing position may feel that it is in the best interest of the Board member and/or CMS for the Board member to resign from the Board.

E. Ongoing Board Education

As part of the Board’s ongoing commitment to having a well-informed Board, CMS shall take an active role in ensuring that Board members are made aware of and understand these Standards of Conduct. Education efforts may include, but are not limited to, the following: orientation programs; mentoring of newer Board members; discussions at Board retreats; and implementation of Board assessment/self-evaluation tools.

3. Violations of Board Policy

A. CMS President. If a Board member acts contrary to these Standards of Conduct, including violating the Conflict of Interest Policy signed by the Board member, the CMS President shall speak to the Board member to seek an explanation and, when appropriate, advise the Board member to refrain from such acts or omissions in the future.

B. Board Action. If the President is unable or it is inappropriate for the CMS President to speak to the Board member, the matter may be brought before the full Board.

C. Suspension or Removal From Board. In situations in which a Board member continues to violate these Standards of Conduct, or in immediate extreme circumstances, the Board may either suspend or remove the Director as provided for in the Bylaws or other CMS policies.

4. Board Relationship with Staff

CMS and its Board of Directors understand that the Board is responsible for hiring and monitoring the performance of its CEO. The CEO is responsible for hiring and managing the CMS staff. Any concerns or issues with the performance of individual CMS staff members shall be brought to the attention of the CEO. Board members should not discipline or provide letters of reference for any individual staff member. All such matters are to be referred to the CEO. The Board governs; the CEO manages.

5. Periodic Review of Policies

The CMS Board of Directors shall periodically review and, if necessary, revise these Standards of Conduct. Such review shall be conducted as determined by the Board from time to time.