

CERTIFICATE OF INCORPORATION AND BYLAWS

The American Board of Pediatrics[®], Inc.

Forming Certificate of Incorporation and Amended Certificate (filed November 20, 1933 and December 11, 1958, respectively)

By-Laws: Revised and Approved by the ABP Board of Directors: 02/04/06

By-Laws: Approval of Change in Nominating Societies: 02/21/06

By-Laws: Approval of Changes in Article II, Membership: 05/16/06

By-Laws: Revised per Legal Counsel advice: 10/06

By-Laws: Revised and Approved by the ABP Board of Directors: 02/09; 02/10; 02/11; 06/11; 09/11; 02/12

By-Laws: Revised per Legal Counsel advice: 06/12

By-Laws: Revised and Approved by the ABP Board of Directors (Change Member Category and Appointment Process): 09/12

By-Laws: Revised and Approved by the ABP Board of Directors (Change Director Appointment Process and CSQ/CAQ Terminology): 06/14

By-Laws: Revised and Approved by the ABP Board of Directors (Eliminate Age Criteria): 12/20

By-Laws: Revised and Approved by the ABP Board of Directors (Change Subboard Director to At-Large Director and Change Terminology of Nominating Society to Designated Pediatric Society): 10/22

Restated Certificate of Incorporation Revised and Approved by the ABP Board of Directors 2/15 (filed March 27, 2015)

By-Laws: Revised and Approved by the ABP Board of Directors: 6/16

By-Laws: Revised and Approved by the ABP Board of Directors: 10/17

Restated Certificate of Incorporation Revised and Approved by the ABP Board of Directors: 6/18 (filed June 18, 2018)

Certificate of Incorporation (the organization's "chartering" document) is the overarching document defining the corporation's purpose, limitations, and key structural issues.

Copies of the Forming Certificate and December 11, 1958 Amended Certificate and the now-operative Restatement may be accessed at the office of the American Board of Pediatrics, 111 Silver Cedar Court, Chapel Hill, North Carolina. The Restated Certificate is also available from the State of Delaware Secretary of State and the office of the Recorder of Deeds, New Castle County, Delaware.

**PAGE-BY-PAGE REPRODUCTION OF THE TEXT OF THE RESTATED
CERTIFICATE AS FILED WITH THE STATE OF DELAWARE:**

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

THE AMERICAN BOARD OF PEDIATRICS, INC.

The American Board of Pediatrics, Inc. hereby certifies:

1. The name of the corporation is The American Board of Pediatrics, Inc., and that the corporation was originally incorporated pursuant to the General Corporation Law of the State of Delaware ("DGCL") on November 20, 1933, and that the corporation's original Certificate of Incorporation was subsequently amended and restated.

2. This Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Sections 242 and 245 of the DGCL and restates and integrates, and further amends the corporation's Certificate of Incorporation in its entirety to read as provided on the subsequent pages.

This the 18th day of June, 2018.

THE AMERICAN BOARD OF PEDIATRICS, INC.

By: _____

Name: David G. Nichols, MD, MBA

Title: President & CEO

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
THE AMERICAN BOARD OF PEDIATRICS, INC.

ARTICLE I
NAME AND REGISTERED OFFICE

The name of this corporation is: THE AMERICAN BOARD OF PEDIATRICS, INC.

The corporation's registered office in the State of Delaware is located at 1209 Orange Street, Wilmington, DE 19801, County of New Castle, and the registered agent at that address is The Corporation Trust Company.

ARTICLE II
PURPOSE AND POWERS

The corporation (referred to here as "ABP" or the "corporation") is organized exclusively for charitable, scientific and educational purposes, as such terms are defined in Section 501(c)(3) of the Internal Revenue Code of 1986. To these ends, ABP's mission statement shall be as follows:

The American Board of Pediatrics certifies general pediatricians and pediatric subspecialists based on standards of excellence that lead to high quality health care during infancy, childhood, adolescence, and the transition into adulthood. The ABP certification provides assurance to the public that a general pediatrician or pediatric subspecialist has successfully completed accredited training and fulfills the continuous evaluation requirements that encompass the six core competencies: patient care, medical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and systems-based practice. The ABP's quest for excellence is evident in its rigorous evaluation process and in new initiatives undertaken that not only continually improve the standards of its certification, but also advance the science, education, study, and practice of pediatrics.

The corporation shall have only such powers as are required by and are consistent with the foregoing purposes.

ARTICLE III
CHARITABLE NONSTOCK CORPORATION

The corporation is organized as a charitable nonstock corporation as defined in Section 114(d) of the General Corporation Law of the State of Delaware and shall not have any capital stock. The members shall be the directors, and if at any time and for any reason any member shall cease to be a director, such person shall simultaneously cease to be a member.

ARTICLE IV
LIMITATIONS

At all times, the following shall operate as conditions restricting the operations and activities of the corporation:

1. No part of the net earnings of the corporation shall inure to any member of the corporation not qualifying as exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 (hereinafter, "the Code"), as now enacted or hereafter amended, nor to any Director or officer of the corporation, nor to any other private persons, excepting such reasonable compensation that the corporation shall pay for services actually rendered to the corporation, or allowed by the corporation as a reasonable allowance for authorized expenditures incurred on behalf of the corporation;

2. No substantial part of the activities of the corporation shall constitute the carrying on of propaganda or otherwise attempting to influence legislation, or any initiative or referendum before the public (except as otherwise provided in subsection (h) of Section 501 of the Code), and the corporation shall not participate in, or intervene in (including by publication or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office;

3. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Code; and

4. The corporation shall not lend any of its assets to any officer or director of this corporation unless such loan program is regularly conducted as part of the activities of the organization and the qualification of the individual to participate in same is determined by a panel comprised solely of non-Board members or guarantee to any person the payment of a loan by an officer or director of this corporation.

ARTICLE V **DIRECTORS**

The management and affairs of the corporation shall be at all times under the direction of a Board of Directors, whose election and operations in governing the corporation shall be defined by statute and by the corporation's bylaws. No Director shall have any right, title, or interest in or to any property of the corporation.

ARTICLE VI **DEBT OBLIGATIONS AND OTHER LIABILITY**

No Director of this corporation shall be personally liable for the debts or obligations of this corporation of any nature whatsoever, nor shall the property of those parties be subject to the payment of the debts or obligations of this corporation, except to the extent that federal or State law shall mandate individual party responsibility for tax obligations or trustee-imprest funds.

A director of the corporation shall not be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted by law or is inconsistent with any provision of the Code applicable to corporations described in Section 501(c)(3) of the Code. To the fullest extent permitted by law, any amendment to or repeal of this Article shall not apply to or have any effect on the liability or alleged liability of any director with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

ARTICLE VII
DISSOLUTION

Upon the time of dissolution of the corporation, assets shall be distributed by the Board of Directors, after paying or making provisions for the payment of all debts, obligations, liabilities, costs and expenses of the corporation, in accord with Delaware law, for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or to the federal government, or to a state or local government, for a public purpose.

ARTICLE VIII
AMENDMENTS TO CERTIFICATE OF INCORPORATION AND BYLAWS

In furtherance and not in limitation of the powers conferred by law, subject to any limitations contained elsewhere in this certificate of incorporation or the bylaws, the board of directors is authorized to make, repeal, alter, amend or rescind the certificate of incorporation and bylaws of the corporation.

**AMENDED BYLAWS
THE AMERICAN BOARD OF PEDIATRICS®, INC.**

**ARTICLE I
OFFICES**

SECTION I: REGISTERED OFFICE

The registered office of this corporation, THE AMERICAN BOARD OF PEDIATRICS®, Inc., (referred to in these bylaws as the "BOARD") shall be located at the office of the CT Corporation System in the state of Delaware.

SECTION II: BUSINESS OFFICE

The principal business office shall be located at a place chosen for this purpose by the President and approved by the *Directors* of the BOARD.

**ARTICLE II
APPOINTMENTS**

SECTION I: APPOINTEES

The Board of Directors shall appoint individuals to Committees of the BOARD, Subboards, and the Board of Directors.

Qualifications

Appointees must possess those experiences, talents, and attributes that will assist the BOARD in furtherance of its mission. Appointees must declare all relevant conflicts of interest to ensure that they can be managed as outlined in the Conflict of Interest policy. Appointees, other than non-physicians, must be certified by a Member Board of the American Board of Medical Specialties (ABMS) and meet the current requirement of the Maintenance of Certification (MOC) of that Board throughout their term of appointment.

Selection

The selection of appointees shall be in the manner specified below for each respective BOARD activity.

Term of Appointment

The term of appointment is set forth in these Bylaws.

Number of Appointments

Appointments may be issued to as many Individuals as the Board of Directors considers advisable, consistent with the requirements and/or limitations of these Bylaws.

Remuneration

Appointees may be paid a reasonable non-salary honorarium, the amount to be determined by the Board of Directors, as reimbursement for the necessary time dedicated to serving the BOARD. The salaries of the President and Executive Vice President are addressed in Article IV.

Reimbursement

In addition to the honorarium, appointees are entitled to be reimbursed for reasonable expenses incurred in the conduct of the BOARD's business as outlined in the ABP Travel Policy. Reimbursable expenses shall include transportation, food, hotel costs, and expenses incident to travel.

SECTION II: DIRECTORS

Qualifications

Employees other than the President and Executive Vice President shall not be eligible for appointment to the Board of Directors. Each *Director*, except the *Public Directors*, must be a pediatrician certified by the BOARD and meet the requirements for MOC. Upon recommendation of the Nominating Committee, the Board of Directors may waive the pediatrician requirement for the *At-Large Directors*, however experience with the BOARD through committee or subboard service is preferred. Each *Director*, except the *Public Directors* and *At-Large Directors*, must be:

- (a) Individuals who have satisfactorily served the BOARD as an appointee within the preceding six years, with the exception of the *Director* from AMSPDC (as a Designated Pediatric Society), where meeting this requirement is desirable but may be waived.
- (b) Members in good standing of a Designated Pediatric Society.
- (c) Properly designated for appointment to the Board of Directors in the manner hereinafter set forth.

The *Public Directors* shall be non-physicians who are knowledgeable in matters relating to children and health affairs in general.

Selection

Directors, other than the *Public Directors*, *At-Large Directors*, the President, and the Executive Vice President.

At least six months before the regular term of a *Director* of the BOARD is to expire, or within three months after a vacancy occurs in an unexpired term, the Board of Directors shall submit to the Designated Pediatric Society of the *Director* whose term is about to expire or has expired the names of three or more individuals who are suitable and qualified candidates for *Director*. Within four months thereafter, the Designated Pediatric Society shall approve two or more of the names submitted without ranking them. The Board of Directors shall formally select and seat one of those nominees. Should the Designated Pediatric Society fail to respond to a request for a nominee within the time specified and under the terms specified above, then the Board of Directors may proceed to select and seat a *Director* from the original list of candidates submitted to the Designated Pediatric Society, and the selection requirements set forth in Section II hereof shall be considered met. If for any reason a nominee has not been agreed upon and selected to replace a retiring *Director* by the following January 1, that retiring *Director* may continue to serve ad hoc.

The *Public Directors* and the *At-Large Directors* shall be nominated by the Nominating Committee. The Board of Directors will, in turn, appoint the *Public Directors* and the *At-Large Directors*.

In the event that the composition of the Board of Directors is changed, by reason of Vacancy as stated in Section III, the Board of Directors shall have the sole power to decide upon the method of seating new *Directors* so as to maintain proportionate representation, even to the extent of providing interim terms of less than six years.

Term

(1) All *Directors*, other than the *Public Directors*, *At-Large Directors*, the President, and the Executive Vice President shall be appointed for a regular term of six years beginning the first day of January after he/she is selected by the Board of Directors. In the event that

the seating of any *Director* is delayed beyond January 1 of the first year of the term of that individual, the term of that *Director* shall be for the remainder of that year plus five additional years, at which point this *Director* shall be considered to have served a full term of six years. Each of these *Directors* shall be eligible for one additional term for no more than a total of twelve years cumulatively as a *Director*.

(2) The *Public Directors* shall be elected for a term of three years with the option, at the pleasure of the Board of Directors, of one additional three-year term.

(3) The *At-Large Directors* shall be elected for a term of three years with the option at the pleasure of the Board of Directors, of one additional three-year term. *At-Large Directors* who are pediatricians and have served at least one three-year term as an *At-Large Director* shall be eligible for one additional six-year term under (1) above.

(4) The President and Executive Vice President shall serve on the Board of Directors for the duration of their administrative appointment with the BOARD.

The term of appointment to the Board of Directors for the Immediate Past Chair may be extended for one year if the individual so designated served as Chair of the Board of Directors in his/her last year of appointment to the Board of Directors.

The President and Executive Vice President shall serve as a Director during the tenure of their employment as President and/or Executive Vice President. The term of President as an employee and Director will not extend beyond December 31 of the 70th birthday year.

Number of Appointments

There shall be fifteen *Directors* unless and until the number is increased or decreased by a resolution amending this Section of the bylaws or by reason of Vacancy under Section III below. Two shall be *Public Directors*; three shall be *At-Large Directors*; one shall be the President, one shall be the Executive Vice President, and eight shall be from the Designated Pediatric Societies, as follows:

- Three from the American Academy of Pediatrics
- One from the American Pediatric Society
- One from the Association of Pediatric Program Directors
- One from the Association of Medical School Pediatric Department Chairs
- One from the Academic Pediatric Association
- One from the Society for Pediatric Research

The Immediate Past Chair shall serve as one of the fifteen *Directors*.

The President and the Executive Vice President of the BOARD are voting *Directors* of the BOARD.

SECTION III: REMOVAL, DISQUALIFICATION, AND VACANCIES

Any director may be removed from office, with or without cause, with at least two-thirds vote of all directors at any regular or special meeting of the Board of Directors.

A director is automatically disqualified from service if and at such time that they cease to satisfy the qualifications set forth above in Article II Section I or Article II Section II.

If there be a vacancy among the Board of Directors by reason of resignation, death, removal, or otherwise, the President/CEO shall notify in writing the current Board of Directors. At the sole discretion of the Board of Directors, the *Directors* may decide to exercise any of the following options:

- i. identify a successor from the existing slate of nominees to fill the unexpired term.
- ii. prepare a slate of nominees recommended by the Nominating Committee for a full six-year term (as described in Article II, Section II.
- iii. leave the position vacant.

ARTICLE III

RELATION TO DESIGNATED PEDIATRIC SOCIETIES

SECTION I: RELATION TO DESIGNATED PEDIATRIC SOCIETIES

It is the intention of the BOARD that there be a close working relationship between the BOARD and the Designated Pediatric Societies. To implement this policy, each year the President shall send to each of the Designated Pediatric Societies, through their presiding officers, a report of the BOARD's operations for the preceding year, containing information which the President of the BOARD considers of interest to the Designated Pediatric Societies.

ARTICLE IV

OFFICERS

SECTION I: OFFICERS

Directors who are certified pediatricians and who have completed at least three years as a *Director* are eligible to serve as an officer of the BOARD. The officers of the BOARD shall be the Chair, the Chair-Elect, and the Secretary-Treasurer, who shall be elected by the Board of Directors.

In addition, the BOARD shall have a President, who shall be appointed by the Board of Directors, and an Executive Vice President, who shall be recommended to the Board of Directors by the President and appointed by the Board of Directors. The President and Executive Vice President will be appointed by the Board of Directors after a search. In the case of the President, the Chair will appoint a search committee, which shall report to the Board of Directors through the Chair. In the case of the Executive Vice President, the President shall conduct the search and shall recommend to the Board of Directors an individual for appointment.

SECTION II: ELECTION OF OFFICERS

The officers of the BOARD shall be elected at the annual meeting of the Board of Directors to assume office on January 1 of the following year.

SECTION III: DUTIES AND POWERS OF THE OFFICERS

The Chair, Chair-Elect, and Secretary-Treasurer shall possess and exercise all those powers and duties generally pertaining to such offices, as well as any particular powers and duties prescribed by law or by these bylaws.

The signature of the Chair shall appear on all certificates issued by the BOARD during his/her tenure. In his/her absence, the signature of the Chair-Elect shall be affixed.

The Secretary-Treasurer shall keep, or cause to be kept, adequate records of all meetings, fiscal affairs, and audits. His/her signature shall also appear on all certificates. The Board of Directors may authorize the Secretary-Treasurer to delegate any or all of his/her duties to the President except for signing of certificates.

SECTION IV: ACTION ON BUSINESS BETWEEN MEETINGS

The Chair and the President, acting together, shall conduct all administrative business of the

BOARD between business meetings of the Board of Directors. Aside from the administrative powers, the Chair and President shall be entitled to take action in routine matters. Their decisions in these matters shall be subject to approval by the Board of Directors at the next meeting.

SECTION V: THE PRESIDENT

The President shall be the Chief Executive Officer of the BOARD and, under the general supervision of its officers, shall conduct the affairs of the office of the BOARD, including the maintenance and supervision of all records, supervision of the preparation of minutes of the proceedings of the Board of Directors, the giving of all notices of meetings, the conduct of correspondence, supervision of the maintenance and use of all property of the BOARD, and the employment and discharge of employees. He/she shall make arrangements for the examinations of the BOARD, the administration of the Maintenance of Certification process, and the issuance of its certificates. He/she shall be responsible for the receipt of monies and the payment of bills. He/she shall be responsible for the preparation of the annual budget, which the Secretary-Treasurer shall present to the Board of Directors annually. He/she shall meet with ABMS, ABMS member boards, pediatric organizations, and other entities regarding the shared interests in improving the health of children. He/she shall gather background information to assist the Board of Directors in their deliberations and shall generally assist the elected officers in the discharge of their duties. He/she may delegate some or all of these aforementioned responsibilities to be carried out by other officers or agents of the BOARD. He/she shall be a voting *Director* of the Board of Directors and of its committees, including but not limited to its Executive Committee.

SECTION VI: VICE PRESIDENTS

Upon the recommendation of the President, the Board of Directors may appoint Vice Presidents and such other officers from the professional staff of the BOARD as it may from time to time determine. Vice President(s), if appointed, shall have such duties as may be assigned to him/her by the President. In addition, the Executive Vice President, unless otherwise determined by the Board of Directors, shall exercise duties of the President in the event of the President's death, incapacity, or temporary unavailability by reason of absence from the continental United States.

SECTION VII: COMPENSATION AND TERMS OF EMPLOYMENT

The terms of employment of the President shall be set by the Board of Directors. Compensation to the President for his/her services shall be reviewed and set for each fiscal year by the Executive Committee (upon the recommendation of the Finance Committee), and their decision shall be based upon appropriate comparability data accessed from an independent compensation and benefit consulting firm, to the end of paying reasonable compensation determined in accord with the steps set out in Treasury (Income Tax) Regulations § 43.4958-6. The terms of employment and the compensation of the Executive Vice President and all other employees shall be fixed by the President after consultation with the Finance Committee and, in accordance with the Compensation Policy, approved by the Executive Committee.

ARTICLE V COMMITTEES

SECTION I: THE EXECUTIVE COMMITTEE

The Executive Committee shall consist of the President and the following members of the Board of Directors: Chair, Chair-Elect, Immediate Past Chair, and Secretary-Treasurer.

The Executive Committee shall have and may exercise the authority of the Board of Directors in the management and direction of the BOARD between meetings of the Board of Directors, provided that the Executive Committee shall have no authority (i) to exercise the powers reserved

to *Directors* by Article II (Appointments) and Article XIII (Amendments) hereof; (ii) to exercise the powers granted to the Board of Directors under Section II of this Article (Appointed Committees), of Article VII, Section I (Policies and Procedures for Certification and Maintenance of Certification), and Article VIII (Subboards); or (iii) to amend or appeal a resolution of the Board of Directors or to act where a resolution adopted by the Board of Directors expressly provides otherwise. The Executive Committee shall address issues needing in-depth discussion. The Executive Committee shall act in an advisory capacity to the Board of Directors. It shall present options and suggestions for the consideration of the Board of Directors. The Executive Committee shall keep regular minutes of its proceedings. These minutes shall be distributed to the Board of Directors as soon as they are available, and the Executive Committee shall report to the Board of Directors at the next regular meeting. The majority of the members of the Executive Committee shall constitute a quorum, and the acts of a majority of the members present at a meeting at which a quorum is present shall be the acts of the Executive Committee. In the event the Chair is re-elected, the Executive Committee shall remain constituted as above without anyone to fill the position of Chair-Elect and shall function with four members rather than five.

SECTION II: APPOINTED COMMITTEES

A number of standing committees are in place. New committees may be established, or current committees may be modified as needs are identified. Approval for changes will be submitted to the Board of Directors.

General pediatricians and pediatric subspecialists appointed to committees of the BOARD must be certified by the BOARD and meet the applicable requirements of MOC of the BOARD throughout their term of appointment.

The term for Committees will be six years unless otherwise stated. Upon the recommendation of the Nominating Committee, the Board of Directors may reappoint individuals to Committees for additional three-year terms.

The Chair of the Board of Directors shall be an ex officio member of each committee. All ex officio members of BOARD committees serve with no voting privileges, except in those instances when the Board of Directors adopts a resolution specifically authorizing an ex officio member to have voting privileges.

ARTICLE VI PROCEDURES FOR ACCREDITING TRAINING PROGRAMS

SECTION I: ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION (ACGME) REVIEW COMMITTEE FOR PEDIATRICS

ACGME will determine the number of individuals appointed to the ACGME Review Committee for Pediatrics. As their term expires or a vacancy occurs, the Board of Directors shall select two individuals from a list of current BOARD appointees, who meet the qualifications as determined by ACGME, and shall submit their names to the ACGME Review Committee for Pediatrics. The ACGME shall select and seat one of those nominees to serve a six-year term. The President of the BOARD or the President's designee shall serve as an ex officio member. The ex officio member shall act as the representative of this BOARD to the ACGME Review Committee for Pediatrics and be governed by instructions received from the Board of Directors on all matters requiring direction.

ARTICLE VII

CERTIFICATION AND MAINTENANCE OF CERTIFICATION

SECTION I: POLICIES AND PROCEDURES FOR CERTIFICATION AND MAINTENANCE OF CERTIFICATION

The Board of Directors shall establish the policies and procedures for the administration of the certification and Maintenance of Certification programs that are aligned with ABMS standards for initial certification and maintenance of certification. The policies and procedures may be modified from time to time, amended, or repealed by the Board of Directors. All questions of interpretation and application of the policies and procedures shall be determined by the President.

SECTION II: EXAMINATIONS

The Board of Directors shall establish the policies and procedures for the certifying and maintenance of certification examinations and the policy of the BOARD relating to re-examination of candidates.

SECTION III: CERTIFICATE

Each candidate who has passed the certifying examination shall receive an appropriate certificate designating the candidate a diplomate in the specialty of pediatrics. All certificates shall bear the seal of the BOARD and the signatures of the President, the Chair, and the Secretary-Treasurer of the BOARD.

ARTICLE VIII

SUBBOARDS

SECTION I: ESTABLISHMENT OF SUBBOARDS

The Board of Directors may, from time to time, establish or disband Subboards in accordance with the policies of the American Board of Medical Specialties. During their respective existences, such Subboards shall operate under the terms and conditions hereafter set forth.

SECTION II: APPOINTEES

Appointees to the Subboards shall be selected by the Board of Directors to serve the terms hereinafter indicated.

SECTION III: NUMBER OF APPOINTEES

There shall be no fewer than six appointees to each Subboard. The total numbers of each Subboard shall be determined by the Board of Directors. Each appointee to a Subboard must (1) be certified by a Member Board of the ABMS in the subspecialty, and (2) meet the requirements for MOC in that particular subspecialty.

Subject to the exceptions below, appointees to Subboards shall serve a term of six years beginning January 1 following the year of their appointment and shall be eligible for one additional term after a period of at least one year off the Subboard, provided no person shall hold an appointment on said Subboard for more than six consecutive years or for a cumulative total of more than twelve years. The maximum number of appointees rotating off the Subboard at any one time shall be two. In the event that more than two appointees are scheduled to rotate off in the same year, one (or possibly more) appointee(s) shall be asked to serve an additional year, which would result in a seven-year term. After a period of at least one year off the Subboard, that appointee could be reappointed for a five-year term. In the event the election and/or seating of any appointee is delayed beyond January 1 of the first term of that individual, the term of that

appointee shall be for the remainder of that year plus five additional years, at which point, such appointee shall be considered to have served a full term of six years.

SECTION IV: VACANCY

In the event a vacancy should occur in a Subboard because of the expiration of a term or through any other cause, the Board of Directors shall appoint a qualified replacement individual. Before appointing a new individual to a Subboard, the Board of Directors shall consult with and seek advice and suggestions from incumbent appointees of the particular Subboard.

SECTION V: OFFICERS

Each Subboard shall receive delegated powers from the ABP. The appointees to each Subboard are authorized to elect their own Chair and are governed by the Charter and Bylaws of the BOARD.

SECTION VI: AUTHORITY

The appointees to each Subboard shall have authority to examine and qualify candidates and training programs (in those subspecialty areas in which accreditation by the ACGME Review Committee for Pediatrics has not been completed) subject to ratification and approval of the Board of Directors. Certificates designated as the official form of the BOARD for the respective Subboard shall be signed by the President, Chair, and Secretary-Treasurer of the BOARD, as well as the Chair of the Subboard.

SECTION VII: SUBBOARDS OF SUBSPECIALTIES ADMINISTERED BY THE BOARD

The BOARD may certify subspecialty areas within pediatrics, alone or in co-sponsorship with one or more other boards of medical specialties, and may create Subboards for such subspecialty areas pursuant to Article VIII herein.

SECTION VIII: SUBSPECIALTIES NOT ADMINISTERED BY THE BOARD

The BOARD may certify pediatricians in other subspecialty areas in conjunction with one or more other boards of medical specialties and may appoint individuals to committees to determine the qualification of candidates and to develop standards for the examination and assessment of candidates.

SECTION IX: CONJOINT SPECIALTY CERTIFICATION

From time to time, the BOARD may designate fields of specialties conjointly with other boards of medical specialties.

ARTICLE IX MEETINGS OF THE BOARD OF DIRECTORS

SECTION I: REGULAR AND ANNUAL MEETINGS

The regular and annual meetings of the Board of Directors shall be held each year on a date, time, and place as the Chair shall designate. Special meetings of the Board of Directors may be held at any time at the call of the Chair or upon written request of a majority of *Directors* of the BOARD.

SECTION II: NOTICE OF MEETINGS

Notice of all meetings of the Board of Directors and Executive Committee, whether in person or by conference call, shall be given not less than ten days before the date thereof. This notice to each *Director*, whether personally, electronically, or by mail, shall specify the place, date, and hour of the meeting. In the case of a special meeting, this notice shall also indicate the purpose or purposes for which the meeting is called. If mailed, such notice shall be deemed to be given

when deposited in the United States mail and addressed to the *Director* at his/her address as it appears on the records of the BOARD, with postage thereon prepaid.

Any notice of a meeting required to be given may be waived in writing either before or after the date of such meeting. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where attendance is for the express purpose of objecting to the transaction of any business because the meeting has not lawfully been called or convened.

SECTION III: QUORUM

A majority of the voting *Directors* shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. Except as otherwise required by law, the action of a majority of the voting *Directors* present at a meeting at which a quorum is present shall constitute the action of the Board of Directors.

SECTION IV: ACTIONS

Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the *Directors* who would be entitled to vote at a meeting for such purpose, and shall be filed with the minutes of the Board of Directors.

SECTION V: PARLIAMENTARY PROCEDURE

The parliamentary procedure to be followed at all regular and special meetings shall be that designated in Robert's (Revised) Rules of Order, except insofar as they may be waived or relaxed by the presiding officer with the consent of the majority present at the particular meeting.

SECTION VI: TELEPHONE PARTICIPATION

Any one or more of the *Directors* or members of any committee thereof may participate in their respective meetings by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

ARTICLE X FISCAL MATTERS

SECTION I: FISCAL YEAR

The fiscal year of the BOARD shall end on October 31 of each year.

SECTION II: THE SECRETARY-TREASURER

The Secretary-Treasurer shall present an annual budget at a regularly scheduled meeting of the Board of Directors. The proposed budget shall be reviewed in advance of its presentation by the Finance Committee, which shall make recommendations concerning its adoption. The budget shall show the estimated costs of maintaining the BOARD's business office, of administering the certification and Maintenance of Certification programs, of developing examinations and content, of conducting meetings, of operating standing and special committees, and of special projects, including the expenses of the Subboards. It shall be the responsibility of the Secretary-Treasurer to propose annually to the Board of Directors guidelines for construction of the budget with recommendations for variances therefrom. These recommendations may vary according to the BOARD's financial position. The budget may provide for discretionary funds to be used by the President as deemed appropriate. The BOARD shall determine the amount of funds that may be dispersed by the President without approval of the Secretary-Treasurer.

SECTION III: RESERVE FUND

The BOARD shall maintain a reserve fund sufficient to cover anticipated expenditures for eighteen months.

SECTION IV: FEES

Fees to be charged for certification and maintenance of certification shall be determined by the Board of Directors after recommendation from the Finance Committee. Fees shall be set at a level estimated as sufficient, on the basis of the anticipated number of applications, to meet the expected financial obligations of the BOARD and maintain an adequate reserve.

SECTION V: SURETY BONDS

At the expense of the BOARD, all officers and agents of the BOARD responsible for the receipt, custody, and disbursement of funds shall furnish fidelity bonds in the amount and with a surety or sureties approved by the Board of Directors.

SECTION VI: AUDIT

A firm of certified public accountants, recommended by the Audit Committee and approved by the Board of Directors, shall verify the financial position of the BOARD and the results of its operation for the year. There shall be presented annually to the *Directors* an annual report, verified by the Chair, Immediate Past Chair, Secretary-Treasurer, and President, containing financial statements for the preceding fiscal year of the BOARD, audited by the independent public accountants of the BOARD, and containing such other information as may be required by law.

SECTION VII: RECORDS

The BOARD shall maintain at its principal office a record of its proceedings and of the proceedings of its committees and Subboards; appropriate, complete, and accurate books or records of account; and a register recording the names and addresses of all *Directors* and appointees. All such records, books, records of account, and register may be inspected in accordance with law by any *Director* or his/her agent or attorney for any proper purpose during usual business hours.

ARTICLE XI

INDEMNIFICATION OF APPOINTEES, OFFICERS, AND OTHERS

SECTION I

The BOARD:

(i) shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he/she is or was a BOARD Director; officer of the BOARD; President of the BOARD; Executive Vice President of the BOARD; member of any committee of or established by the BOARD, the BOARD's representatives to the ACGME Review Committee for Pediatrics, and the committees referred to in Article V, Section II, of these bylaws, or other committees of the BOARD; appointee to a Subboard; or is or was serving at the request of the Board of Directors as an appointee, officer, employee, or agent of another organization, and

(ii) may indemnify any other person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he/she is or was serving as an employee or agent of the BOARD, including program directors of residency programs in pediatrics accredited by the Accreditation Council for Graduate Medical Education who are acting at the

request of the BOARD against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit, or proceeding if he/she acted in good faith and in a manner he/she was reasonably believed to be in or not opposed to the best interests of the BOARD, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, 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 and in a manner which he/she reasonably believed to be in or not opposed to the best interests of the BOARD, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his/her conduct was unlawful.

SECTION II

The BOARD:

(i) shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the BOARD to procure a judgment in its favor by reason of the fact that he/she is or was a BOARD *Director*; officer of the BOARD; President of the BOARD; Executive Vice President of the BOARD; appointee to any committee of or established by the BOARD, including Subboards, the BOARD's representatives to the ACGME Review Committee for Pediatrics, and the committees referred to in Article V, Section II, of these bylaws; appointee to a Subboard; or is or was serving at the request of the Board of Directors as an appointee, officer, employee, or agent of another organization, and

(ii) may indemnify any other person who was or is a party or is threatened to be made party to any threatened, pending, or completed action or suit by or in the right of the BOARD to procure a judgment in its favor by reason of the fact that he/she is or was serving as an employee or agent of the BOARD, including program directors of residency programs in pediatrics accredited by the Accreditation Council for Graduate Medical Education who are acting at the request of the Board of Directors against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection with the defense or settlement of such action or suit if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the BOARD, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his/her duty to the BOARD unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

SECTION III

To the extent that any person who is or may be indemnified under Section I or Section II of this Article XI has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section I or Section II of this Article XI, or in defense of any claim issue or matter therein, he/she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection therewith.

SECTION IV

Any indemnification under Section I or Section II of this Article XI (unless ordered by a court) shall be made by the Board of Directors only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because the person to be indemnified has met the applicable standard of conduct set forth in Section I or Section II of this Article XI. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of *Directors* who were not parties to such action, suit, or proceeding, or (ii)

if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested *Directors* so directs, by independent legal counsel in a written opinion.

SECTION V

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the BOARD in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person whose expenses are to be paid to repay such amount if it shall ultimately be determined that he/she is not entitled to be indemnified by the BOARD as authorized in this Article XI.

SECTION VI

The indemnification provided by this Article XI shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any bylaw, agreement, vote of disinterested *Directors*, or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, shall continue as to a person who has ceased to hold the position which resulted in a right to indemnity under this Article XI and shall inure to the benefit of the heirs, executors, and administrators of such person.

SECTION VII

The BOARD shall have a power to purchase and maintain insurance on behalf of any person who is or was an appointee, officer, employee, or agent of the BOARD, or is or was serving at the request of the Board of Directors as an appointee, officer, employee, or agent of another organization, against any liability asserted against him/her and incurred by him/her in any such capacity, or arising out of his/her status as such, whether or not the BOARD would have the power to indemnify him/her against such liability under the provisions of this Article XI.

SECTION VIII

For the purposes of this Article XI, references to the BOARD shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its appointees, *Directors*, an officer, an employee, or an agent of such constituent corporation, or is or was serving at the request of such constituent corporation as an appointee, a *Director*, an officer, an employee, or an agent of another organization, and shall stand in the same position under the provisions of this Article XI with respect to the resulting or surviving corporation as he/she would have with respect to such constituent corporation if its separate existence had continued.

ARTICLE XII

AMERICAN BOARD OF MEDICAL SPECIALTIES

Since this BOARD is part of a larger general program to create and raise standards of professional competency, it recognizes that the general philosophy behind its creation can best be implemented by close cooperation with the American Board of Medical Specialties. It is the intention of the BOARD to put nothing in these bylaws that would be inimical to the Charter, Constitution, and Bylaws of the American Board of Medical Specialties.

ARTICLE XIII

AMENDMENTS

These bylaws may be amended by majority vote after full discussion within the Board of Directors and with legal counsel retained by the BOARD.