Amended and Restated Bylaws
of
Texas Association for Bariatric Surgery

Preamble. These Bylaws amend and restate in their entirety the Bylaws of the Texas Association for Bariatric Surgery and shall be effective as of January 22, 2010.

Article 1
Name and Offices

1.1 Name. This non-profit corporation was formed pursuant to and is governed by Chapter 21 and the other Sections of the Texas Business Organizations Code (the "Act"), and its name is the Texas Association for Bariatric Surgery ("TABS").

1.2 Registered Office and Registered Agent. TABS shall maintain a registered office in the State of Texas, which may be the same as its principal office. TABS shall maintain a registered agent whose business office is identical with TABS' registered office.

1.3 Administrative Office. TABS' Board of Directors ("Board") shall authorize an administrative office for TABS under such agreements as approved by the Board.

Article 2
Purposes

2.1 General. TABS shall have the following non-profit purposes: (a) to educate the public about bariatric surgery; (b) to promote clinical excellence among all providers of bariatric surgical and related services in Texas; and (c) to educate allied health providers.

2.2 Disclaimer of Direct Patient Responsibility. TABS' purposes expressly do not include the treatment of individual patients, the assumption of an individual patient's care, or the rendering of medical advice directly pertaining to the treatment or care of an individual patient. Each physician or affiliate member of TABS shall be solely responsible for exercising his or her independent judgment in the care and treatment of his or her patients. No action of TABS shall be interpreted to alter the general purposes of this Section, including without limitation TABS' evaluation, adoption or recommendation of criteria or standards applicable to bariatric surgery and related medical services.

Article 3
Members

3.1 Members. TABS will have two classes of Members, which classes are designated as follows: (a) Surgeon Members; and, (b) Allied Health Members. The rights, privileges, limitations of each class of Members are set forth below.
3.2 Surgeon Members.

(a) Eligibility of Surgeon Members. A physician is eligible to become a Surgeon Member if the physician satisfies the following requirements: (a) is licensed to practice medicine by the Texas Medical Board or if the physician is active duty military, the physician is licensed by any State’s Medical Board; (b) is certified by the American Board of Surgery or the American Osteopathic Board of Surgery, or is eligible for certification by either Board and has completed surgical training within the prior 5 years; (c) is an active member of the American Society for Metabolic and Bariatric Surgery; and (d) regularly practices bariatric surgery in the State of Texas.

(b) Application for Surgeon Membership. Any eligible physician may apply in writing to the Board for membership as a Surgeon Member. The application shall be sent to TABS’ President and shall: (i) provide information about the applicant, demonstrating his or her eligibility for membership as a Surgeon Member; (ii) have attached a letter of recommendation of the applicant for membership signed by two existing Surgeon Members; and shall be accompanied by the applicant’s payment of membership application fee. The Board shall set the membership application fee and may approve a standardized application to be submitted by an applicant for membership as a Surgeon Member. The Board may change the membership application fee and the membership application.

(c) Admission as a Surgeon Member. TABS will admit an applicant as a Surgeon Member upon a favorable vote of a majority of the Surgeon Directors. A Surgeon Member who retires from the active practice of medicine may continue as a Surgeon Member of TABS; provided, the Surgeon Member is in good standing on the date of retirement, and the Surgeon Member continues to pay the annual membership dues of a Surgeon Member.

(d) Annual Dues of Surgeon Members. The annual dues of a Surgeon Member, which shall be in addition to the required application fee, shall be set by the Board. As of the date of these Bylaws, the annual dues are $120.

(e) Voting. Only Surgeon Members may vote on matters to be voted upon by the TABS’ Members, except that the Allied Health Members may vote only for the purpose of electing a Director. Each Surgeon Member may cast one vote on all matters that are submitted to the Members for a vote.

3.3 Allied Health Members.

(a) Eligibility of Allied Health Members. The following individuals are eligible to become an Allied Health Member: (a) is licensed by the appropriate state agency for the health care field practiced by the individual and such health care specialty is related to or in support of bariatric patients, whether prior to or after bariatric surgery; or (b) is the chief administrative director of a bariatric program of a Surgeon Member; and in the case of (a) or (b) has met such eligibility criteria for at least three (2) years immediately preceding the application for membership.
(b) Application for Allied Health Membership. Any eligible individual may apply in writing to the Board for membership as an Allied Health Member. The application shall be sent to TABS’ President and shall: (i) provide information about the applicant, demonstrating his or her eligibility for membership as an Allied Health Member; (ii) have attached a letter of sponsorship signed by a Surgeon Member; and (iii) shall be accompanied by the applicant’s payment of the membership application fee. The Board shall set the membership application fee and may approve a standardized application to be submitted by an applicant for membership as an Allied Health Member, from time to time by the. The Board may change the membership application fee and the membership application from time to time.

(c) Admission as an Allied Health Member. TABS will admit an applicant as an Allied Health Member upon a favorable vote of a majority of the Directors. An Allied Health Member who retires may continue as an Allied Health Member of TABS; provided, the Allied Health Member is in good standing on the date of retirement, and the Allied Health Member continues to pay the annual membership dues of an Allied Health Member.

(d) Annual Dues of Allied Health Members. The annual dues of a Surgeon Member, which shall be in addition to the required application fee, shall be set from time by the Board. As of the date of these Bylaws, the annual dues are $50.

(e) Voting. Allied Health Members do not possess a right to vote on matters to be voted upon by TABS’ Members, except that the Allied Health Members may vote only for the purpose of electing a Director. Except in connection with the election of a Director, the Allied Health Members may not vote as a class on any matter for which a class of Members might in the absence of this Section 3.3(c) vote.

3.4 Termination of Membership. A Member’s membership in TABS shall terminate effective immediately upon: (a) the Member ceasing to meet the requirements in either Section 3.2 for eligibility as a Surgeon Member or Section 3.3 for eligibility as an Allied Health Member, as the case may be; (b) the Member’s annual dues remains unpaid for a period of three (3) months after receipt of written notice from TABS; or (c) on the affirmative vote of two-thirds (2/3) or more of the Directors for any reason.

3.5 Membership Meetings. Each class of Members will meet at least once each calendar year, the time and place of which shall be set annually by the Board. The President, the Board or Members having not less than one tenth (1/10) of the votes entitled to be cast at the meeting may call a meeting of a class of Members. Any authorized person calling a meeting shall notify the Members of the class for whom a meeting is being called in writing of the time and place of the meeting at least fourteen (14) days but no more than fifty (50) days prior thereto in the manner permitted by these Bylaws.

3.6 Procedures at Membership Meetings.

(a) Quorum. The presence in person of twenty-five percent (25%) or more of the Members of the class at a meeting shall constitute a quorum.
(b) **Presiding Officer.** The President shall preside at all meetings of each class of Members.

(c) **Acts.** Unless the Act requires a greater percentage, the affirmative vote of a majority of the Members of the class present at a meeting for which there is a quorum shall constitute the act of the Members on behalf of the class of Members.

(d) **Proxies.** No Member may give another person a proxy to cast the Member’s vote at a meeting of the Members.

3.7 **Annual Dues.** Each Member shall pay the annual dues applicable for his or her class of membership to TABS, which shall be due by the end of the month of February for each calendar year. Once paid, the dues are not refundable if the Member ceases to be a Member for any reason.

3.8 **Notices of Failure to Meet Eligibility Requirements.** A Member shall notify the President promptly if the Member ceases to be eligible pursuant to either Section 3.2 if the Member is a Surgeon Member or Section 3.3 if the Member is an Allied Health Member, as the case may be.

3.9 **Reinstatement of Membership.** If an individual’s membership in TABS is terminated pursuant to Section 3.4(b), the individual is eligible for reinstatement to TABS upon payment to TABS of all past due annual fees, as well as a reinstatement fee equal to fifty percent (50%) of the then current annual dues.

**Article 4**

**Board of Directors**

4.1 **Powers.** The Board shall manage TABS’ business and affairs.

4.2 **Eligibility.** Number, Term and Election of Directors.

   (a) **Eligibility.** A Director must be a Member in good standing in order to be eligible for election as a Director.

   (b) **Number.** The Board shall consist of nine (9) directors, each of whom shall be a Member.

   (c) **Term.** Each Director shall be elected for a term of two (2) years, and may serve for a maximum of 3 consecutive terms, after which the Director must remain off the Board for a minimum of one (1) year before being eligible for reelection. The Directors’ terms will be staggered so that approximately one-half of the Directors will be elected each year; however, the Board may stagger terms in any other manner selected by the Board.
(d) Election.

(i) Regional Surgeon Directors. The Board will divide the area of Texas into four (4) geographic regions. The Surgeon Members from each region will elect one (1) Surgeon Member as Director. The Board may change the regions from time to time, and with each change, shall notify the Surgeon Members of the change.

(ii) At Large Directors. The Members as a whole will elect 3 Directors. The Allied Health Members shall elect two (2) Allied Health Members as Directors.

(iii) Manner of Election. The annual elections of Directors shall occur as follows. Any Surgeon Member may submit to TABS’ president the name of a Surgeon Member in the nominating Member’s region for election as a Director. Any Allied Health Member may submit to TABS’ president the name of an Allied Health Member for election as a Director. A Member may nominate himself or herself. TABS’ administrative office will distribute written ballots with the candidates’ names to the Members entitled to vote. The Members will have the time set by the Board to return their respective ballots to TABS’ administrative office for tabulation. Thereafter, the President shall notify the Members of the results.

4.3 Compensation of Directors. No Director shall receive a salary or any other compensation for serving on the Board. However, the Board may authorize TABS to reimburse the Director’s expense of attending meetings of the Board.

4.4 Resignation. A Director may resign at any time by giving written notice to the President. The resignation shall take effect on the date of receipt or at any later date specified therein, without the necessity of acceptance. A Director whose membership terminates pursuant to Section 3.4 shall be deemed to have resigned as of such date as he or she is no longer eligible.

4.5 Removal. Either the Board, by a vote of two-thirds or more of the Directors, or the class of Members, by a vote of a majority of Members in the class, may remove a Director elected by that class at any time with or without cause. For purposes of the foregoing and the next Section, each region of Surgeon Members shall be entitled to vote as a separate class for removing the Director previously elected by such Members and electing a successor Director to fill the vacancy.

4.6 Vacancies. The class of Members whose elected Director has died, has resigned, has been removed or has ceased to serve as a Director may elect, pursuant to Section 4.2(c)(iii), a Member of the class as a successor Director to fill the vacancy. A Director elected to fill a vacancy shall be elected for the unexpired term of the Director’s predecessor.

4.7 Conflict of Interest. Directors and persons employed by TABS who have dealings with outside parties for the purchase of supplies, services, or for other financial matters must abide by the statement on conflict of interest promulgated from time to time by the Board. Each Director and each employee of TABS, as requested by the Board, shall sign a copy of the statement on conflict of interest.
Article 5
Meetings of the Board

5.1 **Place.** Meetings of the Board shall be held at TABS's principal office, or at other places in and outside of the state of Texas, as the President may decide.

5.2 **Regular Meetings.** The President or the Board may designate the dates on which Regular meetings of the Board shall be held. At least one of these meetings shall be designated as the Annual Meeting, the purpose of which shall be to review the prior year's activity and to elect officers. No notice is required of regular meetings of the Board.

5.3 **Special Meetings.** The President or any two Directors may call a special meeting of the Board upon three (3) day's notice, oral or written, stating the time, place and purpose or purposes of the meeting. No business other than that stated in the notice shall be transacted at a special meeting.

5.4 **Procedures at Meetings.**

(a) **Quorum.** The presence of a majority of elected Directors at a meeting shall constitute a quorum.

(b) **Presiding Officer.** The President, or in the President's absence, the Vice-President, shall preside at all meetings of the Board. If the foregoing officers are absent, the Directors may elect a chair for the purpose of presiding over the meeting.

(c) **Acts.** Unless these Bylaws require a different percentage, the affirmative vote of a majority of the Directors at a meeting where there is a quorum shall constitute the act of the Board.

5.5 **Annual Financial Report.** The Board shall annually approve a report of the financial activity of TABS for the preceding year, in the form required by applicable law.

5.6 **Proxies.** Directors who are not present at a meeting may not vote by proxy.

5.7 **Ex-Officio Members.** The Board may designate one or more persons as ex-officio members of the Board. A person designated as an ex-officio member of the Board is entitled to notice of and to attend meetings of the Board. The ex-officio member may participate fully at meetings, but is not entitled to vote.

Article 6
Executive Director

6.1 **Duties.** The Board may employ an Executive Director on behalf of TABS, who shall be responsible to the Board. The Board shall prescribe the duties, and determine the compensation, of the Executive Director.
Article 7
Committees

7.1 **Committees.** The Board may designate standing and special committees. The President shall appoint the committee members and the chair for a two (2) year term or less depending on the scope of work. Each committee shall report to the officers or Board as appropriate. No standing or special committee shall have or exercise the authority of the Board in the management of TABS. The President, or his designee, shall be entitled to attend all meetings of standing committees and shall serve as an ex-officio member of each committee.

Article 8
Officers

8.1 **Officers.** The Directors shall elect the following officers to a biennial term: a President, a Vice President, a Secretary and a Treasurer. Only Directors who are Surgeon Members and who have served at least one (1) year as a Director may be elected as President. The Board or a majority of the Surgeon Members may remove any officer at any time with or without cause.

8.2 **President.** The President shall serve as the representative of the Board in the management of TABS and as its chief executive officer.

8.3 **Vice President.** The Vice President shall serve as chief executive officer in the absence of the President and shall undertake any other duties prescribed by the Board.

8.4 **Secretary.** The Secretary shall keep minutes of all meetings of the Members, the Board and its committees and shall perform the other duties set forth in these Bylaws.

8.5 **Treasurer.** The Treasurer shall have the care and custody of all monies and property of TABS and shall account for them as set forth in these Bylaws. The Treasurer shall have charge of all funds and shall pay, or caused to be paid, all bills. The Treasurer shall present to the Board an annual report of the financial condition of TABS.

8.6 **Past President.** The Past President shall be designated as any TABS President who has completed a full term as President. Past Presidents are invited non-voting members of the Board.

Article 9
Amendments to Bylaws or Certificate of Formation; Winding Up; Distribution of Assets

9.1 **Amendments.** The affirmative vote of a majority of the Surgeon Members is required to amend these Bylaws or TABS' certificate of formation.

9.2 **Winding Up; Distribution Plan.** Upon a vote of a majority of the Directors and vote of a majority of the Surgeon Members, following the procedure set forth in Chapters 11 and 22 of the Act, TABS shall wind up. As a part of the approval to wind up, the Surgeon Members
shall approve a plan of distribution of any assets of TABS, after satisfying all obligations of TABS, to any nonprofit, charitable, educational, or scientific organization that is an exempt entity under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to the State of Texas, or to a political subdivision of the State of Texas. The Board shall manage the winding up of TABS and the distribution of its remaining assets in accordance with the distribution plan approved by the Surgeon Members. Upon completion of the distribution plan, TABS shall terminate in accordance with the winding up resolutions adopted by the Directors and the Surgeon Members.

Article 10
Indemnification of Directors and Officers

10.1 Indemnity. To the fullest extent permitted by applicable law, TABS shall indemnify, defend and hold harmless any current or former director or officer of TABS (an "Indemnitee") for (a) costs and expenses (including attorney's fees), (b) amounts paid in settlement, (c) judgments, and (d) fines actually and necessarily incurred by the Indemnitee in connection with any claim asserted against the Indemnitee by reason of the Indemnitee being or having been a Director or officer of TABS. TABS shall advance reasonable costs and expenses incurred by an Indemnitee who was or is threatened to be made a named defendant or respondent in any proceeding upon the Indemnitee satisfying the requirements of the Act.

10.2 Insurance. TABS may purchase and maintain directors' and officers' liability insurance.

Article 11
Miscellaneous

11.1 Record Retention. TABS shall comply with Sections 22.352, 22.353 and 22.354 of the Act pertaining to records if TABS no longer qualifies under Section 22.355 of the Act.

11.2 Action by Written Consent. Any action required or permitted by the Act or pursuant to these Bylaws to be taken at a meeting of the Members, class of Members, Directors or a committee, may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of Members, Directors or committee members as would be necessary to take that action at a meeting at which all of the Members, Directors or committee members were present and voted. The consents shall also comply with the requirements of the Act. A copy, facsimile (fax), email or similar reproduction of a writing signed by a Director or committee member shall be regarded as signed by the Member, Director or committee member for purposes of a written consent. The written consent or consents shall be filed with the Secretary and placed in minutes of the proceedings of the Board.

11.3 Telephone Meetings. The Directors and committee members may participate in and hold meetings of the Board or committees by means of: (a) telephone conference or similar communications equipment by which all persons participating in the meeting can hear each other; or (b) another suitable electronic communication system, including videoconferencing technology or the Internet, only if: (i) each Member entitled to participate in the meeting
consents to the meeting being held by means of that system; and (ii) the system provides access to the meeting in a manner or using a method by which each Member participating in the meeting can communicate concurrently with each other participant. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

11.4 Notice. Any notice required by these Bylaws shall be in writing, unless otherwise specifically provided, and sent to the intended recipient by hand delivery, recognized overnight delivery, regular mail through the United States Postal System, facsimile (fax) or electronic mail (email). Notice shall be deemed given when sent in the foregoing manner.
CERTIFICATE

The undersigned President and Secretary certify that the Board of Directors and Members of TABS approved the foregoing Amended and Restated Bylaws effective January 2010.

[Signature]
President

[Signature]
Secretary