

**Approval of the MDS Operating Budget for Fiscal Year 2019-2020**

**Resolution No. 1**

1-19            Resolved, that the 2019-2020 MDS Annual Budget be approved.

**Amendment to the MDS *Constitution and Bylaws* to implement recommendations of the MDS Governance Transition Task Force**

**Resolution No. 2**

2-19 Resolved, that the MDS *Constitution and Bylaws* be amended as follows:

- A. That the following provisions be added after the first sentence of Section 80(A) of Chapter II (*Component Societies – Nominees and Delegates*):

“Each of the Districts in Regions 2, 3, and 5 shall submit the name of its nominee for Regional Trustee no later than September 30 of every odd year. Each of the Districts in Regions 1, 4, and 6 shall submit the name of its nominee for Regional Trustee no later than September 30 of every even year.”

- B. That the third sentence of the last paragraph of Section 10 of Chapter III (*House of Delegates – Composition*) be amended to read as follows:

“The calculation of active members shall be made as of June 30 of every odd numbered year by the Secretary of the Society.”

- C. That Item C of Section 70 of Chapter III (*House of Delegates – Official Call*) be amended to read as follows:

“Quorum: Fifty percent (50%) plus one delegate of the House of Delegates must be present and voting to constitute a quorum for the transaction of business at any meeting.”

- D. That the following sentence be added after the first sentence of Section 10 of Chapter IV (*Board of Trustees – Composition*):

“Each District shall submit the name of its nominee for At-Large Trustee to the MDS Nominations Committee no later than September 30 of each year.”

- E. That Section 60 of Chapter IV (*Board of Trustees – Quorum*) be amended to read as follows:

“Six (6) voting members of the Board of Trustees shall be required to form a quorum for the transaction of business.”

- F. That a new Chapter XIII be added to read as follows:

**“CHAPTER XIII • TRANSITIONAL PROVISIONS**

***Section 10. Terms of District Trustees During Transition Period***

Notwithstanding anything to the contrary contained in these *Bylaws* (including, without limitation, Section 20 of Chapter IV), prior to the first Regional Trustees from Regions 4, 5, and 6 taking office on July 1, 2020, or July 1, 2021, as applicable, the following terms shall apply to the District Trustees serving from such Regions:

1. Region 4: Upon the expiration of the term of the District Trustee from the Metropolitan District on June 30, 2019, the succeeding District Trustee shall serve for a two-year term ending on June 30, 2021.
2. Region 5:
  - a. The term of the District Trustee from the Boston District whose term is set to expire on June 30, 2021, shall instead end one year early on June 30, 2020.
  - b. Upon the expiration of the term of the District Trustee from the North Metropolitan District on June 30, 2019, the succeeding District Trustee shall serve for a one-year term ending on June 30, 2020.

3. Region 6: Upon the expiration of the term of the District Trustee from the Merrimack Valley District on June 30, 2020, the succeeding District Trustee shall serve for a one-year term ending on June 30, 2021.

**Section 20. Terms of MDS Nominations Committee Members During Transition Period**

Notwithstanding anything to the contrary contained in these *Bylaws* (including, without limitation, Section 80(B) of Chapter VI):

1. The members of the MDS Nominations Committee appointed by the Districts in 2019 will each serve a special two-year term (instead of a one-year term) ending on June 30, 2021; and
2. The members of the MDS Nominations Committee appointed by the Districts in 2021 will each serve a regular one-year term starting on July 1, 2021, and ending on June 30, 2022.

**Amendment to the MDS *Constitution and Bylaws* Regarding Changing the Name of the Nominations Committee**

**Resolution No. 3**

3-19 Resolved, that the MDS *Constitution and Bylaws* (as amended by the amendments approved at the 2018 House of Delegates) be amended to revise the name of the Nominations Committee throughout the *Bylaws* to the Trustee Selection and Nominations Committee.

**Amendment to the MDS *Constitution and Bylaws* Regarding Payment of Dues by Candidates for MDS Officer and Trustee Positions**

**Resolution No. 4**

4-19 Resolved, that the MDS *Constitution and Bylaws* (as amended by the amendments approved at the 2018 House of Delegates) be amended by the addition of the following new sub-section E to Chapter VI [Committees], Section 80 [Nominations Committee] as follows:

“E. *Payment of Dues*: If prior to the Annual Session, an individual who either has been selected to be a Regional Trustee or the At-Large Trustee and who has not assumed office or has been nominated to be an Elective Officer shall have failed to pay his or her dues and special assessments by December 31, the Nominations Committee shall rescind such selection or nomination and shall immediately reconvene to select or nominate a substitute individual, as applicable. The Nominations Committee shall immediately report to the House of Delegates such substitute selection or nomination.”

**Amendment to the MDS *Constitution and Bylaws* Regarding the Executive Director**

**Resolution No. 5**

5-19            Resolved, that the MDS *Constitution and Bylaws* (as amended by the amendments approved at the 2018 House of Delegates) be amended to add the Executive Director as a non-voting member of the Board of Trustees by changing Chapter IV [Board of Trustees], Section 10 [Composition] as follows:

***Section 10. Composition***

The Board of Trustees shall be composed of the Elective Officers, six Regional Trustees, and one At-Large Trustee. The At-Large Trustee shall be selected by the MDS Nominations Committee. The Speaker of the House of Delegates, ~~and~~ the Treasurer, **and the Executive Director** shall each serve as a member of the Board of Trustees, without the power to vote.

**Amendment to the MDS *Constitution and Bylaws* Regarding Remediation Process for Non-Compliance with Society Policies**

**Resolution No. 6RC**

6RC-19 Resolved, that the MDS *Constitution and Bylaws* (as amended by the amendments approved at the 2018 House of Delegates) be amended by adding the following sections, in numerical order, to Chapter II [Component Societies] as follows:

***Section 190. Compliance with the Society's Policies***

In addition to the District Bookkeeping Policy, each District shall comply with the Regional District Operating Manual and the other policies of the Society adopted from time to time (the "Policies").

***Section 200. Remediation Process for Failure to Comply***

In the event of a District's non-compliance with one or more Policies, the Society may institute a probationary period for such District during which time the Society will temporarily manage and oversee the operations of such District.

Prior to the institution of any such probationary period, the following procedures shall be followed:

- A. Notice from Society President or Vice President
  1. If the President or Vice President of the Society determines that a District is not in compliance with one or more Policies, the President or Vice President of the Society shall send a letter to the Officers of such District notifying it of its non-compliance.
  2. If at any time after sending this letter, the President determines that instituting a probationary period for such District may be appropriate to bring such District into compliance, then, as long as such District is still in non-compliance, the President may refer the matter to the Board of Trustees for a preliminary determination of such District's non-compliance.
- B. Preliminary Determination by Board of Trustees
  1. As part of the Board of Trustees' preliminary determination, the Board of Trustees shall decide (i) whether such District is in non-compliance with one or more Policies, and (ii) if determined to be non-compliant, the period of time such District has to remedy such non-compliance, which period shall not exceed 30 days, and the steps that such District must take to remedy such non-compliance. The Officers of such District shall be notified of the Board's preliminary determination.
- C. Cure Period and Hearing with Board of Trustees
  1. Within 14 days of notice of a preliminary determination of non-compliance, such District shall either (i) submit to the Board of Trustees a plan for remediating the non-compliance before the expiration of the cure period that addresses each of the remedial steps identified by the Board of Trustees, or (ii) notify the Board of Trustees of its election to present its case to the Board. If such District provides neither response within 14-day period, it shall be deemed to have waived its right to present its case to the Board of Trustees.
  2. Upon receiving a timely notice of such District's election to present its case, the Board of Trustees shall set a date for such hearing, which date shall be no later than 30 days after the Board's receipt of such notice.
  3. At the hearing with the Board of Trustees, if any, such District, through a designated District Officer, shall have the opportunity to present its case as to why the Board of Trustees should not institute a probationary period for such District. Such District is entitled to present relevant evidence and to have members and non-members testify on its

behalf at the hearing. Likewise, the Society, through a designated Officer or representative, is entitled to present evidence and testimony at the hearing.

D. Final Determination by Board of Trustees

1. Within 14 days following the end of the cure period or the Board hearing (whichever occurs later), the Board of Trustees shall make a final determination as to whether such District is still in non-compliance and, if so, whether it would be in the best interests of the Society to institute a probationary period for such District. Such determination shall be decided by a two-thirds vote of the membership of the Board of Trustees, which vote may be taken at a regular or special meeting of the Board of Trustees.
2. The Board of Trustee's decision shall be final and non-appealable, and such probationary period shall commence immediately upon the Board of Trustee's determination that it be instituted.

During the probationary period, the powers and responsibilities of such District's Executive Committee and such District's Officers shall be suspended and such powers and responsibilities shall be exercised by the Society's Officers, including but not limited to, controlling such District's accounts, expenditures, and disbursements. All costs and expenses incurred by the Society associated with exercising such powers and taking over such responsibilities for such District shall be reimbursed by such District.

**Section 210. Notice to District Members**

The Society, at its discretion, may notify the members of such District of any alleged non-compliance by such District and provide updates on the remediation process to such members. The Society shall notify the members of such District upon the institution of a probationary period with respect to such District.

**Section 220. End of Probationary Period**

The probationary period shall end immediately upon the Board of Trustee's or Society President's subsequent determination that the non-compliance at issue has been remedied and that such District has implemented a mutually acceptable plan or committed to implement a mutually acceptable plan to prevent such non-compliance from occurring again.



## Amendment to the MDS *Constitution and Bylaws* Regarding Indemnification

### Resolution No. 7

7-19 Resolved, that the MDS *Constitution and Bylaws* (as amended by the amendments approved at the 2018 House of Delegates), Chapter X [Indemnification] be as follows:

#### CHAPTER X • INDEMNIFICATION

##### *Section 10.*

~~The Society shall, to~~ To the extent legally permissible and only to the extent that the status of the Society as an organization exempt under Section 501(c)(6) of the Internal Revenue Code is not affected thereby, **the Society shall indemnify each of the its Trustees, and volunteer Officers and may indemnify other** Officers, employees, **members,** and other agents of the Society, including persons who serve as Trustees, Officers, employees, or other agents of the District Societies ~~and Councils~~ and Committees of the Society and District Societies, and persons who serve at the Society's or a District Society's request in such a capacity in another organization in which the Society has an interest or in any capacity with respect to any employee benefit plan (in any and all such cases, **all of the foregoing individuals** hereinafter sometimes referred to as an "Indemnified Person ~~Persons~~") against all liabilities, costs, and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees ("**Losses**"), reasonably incurred by or imposed upon such Indemnified Person in connection with, arising out of, or as a result of the defense or disposition of any claim, action, suit, or other proceeding (whether brought by or in the right of the Society or such other entity or otherwise), whether civil or criminal (**except that, in the case of a criminal proceeding, only if such Indemnified Person had no reasonable cause to believe that his or her conduct was unlawful**), or in connection with an appeal relating thereto, in which such person may be or become involved or with which such person may be threatened, as a party or otherwise, by reason of his or her being or having been such an Indemnified Person or by reason of any alleged act taken or omission made by such person in any such capacity, ~~whether or not such person shall be such Trustee, Officer, employee, or other agent at the time any such liability, cost, or expense is incurred by or imposed upon him or her, provided such person shall not have~~

**Notwithstanding the foregoing, no indemnification shall be provided for any of the following:**

- (a) **with respect to any matter as to which the Indemnified Person has** been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interest of the Society or such other entity, as the case may be, ~~or;~~
- (b) to the extent that such matter relates to service with respect to any employee benefit plan, **if such Indemnified Person has been adjudicated in any proceeding with respect to such matter not to have acted** in the best interest of the participants or beneficiaries of such employee benefit plan; ~~and in addition, in any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful. Notwithstanding or~~
- (c) **a proceeding voluntarily initiated by such Indemnified Person, unless he or she is wholly successful on the merits of such proceeding was authorized by the Society.**

**In addition, notwithstanding,** anything contained in, and without limiting the generality of, the foregoing:

- (i) The extent of the rights of indemnification as set forth shall include, without limitation, all ~~liabilities, costs, and expenses of~~ **Losses** in defending, compromising, or settling any such claim, action, suit, or other proceeding, and the satisfaction of any judgment or decree entered or rendered therein, including the payment of fines or penalties imposed in civil or criminal actions or proceedings.
- (ii) Expenses, including counsel fees, reasonably incurred by any such ~~Trustee, Officer, employee, or other agent~~ **Indemnified Person** in connection with the defense or disposition of any such claim, action, suit, or other proceeding, may be advanced by the Society prior to the final disposition thereof upon receipt of an undertaking by or on behalf of such ~~Trustee, Officer, employee, or other agent~~ **Indemnified Person** to repay such amount if such person shall be adjudicated not to be entitled to indemnification under **these Bylaws** or Massachusetts General Laws, Chapter 180, Section 6, as now in force or hereafter amended, which undertaking may be accepted without reference to the financial ability of such person to make repayment.

- (iii) The termination of any claim, action, suit, or proceeding, civil or criminal, by judgment, settlement (whether with or without court approval), or conviction or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that such Indemnified Person did not meet the standards of conduct hereinabove set forth.
- (iv) No such Indemnified Person shall be entitled to indemnification as a right in connection with any claim, action, suit, or other proceeding which shall have been compromised or settled, by consent decree or otherwise, unless such compromise or settlement shall first have been approved by a vote of the Board of Trustees, acting by a quorum consisting of Trustees who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or other proceeding.

In all instances in which indemnification is not available as a matter of right, the Society may in its sole discretion make such indemnification if, but only if: (i) the Board of Trustees, acting by a quorum consisting of Trustees who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or proceeding, shall find that such ~~Trustee, Officer, employee, or other agent~~ **Indemnified Person** has met the standards of conduct set forth in this section, or (ii) independent legal counsel shall deliver to the Society their written advice that, in their opinion, such ~~Trustee, Officer, employee, or other agent~~ **Indemnified Person** has met such standards.

Each person who shall at any time serve as a ~~Trustee, Officer, employee, or other agent~~ **an Indemnified Person** shall be deemed so to serve in reliance upon the provisions hereinabove set forth, which such provisions shall not be exclusive of any other rights of indemnification to which such person may be entitled pursuant to contract or to valid and applicable law, shall be separable and enforced to the extent permitted by valid and applicable law, and shall inure to the benefit of the legal representatives of such person.

**No amendment or repeal of this Chapter shall adversely affect any right or protection of such Indemnified Person existing hereunder at the time of such amendment or repeal.**

*Section 20.*

The Society shall have power to purchase and maintain insurance on behalf of any person who is or was a ~~Trustee, Officer, employee, or other agent of the Society (including, but not limited to, persons who serve as Trustees, Officers, employees, or other agents of the District Societies and Councils and Committees of the Society and District Societies, and persons who serve at the Society's or a District Society's request in such a capacity in another organization in which the Society has an interest or in any capacity with respect to any employee benefit plan)~~ **an Indemnified Person** against any liability incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the Society would have the power to indemnify such person against liability under *Section 10* hereinabove.