

**The American Society of Colon and Rectal Surgeons
Executive Council Resolution
Repealing Existing Bylaws and Adopting New Bylaws**

Background

The American Society of Colon and Rectal Surgeons (“**Society**”) is a Delaware nonprofit nonstock corporation exempt from federal income tax pursuant to Internal Revenue Code section (“**IRC**”) 501(c)(3). The Society was formed on March 19, 1947. The Society is organized and operated exclusively for charitable, educational, and scientific purposes as defined by IRC 501(c)(3) to facilitate the dissemination and investigation of knowledge relating to the colon, rectum, and anus, particularly the publication of this knowledge and investigation to medical and surgical treatment pertaining thereto (“**Purpose**”). The Society’s existing Bylaws were adopted in June 2023.

In January 2024, consistent with best practices, the Society began a review of its Bylaws. The project’s goals were to ensure the Society’s Bylaws:

- Reflected its Purpose, tax-exempt status, the Delaware General Corporation Act as applicable to nonprofit nonstock corporations, and the Society’s current governance structure and practices;
- Embodied best practices for organizations exempt from federal income tax pursuant to IRC 501(c)(3);
- Eliminated unnecessary and outdated provisions; and
- Complied with applicable law.

The task of reviewing the Bylaws was initially undertaken by the Society’s Executive Director David Westman, Associate Executive Erica Flynn, and legal counsel, in consultation with the Society’s Immediate Past President and Governance Committee Chair (collectively, “**AOI Working Group**”). The AOI Working Group reviewed the Society’s Bylaws and, consistent with the goals outlined above, developed proposed new Bylaws. The AOI Working Group forwarded the proposed new Bylaws to the Society’s Governance Committee for its consideration. On March 18, 2024, after considering the proposed new Bylaws, the Governance Committee recommended that the proposed new Bylaws be submitted to the Executive Council for its consideration.

Following the Governance Committee’s recommendation, legal counsel noted the Society’s current Certificate of Incorporation and current Bylaws permit bylaws to be altered, amended, or repealed by the Executive Council or the Fellow members. Consistently, legal counsel revised the proposed new Bylaws recommended by the Governance Committee to permit bylaws to be adopted, amended, or repealed by the Executive Council or the Fellow members. As revised by legal counsel, the proposed new Bylaws are attached as Exhibit A to this Resolution.

8 Del. C. 109(a) and (b) provide in part:

- (a) ... In the case of a nonstock corporation, the power to adopt, amend or repeal bylaws shall be in its members entitled to vote. Notwithstanding the foregoing, any corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors or, in the case of a nonstock corporation, upon its governing body. The fact that such power has been so conferred upon the directors or governing body, as the case may be, shall not divest the ... members of the power, nor limit their power to adopt, amend or repeal bylaws.
- (b) The bylaws may contain any provision, not inconsistent with law or with the certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its [members], directors, officers or employees....

The Society’s Certificate of Incorporation as amended provides in part:

Ninth. ... This Society shall have an Executive Council which shall be created and maintained in such manner, consist of such persons and have such powers and duties as may be stated in the by-laws....

Eleventh. The By-laws may be suspended, amended, or repealed by a two-thirds vote of all the Fellows and Senior Fellows combined without distinction of one class over the other, present at any time during an annual meeting.....

Article XIV, Amendments, of the Society's Bylaws, provides:

These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by the affirmative vote of a majority of the voting members present and voting at any annual meeting of the Society, provided that notice of the proposed alteration, amendment or repeals is provided in writing to each voting member no less than 7 days prior to the meeting at which the same is to be considered.

These Bylaws may be altered, amended or repealed and new bylaws may be adopted by a unanimous vote of the members of the Executive Council present and voting at a meeting at which a quorum is present.

At the April 2024 regular meeting of the Executive Council, the Executive Council will consider this Resolution, which if adopted repeals the Society's existing Bylaws and adopts Exhibit A as the Society's new Bylaws.

Resolution

NOW THEREFORE BE IT RESOLVED: In accordance with 8 Del. C. 109(a) and (b), the Society's Certificate of Incorporation, and Article XIV, Amendments, of the Society's existing Bylaws, the Society's Executive Council hereby repeals the Society's existing Bylaws and adopts Exhibit A as the Society's new Bylaws; and

BE IT FURTHER RESOLVED: The Society's Secretary is hereby directed and authorized to: (i) execute the Bylaws Certificate at the end of Exhibit A; (ii) place an executed copy of this Resolution in the Society's records; and (iii) take all other actions necessary to effectuate the repeal of the Society's existing Bylaws and adoption of Exhibit A as the Society's new Bylaws as contemplated by this Resolution.



Bylaws

Article I

Purpose

The American Society of Colon and Rectal Surgeons (“**Society**”) is a Delaware nonprofit nonstock corporation exempt from federal income tax pursuant to Internal Revenue Code §501(c)(3). It is organized and operated exclusively for the purposes stated in the Society’s Certificate of Incorporation (“**Purpose**”).

Articles II

Offices

The Society must have and continuously maintain in the State of Delaware a registered office and a registered agent whose office is identical with such registered office and may have such other offices within or without the State of Delaware as the Executive Council may determine from time to time.

Article III

Members

Section 3.1. Voting Member Classes. The Society has one voting member class known as “**Fellows.**” An individual may apply for Fellow membership if the individual: (i) supports the Society’s Purpose; (ii) agrees to abide by the Society’s Certificate of Incorporation, Bylaws, and policies; (iii) holds an unrestricted medical license in the United States; and (iv) specializes in the practice of colon and rectal surgery. Fellow members in good standing are entitled to vote and are eligible to serve as Society directors, officers, committee (defined below) members, committee (defined below) chairs, and committee (defined below) vice chairs. Fellows shall pay annual dues as determined by the Executive Council.

Section 3.2. Non-Voting Member Classes. The Executive Council by written resolution may identify one or more non-voting membership classes. An individual may apply for membership in a non-voting membership class if the individual: (i) supports the Society’s Purpose; (ii) agrees to abide by the Society’s Certificate of Incorporation, Bylaws, and policies; and (iii) meets the other criteria identified by the Executive Council for the non-voting membership class. Members of any non-voting membership class have no voting rights and may not serve as Society directors, officers, Management Committee (defined below) members, committee (defined below) chairs, or committee (defined below) vice chairs. Members of a non-voting membership class shall pay annual dues as determined by the Executive Council for that membership class.

Section 3.3. Application and Election. To be considered for membership, an individual must apply to the Society in accordance with the Society’s policies and procedures. The Executive Council shall consider and vote on each non-voting membership application which is complete, complies with the Society’s application policies and procedures, and demonstrates the applicant meets the non-voting membership class criteria. The Executive Council shall determine whether to grant an applicant non-voting membership in its discretion. The Executive Council shall submit each Fellow membership application, which is complete, complies with the Society’s application policies and procedures, and demonstrates the applicant meets the Fellow membership criteria, to the Society’s Fellow members for their consideration and action. The Fellow members shall determine whether to grant an applicant Fellow membership in its discretion. The Executive Council’s and the

Fellow members' decisions regarding whether to grant an individual membership in the Society are final and not appealable.

Section 3.4. Dues. Annually as part of the Society's budget process, the Executive Council shall determine the annual dues payable by members of each membership class for the next dues cycle. If a member's annual dues remain unpaid for 90 days after the due date set by the Executive Council, the Society shall send a notice to the member informing the member that the individual will be deemed to have resigned the individual's membership as of the date dues were to have been paid, unless the delinquent dues are paid within a time period of not less than 30 days from the date of the notice or within a time period specified by the Executive Council. A membership resigned pursuant to this Section 3.4 may be reinstated upon payment of all dues in arrears prior to the end of the fiscal year in which the membership is resigned. A member is not entitled to a refund of dues paid to the Society under any circumstances.

Section 3.5. Membership Term and Renewal. An individual's membership commences on the individual's election as a member and automatically renews each year thereafter for a one-year term on the date specified by the Executive Council ("**Renewal Date**"), unless on or before the Renewal Date, the individual notifies the Society the individual resigns as a member.

Section 3.6. Resignation. In addition to resigning as provided in Section 3.4, a member may resign by delivering a notice of resignation to the Society. A member's resignation is effective on the date it is delivered to the Society. An individual's membership resignation does not relieve the individual from accrued and unpaid obligations owed to the Society for dues, fees, or other charges.

Section 3.7. Suspension. An individual's membership may be suspended if the Executive Council determines, in good faith, that suspension of the individual's membership is in the Society's best interest. The Executive Council shall follow the process in Section 3.9 when considering whether to suspend an individual's membership. When the Executive Council suspends an individual's membership, the Executive Council shall determine the effective date of the individual's suspension, the duration of the individual's suspension, and any conditions which must be satisfied to end the suspension. While an individual's membership is suspended, the individual is not a member.

Section 3.8. Termination. An individual's membership may be terminated if the Executive Council determines, in good faith, terminating the individual's membership is in the Society's best interest. The Executive Council shall follow the process in Section 3.9 when considering whether to terminate an individual's membership. When the Executive Council determines an individual's membership should be terminated, the Executive Council shall determine the date the individual's membership is terminated.

Section 3.9. Suspension or Termination Process. The Executive Council shall follow the following procedure when considering whether to suspend or terminate an individual's membership:

- (i) The Society shall deliver a notice to the member stating the reasons for the proposed membership suspension or termination;
- (ii) The member shall be given an opportunity to be heard, either orally or in writing, at least 10 days before the effective date of the proposed membership suspension or termination. The hearing shall be held, or the written statement considered, by the Executive Council when determining whether to suspend or terminate the individual's membership;

- (iii) The Executive Council shall decide whether the individual's membership should be suspended or terminated. The decision of the Executive Council is final; and
- (iv) Any action challenging the suspension or termination of an individual's membership, including a claim alleging defective notice, must be commenced within 30 days after the date on which the effective date of the membership suspension or termination.

The suspension or termination of an individual's membership does not relieve the individual from accrued and unpaid obligations owed to the Society for dues, fees, or other charges. Despite anything to the contrary in these Bylaws, an individual whose membership is terminated may thereafter only apply for membership if and in the manner authorized by the Executive Council.

Article IV

Member Meetings

Section 4.1. Annual Meeting. A meeting of Fellow members must be held annually for the election of directors and officers, if the election of directors and officers does not occur by written ballot prior to the Annual Meeting, and the transaction of other business as may come before the meeting ("**Annual Meeting**"). The Executive Council shall designate each Annual Meeting's date, time, place, if any, and the means of Remote Communication (defined below), if any, by which Fellow members may participate in the Annual Meeting.

Section 4.2. Special Meetings. Special meetings of Fellow members may only be called by the Executive Council. The Executive Council shall designate the purposes, date, time, place, if any, and the means of Remote Communication (defined below), if any, by which Fellow members may participate in the meeting. No business other than the purposes stated in the special meeting notice may be transacted at a special meeting.

Section 4.3. Place of Meeting. Fellow member meetings may be held at a place, if any, within or without the State of Delaware, and/or by means of Remote Communication (defined below), as designated by the Executive Council.

Section 4.4. Remote Meeting Participation. For each Fellow member meeting, the Executive Council shall determine whether Fellow members may participate and act at the meeting by means of an online meeting platform or similar communications technology, which allows Fellow members to participate in the meeting, vote on matters submitted to the Fellow members, and read or hear the meeting's proceedings substantially concurrently with the proceedings ("**Remote Communication**"). If the Executive Council determines Fellow members may participate in a meeting by means of Remote Communication, the meeting notice must state how a Fellow member participates by means of Remote Communication. Participation in a meeting pursuant to this section constitutes presence in person at that meeting. Except as provided in this section, a Fellow member is not entitled to participate in a meeting by means of Remote Communication.

Section 4.5. Notice. Notice of the place, if any, the date, and the time of a Fellow meeting, the means of Remote Communication, if any, by which a Fellow member may participate in the meeting, the record date for the meeting, and for a special meeting, the purpose or purposes for which the meeting is called, must be delivered not less than 10 nor more than 60 days before the date of the meeting to the Fellow members as of the record date entitled to notice of the meeting.

Section 4.6. Record Date. To determine the Fellow members: (i) entitled to notice of or vote at a Fellow members meeting, or (ii) for any other purpose, the Executive Council may, in advance, fix a record date for

making the determination. The record date may not be more than 60 days nor less than 10 days before the date of the Fellow member meeting or other purpose for which the record date is fixed. If no record date is fixed by the Executive Council, the close of business on the day preceding the date on which the notice is given is the record date for the determination of Fellow members.

Section 4.7. Quorum. 50 Fellow members present in person or represented by proxy at a Fellow members meeting constitute a quorum for the transaction of business at the Fellow members meeting.

Section 4.8. Manner of Acting. Except as otherwise provided in these Bylaws, the act of a majority of the Fellow members present at a meeting, at which a quorum is present, is the act of the Fellow members, unless the act of a greater number is required by law, the Certificate of Incorporation, or these Bylaws.

Section 4.9. Voting. Each Fellow member in good standing is entitled to one vote on each matter submitted to a vote of the Fellow members. Cumulative voting and voting agreements are prohibited.

Section 4.10. Proxies. A Fellow member may authorize another Fellow member to act for the Fellow member by proxy. A proxy may be documented, signed, and delivered as provided by the Delaware General Corporation Law, including by electronic transmission. For purposes of these Bylaws, “**electronic transmission**” has the meaning stated the Delaware General Corporation Law and includes electronic mail. No proxy is valid after three years from the date of its execution unless otherwise provided in the proxy. Every proxy is revocable at the pleasure of the Fellow member executing it, except as otherwise provided by law.

Section 4.11. Written Ballot. All Fellow member actions are required to be by written ballot. On each matter submitted to the Fellow members for their consideration and action, the Society shall deliver one written ballot to each Fellow member. Each written ballot must: (i) state the proposed action; (ii) allow each Fellow member to vote for or against the proposed action; (iii) state the number of written ballots that must be delivered to the Society to meet the quorum requirement; and (iv) state how and the date and time by which a written ballot must be delivered to the Society to be cast and counted. Voting must remain open for at least 30 days from the date a written ballot is delivered to the Fellow members. Once a written ballot is delivered to the Society by a Fellow member, it may not be changed or revoked. A proposed action is approved if a majority of the Fellow members casting written ballots vote in favor of the proposed action, or such larger number as required by law, the Certificate of Incorporation, or these Bylaws; provided, the total number of Fellow members casting written ballots would constitute a quorum at a meeting of Fellow members.

Section 4.12. Written Ballot by Electronic Transmission. Subject to the Executive Council’s prior authorization, any Fellow member action required to be taken by written ballot may be satisfied by a written ballot submitted by electronic transmission with information from which it can be determined that the electronic transmission was authorized by the Fellow member or proxy holder. For purposes of these Bylaws, “**electronic transmission**” has the meaning stated in the Delaware General Corporation Law and includes electronic mail.

Section 4.13. Action Without a Meeting. Subject to the Executive Council’s prior authorization, any action required to be, or which may be, taken at a meeting of Fellow members may be taken without a meeting by written ballot.

Article V

Board of Directors

Section 5.1. General Powers. The business and affairs of the Society are managed under the direction of its board of directors known as the “**Executive Council**.”

Section 5.2. Number. The total number of directors is 16, of which seven serve *ex-officio* and nine are elected (“**Members-at-Large**”). The number of directors may be changed from time to time by amendment of this Section 5.2. No decrease in the number of directors has the effect of shortening the term of an incumbent director.

Section 5.3. Qualifications. The President, President-Elect, Vice President, Secretary, Treasurer, Immediate Past President, and President of the Research Foundation of the American Society of Colon and Rectal Surgeons, each serve *ex-officio*, with voice and vote, as directors of the Society (“**Ex-Officio Directors**”). To qualify to serve as a Member-at-Large, an individual must be: (i) over the age of 18; (ii) dedicated to advancing the Society’s Purpose; (iii) a Fellow member in good standing; and (iv) independent. Directors do not have to be residents of Delaware. For purposes of these Bylaws, the term “**independent**” has the same meaning as the term “**Independent voting member of governing body**” as defined in the Internal Revenue Service Instructions for Form 990, Return of Organization Exempt from Income Tax.

Section 5.4. Classes, Terms, and Term Limits. An individual serves as an *Ex-officio* Director if the individual holds one of the offices listed in Section 5.3. Members-at-Large are divided into three classes, with each class composed of the same number of Members-at-Large. The terms of the three Members-at-Large classes are staggered so that one-third of the Members-at-Large are elected annually. Except as otherwise provided in these Bylaws, a Member-at-Large’s term is three years commencing on the adjournment of the Annual Meeting associated with the Member-at-Large’s election, as designated by the Executive Council, and continuing until the Member-at-Large’s resignation, removal, death, or until the Member-at-Large’s term expires and the Member-at-Large’s successor is elected and qualified. Any newly created Member-at-Large position or any decrease in the number of Members-at-Large must to be apportioned among the Members-at-Large classes to make the sizes of the classes as nearly equal as possible. An individual may only be elected to one full three-year term as a Member-at-Large.

Section 5.5. Nominations and Elections. Except as otherwise provided in these Bylaws, Members-at-Large are elected by the Fellow members. Members-at-Large elections should occur no later than the Annual Meeting. If a Members-at-Large election does not occur by the Annual Meeting, the Members-at-Large election must be held as soon thereafter as possible. Members-at-Large elections must be conducted by written ballot. The Executive Council shall adopt policies and procedures governing Members-at-Large nominations and elections.

Section 5.6. Resignation. A Member-at-Large may resign at any time by delivering a notice to the Society. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. An *Ex-officio* Director may only resign as a director by resigning from the office pursuant to which the individual serves as an *Ex-officio* Director. If an individual resigns from the office pursuant to which the individual serves as an *Ex-officio* Director, the individual automatically ceases to be an *Ex-officio* Director.

Section 5.7. Removal. The Fellow members may remove any Member-at-Large from office at any time, with or without cause. An *Ex-officio* Director may only be removed as a director by removing the individual from the office pursuant to which the individual serves as an *Ex-officio* Director. When an individual is removed from the office pursuant to which the individual serves as an *Ex-officio* Director, the individual automatically ceases to be an *Ex-officio* Director.

Section 5.8. Vacancies. Between Annual Meetings, any Member-at-Large vacancy or Member-at-Large position to be filled by reason of increase in the number of Members-at-Large must be nominated by the Executive Council, or a designated committee (defined below), and filled by the Executive Council, unless the

Certificate of Incorporation or these Bylaws provide that a vacancy or a Member-at-Large position so created is to be filled in some other manner, in which case that provision controls. An individual selected to fill a Member-at-Large vacancy serves for the unexpired term of the Member-at-Large's predecessor. Except as otherwise provided in these Bylaws, the initial term of an individual selected to fill a new Member-at-Large position is as specified in the resolution establishing the new Member-at-Large position and thereafter the term is three years.

Section 5.9. Regular Meetings. The Executive Council shall meet at least quarterly. One regular quarterly meeting of the Executive Council shall be held in conjunction with the Annual Meeting. Annually, the Executive Council shall adopt a resolution specifying the date, time, and place (if any), of each regular Executive Council meeting.

Section 5.10. Special Meetings. Executive Council special meetings may be called by the President or any three directors. The person(s) calling an Executive Council special meeting may fix the date, time, and place, if any, for holding the special meeting. If the person(s) calling the special meeting of the Executive Council do not do so, the Secretary shall do so.

Section 5.11. Notice. Except as otherwise provided in these Bylaws, notice of any Executive Council regular or special meeting must be delivered at least 24 hours in advance of the meeting. The notice must include: (i) a meeting agenda; and (ii) specify the date, time, place, if any, and the Communications System (defined below) for the meeting.

Section 5.12. Quorum. A majority (51%) of the directors in office constitute a quorum for the transaction of business at any Executive Council meeting.

Section 5.13. Manner of Acting. The vote of a majority of the directors present at a meeting at which a quorum is present is the act of the Executive Council, unless the act of a greater number is required by statute, the Certificate of Incorporation, or these Bylaws. No director may act by proxy on any matter.

Section 5.14. Remote Meeting Participation. Directors are entitled to participate in and act at any Executive Council meeting using a conference telephone or other communications system through which all persons participating in the meeting can communicate with each other ("**Communication System**"). For each Executive Council meeting, the Executive Council shall designate the Communication System to be used and how a director accesses and uses the Communication System to participate in the meeting. Participation in a meeting pursuant to this section constitutes presence in person at that meeting.

Section 5.15. Action Without Meeting. The authority of the Executive Council may be exercised without a meeting if a written consent stating the action taken is signed by all the directors entitled to vote. The consent must be evidenced by one or more written consents, each of which states the action taken and provides a written record of unanimous approval. All the approvals evidencing the consent must be delivered to the Society to be filed in the Society's records. The action taken is effective when all the directors approve the consent unless the consent specifies a different effective date.

Section 5.16. Presumption of Assent. A director present at an Executive Council meeting at which action on any Society matter is taken is conclusively presumed to have assented to the action taken, unless: (i) the director's dissent is entered in the minutes of the meeting; (ii) the director files the director's written dissent to the action with the person acting as the meeting's secretary before the adjournment thereof; or (iii) the director forwards a dissent by registered or certified mail to the Society's Secretary immediately after the adjournment of the meeting. The right to dissent does not apply to a director who votes in favor of an action.

Section 5.17. Compensation. Directors are volunteers. Accordingly, the Society shall not compensate directors for their services as directors of the Society. However, by resolution of the Executive Council, directors may be reimbursed for their reasonable expenses, if any, for attendance at an Executive Council meeting.

Article VI

Officers

Section 6.1. Officers. The Society's officers are a President, President-Elect, Vice President, Secretary, Treasurer, and Immediate Past President. No two offices may be held by the same individual.

Section 6.2. Qualifications. To qualify to serve as an officer, an individual must be: (i) over the age of 18; (ii) dedicated to advancing the Society's Purpose; (iii) a Fellow member in good standing; and (iv) other than the President, independent. Officers do not have to be residents of Delaware. For purposes of these Bylaws, the term "**independent**" has the same meaning as the term "**Independent voting member of governing body**" as defined in the Internal Revenue Service Instructions for Form 990, Return of Organization Exempt from Income Tax.

Section 6.3. Elections. Except for the President and Immediate Past President, the officers are elected by the Fellow members. Officer elections should occur no later than the Annual Meeting. If an officer election does not occur by the Annual Meeting, the officer election must be held as soon thereafter as possible. Officer elections must be conducted by written ballot. The Executive Council shall adopt policies and procedures governing Officer nominations and elections. Election as an Officer does not create any contract rights.

Section 6.4. Term. Except as otherwise provided in these Bylaws, each officer's term is one year commencing on the adjournment of the Annual Meeting associated with the officer's election, as designated by the Executive Council, and continuing until the officer's resignation, removal, death, or until the officer's term expires and the officer's successor takes office. On the adjournment of each Annual Meeting, the then President-Elect automatically assumes the office of President and the then President automatically assumes the office of Immediate Past President. The Secretary's and Treasurer's respective terms are two-years commencing on the adjournment of the Annual Meeting and continuing until the Secretary's or Treasurer's resignation, removal, death, or until the Secretary's or Treasurer's term expires and the Secretary's or Treasurer's successor takes office.

Section 6.5. Resignation. An officer may resign by delivering a notice to the Society. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Executive Council may identify a successor, provided the successor does not take office until the effective date.

Section 6.6. Removal. The Fellow members may remove any officer from office at any time, with or without cause.

Section 6.7. Vacancies. If there is a President vacancy, the President-Elect assumes the office of President for the preceding President's unexpired term and for the full term for which the President-Elect was scheduled to serve as President. If there is a President-Elect vacancy, the Vice-President assumes the office of President-Elect for the unexpired term of the preceding President-Elect and for the term for which the Vice-President was scheduled to serve as President-Elect. Between Annual Meetings, other officer vacancies may be filled by the Executive Council. Except as otherwise provided in this Section 6.7, an individual elected to fill an officer vacancy is elected for the unexpired term of the officer's predecessor.

Section 6.8. President. The President shall: (i) preside at meetings of the Fellow members and Executive Council; (ii) serve on the Executive Committee; (iii) serve as the Executive Committee chair; (iv) serve on the Finance Committee; and (v) perform other duties assigned by the Executive Council and subject to the control of the Executive Council.

Section 6.9. President-Elect. The President-Elect shall: (i) serve on the Executive Council; (ii) serve on the Executive Committee; (iii) serve on the Finance Committee; (iv) assist the President in the discharge of the President's duties as the President may request; (v) in the absence of the President, or in the event of the President's inability or refusal to act, perform the duties of President and, when so acting, have all the powers of and be subject to all the restrictions on the President; and (vi) perform other duties assigned by the Executive Council.

Section 6.10. Vice President. The Vice President shall: (i) serve on the Executive Council; (ii) serve on the Executive Committee; (iii) Serve on the Finance Committee; (iv) assist the President-Elect in the discharge of the President-Elect's duties as the President-Elect may request; (v) in the absence of the President-Elect, or in the event of the President-Elect's inability or refusal to act, perform the duties of the President-Elect and, when so acting, have all the powers of and be subject to all the restrictions on the President-Elect; and (vi) perform other duties assigned by the Executive Council.

Section 6.11. Secretary. The Secretary shall: (i) serve on the Executive Council; (ii) serve on the Executive Committee; (iii) serve on the Finance Committee; (iv) ensure a record of all votes and minutes of all proceedings of the Fellow members, the Executive Council, and committees (defined below) are kept and recorded in one or more books provided for that purpose; (v) ensure that all notices are delivered as required by law or these Bylaws; (v) ensure the Society maintains a complete and current list of the Society's members, directors, officers, committee (defined below) members and chairs, including the name, mailing address, email address, and telephone number provided by each; and (vii) perform other duties assigned by the Executive Council.

Section 6.12. Treasurer. The Treasurer shall: (i) serve on the Executive Council; (ii) serve on the Executive Committee; (iii) serve on the Finance Committee; (iv) serve as the Finance Committee chair; and (v) perform other duties assigned by the Executive Council.

Section 6.13. Immediate Past President. The Immediate Past President shall: (i) serve on the Executive Council; (ii) serve on the Executive Committee; (iii) serve on the Finance Committee; and (iv) perform other duties assigned by the Executive Council.

Section 6.14. Compensation. Except for the President, officers are volunteers. Accordingly, the Society shall not compensate officers, other than the President, for their services as officers of the Society. The Executive Council may by affirmative vote of a majority of the directors then in office, authorize reasonable compensation for the President for services to the Society as President.

Article VII

Staff

Section 7.1. Employees and Contractors. Consistent with the general power of the Executive Council to oversee the management of the Society's affairs, the Executive Council may retain, or delegate the authority to retain, employees and contractors as necessary to advance the Society's Purpose. Reasonable compensation may be paid by the Society for services rendered by employees and contractors in furtherance of the Society's Purpose.

Section 7.2. Chief Executive Officer. The Executive Council shall engage a Chief Executive Officer for the Society, either directly or through a third-party contractor, upon such reasonable terms and conditions as the Executive Council determines. The Society's Chief Executive Officer shall report directly to the Executive Council. The Chief Executive Officer is not permitted to be a Society member, director, or member of any committee (defined below). The Chief Executive Officer shall: (i) supervise and be responsible for the Society's day-to-day operations and administrative management; and (ii) perform other duties assigned by the Executive Council. The Chief Executive Officer shall carryout the Chief Executive Officer's responsibilities in accordance with applicable law, the Society's Purpose, Certificate of Incorporation, Bylaws, policies, procedures, and budgets; and the Executive Council's directions. The Society's Chief Executive Officer may be referred to as the Society's "**Executive Director**" or an alternative title at the discretion of the Executive Council.

Section 7.3. Chief Financial Officer. The Chief Executive Officer shall engage a Chief Financial Officer for the Society, either directly or through a third-party contractor, upon such reasonable terms and conditions as the Chief Executive Officer determines. The Chief Financial Officer shall report to the Chief Executive Officer. The Chief Financial Officer is not permitted to be a Society member, director, or member of any committee (defined below). The Chief Financial Officer is the principal accounting and financial officer of the Society. The Chief Financial Officer shall: (i) have charge of and be responsible for the maintenance of adequate books of account for the Society; (ii) have charge and custody of all funds and securities of the Society, and be responsible therefore, and for the receipt and disbursement thereof; (iii) provide detailed reports on the finances of the Society to the Executive Council at least quarterly and at such other times as directed by the Executive Council; and (iv) perform other duties assigned by the Executive Council. If required by the Executive Council, the Chief Financial Officer shall give a bond for the faithful discharge of the Chief Financial Officer's responsibilities in such sum and with such surety as the Executive Council determines. The Chief Financial Officer shall carryout the Chief Financial Officer's responsibilities in accordance with applicable law, the Society's Purpose, Certificate of Incorporation, Bylaws, policies, procedures, budgets, the Executive Council's directions, and the Chief Executive Officer's directions.

Section 7.4. Removal. The Chief Executive Officer may be removed by the Executive Council whenever in its judgment the best interests of the Society would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the individual or entity so removed.

Article VIII

Management Committees and Advisory Committees

Section 8.1. Management Committees. The Executive Council, by resolution of a majority of the directors in office, may designate one or more "**Management Committees**," each of which must consist of one or more directors as the Executive Council designates. Individuals who are not directors may not serve on a Management Committee. Standing Management Committees include: (i) the Committee on Committees; (ii) the Credentials Committee; (iii) the Executive Committee; and (iv) the Finance Committee.

Section 8.2. Authority of Management Committees; Prohibited Acts. Each Management Committee has and exercises the authority of the Executive Council in the management of the Society as provided the resolution establishing the Management Committee and any charter, guidelines, or rules adopted by the Executive Council for the Management Committee. However, no Management Committee has the power or authority to:

- (i) Adopt a plan for the distribution of the Society's assets or for the Society's dissolution;
- (ii) Fill vacancies on the Executive Council or any of the Society's Management Committees;

- (iii) Elect, appoint, or remove any officer, director, or Management Committee member;
- (iv) Adopt, amend, or repeal the Society's Certificate of Incorporation or Bylaws;
- (v) Adopt a plan of merger or adopt a plan of consolidation with another corporation, or authorize the sale, lease, exchange, or mortgage of all or substantially all the property or assets of the Society;
- (vi) Amend, alter, repeal, or act inconsistent with any resolution or action of the Executive Council when the resolution or action of the Executive Council provides, by its terms, that it shall not be amended, altered, or repealed by action of a Management Committee; or
- (vii) Approve, adopt, or recommend to the Fellow members any action or matter (other than the election or removal of a director or officer) expressly required by Delaware law to be submitted to the voting members for approval.

The designation of a Management Committee and the delegation thereto of authority does not operate to relieve the Executive Council, or any director, of any responsibility imposed on the Executive Council or the director by law.

Section 8.3. Advisory Committees. Advisory committees, task forces, and other bodies not having and exercising the authority of the Executive Council (collectively, "**Advisory Committees**"), may be created by the Executive Council or its designee and consist of individuals designated by the Executive Council or its designee. The Executive Council or its designee shall determine whether, if at all, an Advisory Committee must have directors as members. An Advisory Committee may not act on behalf of the Society or bind it to any action but may make recommendations to the Executive Council, a Management Committee, and the Chief Executive Officer, and may implement the decisions and directives of the Executive Council or a Management Committee. Standing Advisory Committees include: (i) the Governance Committee; and (ii) the Nominating Committee.

Section 8.4. "Committee" Defined. Collectively, Management Committees and Advisory Committees are referred to as "**committees**" in these Bylaws.

Section 8.5. Composition, Duration, Responsibilities, and Rules. Except as otherwise provided in these Bylaws, the Executive Council shall designate in the resolution establishing a committee, the committee's composition, size, duration, and responsibilities. The Executive Council may adopt additional rules for a committee as it deems appropriate. Each committee may adopt rules for its own governance consistent with the law, the Certificate of Incorporation, these Bylaws, the resolution establishing the committee, and any rules adopted by the Executive Council for the committee.

Section 8.6. Committee Chair. Except as otherwise provided in these Bylaws, or the resolution establishing the committee, the Executive Council or its designee shall appoint a chair for each committee. A committee's chair shall: (i) preside at meetings of the committee; and (ii) perform other duties assigned by the Executive Council or its designee. If a committee's chair is absent from a committee meeting, and the committee does not have a committee vice chair or the committee vice chair is absent, the committee shall appoint a committee member to serve as acting chair of the committee for that meeting.

Section 8.7. Committee Vice Chair. A committee may have a committee vice chair. Except as otherwise provided in these Bylaws, or the resolution establishing a committee, the Executive Council, or its designee,

shall appoint the vice chair for a committee. A committee's vice chair shall: (i) assist the committee's chair in the discharge of the committee chair's duties as the committee chair may request; (ii) in the absence of the committee chair, or in the event of the committee chair's inability or refusal to act, perform the duties of the committee chair and, when so acting, have all the powers of and be subject to all the restrictions on the committee chair; and (iii) perform other duties assigned by the Executive Council.

Section 8.8. Resignation and Removal. A committee chair, committee vice chair, or committee member may resign by delivering written notice to the Society. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. A Management Committee member may be removed by the Executive Council whenever, in its judgment, the best interests of the Society are served thereby. An Advisory Committee member may be removed by the Executive Council or its designee whenever, in its or the designee's judgment, the best interests of the Society are served thereby. A committee chair or committee vice chair may be removed by the Executive Council or its designee whenever, in its or the designee's judgment, the best interests of the Society are served thereby.

Section 8.9. Vacancies. Vacancies in the membership of any Management Committee may only be filled by the Executive Council. Vacancies in the membership of any Advisory Committee may only be filled by the Executive Council or its designee.

Section 8.10. Meetings. A committee shall meet as frequently as required by these Bylaws or the resolution establishing the committee, any rules adopted by the Executive Council for the committee, or any rules adopted by the committee. The Executive Council or the committee may provide by resolution the date, time, and place for the holding of regular committee meetings. Special meetings of a committee may be called by the Executive Council, the President, the committee chair, or a majority of the committee's members.

Section 8.11. Notice. Notice of any committee meeting must be delivered at least 24 hours in advance of the meeting to the Society and the committee members. The notice must: (i) include a meeting agenda; (ii) state the date, time, and place, if any, of the committee meeting; and (iii) identify the Communication System to be used for the committee meeting and how a committee member accesses and uses the Communications System to participate in the meeting.

Section 8.12. Quorum. A majority (51%) of a committee constitutes a quorum, unless otherwise provided in these Bylaws or the resolution of the Executive Council designating the committee.

Section 8.13. Manner of Acting. The act of a majority of the committee members present at a meeting at which a quorum is present is the act of the committee unless otherwise provided in these Bylaws or the resolution of the Executive Council designating the committee. No committee member may vote by proxy.

Section 8.14. Remote Meeting Participation. Committee members are entitled to participate in a committee meeting through a Communications System designated by the Executive Council. Participation in a meeting pursuant to this subsection constitutes presence in person at that meeting.

Section 8.15. Presumption of Assent. A committee member present at a meeting of the committee at which action on any matter is taken is conclusively presumed to have assented to the action taken unless: (i) the individual's dissent is entered in the minutes of the meeting; (ii) the individual files a written dissent to the action with the individual acting as the meeting secretary before the adjournment thereof; or (iii) the individual forwards a dissent by registered or certified mail to the Society's Secretary promptly after the adjournment of the meeting. The right to dissent does not apply to a committee member who voted in favor of the action.

Section 8.16. Minutes. The committee chair shall ensure draft minutes of each committee meeting are prepared and distributed to each committee member in advance of the subsequent committee meeting. The committee shall review; if necessary, revise; and approve the draft minutes at the subsequent committee meeting. The committee chair shall ensure copies of approved committee minutes are delivered to the Society to be filed in the Society's records.

Section 8.17. Informal Action. Except as otherwise provided in the resolution establishing a committee, the authority of a committee may be exercised without a meeting if a written consent, stating the action taken, is signed by all committee members entitled to vote on the action. The consent must be evidenced by one or more written consents, each of which states the action taken and provides a written record of unanimous approval. All the approvals evidencing the consent must be delivered to the Society to be filed in the Society's records. The action taken is effective when all the committee members approve the consent unless the consent specifies a different effective date.

Section 8.18. Compensation. Committee chairs, committee vice chairs, and committee members are volunteers. Accordingly, the Society shall not compensate committee chairs, committee vice chairs, or committee members for their services as committee chairs, committee vice chairs, or committee members.

Section 8.19. Authority of the Executive Council. The Executive Council may dissolve, reconstitute, or alter a committee; remove a committee chair, a committee vice chair, or a committee member; or take any other action regarding a committee which the Executive Council, in its discretion, determines to be in the Society's best interest.

Article IX

Financial Matters

Section 9.1. Contracts. The Executive Council may authorize any officer, employee, or agent of the Society, in addition to the officers, employees, or agents authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Society, and such authority may be general or confined to specific instances. In the absence of such determination by the Executive Council, contracts shall be signed by the President and countersigned by the Secretary or President-Elect.

Section 9.2. Checks, Drafts, Etc. All checks, drafts, and other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Society must be signed by such officers, employees, or agents of the Society and in such manner as shall from time to time be determined by resolution of the Executive Council. In the absence of such determination by the Executive Council, such instruments shall be signed by the President and countersigned by the Secretary or President-Elect.

Section 9.3. Deposits. All funds of the Society shall be deposited to the credit of the Society in the banks, trust companies, or other depositories designated by the Executive Council.

Section 9.4. Bonding. Any director, officer, employee, or agent of the Society who handles funds may be required, at the Society's expense, to furnish an adequate surety bond approved by the Executive Council and in such amount as the Executive Council prescribes.

Section 9.5. Charitable Solicitations. The Executive Council shall cause the Society to provide appropriate training and supervision of the Society's fundraising activities to ensure: (i) the Society's fundraising activities comply with applicable law; (ii) do not coerce or intimidate potential donors; and (iii) all fundraising statements and representations made to the public clearly identify the Society and are true and correct. The Society shall not compensate internal or external fundraisers based on a percentage of the amount raised.

Section 9.6. Contributions. The Executive Council may accept on behalf of the Society any contribution provided accepting the contribution advances the Society's Purpose, is not illegal, and would not otherwise compromise the Society's Purpose, finances, tax-exempt status, or other interests. Minimally, the Executive Council shall ensure contributions to the Society are protected as required by applicable law. The Executive Council shall ensure contributions are used for purposes consistent with the Society's Purpose and the donor's intent, whether as described in the relevant fundraising materials or specifically directed by the donor. The Executive Council shall cause the Society to provide donors with timely acknowledgement of their contributions as required by applicable law.

Section 9.7. Loans. Loans from the Society to any individual or entity are prohibited.

Section 9.8. Budget. The Executive Council shall adopt a budget for the Society in advance of each fiscal year. The affairs of the Society shall be conducted in accordance with the Society's annual budget as approved or amended by the Executive Council. The Executive Council shall monitor actual performance against the budget.

Section 9.9. Annual Independent Audit. Minimally, the Society shall have an annual independent audit as required by applicable law.

Section 9.10. Annual Returns. Annually, each director is to be provided with a copy of, and the Executive Council shall review, the Society's annual Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax, before it is filed with the Internal Revenue Service.

Section 9.11. Financial Policies. The Society shall endeavor to adopt financial policies and procedures which include: (i) prudent financial controls; and (ii) require the Society's financial books and records be kept in accordance with generally accepted accounting principles.

ARTICLE X

Miscellaneous Provisions

Section 10.1. Strategic Plan. The Executive Council shall endeavor to adopt a strategic plan designed to advance the Society's Purpose. Once a strategic plan is adopted, the Executive Council shall endeavor to review and update it at least once every three years.

Section 10.2. Annual Orientation. Annually, the Society shall endeavor to provide a director and officer orientation covering: (i) the Society's Purpose; (ii) the Society's governing documents; (iii) the Society's structure; (iv) the roles and responsibilities of directors, officers, committees, committee chairs, the Chief Executive Officer, and the Chief Financial Officer; (v) the Society's conflict-of-interest policy, record retention and destruction policy, disqualified person compensation policy, whistleblower protection policy, fundraising policy, gift acceptance policy, investment policy, and IRS Form 1023 and Form 990 disclosure policy; (vi) the Society's strategic plan, goals, and activities; and (vii) the Society's budget, budgeting process, and finances.

Section 10.3. Certain Policies. The Society shall endeavor to adopt, review at least every five years, and implement: (i) a conflict-of-interest policy; (ii) a record retention and destruction policy; (iii) a disqualified person compensation policy; (iv) a whistleblower protection policy; (v) a fundraising policy; (vi) a gift acceptance policy; (vii) an investment policy; and (viii) an IRS Form 1023 and Form 990 disclosure policy.

Section 10.4. Records. The Society shall keep correct and complete records of account, minutes of the proceedings of its Fellow members, Executive Council, and any committees, and a current list of the Society's

Fellow members, non-voting members, directors, officers, and committee chairs, vice chairs, and members. Any records of the Society may be in written form or in any other form capable of being converted into written form within a reasonable time.

Section 10.5. Compliance with Applicable Law. The Society shall comply with applicable law.

Article XI

Fiscal Year

Fiscal Year. The Society's fiscal year begins on January 1 and ends on December 31.

Article XII

Notice

Section 12.1. Notice or Action By Electronic Transmission. A notice or action required to be in writing by law, the Certificate of Incorporation, or these Bylaws may be made by electronic transmission. A notice or action transmitted by the Society by electronic mail is delivered as of the date and time it is transmitted by the Society to the electronic mail address for an individual appearing on the Society's records. A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Society. A notice or action transmitted to the Society by electronic mail is delivered as of the date and time it is received by the Society at its designated electronic mail address. For purposes of these Bylaws, the term "**electronic transmission**," has the meaning stated in the Delaware General Corporation Law and includes electronic mail. For purposes of these Bylaws, the terms "**electronic mail**," and "**electronic mail address**," have the meanings stated in the Delaware General Corporation Law.

Section 12.2. "Delivered" Defined. Any notice required by the Certificate of Incorporation or these Bylaws is deemed "delivered" when it is: (i) transferred or presented to an individual in person; (ii) deposited in the United States mail addressed to the individual at the individual's address as it appears on the records of the Society, with sufficient first-class postage prepaid thereon; or (iii) in the case of notice by electronic transmission as specified in Article XII, Section 12.1.

Section 12.3. Waiver. Whenever any notice is required by law, the Certificate of Incorporation, or these Bylaws, a waiver thereof in writing, signed by the individual entitled to such notice, whether before or after the time stated therein, is deemed equivalent to the giving of such notice. Attendance at a meeting constitutes a waiver of notice thereof, unless the individual at the meeting objects to the holding of the meeting because proper notice was not given.

Article XIII
Parliamentary Procedure

The conduct of meetings is governed by Robert's Rules of Order as most recently revised. If there is a conflict between Robert's Rules of Order and these Bylaws or a Society policy, these Bylaws and the Society policy govern.

ARTICLE XIV
Indemnification

Section 14.1. Indemnification. The Society shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person ("**Covered Person**") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative ("**Proceeding**"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director, officer, employee, or agent of the Society or, while a director, officer, employee, or agent of the Society, is or was serving at the request of the Society as a director, officer, employee, or agent of another corporation or of a partnership, joint venture, trust, enterprise, or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Despite the preceding sentence, except for claims for indemnification (following the final disposition of such Proceeding) or advancement of expenses not paid in full, the Society shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Executive Council.

Section 14.2. Advancement of Expenses. The Executive Council may but need not authorize the Society to pay the expenses (including attorneys' fees) actually and reasonably incurred by a director or officer in defending any Proceeding in advance of its final disposition, upon: (i) written request of such director or officer; and (ii) receipt of an undertaking by or on behalf of such director or officer to repay all amounts advanced, if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such director or officer is not entitled to be indemnified for such expenses under Section 14.1 of these Bylaws or otherwise. Payment of such expenses actually and reasonably incurred by employees or agents, may be made by the Society, subject to such terms and conditions as the Society in its discretion deems appropriate.

Section 14.3. Insurance. The Society may purchase and maintain insurance on behalf of any Covered Person against any liability asserted against such Covered Person and incurred by such person in any such capacity, or arising out of such person's status as such, whether the Society would have the power to indemnify such person against such liability under Delaware law.

Section 14.4. Repeal, Amendment, or Modification. Any amendment, repeal, or modification of this Article XIV shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such repeal or modification.

Article XV
Amendments

These Bylaws may be amended or repealed, and new bylaws adopted, by the Fellow members or the Executive Council.

Revised:

Revised June 1, 2019

Revised June 2022

Revised June 2023

Revised [INSERT], 2024

**The American Society of Colon and Rectal Surgeons
Bylaws Certificate**

The undersigned certifies that the undersigned is the Secretary of The American Society of Colon and Rectal Surgeons ("**Society**") a Delaware nonprofit nonstock corporation and that, as such, the undersigned is authorized to execute this certificate on behalf of the Society, and further certifies that the foregoing Bylaws, consisting of 17 pages, including this page, constitute the Bylaws of the Society as of this date, duly adopted by the voting members of the Society on [INSERT], 2024.

Secretary

Date