

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted: 4/15/2019	
		Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 4/17/2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? FSMB Matters 2019 Annual FSMB Meeting - Resolutions, Reports and Candidate Nominations - Board Discussion	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please see the attached materials outlining Resolutions, Reports, Candidate Nominations to be addressed at the 2019 FSMB Annual Meeting.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Stolarzyk, Kate - DSPS

From: McGowan, Yolanda - DSPS
Sent: Monday, April 15, 2019 12:22 PM
To: Stolarzyk, Kate - DSPS
Subject: FW: FOLLOW UP RE: resolutions and slate of candidates
Attachments: Walker-McGill MD, MBA, Cheryl L_CV Summary 2018.pdf; Geimer-Flanders, DO Jone_CV Summary 2018.pdf; Parker JD, MPA, Shawn P_CV Summary 2018.pdf; Templeton JD, Katie L_CV Summary 2018.pdf; Whitehouse JD, Richard A_CV Summary 2018.pdf; Willett DO, Joseph R_CV Summary 2018.pdf; Berg MD, Nathaniel B_CV Summary 2018.pdf; Gleaton MD, Maroulla S_CV Summary 2018.pdf; Gross MD, Alexander S_CV Summary 2018.pdf; Neyhart DO, Joy M_CV Summary 2018.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Ryan, Thomas - DSPS <Thomas.Ryan@wisconsin.gov>
Sent: Monday, April 15, 2019 11:03 AM
To: McGowan, Yolanda - DSPS <Yolanda.McGowan@wisconsin.gov>
Subject: FW: FOLLOW UP RE: resolutions and slate of candidates

There are 3 director-at-large positions to be filled. There are 5 candidates. There are also 3 Nominating Committee positions to be filled. There are 4 candidates.

Please find bios (10 attachments) submitted for the following 2019 candidates:

2019 CHAIR—ELECT **incumbent*

Cheryl L. Walker-McGill, MD, MBA* – North Carolina

2019 BOARD OF DIRECTORS **incumbent*

Jone Geimer-Flanders, DO – Hawaii

Shawn P. Parker, JD, MPA* – North Carolina (Non-physician/Public Member)

Katie L. Templeton, JD – Oklahoma Osteopathic (Non-physician/Public Member)

Richard A. Whitehouse, JD – Kentucky (Non-physician/Public Member)

Joseph R. Willett, DO – Minnesota

2019 NOMINATING COMMITTEE

Nathaniel B. Berg, MD – Guam

Maroulla S. Gleaton, MD – Maine Medical

Alexander S. Gross, MD – Georgia

Joy M. Neyhart, DO – Alaska

Federation of State Medical Boards

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**Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019**

Subject: Correlation Between Licensee USMLE or COMLEX Passage Attempt Rate and Reports of State Medical Board Discipline

Introduced by: Minnesota Board of Medical Practice

Approved: January 2019

Whereas, the United States Medical Licensing Examination (USMLE) is a three-step examination sponsored by the Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners; and

Whereas, the USMLE is reported to assess a physician's ability to apply concepts, knowledge and principles along with patient centered skills; and

Whereas, areas tested during the USMLE stepwise process are considered important in health and disease and thereby constitute the basis for safe and effective patient care; and

Whereas, the Comprehensive Osteopathic Medical Licensing Examination of the United States (COMLEX) is a three-step examination that is the most common means taken by osteopathic physicians to gain licensure in all 50 states; and

Whereas, 49 states, the District of Columbia and Puerto Rico have published guidance on the number of attempts at USMLE step examination passage allowable and/or the time required to USMLE step examination passage allowable in order to gain licensure in the states of reference; and

Whereas, a total of 34 states and the District of Columbia have both attempt and time of completion of USMLE passage requirements, yet each differs significantly as to those specific limitations; and

Whereas, 12 states and Puerto Rico have either a USMLE attempt limitation or a time to passage limitation requirement, while three states have no limitation on either attempt passage or time to passage of the USMLE in order to gain licensure in the state of reference; and

Whereas, states also differ as to both COMLEX attempt limitation and time to passage limitation requirements; and

Whereas, physicians licensed and practicing in good standing in one or more states may be

limited in gaining licensure later in a state that has more restrictive USMLE and COMLEX passage rate attempts and time limitation requirements; and

Whereas, no known data exists to correlate USMLE and COMLEX passage attempt rates or temporal duration to final completion of examination steps with future medical board discipline, medical malpractice claims or other measures of clinical aptitude;

Therefore, be it hereby

Resolved, that the FSMB will establish a task force to study existing licensing regulations on USMLE and COMLEX passage rate attempts, time duration to USMLE and COMLEX passage, and subsequent medical board discipline, medical malpractice claims, and other measures of clinical aptitude; and

Resolved, that the FSMB task force will evaluate whether mandatory limitations on USMLE and COMLEX passage attempts and/or limitations to the time duration to USMLE and COMLEX step passage correlate with a decrease in future medical board disciplinary action, medical malpractice claims, and other measures of clinical aptitude; and

Resolved, that the FSMB task force will develop recommendations regarding mandatory USMLE and COMLEX passage attempt and time limitations for licensure by medical boards in the United States and its territories.

MANAGEMENT FISCAL NOTE:

Following the completion of a study by FSMB research staff, this Task Force would interface with FSMB and NBME staff and require two in-person meetings over a two-year period (one per year). Costs for the Task Force are estimated to be **\$35,620**.

**Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019**

Subject: Call for FSMB to Update Its Ethics and Quality of Care Policy
Introduced by: Georgia Composite Medical Board
Approved: February 2019

Whereas, the Federation of State Medical Boards, working in conjunction with the American Medical Association's (AMA's) Council of Judicial Affairs, developed an Ethics and Quality of Care policy in 1995; and

Whereas, the FSMB's policy called for two main goals:

- 1) Make a uniform part of the licensure examination knowledge by physicians of their unique ethical responsibilities, as described in the Principles of Medical Ethics and the Current Opinions of the Council; and
- 2) Expand those medical society programs whereby, under the supervision of the state medical board and with its attendant investigating powers and civil suit immunity, medical societies examine and report to the boards with regard to quality of care complaints referred to the boards; and

Whereas, these goals over the years have served the FSMB well in establishing updated policies as noted in the FSMB Public Policy Compendium; and

Whereas, the last report on Professional Conduct and Ethics was adopted by the FSMB House of Delegates in April 2000; and

Whereas, the evolution of health care has dramatically become much more complicated since 2000; and

Whereas, the use of technology with electronic health records (EHR), telehealth, iphones, and ipads have literally created medical care to patient and physician using a simple click; and

Whereas, much of the medical information online is often without substance, and yet, patients often subscribe without knowledge of their own personal physician often to their detriment; and

Whereas, the increasing corporate of medicine with physician working for a healthcare entity has changed the meaning of the doctor-patient relationship; and

Whereas, the new pay model of care with physicians making decision based on value and the creation of Accountable Care Organizations, have not been fully evaluated and could pose ethical issues; and

Whereas, medical crises such as the Opioid Epidemic and the Sexual Boundary encroachment have resulted in a distrust in physicians from multiple entities; and

Whereas, as healthcare continues to evolve with such issues as genetic testing and the prospect of diminishing resources for an ever-increasing cost in health care, it is imperative that the FSMB, as the regulatory entity, must be proactive in helping to shape policy on these and other future issues;

Therefore, be it hereby

Resolved, that the Georgia Composite Medical Board respectfully requests the FSMB's Ethics and Professionalism Committee to periodically review Medical Ethics guidelines, and present their updated policy proposals to the FSMB House of Delegates for approval on a quintennial basis; and

Resolved, that the Georgia Composite Medical Board respectfully requests the FSMB and representatives of the AMA reconvene with the purpose of updating their joint report on Ethics and Quality Care that was last published in 1995 to reflect current policy.

MANAGEMENT FISCAL NOTE:

The first component of this resolution would be addressed by the Ethics and Professionalism Committee with little or no additional cost. The second component could be addressed by staff working with representatives of the AMA. Total costs are estimated to be **\$18,600**.

Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019

Subject: Establishment of Quality Guidelines for Non-ABMS Organizations
Introduced by: Georgia Composite Medical Board
Approved: February 2019

Whereas, the physician’s initial certification has been shown as a valid means to reasonably verify a physician’s ability to practice safely; and

Whereas, the American Board of Medical Specialties (ABMS) for over 40 years has been the primary source for certification and recertification for 24 specialties; and

Whereas, due to the increasingly burdensome, costly, time consuming, and less meaningful process of recertification, physicians have openly opposed the continuation of recertification under the current format; and

Whereas, due to this burdensome recertification, physicians are joining non-ABMS organizations who are not often recognized by state medical boards, hospital credentialing, and health insurance companies; and

Whereas, in a direct response to this situation, Dan Morhaim, MD, a legislator from Maryland authored a legislative HB 857 that would promote more competition from other certifying organizations; and

Whereas, the United States Department of Justice (DOJ) Antitrust Division issued an opinion on this bill concerning the ABMS:

- 1) Whether the ABMS harms competition by imposing overly burdensome conditions on physicians who desire to maintain their ABMS certification;
- 2) What policy options does the Maryland legislature have if they decide the ABMS Maintenance of Certification (MOC) negatively impacts healthcare competition in Maryland; and

Whereas, the DOJ’s recommendations suggest that “more entry and more competition by bonafide certifying bodies may offer important benefits— including lower costs for physicians to be certified or improving the quality of certification services— for healthcare providers, consumers, and payer’s”; and

Whereas, the DOJ recommends that states should attempt to increase competition among legitimate certifying organizations that must be consistent with patient health and

safety; and

Whereas, several years ago, the Federal Trade Commission ruled the North Carolina Dental Board, because its Board was entirely composed of dentists, violated the antitrust provisions by ruling that only dentists had the authorization to whitening teeth thus suppressing competition; and

Whereas, there are currently 70 boards in the Federation of State Medical Boards (FSMB) that have previously relied on the certifying body of the ABMS to verify certification and recertification in a particular specialty; and

Whereas, the ruling of the United States Department of Justice now recommends multiple boards of certification and recertification need to be considered by State Medical Boards; and

Whereas, state medical boards, whose mission is to protect the health of the citizens under their auspices, have had very little experience and knowledge concerning these alternative certifying boards;

Therefore, be it hereby

Resolved, that the Georgia Composite Medical Board respectfully requests that the FSMB develop quality guidelines for the state medical boards to assure the certifying standards of non-ABMS organizations possess the high quality needed to assure patients when they are seeing a physician.

MANAGEMENT FISCAL NOTE:

If pursued, this resolution would most likely result in one of two tracks. The work could be added to the scope of the Advisory Council of Board Executives with no additional cost. Or, alternatively, the project could be accomplished by staff at an estimated cost of **\$24,000**.

**Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019**

Subject: Emergency Licensure Following a Natural Disaster
Introduced by: North Carolina Medical Board
Approved: January 2019

Whereas, hurricanes and other natural disasters can cause mass injuries that are beyond a state’s ability to manage with currently licensed physicians; and

Whereas, in those situations, state medical and osteopathic boards (“boards”) must be able to quickly process emergency license applications in a way that does not compromise public safety; and

Whereas, FSMB Policy 240.4 “License Portability During a Public Health Emergency” (April 2006) states “. . . the FSMB [will] study issues relative to license portability during an emergency including, but not limited to, joining with other organizations or entities to determine the best manner to provide necessary medical care and maintain licensure autonomy for the individual states”; and

Whereas, FSMB Policy 240.6 “Disaster Preparedness and Licensing” (April 2002) states “The FSMB will cooperate with federal and state legislators, agencies, and organizations in facilitating the movement of properly licensed physicians among FSMB member licensing jurisdictions in support of necessary emergency medical response”; and

Whereas, although good policies, they did not result in model emergency licensure laws and rules; and

Whereas, many boards, particularly those in hurricane-prone states, would benefit from model emergency licensure laws and rules;

Therefore, be it hereby

Resolved, that the Federation of State Medical Boards convene a workgroup to develop model emergency licensure laws and rules and submit its recommendations to the House of Delegates at the 2020 FSMB Annual Meeting.

MANAGEMENT FISCAL NOTE:

This Workgroup would require one in-person meeting and two web meetings. Meeting and staff costs necessary to achieve this resolution are anticipated to be **\$20,200**.

Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019

Subject: Informed Consent Policy
Introduced by: North Carolina Medical Board
Approved: January 2019

Whereas, according to AMA Code of Medical Ethics Opinion 2.1.1 (“Opinion 2.1.1”), “Patients have the right to receive information and ask questions about recommended treatments so they can make well-considered decisions about care”; and

Whereas, shared decision making includes the patient’s right to receive information and ask questions about recommended tests; and

Whereas, Opinion 2.1.1 further states that “. . . physicians should include information about . . . the burdens, risks and expected benefits of all options, including forgoing treatment [or tests]”; and

Whereas, information about the potential financial burden of a test or treatment – particularly if the proposed test or treatment is known to be expensive and rarely covered by insurance – could be factor in a patient’s decision regarding a recommended test or treatment; and

Whereas, this information is particularly important to patients who are uninsured, underinsured or have high deductibles, and if the test or treatment is elective; and

Whereas, licensees need guidance from state medical and osteopathic boards (“boards”) as to what role, if any, they have in discussing potential financial burdens as part of the informed consent process;

Therefore, be it hereby

Resolved, that the Federation of State Medical Boards convene a workgroup to address a physician’s obligation to discuss potential costs of tests or treatments as part of the informed consent process and submit its recommendations to the House of Delegates at the 2020 FSMB Annual Meeting.

MANAGEMENT FISCAL NOTE:

This resolution could be addressed by adding expertise to an existing committee at a cost of less than \$3,000. If a new committee is formed, the costs are expected be approximately **\$20,100**.

**Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019**

Subject: Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office Policy (2013)

Introduced by: North Carolina Medical Board

Approved: January 2019

Whereas, the federal Drug Addiction Treatment Act of 2000, commonly referred to as “DATA 2000”, along with subsequent legislation, allows physicians, physician assistants and nurse practitioners (“prescribers”) to treat opioid addiction with FDA-approved controlled drugs in office-based settings, also known as medication-assisted treatment (MAT); and

Whereas, in 2002, the FSMB adopted the Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office (“Model Policy”) for use by state medical boards in regulating office-based treatment of addiction; and

Whereas, the Model Policy was updated in 2013 to reflect the large body of research and experience accrued since buprenorphine was approved in 2002 for the treatment of opioid addiction; and

Whereas, the Model Policy is designed to encourage state medical boards to adopt consistent standards, to promote the public health by making appropriate treatment available to opioid-addicted patients, and to educate the regulatory and prescriber communities about the potential of new treatment modalities for opioid addiction; and

Whereas, opioid overdose deaths have continued to rise since 2013 and the need to make appropriate treatment available to opioid-addicted patients is now greater than ever; and

Whereas, MAT is a rapidly evolving area of medicine and the Model Policy should be updated to reflect current best practices including the need to: treat opioid use disorder (OUD) the same as other chronic medical conditions, combat the stigma associated with MAT and OUD, encourage the use of destigmatizing language and avoid words such as “dirty urine”, and generally reduce the shame that prevents patients from seeking treatment for OUD;

Therefore, be it hereby

Resolved, that the Federation of State Medical Boards convene a workgroup to review and update the Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office Policy (2013) and submit its recommendations to the House of Delegates at the 2020 FSMB Annual Meeting.

MANAGEMENT FISCAL NOTE:

This Workgroup would require one in-person meeting and two web meetings. Meeting and staff costs necessary to achieve this resolution are anticipated to be **\$17,550**.

**Federation of State Medical Boards
House of Delegates Meeting
April 27, 2019**

Subject: Policy on Physician Impairment

Introduced by: North Carolina Medical Board

Approved: January 2019

Whereas, the FSMB Policy on Physician Impairment (April 2011) (“Policy”) provides guidance to state medical and osteopathic boards (“board” or “boards”) for including physician health programs (PHPs) in board efforts to protect the public; and

Whereas, the Policy acknowledges that “[f]uture modifications may be warranted as new data becomes available”; and

Whereas, this is a rapidly changing area of medical regulation and updates to the Policy are needed to address new issues including:

- 1) implementation of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V) (May 2013); and
- 2) use of medication-assisted treatment by practicing licensees with opioid use disorders; and
- 3) role of PHPs to promote licensee wellness and combat burnout; and
- 4) creation of board policies and procedures to ensure proper oversight of PHPs (if board funds are used to support the program); and
- 5) anticipated adoption of rewritten PHP Guidelines (2005) by the Federation of State Physician Health Programs in April 2019;

Therefore, be it hereby

Resolved, that the Federation of State Medical Boards convene a workgroup, to include the Federation of State Physician Health Programs, to review and update the FSMB Policy on Physician Impairment (April 2011) and submit its recommendations to the House of Delegates at the 2020 FSMB Annual Meeting.

MANAGEMENT FISCAL NOTE:

This Workgroup would require one in-person meeting and two web meetings that would include representatives from other organizations. Meeting and staff costs necessary to achieve this resolution are anticipated to be **\$28,800**.