Actions by the FSMB House of Delegates
April 28, 2018

1. The agenda for the April 28, 2018 House of Delegates meeting was APPROVED.

2. The seven (7) rules for conducting the 2018 business meeting of the House of Delegates as presented in the Report of the Rules Committee were APPROVED.

3. The reports contained in the Consent Agenda were ACCEPTED.

4. The minutes of the April 22, 2017 House of Delegates meeting were APPROVED.

5. The proposed FY 2019 budget was APPROVED.

6. Elections
   Chair-elect: Scott A. Steingard, DO (2018-2019)
   (elected by acclamation)
   Treasurer: Jerry G. Landau, JD (2018-2021)
   (elected by acclamation)
   Directors-at-Large: Mohammed A. Arsiwala, MD (2018-2021)
   Anna Z. Hayden, DO (2018-2021)
   Shawn P. Parker, JD, MPA (2018-2019)
   Sarvam P. TerKonda, MD (2018-2021)

   Nominating Committee (elected by acclamation):
   Ahmed D. Faheem, MD (2018-2020)
   Robert P. Giacalone, RPh, JD (2018-2020)
   Kenneth J. Walker, MD (2018-2020)

7. Proposed Bylaws Amendments 1-7 as contained in Bylaws Proposal #1 of the Report of the Bylaws Committee were ADOPTED:

   PROPOSED AMENDMENT #1
   Article II. Classes of Membership, Election and Membership Rights
Section B. Fellows

There shall be two categories of Fellow of the FSMB:

1. **Board Member Fellow.** A **Board Member Fellow** is an individual member who as a result of appointment or confirmation is designated to be a member of a Member Medical Board. **A Board Member Fellow** shall be a Fellow of the FSMB during the member’s period of service on a Member Medical Board, and for a period of 36 months thereafter, **and**

2. **Staff Fellow.** A **Staff Fellow** is an individual hired or appointed and who is responsible for the day-to-day supervision and performance of the administrative duties and functions for which a medical board is responsible. Each member board may denote only one individual to serve as a Staff Fellow of the FSMB. No individual shall continue as a Staff Fellow upon termination of employment by or service to the Member Medical Board.

**PROPOSED AMENDMENT #2**

Article II. Classes of Membership, Election and Membership Rights
Section C. Honorary Fellows

Thirty-six months after completion of service on a Member Medical Board, a **Board Member Fellow** as defined in section B, paragraph 1 shall become an Honorary Fellow of the FSMB thirty-six months after completion of service on a Member Medical Board. A **Staff Fellow** as defined in Section B, paragraph 2 shall become an Honorary Fellow of the FSMB upon termination of employment by or service to the Member Medical Board. An Honorary Fellow of the FSMB **and** may be appointed by the Chair to serve as a member of any committee or in any other appointive capacity.

**PROPOSED AMENDMENT #3**

Article II. Classes of Membership, Election and Membership Rights
Section D. Associate Members

A Member Medical Board may designate one or more employees or staff members, **other than an individual designated as a Staff Fellow,** to be an Associate Member of the FSMB. No **Associate Member** shall continue in that capacity as an Associate Member upon termination of employment by or service to the Member Medical Board.

**PROPOSED AMENDMENT #4**

Article III. Officers: Election and Duties
Section A. Officers of the FSMB

1. **Officers.** The officers of the FSMB shall be that of Chair, Chair-elect, Treasurer and Secretary.

2. Only an individual who is a Fellow **as defined in Article II, Section B, Paragraph 1** at the time of the individual’s election or appointment shall be eligible for election or appointment as an Officer of the FSMB, except for the position of Secretary.

3. The position of Secretary shall be an ex-officio office, without vote, and the President of the FSMB shall serve as Secretary.
PROPOSED AMENDMENT #5
Article IV. Board of Directors
Section A. Membership and Terms

1. **MEMBERSHIP:** The Board of Directors shall be composed of the Officers, the Immediate Past Chair, nine Directors-at-Large and two **Associate Members Staff Fellows.** At least two members of the Board, who are not **Associate Members Staff Fellows,** shall be non-physicians, at least one of whom shall be a public/consumer member.

2. **NOMINATION OF ** Associate Members Staff Fellow positions shall be accepted from Member Boards, the Board of Directors and the Administrators in Medicine (AIM). **Associate Members Staff Fellows** shall be **elected appointed** by the Board of Directors in staggered terms in accordance with policies and procedures established by the Board of Directors.

3. **TERMS:** Directors-at-Large shall each serve for a term of three years and shall be eligible to be reelected to one additional term. **Staff Fellows shall serve for a term of two years and shall be eligible to be reappointed to one additional term.** A partial term totaling one-and-a-half years or more shall count as a full term. **Associate Members shall each serve for a term of two years. Associate Members shall not be eligible to serve consecutive terms.**

PROPOSED AMENDMENT #6
Article IV. Board of Directors
Section F. Vacancies

1. **DIRECTORS-AT-LARGE:** In the event of a vacancy in the membership of the Directors-at-Large, the Board of Directors may appoint a Fellow who meets the qualifications for the position to serve until the next Annual Meeting of the House of Delegates, at which time an individual shall be nominated and, if elected, shall serve for the remainder of the unexpired term. In the event a Director-at-Large is elected to the office of Treasurer or Chair-elect, that vacancy shall be filled by an election at the same Annual Meeting of the House of Delegates.

2. **ASSOCIATE MEMBERS STAFF FELLOWS:** In the event of a vacancy of an **Associate Member a Staff Fellow,** the Board of Directors may appoint a substitute to complete the **Associate Member’s Staff Fellow’s** term in accordance with the policies established by the Board of Directors.

PROPOSED AMENDMENT #7
Article IV. Board of Directors
Section G. Executive Committee of the Board

1. **MEMBERSHIP:** The Board of Directors shall establish an Executive Committee of the Board, which shall consist of the Chair as Chair, Chair-elect, Treasurer, Immediate Past Chair and **two three** Directors-at-Large. The Directors-at-Large shall be elected for a one-year term by majority vote of the Directors-at-Large and the **Associate Members of Staff Fellows serving on** the Board of Directors at the first regular meeting of the Board following the annual meeting of the House of Delegates. In the event of a vacancy in a Director-at-Large position, the Directors-at-Large and the **Associate Members of Staff Fellows serving on** the Board, by majority vote, shall choose
another Director-at-Large to serve the remainder of the one-year term. **A Staff Fellow may serve in one of the Director-at-Large positions. No more than one Staff Fellow may serve on the Executive Committee at any one time.** In the event of vacancy in the position of Immediate Past Chair, this position shall remain vacant until the next Annual Meeting of the House of Delegates.

8. **Proposed Bylaws Amendments 8-24** as contained in Bylaws Proposal #2 of the Report of the Bylaws Committee were **ADOPTED**:

**PROPOSED AMENDMENT #8**

Article III. Officers: Election and Duties
Section A. Officers of the FSMB

1. **Officers.** The officers of the FSMB shall be that of Chair, Chair-elect, Immediate Past Chair, Treasurer and Secretary.

**PROPOSED AMENDMENT #9**

Article III. Officers: Election and Duties
Section B. Election of Officers

1. The Chair-elect shall ascend to the position of Chair at the Annual Meeting following the meeting in which the Chair-elect was elected.
2. The Chair-elect shall be elected at each Annual Meeting of the House of Delegates.
3. **The Immediate Past Chair assumes that position upon the Chair-elect ascending to the position of Chair.**
4. The Treasurer shall be elected every third year at the Annual Meeting of the House of Delegates.
5. Officers shall be elected by a majority of the members of the House of Delegates present and voting.
6. In any election, should no candidate receive a majority of the votes cast, a runoff election shall be held between the two candidates who receive the most votes for that office on the first ballot. Up to two additional runoff elections shall be held.
7. Prior to each election, the presiding officer shall cast a sealed vote that shall be counted only to resolve a tie that cannot be decided by the process set forth in this section.

**PROPOSED AMENDMENT #10**

Article III. Officers: Election and Duties
Section C. Duties of Officers

3. **The duties of the Immediate Past Chair shall be as follows:**
   a. Assist the Chair in the transition from Chair-elect to Chair;
   b. Serve as chair of the Nominating Committee; and
   c. Perform such other duties and responsibilities as the Chair shall determine.
4. The duties of the Treasurer shall be as follows:
   a. Perform the duties customary to that office;
b. Perform such other duties as the Bylaws and custom and parliamentary usage may require or as the Board of Directors shall deem appropriate;
c. Serve as an ex officio member of the Audit Committee; and
d. Serve as chair of the Finance Committee.

The duties of the Secretary shall be as follows:
a. Administer the affairs of the FSMB; and
b. Such duties and responsibilities as the FSMB and the Board of Directors shall determine.

PROPOSED AMENDMENT #11
Article III. Officers: Election and Duties
Section D. Terms of Office and Succession

1. The Chair and Chair-elect shall serve for single terms of one year or until their successors assume office.
2. The Immediate Past Chair shall serve until a successor to the current Chair assumes office.
3. The Treasurer shall serve for a single term of three years or until the Treasurer’s successor assumes the office.
4. Officers shall assume office upon final adjournment of the Annual Meeting of the House of Delegates at which they were elected.
5. The term of the Secretary is co-terminus with that of the President.

PROPOSED AMENDMENT #12
Article III. Officers: Election and Duties
Section E. Vacancies

3. In the event of a vacancy in the office of Immediate Past Chair, the office shall remain open until a new Chair assumes the office.
4. In the event of a vacancy in the office of the Treasurer, the Board of Directors shall elect one of the Directors-at-Large to serve as Treasurer, with one vote on the Board of Directors and one vote on the Executive Committee, until the next year’s Annual Meeting of the House of Delegates, at which time a Treasurer shall be elected.

PROPOSED AMENDMENT #13
Article IV. Board of Directors
Section A. Membership and Terms

1. Membership: The Board of Directors shall be composed of the Officers, the Immediate Past Chair, nine Directors-at-Large and two Associate Members. At least two members of the Board, who are not Associate Members, shall be non-physicians, at least one of whom shall be a public/consumer member.

PROPOSED AMENDMENT #14
Article IV. Board of Directors
Section E. Removal from Office
1. **Removal**: Any officer or member of the Board of Directors may be removed for any cause deemed sufficient by an affirmative vote of two-thirds of the total members of the Board of Directors entitled to vote and who are not subject to removal from office.

2. **Procedure**: The procedure for removal shall be as follows:
   a. The Board shall file with the Secretary of the Board and deliver a written statement of the cause for removal to the officer or board member in sufficient detail as to state the grounds for the removal. Delivery to the officer or board member shall be by certified mail, return receipt requested, to the last address known to the Board and is effective upon mailing.
   b. The officer or board member shall deliver a sworn written response to the Board, no later than thirty calendar days after the written statement of the cause for removal is filed with the Secretary of the Board delivered to the officer or board member in question. Delivery to the Board shall be by certified mail, return receipt requested, directed to the Secretary of the Board at the FSMB corporate office. Delivery is effective upon mailing.
   c. At the next Board meeting following the date the response is due, the Board shall determine whether or not to proceed with removal. Notice of the Board’s action shall be delivered to the officer or board member by certified mail, return receipt requested. If the officer or board member did not file a written response the Board shall proceed with a determination. Delivery is effective upon mailing.
   d. If the Board votes to proceed with removal of the officer or board member, at a Board meeting held no less than thirty days after delivery of the notice, the board member shall be afforded the opportunity to address the Board on the merits of the allegations and produce any relevant information to the Board after which the Board shall make a determination. The Board meeting at which the officer or board member has the opportunity to address the Board shall be held no less than thirty days after delivery of the notice of removal.

3. **Appeal**: Any officer or member of the Board of Directors removed by the Board of Directors may appeal to the House of Delegates at its next business meeting. The officer or member may be reinstated by a two-thirds vote of the House of Delegates.

4. **Delivery**: For the purposes of this section, “Delivery” is effective upon mailing.

**Proposed Amendment #15**

Article II. Classes of Membership, Election and Membership Rights
Section B. Fellows

An individual member who as a result of appointment or confirmation is designated to be a member of a Member Medical Board shall be a Fellow of the FSMB during the member’s period of service on a Member Medical Board, and for a period of thirty-six months thereafter.

**Proposed Amendment #16**

Article IV. Board of Directors
Section B. Nominations

2. The Nominating Committee shall mail its roster of candidates to Member Boards not fewer than sixty days prior to the Annual Meeting of the House of Delegates.
**PROPOSED AMENDMENT #17**

Article IV. Board of Directors  
Section D. Duties of the Board of Directors

2. The Board of Directors shall carry out the mandates of the FSMB as established by the House of Delegates, and it shall have full and complete power and authority to perform all acts and to transact all business for and on behalf of the FSMB.

**PROPOSED AMENDMENT #18**

Article IV. Board of Directors  
Section F. Vacancies

1. Directors-at-Large: In the event of a vacancy in the membership of the Directors-at-Large, the Board of Directors may appoint a Fellow who meets the qualifications for the position to serve until the next Annual Meeting of the House of Delegates, at which time an individual a Fellow shall be nominated and, if elected, and shall serve for the remainder of the unexpired term. In the event a Director-at-Large is elected to the office of Treasurer or Chair-elect, that vacancy shall be filled by an election at the same Annual Meeting of the House of Delegates.

**PROPOSED AMENDMENT #19**

Article IV. Board of Directors  
Section G. Executive Committee of the Board

1. Membership: The Board of Directors shall establish an Executive Committee of the Board, which shall consist of the Chair as Chair, Chair-elect, Treasurer, Immediate Past Chair and two three Directors-at-Large. The Directors-at-Large shall be elected for a one-year term by majority vote of the Directors-at-Large and the Associate Members of the Board of Directors at the first regular meeting of the Board following the Annual Meeting of the House of Delegates. In the event of a vacancy in a Director-at-Large position, the Directors-at-Large and the Associate Members of the Board, by majority vote, shall choose another Director-at-Large to serve the remainder of the one-year term. In the event of vacancy in the position of Immediate Past Chair, this position shall remain vacant until the next Annual Meeting of the House of Delegates.

**PROPOSED AMENDMENT #20**

Article V. Nomination by Petition for Board of Directors and Nominating Committee  
Section A. Submission of a Petition

3. The deadline to submit petitions to the Administrative Staff is **21** twenty-one days prior to the Annual Meeting.

**PROPOSED AMENDMENT #21**

Article V. Nomination by Petition for Board of Directors and Nominating Committee  
Section B. Validation and Placement on Ballot
3. The names of those seeking to run by petition whose petitions are deemed valid shall be distributed to the Voting Delegates not fewer than 14 fourteen days prior to the Annual Meeting.

**PROPOSED AMENDMENT #22**  
Article VII. Meetings  
Section A. Annual Meeting of the House of Delegates

The annual meeting of the House of Delegates of the FSMB, which shall be called the House of Delegates, shall be held at such time and place as may be fixed by the Board of Directors. Written notice of the time and place of the meeting shall be given to all Member Medical Boards by mail not fewer than 90 ninety days prior to the date of the meeting. **Notice is effective upon mailing.**

**PROPOSED AMENDMENT #23**  
Article VII. Meetings  
Section B. Special Meetings of the House of Delegates

Special meetings of the House of Delegates may be called at any time by the Chair, on the written request of ten Member Medical Boards or by action of the Board of Directors. Written notice of the time and place of such meetings shall be given to all Member Medical Boards by mail not fewer than 30 thirty days prior to the date of the meeting. **Notice is effective upon mailing.**

**PROPOSED AMENDMENT #24**  
Article XIV. Adoption and Amendment of Bylaws, Effective Date  
Section A. Amendment

These Bylaws may be amended at any annual meeting of the House of Delegates by two-thirds of those present and voting. Bylaws changes may be proposed only by the Board of Directors, Member Medical Boards or the Bylaws Committee and its members. All such proposals must be submitted in writing to the Bylaws Committee, in care of the Secretary of the FSMB. The Bylaws Committee shall inform the Member Medical Boards of its meeting dates not fewer than 60 sixty days in advance of the meeting. The recommendations of the Bylaws Committee and the full texts of all proposed amendments recommended to the Committee shall be sent to each Member Medical Board not fewer than 60 sixty days prior to the Annual Meeting of the House of Delegates at which they are to be considered.

9. Proposed Bylaws Amendment 25 as contained in Bylaws Proposal #3 of the Report of the Bylaws Committee was **ADOPTED:**

**PROPOSED AMENDMENT #25**  
Article VIII. Standing and Special Committees  
Section D. Editorial Committee

1. An Editorial Committee, not to exceed twelve Fellows and three non-member subject matter experts non-Fellows, at least two of whom shall be subject matter experts,
shall advise the Editor-in-Chief on editorial policy for the FSMB’s official publication, and shall serve as the editorial board of that publication and otherwise assist the Editor-in-Chief in the performance of duties as appropriate and necessary. No officer or member of the Board of Directors shall serve on this Committee.

10. Proposed Bylaws Amendment 26 as contained in Bylaws Proposal #4 of the Report of the Bylaws Committee was **Tabled for Further Study**:

**Proposed Amendment #26**

Article IV. Board of Directors
Section A. Membership and Terms

1. **Membership:** The Board of Directors shall be composed of the Officers, the Immediate Past Chair, nine Directors-at-Large and two Associate Members. At least two members of the Board, who are not Associate Members, shall be **non-physicians**, at least one of whom shall be a public/consumer member.

11. **A Substitute Resolution** in lieu of Resolution 18-1; *Acute Opioid Prescribing Workgroup and Guidelines* submitted by the State Medical Board of Ohio was **Adopted**:

Resolved, that the Federation of State Medical Boards (FSMB) perform a comprehensive review of acute opioid prescribing patterns, practices, federal laws and guidance (including Centers for Disease Control and Prevention guidelines), state rules and laws across the United States, available data, and present a report to the House of Delegates at the Annual Meeting in 2019.

**Note:** First, **Approved Calling the Question**

12. **A Substitute Resolution** in lieu of Resolution 18-2; *Testing Under Time Constraints of the Necessary and Explicit Component of the USMLE* submitted by the Minnesota Board of Medical Practice was **Adopted**:

Resolved, that the FSMB undertake a concerted outreach initiative to educate state medical boards about all major aspects of the USMLE program, including its approach to how time is addressed and utilized in the USMLE.

13. Resolution 18-3; Permitting Out-of-State Practitioners to Provide Continuity of Care in Limited Situations submitted by the Washington Medical Commission was **Referred to the FSMB Board of Directors for Further Study**:

Resolved, that the Federation of State Medical Boards (FSMB) will encourage state medical boards to interpret their licensing laws, or work to change their licensing laws if necessary, to permit physicians duly licensed in another jurisdiction to provide infrequent
and episodic continuity of care by providing follow-up care to established patients or a peer-to-peer consultation without the need to obtain a license in the state in which the patient is located at the time of the interaction.

14. **Resolution 18-4; Interprofessional Continuing Education (IPCE)** submitted by the FSMB Board of Directors was **ADOPTED**.

*Resolved*, that the Federation of State Medical Boards supports and recognizes Interprofessional Continuing Education for physicians that is identified by IPCE credit and is accredited by the Joint Accreditation system launched by the Accreditation Council for Continuing Medical Education, the Accreditation Council for Pharmacy Education and the American Nurses Credentialing Center, as an additional means of satisfying continuing medical education requirements for medical license renewal.

15. **A SUBSTITUTE RESOLUTION** in lieu of **Resolution 18-5; Workgroup on Artificial Intelligence and its Potential Impact on Patient Safety and Quality of Care in Medical Practice** submitted by the Pennsylvania State Board of Medicine was **ADOPTED**:

*Resolved*, that the Federation of State Medical Boards will convene relevant stakeholders, subject matter experts, including representatives from state medical boards, the American Medical Association, and the American Osteopathic Association to discuss artificial intelligence and its potential impact on patient safety, decision-making and regulation.

16. The recommendations contained in **BRD RPT 18-1: Report of the FSMB Workgroup to Study Regenerative and Stem Cell Therapy Practices** were **ADOPTED** and the remainder of the report filed.

17. The recommendations contained in **BRD RPT 18-2: Report of the FSMB Workgroup on Prescription Drug Monitoring Programs** were **ADOPTED** and the remainder of the report filed.

18. The recommendations contained in **BRD RPT 18-3: Report of the FSMB Workgroup on Physician Wellness and Burnout** were **ADOPTED AS AMENDED** and the remainder of the report filed.

**NOTE:** First, **APPROVED** the following amendment to recommendation #3 (3rd paragraph):

3. The ADA requires licensure application questions to focus on the presence or absence of current impairments that are meaningful in the context of the physician’s practice, competence, and ability to provide safe medical treatment to patients. Applications must not seek information about impairment that may have occurred in the distant past and state medical boards should limit the time window for such historical
questions to two years or less, though a focus on the presence or absence of current impairment is preferred.

Questions that address the mental health of the applicant should be posed in the same manner as questions about physical health, as there is no distinction between impairment that might result from physical and mental illness that would be meaningful in the context of the provision of safe treatment to patients.

Where boards wish to retain questions about the health of applicants on licensing applications, the FSMB recommends that they use the language recommended by the American Psychiatric Association: “Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice medicine in a competent, ethical and professional manner?

19. The Guidelines for the Structure and Function of a State Medical and Osteopathic Board contained in BRD RPT 18-4 were ADOPTED, superseding A Guide to the Essentials of a Modern Medical Practice Act (HOD 2015) and Elements of a State Medical and Osteopathic Board (HOD 2015).

20. BRD RPT 18-5; Report on Resolution 17-2: Advocacy for Professional Licensure of EMS Providers was FILED FOR INFORMATION.