THE FEDERATION OF STATE MEDICAL BOARDS
2022 ANNUAL MEETING OF THE HOUSE OF DELEGATES

Report of the Reference Committee

The Reference Committee met on Friday, April 29, 2022, at 8:00 a.m. in Preservation Hall Studios 1 and 2 of the New Orleans Marriott Hotel in New Orleans, Louisiana and considered the following items:

1. Report of the Bylaws Committee

The Bylaws Committee was charged with considering the current Bylaws, reviewing proposed amendments and additional commentary submitted for consideration, and making recommendations for any necessary changes. In keeping with its charge, the Committee also discussed the FSMB Articles of Incorporation as they relate to the Bylaws.

The House of Delegates is asked to consider one (1) Proposed Amendment to the Bylaws as recommended by the Bylaws Committee.

PROPOSED AMENDMENT #1 TO THE BYLAWS is as follows:

Amend **Article VIII. Standing and Special Committees** as follows:

~~**SECTION D. EDITORIAL COMMITTEE**~~

~~**1. An Editorial Committee, not to exceed twelve Fellows and three non-Fellows, at least two of whom shall be subject matter experts, shall advise the Editor-in-Chief on editorial policy for theFSMB'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.**~~

~~**2. Service on the Editorial Committee is by nomination and appointment by the FSMB Chair, subject to approval of the Board of Directors, immediately following the Annual Meeting of the House of Delegates. Candidates are allowed to express their interest in serving on the Committee through self-nomination. Committee members shall serve staggered three-year terms and shall be limited to two full terms.**~~

~~**3. The Editor-in-Chief shall be elected by the Editorial Committee to a three-year term beginning on the date of the annual Editorial Committee meeting, with the Editor-in-Chief's term on the Editorial Committee being automatically extended to allow the Editor-in-chief to serve for three years. A member of the Editorial Committee whose term is expiring shall continue to serve until the member's replacement meets at the next annual Editorial Committee meeting.**~~

~~**4. The Editorial Committee will elect its Chair, who will serve as the Editor-in-Chief of the *Journal of Medical Regulation*. The Editor-in-Chief will serve without compensation and will coordinate decisions on the *Journal* content, among other duties to be determined by the Bylaws Committee.**~~

SECTION D. JOURNAL OF MEDICAL REGULATION

1. The Board of Directors shall provide for the publication of the *Journal of Medical Regulation* to further scholarship on issues of medical regulation and public protection.

2. A Journal Oversight Committee consisting of three (3) members of the Board of Directors and four (4) Fellows shall be appointed by the Board of Directors. Directors shall serve for a term determined by policies of the Board of Directors. Committee members who are not Directors shall serve staggered three-year terms and be limited to two full terms. The Journal Oversight Committee shall develop the annual budget for the *Journal of Medical Regulation* and ensure the editorial independence of the *Journal of Medical Regulation.*

3. An Editorial Board, not to exceed four (4) Fellows and five (5) non-Fellows, shall be responsible for subject matter and editorial content of the *Journal of Medical Regulation*. Members shall be selected and serve terms set forth in a process approved by the Journal Oversight Committee. No officer or member of the Board of Directors shall serve on the Editorial Board.

FSMB Bylaws Committee Chair Dr. Amit Shelat submitted written testimony on the Committee's recommendation, summarizing the Committee's discussion and conclusion outlined in the Committee's report. It was noted that Proposed Amendment #1 modifies the structure of the Editorial Committee and the *Journal of Medical Regulation (JMR)* so that the *JMR* is sufficiently independent of the Committee and would comply with the requirements to be an indexed journal.

The Bylaws Committee recognized that indexing is vital to the reputation of the *Journal* and the impact of its articles on matters of public health and regulation. All indexes require journals to follow certain core publishing and governance principles. Publishing principles include such elements as an established publishing schedule, basic article-level metadata, and a copyright policy. Each indexing site has different inclusion requirements, publication scope, professionalism, and archiving. Index sites also require an Editorial Board and policies that exemplify independence and integrity. Because indexing is a marker of journal quality, scholars prioritize referencing and submitting to journals that are included in leading indexes. Review of the various criteria for indexing and current FSMB governance policies indicated that changes were necessary to assert the independence of the *JMR* and the FSMB Editorial Committee for purposes of indexing.

While the work of the Editorial Committee and the articles published in the *JMR* have been free of undue influence from the FSMB, Proposed Amendment #1 ensures editorial independence

while maintaining the role of the FSMB in the publication. The proposal creates an Oversight Committee that is responsible for the selection of members of an Editorial Board and ensuring that the *JMR* has the resources necessary to function. The Editorial Board has responsibilities over the "day-to-day" work of the *Journal* and is created in a manner that allows flexibility in management and process. Also of note, the flexibility of the proposed structure may allow for increased participation by FSMB Fellows and the inclusion of outside experts.

Heidi M. Koenig, MD, Editor-in-Chief of the FSMB Editorial Committee, testified in support of Proposed Amendment #1 but noted that limiting the Journal Oversight Committee to four Fellows, in addition to the three members of the Board of Directors, is more restrictive than necessary and precludes the appointment of individuals outside of the medical regulatory community who have expertise in the publishing industry, i.e., former editors of prestigious journals. Dr. Koenig presented an amendment to the Bylaws Committee's Proposed Amendment #1 for consideration as follows:

> **2. A Journal Oversight Committee consisting of three (3) members of the Board of Directors and four (4) ~~Fellows~~ other individuals shall be appointed by the Board of Directors. Directors shall serve for a term determined by policies of the Board of Directors. Committee members who are not Directors shall serve staggered three-year terms and be limited to two full terms. The Journal Oversight Committee shall develop the annual budget for the *Journal of Medical Regulation* and ensure the editorial independence of the *Journal of Medical Regulation.***

The Board of Directors testified in support of Proposed Amendment #1 as amended.

No other testimony was received.

The Reference Committee considered the Bylaws Committee Report explanation of Proposed Amendment #1 and the testimony it received and recommends that Proposed Amendment #1 to the Bylaws be amended as follows:

RECOMMENDATION:

The Reference Committee recommends that Proposed Amendment #1 to the FSMB Bylaws contained in the Report of the Bylaws Committee be ADOPTED AS AMENDED:

Article VIII. Standing and Special Committees

~~**SECTION C. EDITORIAL COMMITTEE**~~

~~**1. An Editorial Committee, not to exceed twelve Fellows and three non-Fellows, at least two**~~

~~of whom shall be subject matter experts, shall advise the Editor-in-Chief on editorial policy for theFSMB'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.~~

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~~3. The Editor-in-Chief shall be elected by the Editorial Committee to a three-year term beginning on the date of the annual Editorial Committee meeting, with the Editor-in-Chief's term on the Editorial Committee being automatically extended to allow the Editor-in-chief to serve for three years. A member of the Editorial Committee whose term is expiring shall continue to serve until the member's replacement meets at the next annual Editorial Committee meeting.~~

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3. **An Editorial Board, not to exceed four (4) Fellows and five (5) non-Fellows, shall be responsible for subject matter and editorial content of the *Journal of Medical Regulation*. Members shall be selected and serve terms set forth in a process approved by the Journal Oversight Committee. No officer or member of the Board of Directors shall serve on the Editorial Board.**

2. **BRD RPT 22-1: Report of the FSMB Ethics and Professionalism Committee: *Professional Expectations Regarding Medical Misinformation and Disinformation***

The Ethics and Professionalism Committee is a standing committee of the Federation of State Medical Boards. The Committee charge, as stated in the FSMB bylaws, is to address ethical and professional issues pertinent to medical regulation.

The 2021-2022 Committee, chaired by Ms. Katie Templeton, JD, was tasked with considering the spread of misinformation and disinformation by licensees and providing recommendations on appropriate responses by state medical boards.

In completing its charge, the Committee reviewed information about the origins of the medical misinformation seen today, including misinformation and disinformation that is generated and spread by physicians, vaccine hesitancy on the part of patients, and mistrust in medical and scientific institutions. Two Committee meetings were held where members identified key principles, themes, and issues for inclusion in a committee report that reiterates and expands upon the FSMB's statement about misinformation that was released in July 2021. A draft report was presented to committee members on January 4, 2022, for their review and feedback. Committee feedback was submitted electronically and incorporated into a revised draft.

The draft report provides background information to establish context and inform readers about the FSMB's ongoing work in this area, including the release of its statement about COVID-19 misinformation in July 2021. It then defines "Medical Misinformation," "Disinformation" and "Scientific Evidence" as key terms and explains the foundational principles that apply to sharing information in health care settings. The report also provides considerations regarding medical professionalism and misinformation before offering practice considerations for licensees regarding the conveyance of medical information and how to address misinformation from patients in a clinical setting. Finally, the report provides considerations for state medical boards when regulating the conduct of licensees who spread misinformation and disinformation.

The draft report was sent to state medical boards on January 18 for their comment. The draft was also sent to all members of the Coalition for Physician Accountability, the Center for Countering Digital Hate, the CEOs of national organizations representing regulatory authorities in several other health professions and a legal expert who has advised the FSMB on constitutional considerations for state medical boards.

The report includes the following recommendations:

For State Medical Boards

1. State medical boards are encouraged to adopt a policy that clarifies board expectations regarding the dissemination of misinformation and disinformation by licensees.

2. State medical boards must retain their legislated authority to regulate the professional conduct of licensees in order to effectively protect the public.

3. When adjudicating cases regarding misinformation and disinformation, state medical boards are encouraged to consider the full array of authorized grounds for disciplinary action in their Medical Practice Acts.

4. When appropriate, state medical boards should consider whether there are options that do not involve disciplinary action that could help a licensee understand the ethical basis of their duty to convey accurate information to patients and the public and change or remediate their behavior appropriately.

5. State medical boards should not be dissuaded from carrying out their duty to protect the public by concerns about potential challenges to disciplinary decisions when these decisions are based on sound regulatory considerations for public protection.

For Licensees

6. Recommendations regarding proposed or potential treatments of a medical illness or condition must be supported by the best available scientific evidence or prevailing scientific consensus.

7. In the absence of available evidence or consensus, physicians must only proceed when there is an appropriate scientific rationale and justification for a proposed treatment, in relation to the patient's symptoms or condition, and the risks and benefits of the approach are understood by the patient in an informed consent that is documented in the medical record. Novel, experimental and unproven interventions should only be proposed when traditional or accepted and proven treatment modalities have been exhausted.

8. Physicians must not propose treatments that present significant, foreseeable and unjustified or unacceptable risk of harm to patients.

9. Physicians should be truthful and transparent about the evidential bases for their treatment recommendations, as well as the risks and benefits (including risks and benefits of not treating) and reasonable alternatives to their approach.

10. Off-label prescribing of medication, should be based upon scientific evidence or sound medical opinion. Efforts should be made to ensure that information about off-label prescribing is independently derived, peer reviewed, scientifically sound, truthful and not misleading.

11. Physicians must not offer exemptions from vaccinations or other preventive measures that are not based in medical need, nor should they acquiesce to patient requests to alter medical records or death certificates in ways that do not accurately reflect patient encounters, diagnoses or treatments.

12. Physicians are expected to remain current with evolving scientific evidence and practice standards, and avoid making treatment recommendations based on outdated, disproven or otherwise false information.

13. When confronted by misinformed patients, physicians are encouraged to listen respectfully to patients before reacting to the information being shared.

14. Physicians should anticipate difficult conversations with patients about controversial topics that are in the news by being prepared with current, evidence-based and easily accessible information for conditions and treatments about which patients may be misinformed.

15. Physicians are encouraged to maintain their competence or become knowledgeable in areas such as statistics, epidemiology and principles of public health, either through accredited continuing medical education or other appropriate means, in order to accurately and effectively convey important health information to patients, particularly where there is potential for misinformation.

The Reference Committee heard testimony in support of the report by the FSMB Board of Directors. The Reference Committee also heard testimony in support from the Washington Medical Commission and an individual from California.

The Reference Committee also heard testimony in opposition to the report from the Utah Physicians and Surgeons Licensing Board and the Alabama Board of Medical Examiners.

The Reference Committee considered BRD RPT 22-1 and the testimony it received and recommends that the recommendations contained in *Professional Expectations Regarding Medical Misinformation and Disinformation* be amended as follows:

At line 213:

In crisis or emergency circumstances, ~~as occurs in a global pandemic or other natural disaster,~~ standards of care may need to be altered to accommodate emergent or urgent circumstances.

In the *Summary of Recommendations*:

2. State medical boards ~~must~~ should retain their legislated authority to regulate the professional conduct of licensees in order to effectively protect the public.

7. In the absence of available evidence or consensus, physicians ~~must~~ should only proceed when there is an appropriate scientific rationale and justification for a proposed treatment, in relation to the patient's symptoms or condition, and the risks and benefits of the approach are understood by the patient in an informed consent that is documented in the medical record. Novel, experimental and unproven interventions should only be proposed when traditional or accepted and proven treatment modalities have been exhausted.

9. ~~Physicians should be truthful and transparent about the evidential bases for their treatment recommendations, as well as the risks and benefits (including risks and benefits of not treating) and reasonable alternatives to their approach.~~ Treatment recommendations should be based on scientific evidence or sound medical opinions. Physicians should be truthful and transparent, including sharing with the patient the risks and benefits of the treatment recommendations, as well as reasonable alternatives to the recommendations.

~~10. Off-label prescribing of medication, should be based upon scientific evidence or sound medical opinion. Efforts should be made to ensure that information about off-label prescribing is independently derived, peer reviewed, scientifically sound, truthful and not misleading.~~

~~11~~10. Physicians must not ~~offer exemptions from vaccinations or other preventive measures that are not based in medical need, nor should they acquiesce to patient requests to alter medical records or death certificates~~ falsify records in ways that do not accurately reflect patient encounters, diagnoses or treatments.

~~12.~~ 11. Physicians are expected to remain current with evolving scientific evidence and practice standards, and avoid making treatment recommendations based on outdated, disproven or otherwise false information.

~~13.~~ 12. When confronted by misinformed patients, physicians are encouraged to listen respectfully to patients before reacting to the information being shared.

~~14.~~ 13. Physicians should anticipate difficult conversations with patients about controversial topics that are in the news by being prepared with current, evidence-based and easily accessible information for conditions and treatments about which patients may be misinformed.

~~15.~~ 14. Physicians are encouraged to maintain their competence or become knowledgeable in areas such as statistics, epidemiology and principles of public health, either through accredited continuing medical education or other appropriate means, in order to accurately and effectively convey important health information to patients, particularly where there is potential for misinformation.

RECOMMENDATION:

The Reference Committee recommends that the House of Delegates ADOPT AS AMENDED the recommendations contained in the Report of the FSMB Ethics and Professionalism Committee: *Professional Expectations Regarding Medical Misinformation and Disinformation*, and the remainder of the Report be filed.

3. BRD RPT 22-2: Report of the FSMB Workgroup on Emergency Preparedness and Response

During its 2021 Annual Business Meeting, the Federation of State Medical Boards (FSMB) House of Delegates adopted a recommendation that called for the FSMB to work with state medical boards, health professional regulatory boards, and relevant stakeholders to develop model language to clarify emergency licensure processes and to review and update the FSMB's Emergency and Disaster Preparedness Plan: A Guide for State Medical Boards (2010) ("2010 Document") to encompass lessons learned during COVID-19 and additional types of emergencies and disasters that may occur in the future.

Accordingly, the FSMB Workgroup on Emergency Preparedness and Response, established by FSMB Board Chair Ken Simons, MD, and chaired by Cheryl Walker-McGill, MD, MBA, was charged with: reviewing and updating the FSMB's *Emergency and Disaster Preparedness Plan: A Guide for State Medical Boards (2010)* document to encompass lessons learned during COVID-19, including plans for additional types of emergencies and disasters that may occur in the future; evaluating outcomes related to emergency actions and other means of mobilizing and expanding the health care workforce to be used in developing model language to clarify emergency licensure processes for future public health emergencies, developing model language for state emergency orders that can provide uniformity in licensure portability measures used to mobilize the healthcare workforce during public health emergencies; and recommendations for state medical boards implementing emergency license portability measures used during public health emergencies; and providing resources and tools for state medical boards to utilize during periodic reviews of their emergency preparedness plans.

Over the course of the year, the workgroup met three times, both virtually and in-person, to address the elements of its charge. Meetings featured updates on the ongoing COVID-19 pandemic; discussions on revisions to the Emergency and Disaster Preparedness Plan: A Guide for State Medical Boards (2010) document, renamed the Emergency Preparedness and Response: Resources for State Medical Boards; and presentations from expert speakers on the Emergency Management Assistance Compact (EMAC) and the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) to aid the Workgroup's discussion regarding emergency actions and ways of mobilizing the health care workforce. The Workgroup also discussed emergency board

operations during COVID-19 and resources that could be helpful to medical boards during emergencies.

A draft report was distributed to state medical boards during a 30-day comment period held from January 19 - February 18, 2022.

The report includes the following recommendations:

> Recommendation 1: The FSMB will maintain and update *Emergency Preparedness and Response: Resources for State Medical Boards* on its website and continue to work directly with state medical boards to collect resources they have identified or developed to address emergencies.
>
> Recommendation 2: Medical boards should make licensees aware of Provider Bridge so they may choose to register as potential volunteers in advance of future public health emergencies.
>
> Recommendation 3: The FSMB will support state and territorial member boards interested in pursuing the adoption of the Uniform Emergency Volunteer Health Practitioners Act. The Reference Committee heard no further testimony.

The Reference Committee heard testimony in support of the report by the FSMB Board of Directors.

The Reference Committee considered BRD RPT 22-2 and the testimony it received and recommends that the recommendations contained in the Report on Emergency Preparedness and Response be adopted.

> **RECOMMENDATION:**
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> **The Reference Committee recommends that the House of Delegates ADOPT the recommendations contained in the Report on Emergency Preparedness and Response, and the remainder of the Report be filed.**

4. BRD RPT 22-3: Report of the FSMB Workgroup on Telemedicine: *The Appropriate Use of Telemedicine Technologies in the Practice of Medicine*

During its 2021 Annual Business Meeting, the FSMB House of Delegates adopted a recommendation that called for the FSMB to establish a workgroup to update the *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (HoD 2014)*, taking into account the lessons learned during the COVID-19 pandemic.
Accordingly, the FSMB Workgroup on Telemedicine was charged to evaluate the impact of license waivers and modifications on the practice of telemedicine across state lines; evaluate the easing of geographic, site specific and modality restrictions on the practice of telemedicine and

the impact on patient access and care; review current state and federal legislative, policy and regulatory trends, including, but not limited to, definitions, modalities, continuity of care, and consultations; evaluate the appropriate use of telemedicine during a public health emergency vs. nonemergent/nonurgent times; and develop a report and recommendations revising and expanding the *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*, based upon recent experiences, utilization, and outcomes related to intra- and interstate telemedicine practice.

Over the course of the year, the workgroup met four times, both virtually and in-person, and took into account lessons learned from the PHE and conducted a comprehensive review of extant state and federal statutes and regulations, telemedicine technologies currently in use and proposed/recommended standards of care, and identified and considered existing standards of care applicable to telemedicine developed and implemented by several state medical boards. In-depth discussions were had regarding the 2014 *Model Policy*, including sections that needed to be updated to reflect current best practices and standards of care, as well as topics that were not covered in the *Model Policy*, but should be included in the revised document.

A draft report was distributed to state medical boards and external partner organizations in January 2022. Comments received were helpful and generally positive and the Workgroup revised its report to address them, where appropriate.

The report includes the following updates and revisions to the 2014 *Model Policy:*

- Emphasizes that telemedicine is only one component of the practice of medicine
- Reorganizes the 2014 *Model Policy* into a format that better reflects the process of delivering healthcare.
- Defines new terms, and updates existing terms, to reflect current best practices and standards.
- Details instances where certain exceptions may permit the practice of medicine across state lines without the need for licensure in the jurisdictions where the patient is located.
- Emphasizes that a practitioner who uses telemedicine must meet the same standard of care and professional ethics as a practitioner using a traditional in-person encounter with a patient. The failure to follow the appropriate standard of care or professional ethics while using telemedicine may subject the practitioner to discipline by the medical board.
- Recognizes that when utilized and deployed effectively as a seamlessly integrated part of healthcare delivery, telemedicine can improve access and reduce inequities in the delivery of healthcare. To be effective, certain barriers must be eliminated or reduced, such as literacy gaps, access to broadband internet, and coverage and payment of telemedicine services.

The Reference Committee heard testimony in support of the report by the FSMB Board of Directors. The Reference Committee also heard testimony in support of the report by the Washington Medical Commission.

The Reference Committee received written testimony in support of the report by the American Medical Association and the Connected Health Initiative.

The Reference Committee considered BRD RPT 22-3 and the testimony it received and recommends that *The Appropriate Use of Telemedicine Technologies in the Practice of Medicine* be amended at line 272 as follows:

> Measures to assure informed, accurate, and error prevention prescribing practices (e.g. integration with e-Prescription systems) are ~~encouraged~~ recommended.
>
> **RECOMMENDATION:**
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> **The Reference Committee recommends that the House of Delegates ADOPT AS AMENDED *The Appropriate Use of Telemedicine Technologies in the Practice of Medicine,* superseding *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (2014).***

5. BRD RPT 22-4: Interim Report of the FSMB Workgroup on Diversity, Equity and Inclusion in Medical Regulation and Patient Care

The FSMB Workgroup on Diversity, Equity, and Inclusion (DEI) in Medical Regulation was established by FSMB Board Chair Ken Simons, MD, chaired by Jeffrey Carter, MD, and charged with identifying best practices for state medical boards to mitigate and eliminate systemic inequities in medical regulation and patient care. In completing its charge, the Workgroup was asked to:

1. Collect and analyze data about membership on state medical boards to evaluate diversity in relation to licensee and patient populations;
2. Evaluate existing educational programs and initiatives for mitigating bias, addressing systemic inequities, and achieving cultural safety, directing efforts for the creation of new educational opportunities where need exists;
3. Identify best practices for ensuring fairness and incorporating the principles of equity and inclusion in board decision making related to licensing and disciplinary action; and
4. Promote a better understanding of the impacts of bias, inequity and systemic racism on medical regulation, health, and health care.

The Workgroup held virtual meetings in July and October 2021, during which members discussed historical elements of racism, bias and systemic inequity in medical regulation and patient care, and reviewed efforts to address these by state medical boards, regulatory authorities from international jurisdictions, and partner organizations.

During Workgroup meetings, members provided direction for research and resource development efforts, including:

- Drafting survey questions for the annual omnibus state medical board survey distributed to state medical board executive directors;

- Drafting a glossary of key terms; and
- Creating a visual representation of board processes to identify vulnerabilities, and into which existing and potential strategies for mitigating bias and avoiding discrimination can be included.

Following the workgroup's October meeting, additional one-on-one meetings were held to provide members with the opportunity to engage in informal discussion with the workgroup Chair to share what they felt should be included in an interim workgroup report, as well as ongoing priorities for a final report to be completed in 2023. There was substantial consensus across these meetings about the need to firmly situate DEI on the agendas of state medical boards, identify initial steps that could be easily implemented by boards, including education of board members, staff and licensees, and strategies for data collection and use.

Following these meetings, an interim report was drafted and shared with workgroup members on February 3, 2022. The draft interim report contains a glossary with more than 40 key terms that relate to DEI in medical regulation and patient care. It also presents Equity, Health Equity, Anti-Discrimination, Diversity, Inclusion, Cultural Humility, Justice, Transparency and Collaboration as foundational principles for the interim report. After presenting information to build a strong case for the relevance of DEI considerations to the work of state medical boards, the interim report provides background information on the FSMB's work in this area, as well as that of state medical boards. It then provides initial guidance regarding education for board members, staff and licensees; commentary on data collection, analysis and policies for data use; communication strategies; suggestions for increasing diversity in board member appointments; and considerations for the development of patient and practice resources.

The interim report was shared with state medical boards and partner organizations in February and March of 2022.

The interim report contains the following recommendations:

1. The FSMB formally adopt the FSMB Task Force's Statement on Diversity, Equity and Inclusion in Medical Regulation and Health Care, April 15, 2021 as official FSMB policy.

2. State medical boards are encouraged to provide education and training to staff, board members, and licensees regarding cultural safety, humility, systemic racism and bias.

3. State medical boards should provide information and education to patients about what constitutes discriminatory or otherwise inequitable care, and how they can work with their state medical board to address it.

4. State medical boards are encouraged to consider the ways in which data is collected from licensees, complainants, and board members and staff in order to build the capacity to better understand diversity within these groups and identify disparities that may exist.[1]

5. State medical boards should consider ways of increasing their data-gathering and analytic capacity, through partnerships with government, academic institutions and the FSMB.

6. In order to help mitigate biases among staff and board members, state medical boards should consider redacting potentially biasing categories of data in licensing processes, and about complainants and respondents during complaint review, investigative, disciplinary and enforcement processes, including gender, race, ethnicity, age, medical schools attended, years in practice and others.

7. State medical boards should seek to increase the diversity of their board members and staff to mirror the population they serve through: (1) outreach to underrepresented communities and (2) statutory language that sets minimum standards for diversity through the appointments process.

The Reference Committee heard testimony in support of the report by the FSMB Board of Directors. The Reference Committee also heard testimony in support of the report from an individual from Florida.

The Reference Committee considered BRD RPT 22-4 and the testimony it received and recommends that the recommendations contained in the Interim Report of the FSMB Workgroup on Diversity, Equity and Inclusion in Medical Regulation and Patient Care be adopted.

RECOMMENDATION:

The Reference Committee recommends that the House of Delegates ADOPT the recommendations contained in the Interim Report of the FSMB Workgroup on Diversity, Equity and Inclusion in Medical Regulation and Patient Care, and the remainder of the Report be filed.

6. Resolution 22-1: Permitting Out-of-State Practitioners to Provide Continuity of Care in Limited Situations

Resolution 22-1, introduced by the Washington Medical Commission, reads as follows:

[1] The Workgroup will recommend categories for a Minimal DEI Dataset in its Final Report to the FSMB House of Delegates in 2023.

Resolved: that the 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; and be it further

Resolved: that the FSMB will update its *Model Policy for the Appropriate Use of Telemedicine Technologies* to include various common continuity of care scenarios with specific emphasis on border state circumstances and how they are integral to maintaining continuity of care for established patients.

The Reference Committee heard testimony from the FSMB Board of Directors that Resolution 22-1 not be adopted. The Reference Committee also hear testimony from the Washington Medical Commission in support of Resolution 22-1.

The Reference Committee considered Resolution 22-1 as presented by the Washington Medical Commission and the testimony it received and recommends that Resolution 22-1 not be adopted.

RECOMMENDATION:

The Reference Committee recommends that the House of Delegates NOT ADOPT Resolution 22-1: Permitting Out-of-State Practitioners to Provide Continuity of Care in Limited Situations

7. Resolution 22-2: Supporting Development of Regulatory Innovation to Enhance State Board Function and Achieve True License Portability

Resolution 22-2, introduced by the Washington Medical Commission, reads as follows:

Resolved: that the FSMB will support creation of a digital credentials system by which states can verify and trust licensure credentials without the need for re-issuance or re-verification of said credentials, allow for a more expedient licensure process, such as licensure by endorsement or reciprocity, and work to minimize the reliance on paper documentation of educational history, assessment performance, and licensure history; and be it further

Resolved: that the FSMB shall support enhancements to its Physician Data Center that continue to provide the public a centralized point of information that can be used by state medical boards, federal and state agencies, and the public to verify licenses and which permits the public to file complaints that would be transmitted to the appropriate state or jurisdiction; and be it further

Resolved: that the FSMB shall create an advisory committee on regulatory innovation consisting of state board members, state board executives, and subject matter experts to propose, advise, and support further enhancements to license portability that retain individual state regulatory authority while allowing practitioners to practice nationally.

The Reference Committee hear testimony from the FSMB Board of Directors in support of the resolution. The Reference Committee also heard testimony from the Washington Medical Commission in support.

The Reference Committee considered Resolution 22-1 as presented by the Washington Medical Commission and the testimony it received and recommends that Resolution 22-1 be adopted.

RECOMMENDATION:

The Reference Committee recommends that the House of Delegates ADOPT Resolution 22-2: Supporting Development of Regulatory Innovation to Enhance State Board Function and Achieve True License Portability.

Respectfully submitted,

Sheldon A. Wasserman, MD
FSMB Reference Committee, Chair

Melanie B. Blake, MD, MBA
Tricia Ferrin, DO
Samuel Hunthausen
LuAnn Morgan