



Board of Physicians

Wes Moore, Governor · Aruna Miller, Lt. Governor · Harbhajan Ajrawat, M.D., Chair

August 12, 2024

Marschall Smith
IMLCC

Sent via email only

RE: Amendment to Bylaws Article XII – Special Nominating Committee

The Maryland Commissioners would recommend the following changes to the Nominating Committee process:

The proposed amendment creates a nominating committee whose composition is heavily influenced by current and past Chair and Executive Committees.

Robert's Rules takes great pains to assure that the nominating committee is not chosen by and is independent from the current leadership. Robert's Rules 46:10 state: "The nominating committee should be elected by the organization wherever possible, or else by its executive board. Although in organizing a new society it may be feasible for the chair to appoint the nominating committee, in an organized society the president should not appoint this committee or be a member of it – ex officio or otherwise." The reasons for this are because the chair and often the vice-chair are often elected to new terms and they should not have a hand in re-appointing themselves or even appointing the individuals who will recommend the next slate of leadership.

The proposal here explicitly designates the past chair or the current chair of the commission as appointing the chair of the nominating committee a proposal that automatically provides the current and prior leadership with the power to appoint the chair, the most important position on the nominating committee. That results in them having a significant power in appointing the chair who will appoint their successor or will reappoint them. This is directly advised against by Robert's Rules and is highly problematic. The past chair is a member of the executive committee and is not an appropriate person to be involved in the selection of their successors. It should also be noted that contrary to Robert's Rules or any statutory authority, the current past chair created an *ad hoc* nominating committee and appointed all its members. Thus, the past chair is someone who created at the very least a significant appearance of impropriety and should not have had any role in choosing his next successor either.

The two individuals appointed by the executive committee suffers from the same legal deficiencies. Currently, the Executive Committee is composed of the Chair, Vice Chair,

Treasurer, Secretary, and the chair of each committee, four additional individuals in total. Since the chair currently appoints the committee heads (excluding the Budget committee whose chair is the Treasurer), functionally that means, the chair has appointed a 5-3 majority of individuals on the executive committee. Should the chair appoint allies, then even if the other elected members wished, they could not override the chair and the chair's appointee allies and the chair could in essence control the appointments to the nominating committee. That functionally means that the Chair appoints a majority of the individuals who will then select two commissioners. This approach vitiates the independence of the nominating committee and undermines the desire of Roberts Rules to have an elected nominating committee whenever possible.

I would recommend that the entire 3 or 5 member nominating committee be elected per the recommendation of Robert's Rules. I would also note that other similar organizations have membership on the Nominating Committee is by election only. Specifically, per the Federation of State Medical Board bylaws, membership on the Nominating Committee is by election only. Similarly, the Federation of Associations of Regulatory Boards bylaws, nominating committee members are elected by the full Governing Council and not the Executive Board. The IMLC should follow the lead of these existing bodies and Robert's Rules and should have the nominating committee elected by the full Commission.

Robert's Rules also explicitly states that "The bylaws may provide that 'the President shall appoint all committee except the Nominating Committee...' and that 'the President shall be ex officio a member of all committees except the Nominating Committee...' the exception should not be omitted in either case." RR 46:10. This proposed amendment does not prohibit the chair or executive committee from serving on the nominating committee as ex officio members.

In addition, I object to the closed and secretive nature of the Nominating Committee. The basis for closing the meetings, Section 11(h)(5) does not apply. The provision is about "information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy." See Section 11(h)(5). The discussion of who might want to serve and their professional qualifications is clearly not information of a personal nature – it directly implicates the professional role of a nominee on the Commission. Further, such information of a personal nature is only subject to a closed meeting when it is an invasion of privacy. Here, discussing the professional qualifications would not constitute such an invasion of privacy. In the unlikely event that some issue related to a personal matter that would invade someone's privacy needs to be raised, the Nominating Committee can vote by 2/3 to go into closed session to discuss the specific personal matter that would constitute an invasion of privacy. To close all committee meetings is a violation of 11(h) which requires meetings to be open unless a specific exception applies.

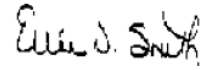
The recommendation of a closed meeting is antithetical to the purpose of a nominating committee, which is an open process to find qualified candidates to serve as officers. The Nominating Committee should discuss and recommend individuals with transparency. Being on

the recommended slate provides a significant advantage to a candidate and they should not be chosen in closed sessions. The public and other commissioners should be privy to the discussions and decisions.

Sincerely,

A handwritten signature in blue ink that reads "Christine A. Farrelly". The signature is written in a cursive style and is positioned above a horizontal line.

Christine A. Farrelly
Executive Director

A handwritten signature in black ink that reads "Ellen D. Smith". The signature is written in a cursive style and is positioned above a horizontal line.

Ellen D. Smith
Deputy Director