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Secretary

Forensic Science Oversight Board (FSOB)
Meeting Minutes

Scheduled: January 21, 2022 10:00am-2:00pm, Microsoft Teams

Members in Attendance:

Chairwoman Kerry Collins (Undersecretary for Forensic Science)
Sabra Botch-Jones (Forensic Science Expertise)
Dr. Robin Cotton (Forensic Laboratory Management 1)
Lucy A. Davis (Clinical Quality Management Expertise)
Judge Nancy Gertner (New England Innocence Project)
Anne Goldbach, Esq. (Committee for Public Counsel Services)
Clifford Goodband (Expertise in Statistics 2)
Lisa Kavanaugh, Esq. (MA Association of Criminal Defense Lawyers)
Adrienne Lynch, Esq. (MA District Attorneys Association)
Dr. Ann Marie Mires (Academia, Research Involving Forensic Science)
Professor Timothy Palmbach (Forensic Laboratory Management 2)
Gina Papagiorgakis (Expertise in Statistics 1)
Nancy Rothstein (Nominee from Attorney General's Office)

Members Not in Attendance:

Vacant seat (Cognitive Bias Expertise)

1. Minutes Approval

- i. Approved.

2. Subsection Updates

- i. **Subsection (e)** (G. Papagiorgakis and S. Botch-Jones)

The board shall develop, implement and periodically review a system for forensic laboratories to report professional negligence or misconduct, and any such facility shall be required to report to the board any instance of professional negligence and misconduct.

1. The FSOB reviewed and finalized the subsection (e) document.
 - a. The board added language to include any forensic service providers instead of only those with accreditation.

- b. The document's Annex A has a chart of Forensic Science Service Providers Disciplines informed by the Organization of Scientific Area Committees for Forensic Science (OSAC). The FSOB discussed which disciplines are within their purview and which are not. The FSOB will discuss their role for the disciplines under the medical examiner's office at a future date.
 2. The board voted in favor of using the document to satisfy the FSOB's obligations under subsection (e).
 - a. A. Goldbach motioned to accept the document with the edits discussed, R. Cotton seconded. Motion carried.
 3. EOPSS to disseminate the document to forensic service providers, post it on the [website](#), and solicit feedback.
- ii. **Subsection (i)** (A. Lynch and N. Rothstein)

The board shall develop protocols to ensure proper chain of custody of evidence.

1. The working group consulted with key stakeholders and concluded that the document they developed was more than what the statute required. The statute asks for a chain of custody and the working group started developing a handbook on how to handle every piece of evidence. Developing a thorough handbook is impossible because there are many scenarios, aspects, and institutions that handle or store evidence that would need to be considered. The document that will be developed will be a chain of custody protocol only (intake, packaging, storage, record keeping, inventory, auditing, long-term retention of the materials, long-term retention of documentation, etc.).
 - a. Mass.gov [website](#) has guidance from the Massachusetts State Police Crime Laboratory on different aspects of handling evidence.
 - b. L. Kavanaugh agreed with the working group's new approach and added that there is value in all of the information they gathered. She added that they should include links to all of the available resources and existing protocols. She explained that chain of custody is troublesome in the context of wrongful convictions because there is an obligation to retain evidence but when someone wants to challenge their conviction and needs access to physical evidence, they then become responsible for proving a failure to maintain chain of custody. She added that one thing the FSOB could do is contextualize the importance of chain of custody, the human consequences of it and the role it has in resolving wrongful convictions and cold cases. She concluded that instead of having the document be a detailed guide, it could explain the fundamental meaning of chain of custody and then provide all of the resources that exist.

- c. N. Gertner agreed with L. Kavanaugh. She added that the document can be a general guide with references to all the protocols that exist.
 2. The working group reworked the document and would like to continue consulting with stakeholders. The document will be circulated to the FSOB.
- iii. **Subsection (f)** (R. Cotton, A. Goldbach, and A. Mires)

The board shall actively engage stakeholders in the criminal justice system in forensic development initiatives and shall recommend ways to improve education and training in forensic science and the law, and identify measures to improve the quality of forensic analysis performed in laboratories.

 1. The working group shared a draft document with the FSOB.
 - a. The document will list resources and reference available trainings.
 2. The working group defined “stakeholders”.
 - a. L. Davis suggested that all documents generated by the FSOB have consistent definitions.
 3. The working group has to research the trainings and educations that already exist. They asked the FSOB to inform them of any trainings they are aware of.
 4. L. Kavanaugh expressed that this subsection gives the FSOB an opportunity to offer trainings.
 - a. A. Goldbach agreed and said that the information gathering does not need to happen before the FSOB promotes training. The FSOB can provide and encourage training and can also research what is available to inform stakeholders of the educational opportunities that are available to them.
 - b. A. Mires added that the FSOB can advance collaborative learning among all of the stakeholders by encouraging everyone to work across boundaries to improve education and forensic development initiatives. She explained that meeting, sharing ideas, and attending conferences help to push forward the forensic development that is needed.
 5. The subsection (f) working group will be sharing information with the subsection (g) working group due to overlap in the statute.
- iv. **Subsection (g)** (L. Davis and A. Mires)

The board shall develop, implement and periodically review a system to evaluate laboratory accreditation and professional licensing processes, including securing and maintaining such accreditation, and shall ensure that every facility is actively accredited and in compliance with standards promulgated by the International Organization of Standardization.

 1. The working group shared a draft document with the FSOB.

2. The FSOB has an existing process for looking at accredited laboratories. For the non-accredited laboratories in Massachusetts, the FSOB could look at their certification process instead.
 - a. L. Davis expressed that she is opposed to the FSOB creating a certification test. She shared a list of accrediting bodies and accredited certifying bodies. She also reminded the FSOB that there are costs to accreditation and certification.
 - i. The accredited certifying bodies require proficiency tests and continuing education training to maintain certification.
 - ii. L. Davis shared a chart of the forensic service providers in Massachusetts that are accredited and certified.
 - b. L. Davis recommended that the FSOB, like the Texas Forensic Science Commission, put out a statement encouraging the Massachusetts laboratories to adopt and implement OSAC standards. The standards cover training and qualifications.
 - i. A. Lynch stated that she would want more information about the programs the FSOB would advocate for because encouraging is one thing and requiring is another; she reminded the FSOB that requiring certification creates hurdles that have financial consequences.
 - ii. R. Cotton disagreed with A. Lynch as it relates to costs because many professions require certifications. She added that the FSOB should facilitate and promote forensic professionals' need to remain educated both by virtue of certification and by receiving continuing education.
 1. A. Mires agreed with A. Lynch and R. Cotton. She added that the FSOB needs to have an understanding of the limitations of departments but it is important to train to a standard and not be bound by financial constraints.
 2. L. Davis added that the FSOB could start by recommending certification or accreditation and after a certain amount of time, require agencies to be certified. A. Lynch agreed with this approach.

v. **Subsection (d)** (L. Kavanaugh and T. Palmbach)

The board shall initiate an investigation into any forensic science, technique, or analysis used in a criminal matter upon: (i) application by a person alleging that a forensic technique in common use is not scientifically valid if not less than 5 members of the commission, which may include the undersecretary for forensic sciences or the undersecretary's designee, agree.

1. The working group will develop an application process for an external party to report that a “forensic technique in common use is not scientifically valid”. L. Kavanaugh suggested reaching out to the Texas Forensic Science Commission to learn the evolution of how they have approached investigations (1. which forensic techniques to investigate, 2. when they initiate investigations, and 3. what kind of resources they have found to be most valuable in that process including subpoena power and funding for staffed positions).
 - a. A. Mires added that the FSOB should ask the Texas Forensic Science Commission to explain its process of transitioning from a board to a commission.
 - i. L. Kavanaugh agreed with A. Mires and added that the FSOB should invite legislators to listen to the Texas Forensic Science Commission’s presentation.
 - b. EOPSS to invite the Texas Forensic Science Commission to present at a future meeting.

3. 2022 Schedule

- i. Next meeting dates: 2/11, 3/18, 4/22, 5/13, 6/17, 7/8, 8/19, 9/16, 10/14, 11/18, 12/16
 1. Agendas and meeting information can be found on <https://www.mass.gov/forensic-science-oversight-board>
 2. The spring symposium and member reappointments will be on the February meeting agenda.
- ii. Audits:
 1. The Springfield Police Department (SPD) follow-up visit has not been scheduled yet. The working group would like to ask the SPD for a status update first.
 2. The working group will resume the Boston Police Department (BPD) audit. BPD was busy through the holidays; the working group will follow up with an official request for documentation.

4. Topics Not Reasonably Anticipated Within 48 Hours of the Meeting

- i. L. Davis informed the FSOB that the [FSOB’s Familial DNA Searching Report](#) was favorably discussed at length at the last CODIS State Administrators Meeting.
- ii. A. Mires informed the FSOB that the Familial DNA Bill will be voted out of the committee and onto the floor for discussion on February 3rd. She encouraged FSOB members to send documents in support of the bill.

5. Public Comments

- i. No public comments.

The meeting adjourned at 12:21 pm.