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Forensic Science Oversight Board (FSOB)
Meeting Minutes

Scheduled: December 17, 2021 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. Legislation Discussion

- i. The FSOB expressed that notification of pending legislation is preferred especially because members like L. Davis and T. Palmbach live outside of Massachusetts.
 1. A. Goldbach agreed and informed the FSOB of the refiling of the Trooper Thomas Clardy Law also known as the drugged-driving bill which includes drug recognition experts. She added that the FSOB is obligated to monitor proposed legislation that affects the quality of forensics in the Commonwealth and the Clardy bill is another bill the FSOB should weigh-in on
 2. L. Kavanaugh expressed that it would be better to have an intentional focus on the bills that the FSOB reviews. She cautioned that it would be dangerous if the FSOB receives

notification and weighs in on every bill because the FSOB has limited resources and should not be lending greater weight to bills that do not have a chance of moving forward. She added that the FSOB might want to think of how they are going to filter the bills.

- a. EOPSS to email the board with all pending forensic-related bills for the FSOB to decide which bills to focus on. The member who requests to review any particular bill will lead the bill discussion.
- ii. L. Kavanaugh suggested that it would be valuable for the board to issue a report to the legislature with what the board has accomplished for the legislature to view the board as a resource. She asked the FSOB to consider having a meeting with legislators that regularly review forensic-related bills.
 1. A. Mires agreed with hosting a legislative forum in fall 2022 where the FSOB could discuss particular bills and engage the legislature. She informed the FSOB that her conversations with legislators about the Familial DNA Bill reveal a need to connect and create a feedback loop with the legislature.
 2. N. Gertner expressed that the FSOB has, so far, been reactive and it would be ideal to engage with stakeholders and develop a proactive agenda. She volunteered to check if Harvard is available for a fall symposium to talk more broadly about these issues with stakeholders, invite legislators and get the media to cover what the FSOB does, report what they have done and what they should be doing. She added that she will work on the logistics of the symposium.
 - a. A. Goldbach added that a symposium would be great but it would be ideal if it was held sooner. She encouraged the board to begin a discussion about strengthening the statute.
 - i. N. Gertner to consider a spring symposium. EOPSS to inform the legislative director who will engage the legislature.
 - ii. L. Kavanaugh agreed and added that the symposium should be inclusive of presentations from, or regarding, other forensic science commissions like the Texas Commission to demonstrate to stakeholders a better oversight model.
 3. A. Goldbach and L. Kavanaugh discussed the approach taken for *Wrongful Conviction Day* where a short and impactful film was presented at the State House's Great Hall which facilitated exposure due to the access to legislators and State House attendees. They expressed that a similar event can be done in combination with the symposium.
 - a. Options may be limited due to COVID-19 restrictions.

4. L. Davis echoed other members' thoughts and highlighted subsection (c) which requires that the FSOB talk to legislators.
5. The FSOB will explore the logistics of a spring symposium in 2022.

3. Subsection Updates

- i. Subsection (e) *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.* (G. Papagiorgakis and S. Botch-Jones)
 1. EOPSS was tasked with looking into the open meeting law and public records law in connection with records retention.
 - a. A. Mullaney informed the FSOB that EOPSS retains documents in a secure location. Any materials presented during an executive session would not be disseminated to the FSOB or the public. These materials would be securely retained by the FSOB but not provided.
 - i. Any presentation presented in an executive session cannot be disseminated and can only be presented to FSOB members in another executive session. If a member is absent for an executive session, another member can verbally update the absentee member.
- ii. Subsection (i) *The board shall develop protocols to ensure proper chain of custody of evidence.* (A. Lynch and N. Rothstein)
 1. A document was shared in the OneDrive with reference links for the subsection (i) document
 2. The working group may be able to present at the January meeting.
- iii. Subsection (f) *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.* (R. Cotton, A. Goldbach and A. Mires)
 1. The working group will meet in early January and will have an outline for FSOB in time for the January meeting.
- iv. Subsection (g) *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.* (L. Davis and A. Mires)

1. The working group will meet in January. They reported that much of this subsection has already been written due to existing ISO certification requirements but they will work on reframing the language.

4. Year-End Wrap-Up

- i. Chair Collins encouraged the FSOB to identify anything that they would like to change or streamline for future meetings.
- ii. L. Davis L. Davis mentioned that the MA legislature is meeting and reviewing the budget at the moment and asked if the FSOB is supposed to receive and review a budget report.
 1. Subsection (j) *The board shall receive and review quarterly reports from the undersecretary for forensic sciences that shall include such information as the board requests, and which shall, at a minimum, include: (1) the volume of forensic services of each facility as well as the volume for each employee within such facility; (2) the volume of forensic services required for each county; (3) the costs and length of time from submission for testing and the return of results from such facilities; (4) compliance with accreditation standards; and (5) facility employee records, qualifications, and incident reports that could affect the integrity or results of forensic analysis. At the direction of the board, the undersecretary for forensic sciences shall advise the board on issues as the board shall request. The undersecretary shall make recommendations for the allocation of resources and expansion of services, and on an annual basis, submit budget recommendations to the secretary of the executive office of public safety and security and the board.*
 - a. Chair Collins will work on the subsection (j) requirements.

5. 2022 Schedule

- i. The next meeting is on January 21, 2022.
 1. The breathalyzer litigation and subsections (e) and (i) will be added to the January agenda.
 - a. A. Goldbach added that it would be great to hear from OAT, prosecution representatives, and Attorneys Bernard and Gant regarding their work on the breath test litigation.
 - i. EOPSS to send a letter to the invitees to welcome them to the January meeting.
 2. EOPSS provided an update on the cognitive bias seat. Dr. Jeff Kukucka from Towson University is considering the seat and will attend the January meeting to gain an understanding of the work of the FSOB. His decision will be made after the January meeting.

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

- i. L. Kavanaugh expressed that the Hair Microscopy Project will make one final effort for collaborative outreach and will schedule a discussion with the FSOB if the outreach is not successful.

7. Public Comments

- i. Sarah Chu from the Innocence Project expressed her appreciation to the board for its carefully considered work and for being an example of what it looks like to work collaboratively and transparently on behalf of the public for the benefit of forensic science. She commended Chair Collins' leadership.