

MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY
HOUSE OF DELEGATES

Bylaws Council Report 1-17

INTRODUCED BY: Bylaws Council

SUBJECT: Leave of Absence for Board Members

1 The Bylaws Council met by teleconference on Monday, March 13, 2017. Present on the
2 teleconference were Shannon Pryor, M.D., Chair, David Hexter, M.D., Michelle Manahan, M.D.,
3 Ambadas Pathak, M.D., Russell Wright, M.D., and James York, M.D. Also present were
4 Stephen Johnson, contract counsel to the council, and Sharon Kirk, MedChi staff.
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6 The Council reviewed a request from the MedChi Board of Trustees for a bylaw amendment that
7 would provide that “[a]ny physician who is directed by the Maryland Board of Physicians to
8 participate in the Professional Rehabilitation Program of the Center shall place him or herself on
9 a leave of absence from the Board of Trustees while such direction is in force.” The Council
10 understood that the underlying motivation for this request was to remove any underlying
11 possibility that the participant’s position on the Board would affect the independence of the
12 evaluation by program staff, who are employees of MedChi.
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14 In its review of the request, the Council considered several questions:
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- 16 1. Is a “leave of absence” the appropriate corrective measure given that participation with
17 the Professional Rehabilitation Program may last several years?
- 18 2. Whether or not a direction to participate in the Physician Rehabilitation Program should
19 include direction to participate in an evaluation by the program?
- 20 3. What mechanism, if any, should be provided to fill any vacancy created by this
21 provision?
- 22 4. Should the provision include referrals to the Physician Health Program?
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24 The first question, whether a leave of absence would be the appropriate corrective measure was
25 discussed by the Council. Because the Council’s understanding is that participation agreements
26 may be lengthy, perhaps as long as five years, a leave of absence was felt to be inadequate for
27 handling participation of more than six months. Accordingly, the Council drafted the bylaw so
28 as to provide that the trustee shall resign if absence due to the participation agreement would last
29 more than six months.
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31 The second question, whether or not a direction to participate in the Physician Rehabilitation
32 Program should include direction to participate in an evaluation by the program, was discussed
33 by the Council. Although an evaluation does not necessarily result in a requirement for a
34 physician to enter into a participation agreement, the Council recognized that the perception of
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37 possible coercive effect would still exist and therefore referrals for evaluation should mandate a
38 leave of absence until the referral was completed.

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40 With respect to the third question, the Council concluded that the current procedures for filling
41 vacancies contained in Bylaws 7.80 should govern the filling of vacancies under this provision.
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43 With respect to the fourth question, whether referrals to the Physician Health Program should be
44 included, it was determined that the voluntary, self-initiated nature of those referrals, as well as
45 the need not to deter use of the voluntary program, would support not including those referrals.
46 The Council on Bylaws is therefore proposing the following amendment to the MedChi Bylaws,
47 to be located in section 7, which pertains to the Board of Trustees.
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49 **7.90 MANDATORY LEAVE OF ABSENCE**

50 **7.901 A TRUSTEE WHO IS DIRECTED BY THE BOARD OF PHYSICIANS TO BE EVALUATED BY**
51 **OR ENTER INTO A PARTICIPATION AGREEMENT WITH THE CENTER FOR A HEALTHY MARYLAND'S**
52 **PROFESSIONAL REHABILITATION PROGRAM SHALL BE REQUIRED TO TAKE A LEAVE OF ABSENCE**
53 **FROM THE BOARD UNTIL THE EVALUATION OR PARTICIPATION AGREEMENT IS CONCLUDED, DURING**
54 **WHICH TIME THE TRUSTEE SHALL NOT PARTICIPATE IN ANY BOARD BUSINESS.**

55 **7.902 IF THE PARTICIPATION AGREEMENT HAS A TERM OF MORE THAN SIX MONTHS OR THE**
56 **LEAVE OF ABSENCE UNDER 7.901 LASTS MORE THAN SIX MONTHS, THE TRUSTEE SHALL RESIGN AND**
57 **THE PROCEDURES FOR FILLING A VACANT SEAT SHALL BE PUT INTO EFFECT..**

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As adopted by the House of Delegates at its meeting on April 30, 2017.