

Statement of Robert N. Klein Regarding the Nomination Process

As we discussed at the **August Board meeting**, when Counsel to the Board made a presentation on this subject and the Board voted to approve the proposed timeline for nominations and the election for Chair and Vice Chair, the constitutional officers, not the Board, have the power to make nominations for Chair and Vice Chair and appointments to the Board.

Although the Board cannot dictate whom the constitutional officers nominate, Board members, as well as any other interested party, are free to make suggestions to the constitutional officers regarding potential nominees and appointees. This is in accordance with state law, Proposition 71 and the First Amendment of the US Constitution.

The Chair and Vice Chairs of the Board, the Chair and Vice Chair of the Governance Subcommittee, and the Chairs of almost all of the Board subcommittees have made suggestions to the constitutional officers regarding potential nominees and/or appointees, in the course of preparing for this election.

Indeed, the Controller posted a public notice requesting suggestions from the public for both nominations for Chair and Vice Chair and appointments. This was an invitation to any board member, and any member of the public, to provide suggestions for nominees and appointees.

I did not personally contact the Treasurer or Controller, although they asked for my input, because both my wife and I were sick at the time of the requests.

Many individuals, from inside and outside the agency, have made suggestions to the constitutional officers. As chair, I asked a number of the members of the Board for suggestions, including the chairs of many of the committees of the Board, and I reached out to several people over the past year whom I thought would be good candidates to determine whether they were interested.

A significant number of candidates were considered as part of this process, but withdrew because: (a) they couldn't maintain a lab; (b) there was no possibility of a pension without five years of vesting; (c) they would have to terminate all connections with research institutions in California, including a buyout of pension benefits and surrendering tenure; (d) they could not own stock in any company doing stem cell research; and/or (e) they would have to be prepared to deal with public criticism from stem cell research opponents and media critics during the course of their service, regardless of their performance.

Dr. Bernstein is an extraordinary scientist and patient advocate for AIDS, diabetes, and broad areas of chronic disease. He received an award for advancing health care and for his patient advocacy from a coalition of all of the major patient advocacy organizations of Canada. He also passed all of the above criteria. Because of his extraordinary history of

successful contributions to biomedical research, I suggested him for consideration by the Governor.

I organized a dinner among all of the individuals whose names were under consideration for nomination. I asked for Board counsel to be present to be sure that Bagley-Keene requirements were observed. The intent was to provide a free exchange of ideas between the candidates and an opportunity for them to get to know one another. Indeed, I intentionally invited an individual whom I knew had a significantly different position than mine, in order to provide him an opportunity to present his views. The mutual respect and understanding of the candidates' positions is generally considered essential to prepare for a thoughtful Board discussion on similarities, differences and strategic advantages of one possible candidate versus another. It was also intended to lay a foundation for constructive cooperation between those who succeeded and those who did not succeed in the election.

Ultimately, lacking time to resolve a technical legal issue, the Governor nominated me, but I have made it clear that I only intend to serve until a new Chair can be selected. In my view, the best candidate would be a person who has exceptional scientific and/or clinical expertise and outstanding patient advocacy credentials that testify to his or her ability to assist in reaching the ultimate objective of our principal mission of driving therapies safely and quickly through FDA-approved clinical trials to patients. Certainly, I would include in our primary mission the parallel development of basic science to validate our understanding of chronic disease and the "mechanisms of action" of potential therapies; as therapies proceed through clinical trials, there will be innumerable intellectual challenges to overcome, ranging from basic science through early translational development issues through to clinical trial methodologies. The ideal candidate would have the education and experience to understand this entire continuum of biomedical knowledge.

I had scheduled a Governance Subcommittee meeting to discuss the value of a scientist-clinician as Chair, but given that Dr. Bernstein was no longer a candidate, that issue was moot.

I look forward to a future, robust discussion at the Governance Subcommittee and at the Board of the best criteria for a new Chair.

There are currently pending nominees for Chair and Vice Chair that reflect different individual board perspectives on these issues. The purpose of the December 8 and 15 meetings is to provide a forum to consider the nominations that have been made.