

## MEMORANDUM

DATE: March 16, 2022

TO: Members, Governance Subcommittee, California Institute for Regenerative Medicine

FROM: James C. Harrison

RE: Selection of Chair and Vice Chair of the CIRM Board

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## INTRODUCTION

Under state law, the terms of Chair Thomas and Vice Chair Torres will come to an end in December 2022. Because they have each served two terms, they are not eligible to be re-elected to these positions. This memorandum discusses the process for the selection of the Chair and Vice Chair, describes the criteria for nominees for the position, and identifies decision points for the Governance Subcommittee and Board with respect to the role of Chair and Vice Chair. Finally, the memorandum sets forth a proposed process and timeline for the selection of a new Chair and Vice Chair.

### **A. Process for Selection of Chair and Vice Chair**

Pursuant to Health and Safety Code section 125290.20, the Governor, the Lieutenant Governor, the Treasurer, and the Controller may each nominate a candidate for Chair and Vice Chair. The Board has the authority and the responsibility to elect a Chair and Vice Chair from among the individuals nominated by the Governor, the Lieutenant Governor, the Treasurer, and the Controller (the “Constitutional Officers”). Once the Board has had an opportunity to consider the parameters for the positions of Chair and Vice Chair, including percent effort and compensation, and to identify any additional, desired qualifications, it may request that the Constitutional Officers nominate candidates to replace Chair Thomas and Vice Chair Torres, both of whom will be termed out at the end of this year.<sup>1</sup>

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<sup>1</sup> Chair Thomas and Vice Chair Torres will continue to serve until their successors are elected and take the oath of office. Health & Saf. Code, § 125290.20(c)(3).

There is no explicit time limit established by law for nominations made by the Constitutional Officers; however, it would be reasonable to construe Health and Safety Code section 125290.20, which requires that appointing authorities make new appointments to CIRM's Governing Board within 90 days after the expiration of a member's term, to apply to the nomination of candidates for Chair and Vice Chair, as well. Of course, the Board may request that the Constitutional Officers make their nominations by a date certain in order to ensure a fair and thorough selection process.

Once the Constitutional Officers nominate candidates for Chair and Vice Chair, the Governance Subcommittee and the Board will have the opportunity to evaluate the nominees. During the last selection process, the Evaluation Subcommittee and the Board invited the nominees to make public presentations and to meet with the Board and the Subcommittee in closed session.<sup>2</sup> Following public presentations by the nominees at the Board meeting and separate closed session interviews with both candidates for Chair, the Board voted on the nominees in public, as required by law. The leadership of the Governance Subcommittee anticipates following a similar process with respect to the current selection effort.

**B. Criteria for Chair and Vice Chair**

Health and Safety Code section 125290.20 specifies the qualifications for candidates for the office of Chair and Vice Chair. The following are mandatory criteria for the Chair:

1. Demonstrated history in successful stem cell research advocacy or advocacy for other vital research opportunities in therapy development or delivery
2. Experience with state and federal legislative processes, including medical legislative approvals of standards and/or funding
3. Qualified for appointment as a California representative of a regional, state, or national disease advocacy group for spinal cord injury, Alzheimer's disease, type II diabetes, multiple sclerosis, amyotrophic lateral sclerosis, type I diabetes, heart disease, cancer, Parkinson's disease, mental health, HIV/AIDS

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<sup>2</sup> Pursuant to recent amendments to the Board Bylaws, the Governance Subcommittee has assumed the responsibilities of the Evaluation Subcommittee, which has been eliminated.

4. Cannot be concurrently employed by, or on leave from, any prospective grant or loan recipient institutions in California

Health and Safety Code section 125290.20 also includes additional criteria for consideration. These criteria, however, are not mandatory:

1. Experience with governmental agencies or institutions (either executive or board position)
2. Experience with the process of establishing government standards and procedures
3. Experience with legal review of proper governmental authority for the exercise of government agency or government institutional powers
4. Direct knowledge and experience in bond financing

Health and Safety Code section 125290.20 requires that the Vice Chair be elected from among individuals who have attributes and experience complementary to the Chair, preferably covering the criteria not represented by the Chair's credentials and experience. The Vice Chair must satisfy the following mandatory criteria:

1. Demonstrated history in successful stem cell research advocacy or advocacy for other vital research opportunities in therapy development or delivery
2. Qualified for appointment as a California representative of a regional, state, or national disease advocacy group for spinal cord injury, Alzheimer's disease, type II diabetes, multiple sclerosis, amyotrophic lateral sclerosis, type I diabetes, heart disease, cancer, Parkinson's disease, mental health, HIV/AIDS
3. Cannot be concurrently employed by, or on leave from, any prospective grant or loan recipient institutions in California

**C. Duties of Chair and Vice Chair**

Health and Safety Code section 125290.45 describes the duties of the Chair as follows:

1. Manage the board's agenda, including the Board's consideration of grant applications and standards;
2. Supervise CIRM's annual report and "public accountability requirements;"<sup>3</sup>
3. Manage and optimize CIRM's bond financing and cash flow plans;
4. Interface with the California Legislature, the United States Congress, the California healthcare system, and the California public;
5. Optimize "all financial leverage opportunities" for CIRM, including generating matching or supplemental funds through collaborations with other states, nations, territories, or institutions; and
6. Lead negotiations for intellectual property agreements, policies, and contract terms.

Health & Saf. Code, § 125290.45(b)(1)(A).

In addition, the Chair serves as a member of:

1. The Grants Working Group (ex officio);
2. The Standards Working Group;
3. The Facilities Working Group;
4. The Affordability and Accessibility Working Group; and
5. The California Stem Cell Research and Cures Finance Committee (which authorizes the issuance and sales of bonds and interim debt).

*Id.* §§ 125290.45(b)(1)(A), 125291.40(a).

Health and Safety Code section 125290.30 and 125290.40 require the Chair to appoint one member of the Citizens' Financial Accountability Oversight Committee (*Id.*, § 125290.30(c)) and two members of the California Stem Cell Research and Cures Finance Committee, respectively (*Id.*, § 125291.40(a)). The Chair, along with the Vice Chair, is also responsible for nominating members of the Accessibility and Affordability Working Group to the Board, and the Chair, along with the President, is responsible for appointing members of advisory task forces. *Id.*, §§ 125290.75, 125290.76.

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<sup>3</sup> The "public accountability requirements" include the annual report, the independent financial audit, the Citizens' Financial Accountability Oversight Committee, public meeting laws, public record laws, competitive bidding, conflicts of interest, intellectual property policies, and the preference for California suppliers. Health & Saf. Code, § 125290.30.

The primary responsibilities of the Vice Chair are to assist the Chair in carrying out the Chair's duties. The Vice Chair, along with the Chair, is responsible for nominating members of the Accessibility and Affordability Working Group to the Board, and the Vice Chair serves as a member of that working group. *Id.*, § 125290.75.

The Board has also addressed the duties of the Chair in the Internal Governance Policy and the Board's bylaws. <sup>4</sup>

**D. Decision Points Regarding Role of Chair and Vice Chair**

In order to guide the process for the selection of the Chair and Vice Chair, the Governance Subcommittee and Board must first determine: (1) the scope of the roles of Chair and Vice Chair; (2) the percent effort required to undertake the duties of Chair and Vice Chair; and (3) the compensation.<sup>5</sup>

Under Proposition 71 and Proposition 14, the Chair and Vice Chair have specific statutory responsibilities for, among other things, external finance, public communications, government relations and oversight of CIRM's public accountability requirements. By statute, the Chair also serves as a member of the Working Groups and the California Stem Cell Research and Cures Finance Committee, the state committee charged with authorizing the sale of bonds on CIRM's behalf. The Vice Chair serves as a member of the Accessibility and Affordability Working Group, and Vice Chair Torres currently chairs the working group.<sup>6</sup>

During the last Chair selection process, the Board debated how the statutory duties of the Chair should be carried out. The Board considered whether these duties should be performed by the Chair in partnership with the President, each with well-defined responsibilities approved by the Board within their respective areas of expertise (the

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<sup>4</sup> Board Bylaws:

<https://www.cirm.ca.gov/sites/default/files/files/agenda/%236C%20211006%20Agenda%20Item%20%236%20Proposed%20Changes%20to%20Board%20Bylaws.pdf>;

Internal Governance Policy:

<https://www.cirm.ca.gov/sites/default/files/files/agenda/%236D%20211006%20Agenda%20Item%20%235%20Proposed%20Amendments%20to%20Internal%20Governance%20Policy.pdf>.

<sup>5</sup> The positions of Chair and Vice Chair are included in CIRM's salary ranges. The current salary ranges for Chair and Vice Chair are \$311,000-\$550,000 and \$243,933-\$381,309, respectively.

<sup>6</sup> Vice Chair Torres also leads CIRM's government relations efforts.

“partnership” model), or alternatively, whether the Board should request that the Chair and Vice Chairs delegate these duties to staff to the extent permitted by law and play an oversight role rather than an operational role (the “delegation” model). Ultimately, the Board determined that it would clearly delineate the discrete responsibilities of the Chair, the Vice Chair, and the President, and that the Chair and Vice Chair should lead a robust oversight effort, including taking advantage of the skills of the Board members in conducting their oversight role, and that if the Chair and Vice Chair possessed expertise in the areas of responsibility assigned to the Chair under the law, then the Board could elect to take advantage of that expertise operationally in those areas as well.

Because the Chair and Vice Chair are considered employees of CIRM for compensation purposes, it is critical that the Governance Subcommittee and the Board determine whether they prefer the partnership model, the delegation model, or some other arrangement, so that the Board can determine the appropriate percent effort required for the positions and the corresponding level of compensation.

Currently, Chair Thomas receives a salary of \$412,000.00 for 80% effort and Vice Chair Torres receives a salary of \$289,692.00 for 100% effort.

**E. Process and Timeline for Selection of Chair and Vice Chair**

The following proposed process and timeline is intended to create a foundation for an orderly and timely transition of authority:

- March-April: The Governance Subcommittee will conduct a survey of Board members to gather their input with respect to the criteria for selection of Chair and Vice Chair and the scope of the positions.
- April-May: The Governance Subcommittee will consider the survey results and will prepare recommendations for the Board regarding selection criteria, the scope of the positions, and the percent effort required.
- May: The Board will consider the Governance Subcommittee’s recommendations and make a determination with respect to the selection criteria, the scope of the positions, and the percent effort required
- June: The Governance Subcommittee, on behalf of the Board, will request that the Constitutional Officers nominate candidates for Chair and Vice Chair no later than September 1, 2022, based on the selection criteria, the scope of the positions, and the percent effort required, as determined by the Board. (As noted above, the

Constitutional Officers are not required to make their nominations by this date, but we will request their cooperation.) The Governance Subcommittee will request that Constitutional Officers provide background information regarding nominees, including a brief personal statement from the nominee explaining the nominee's qualifications for, and interest in, the office. These materials will be provided to the Board and will be made available to the public.

- August-September: The Governance Subcommittee will vet nominees, request additional information as necessary, and conduct initial interviews.
- September-October: The Board will meet to consider nominees for Chair and Vice Chair, including public presentations by the candidates, closed session interviews, and a public vote.
- January: Assuming the Board elects a new Chair and Vice Chair in December, the individuals will take their oath at the Board's first meeting in January 2023, permitting an orderly transition of power from the outgoing Chair and Vice Chair to the new officers.