Resolution 19-504: PAMED Voting Transparency

Resolution 19-504, introduced at the 2019 annual meeting and referred to the Board of Trustees for study, calls on PAMED to allow membership access to voting records of elected representatives (PAMED Executive Committee, Board of Directors, and HOD Delegates), publish those voting records, and amend PAMED bylaws to include the resolution’s Resolveds.

Background
There was lively debate for and against this resolution during the 2019 House of Delegates meeting.

Discussion
The Task Force met via telephone on Monday, March 2, 2020. The following members participated: Drs. Edward Balaban (Chair), Todd Hertzberg, Walter Klein, John Pagan, and Jonathon Rhoads. Dr. Michael Best and Dr. Marion Mass did not dial in.

The Task Force recommends no change in the current voting practices of the Executive Committee, Board of Trustees, or the House of Delegates.

There was strong consensus against a mandated recorded roll call vote highlighting the following concerns:

- Could potentially inhibit open deliberation discussions and free decision-making.
- Could influence individual participation on either a particular issue or individual participation overall.
- Could make volunteer members of these bodies vulnerable to issues such as potential litigation should that ever become a possibility.
- Will overtly politicize a position that should be minimally political in substance.

Therefore, it is felt that a mandated roll vote would not be beneficial (and potentially harmful) for the mission of the afore mentioned bodies.

Along with the above discussion, it was noted that a publicized roll call vote is always an option for any vote and can be requested by a trustee or delegate and then decided by deliberative body.

Additionally, it is necessary to emphasize that those participating in any PAMED forum are there to decide issues in the best interest for the physician community as a whole. Voting members from a particular region or group are encouraged to reflect those perspectives but ultimately the deliberating member should determine what is best for the entirety of Pennsylvania physician members.

It is understood that this resolution comes about as a continued request for transparency. The achievement of transparency will continue to be a highlighted concern again at every PAMED level (HOD, BOD, Exec committee). However, a mandate for roll call voting transparency could potentially have the opposite effect if those participating (Delegates, Trustees, etc.) are threatened from expressing opinions while deliberating an issue on behalf of the entire medical community.

A review of voting practices in other state medical societies likewise did not mandate roll call voting (see attached).
Pennsylvania law does not require non-profit corporations to conduct roll-call voting. However, Pennsylvania law does allow board members voting on the non-prevailing side of a motion to request that their vote be reflected in the minutes.¹

PAMED uses the American Institute of Parliamentarians (AIP) Standard Code of Parliamentary Procedure as the parliamentary authority of the Pennsylvania Medical Society. Under AIP standards, any voting member may request a roll-call vote. If a majority agrees, then a roll-call vote will be taken.²

State law provides that non-profit board members will not be held liable for their actions as board members except:

- The director has breached or failed to perform the duties of his office under the law and the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.
- Criminal activity.
- Failure to pay any required taxes.
- A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.
- Any other factors deemed by a court.

Regarding roll-calling voting, the Society must also consider what this may do in the event the Society is sued. While for the most part trustees and Delegates are immune from liability, and a lawsuit may not be likely, individual votes open voting members to a greater likelihood of being brought into litigation. As plaintiffs in a case are going to know who voted for or against a proposal, this will give plaintiffs the opportunity to try to depose or call individual members as witnesses to explain their specific votes. Under this scenario, if the deposition or court questioning occurs, voting members could be asked questions to explain why they voted the way they did, what factors led to this decision, who or what influenced their decision, etc.

**RECOMMENDATION**

The Task Force recommends that Resolution 19-504 not be adopted and no changes to the current voting practices of the Executive Committee, the Board of Trustees, and the House of Delegates be implemented. Each of those deliberative bodies remains free to utilize roll call as a method of voting when a majority of that voting body desires.

John P. Gallagher, MD
Board Chair

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¹ 15 P.S. § 5714.
ADDENDUM

What are other state medical societies doing?

Delaware — Delaware does not do this. I’m not aware that we’ve ever had a request. Very rarely, if ever, are things that contested. Annual meeting and Interim meetings of the Council (we did away with HOD) are made available, but not sure how many members actually read them. Executive Board minutes are made available. The Executive Board and the Holding Company see the minutes from the various subsidiary boards as well as different committee. We don’t generally report votes by person.

Georgia — “Same”

Idaho — Idaho does not record individual votes, nor have we ever had a request.

Indiana — Neither our EC nor our Board track or publish individual votes. No one has asked for it. We also do not publish our minutes.

At the HOD, it is typically just an anonymous electronic vote or a group voice vote, except in one scenario. Under our Bylaws, “The final vote on any issue calling for changes in dues or in dues structure shall be by roll call or electronic vote of the House of Delegates. Each member’s vote shall be permanently recorded.” We have done this recorded roll call vote at the HOD a few times over my years. We have never published the results and no one has ever asked for them, even though the HOD passed the largest dues increase in ISMA history a few years ago with over 85% support. In fact, when select members complained about that dues increase after the fact, we told them to talk to the people who voted for it, which was nearly everyone, including in their own county. Logistically, roll call recorded votes are very “clunky” to conduct.

Louisiana — We would be similar to Minnesota, we don’t record an individual vote. Occasionally we’ll have someone who is the only dissenting vote and we’ll record that in the minutes.

Ohio — “Same”

Oregon — Oregon reports the results, but not the vote count. We don’t keep that information

Kentucky — In Kentucky, we do not record votes. We only note in the minutes from each meeting that something passed or not, along with a recorded individual vote if someone asks to be put in the minutes, which rarely happens and usually happens only when I suggest they do it. We have had no requests from anyone to take such a roll of votes and publish them. In fact, none of the non-profit board on which I have served has never done this.

Maryland — Minutes of both House and Board are available, the votes are in there, I don’t believe anyone reads them, but who knows…….

Massachusetts — “Same”

Michigan — We do not publish any votes in Michigan. We don’t even keep track of how individual board leaders vote, just what the final decision is.

Minnesota — Minnesota does not do this nor have we ever had a request. We do post our board minutes on our website but we don’t record or report votes by person.
Missouri — “Same”

Montana — We do not publish individual voting records of elected representatives to the Board of Trustees (no HOD). Nor have we heard from any members of having an interest to have access to that level of detail.

New Mexico — “Same”

North Dakota — “Same”

New Hampshire — New Hampshire does not do this. We rarely have contested votes on issues, and don’t publish them when we do. The last organization I had go through something like this was a power struggle between two factions. Published individual votes only made the situation worse, and they ended up rescinding the policy six months later at their next house meeting.

New York — We do not post votes on issues decided by our Board. Only the results of actions taken are reported on to our Council.

Oregon — Oregon reports the results, but not the vote count. We don’t keep that information.

Rhode Island — “Same”

Washington — “Same”

West Virginia — “Same”

Wisconsin — “Same”

Utah — In Utah we do not record voting records just pass or fail. We will record an abstaining vote by name or by number abstaining in a vote but that is all.

Medical Society of DC — For our Board of Directors we publish the vote count but not names except if a person declares a conflict. We do rarely have contested votes. I would 100% say check with your legal counsel on the pitfalls and benefits of identifying Board votes. I served on an association Board once where names for votes were recorded on every action. That organization was sued and the names who voted for or against on certain votes were used to paint a picture (inaccurately I might add) against the organization.