



BOARD MEETING MINUTES

January 25-27, 2023

**3127 Smoketree Court
Raleigh, North Carolina**

and Virtual

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held January 25-27, 2023.

The January 25-27, 2023, meeting of the North Carolina Medical Board was held virtual and at 3127 Smoketree Court, Raleigh, NC 27604. John W. Rusher, MD, JD; President, called the meeting to order. Board members in attendance were: Michaux R. Kilpatrick, MD; President-Elect; Christine M. Khandelwal, DO; Secretary/Treasurer; Shawn P. Parker, JD; W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; Devdutta G. Sangvai, MD, Mr. William M. Brawley; Anuradha Rao-Patel, MD; Sharona Y. Johnson, PhD, FNP-BC; Miguel A. Pineiro, PA-C; and Melinda H. Privette, MD, JD.

PRESIDENTIAL REMARKS

Dr. John W. Rusher reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. Reported conflicts were included within individual committee reports.

ANNOUNCEMENTS and UPDATES

Dr. Rusher recognized new staff as they were introduced by their perspective manager. He also recognized staff with milestone anniversaries.

PRESENTATION(S)

Board member training was provided by Mr. Mansfield, Mr. Jimison and Ms. Meredith

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Dr. Jordan gave the PHP Compliance Committee report. The specifics of this report are not included because the information contained in the report is confidential and non-public.

A motion passed to return to open session.

Dr. Jordan gave the PHP Annual report.

NCMB ATTORNEY'S REPORT

Mr. Blankenship and Mr. Mansfield updated the Board on the schedule of upcoming hearings, hearing assignments and rule activity of the Board.

A motion passed to close the session pursuant to N.C. Gen Stat. §143-318.11(a) to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and/or 90-21.22 of the North

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Carolina General Statutes and not considered public records within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

Within the closed session:

Mr. Mansfield provided information and legal advice within the attorney-client privilege and regarding two outside litigation matters. Mr. Blankenship provided information and legal advice within the attorney-client privilege regarding attorney work product occurring since the last Attorney's Report was presented.

Mr. Mansfield, Mr. Blankenship and Mr. Colon Willoughby, as outside counsel, provided information and legal advice regarding an audit carried out by the Office of State Auditor. The attorneys provided advice regarding potential litigation and other measures the Board might take. The Board directed counsel to take the "watchful waiting" approach and be prepared to answer questions as they come up.

Mr. Mansfield, and Mr. Matt Sawchak, as outside counsel, provided information and legal advice regarding a dispute with the Board of Nursing over application and registration fees generated by the joint regulation of nurse practitioners. Counsel provided options for the Board to consider, including litigation. The Board authorized Mr. Mansfield to enter into a compromise settlement with the Board of Nursing for as low as 12.5%, but to start at 15%.

A motion was passed to return to open session.

That concluded the Attorney's Report.

Legislative Update

On Friday, January 27, 2023, the Board's Legislative Liaison, Mr. Thomas W. Mansfield, and Board Attorney Elizabeth Meredith provided a legislative update to the Board.

The Board accepted the report as information.

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present via video/teleconference were: Michaux R. Kilpatrick, MD, PhD Chairperson; Christine M. Khandelwal, DO; Devdutta G. Sangvai, MD, MBA; Anu Rao-Patel, MD; and John W. Rusher, MD, JD

Financial Update

a. Year-To-Date Financials

The Committee reviewed the following financial reports through November 30, 2022: Balance Sheet, Profit & Loss versus Budget, and the Profit & Loss Comparison.

Committee Recommendation: Accept the financial information as reported.

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Board Action: Accept Committee recommendation. Accept the financial information as reported

b. Investment Account Update

The Committee reviewed the investment statements for November and December 2022.

Committee Recommendation: Accept the investment statements as reported.

Board Action: Accept Committee recommendation. Accept the investment statements as reported.

c. Year End Financial Statement Audit Report

Chris Duffus, CPA, and Joshua Anderson, CPA, with Dean Dorton Allen Ford, PLLC, met with the Executive Committee to present the Year-End Financial Statement Audit Report for the fiscal year ending October 31, 2022.

According to the Independent Auditor's Report: "In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the financial position of the North Carolina Medical Board, as of October 31, 2022 and the respective changes in financial position and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America."

A motion passed to go into restricted closed session pursuant to Section 143-748 of the North Carolina General Statutes to preserve the confidentiality of internal audit work papers.

The Committee met privately with the auditors to give the auditors the opportunity to share any concerns regarding the audit report or process outside the presence of NCMB staff.

A motion passed to return to open session.

Committee Recommendation: Accept the Year-End Financial Statement Audit Report as reported.

Board Action: Accept Committee recommendation. Accept the Year-End Financial Statement Audit Report as reported.

New Business:

a. 2023 Staff Strategies

Each year, employees are encouraged to submit proposed strategies to help advance the following four goals:

- Licensing & Renewal - Provide timely access to the workforce without compromising patient protection through innovative licensure and renewal initiatives.
- Enforcement - Protect the public and the integrity of the practice of medicine by ensuring the investigative and regulatory processes are current, timely, efficient, and effective.

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- Policy & Education - Identify and address emerging issues impacting the practice of medicine through effective policy development and outreach to licensees, the public and stakeholders.
- Efficiencies - Provide optimal staffing, facilities, processes, and technology to enable NCMB to succeed in its mission.

The staff strategies (1) provide an opportunity for employees to work on initiatives beyond the scope of their regular job duties, and (2) promote inter-departmental interaction.

13 proposed strategies were submitted with each department submitting multiple strategies for consideration. The Executive Team met on January 17th and approved the following six goals:

- Improve efficiency in the case review process by combining companion enforcement cases in ThoughtSpan.
- Implement recommendations of the Board Meeting Workgroup.
- Successfully onboard 15 new positions approved in the FY23 budget and review current onboarding process, including surveys. Ensure uniform education / training of new hires by reviewing existing onboarding materials for opportunities to improve available resources. Survey new staff and hiring managers to identify gaps in the process.
- Upon receipt of information from DHHS, increase the utilization of the CSRS program by NCMB licensees through a targeted education campaign.
- Create an internal plan for addressing death certificate calls from the public, funeral directors, and licensees. Develop talking points for funeral directors. Track calls and complaints for patterns.
- Overhaul the Field Investigator manual to enhance training within the Department and drive greater consistency in Reports of Investigation (ROI).

Amy Williams is project manager for this initiative. Work will commence immediately after the January Board meeting. A final report will be given at the September Board meeting.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. 2023 Board Retreat

The 2023 Board retreat will be held August 18 – 20.

Staff provided an update including possible retreat locations.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

Policy Committee Report

Members present were: John W. Rusher, MD, JD; Chairperson; William M. Brawley; W. Howard Hall, MD; Sharona Y. Johnson, PhD, FNP-BC; and Robert L. Rich, Jr., MD

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Old Business:

a. 9.1.3. Licensee Employment

After the November 2022 meeting, staff made the changes discussed during Committee to the proposed position statement and circulated the revised version to the stakeholders who previously provided comment. Staff received additional comments from one stakeholder group, the NC Healthcare Association (“NCHA”). After discussion with the NCHA, staff requested that the NCHA provide a proposed, redline version. Prior to the Committee meeting, staff received a proposed, redline version with extensive changes and explanatory comments from the NCHA.

During the January 2023 meeting, staff recommended, and the Committee agreed, to table discussion of the proposed position statement to allow staff the opportunity to do a more detailed review of the changes from NCHA and identify potential areas of agreement or disagreement for the Committee to consider.

Committee recommendation: Staff should complete further review of the proposed, redline version from the NCHA. Staff will continue conversations with NCHA and identify and present potential areas of agreement or disagreement for the Committee to consider, along with a revised, proposed position statement.

Board Action: Accept Committee recommendation. Staff should complete further review of the proposed, redline version from the NCHA. Staff will continue conversations with NCHA and identify and present potential areas of agreement or disagreement for the Committee to consider, along with a revised, proposed position statement.

b. 5.1.4. Telemedicine

After the November meeting, staff circulated word versions of the current Telemedicine position statement and the Federation of State Medical Board’s “The Appropriate Use of Telemedicine Technologies in the Practice of Medicine” (April 2022) to the Committee members. The Committee members made suggested changes and comments, and staff compiled the changes and comments into a revised position statement.

During the January 2023 Committee meeting, the Committee reviewed and discussed the proposed changes. The Committee directed staff to make the changes discussed during Committee to the revised position statement and circulate the revised version to the Committee members prior to the March 2023 for review, consideration, and further comment.

Committee recommendation: Staff was directed to make the changes discussed during Committee to the revised position statement and circulate the revised version to the Committee members prior to the March 2023 for review and consideration. Committee members should provide any additional proposed edits to staff. Staff will incorporate any additional changes into a new redline version of the position statement for discussion at a later meeting, with an anticipated date of March 2023.

Board Action: Accept Committee recommendation. Staff was directed to make the changes discussed during Committee to the revised position statement and circulate the revised version to the Committee members prior to the March 2023 for review and consideration. Committee members should provide any additional proposed edits to staff. Staff will incorporate any additional changes into a new redline version of the position statement for discussion at a later meeting, with an anticipated date of March 2023.

New Business:

a. 6.1.4: Clinician Obligation to Complete a Certificate of Death

During the January 2023 Committee meeting, it was forecast that the Committee plans to discuss revising the current position statement to include reference to the North Carolina Database Application for Vital Events (“NCDAVE”) system and the enactment of N.C. General Statute § 130A-115(g) at a future meeting, with an anticipated date of March 2023.

Committee recommendation: Accept as Information.

Board Action: Accept Committee recommendation. Accept as Information.

b. 4.1.3: Policy for the Use of Opioids for the Treatment of Pain

During the January 2023 Committee meeting, it was forecast that the Committee will discuss if the Board should revise the Board’s “4.1.3: Policy for the Use of Opioids for the Treatment of Pain” position statement based on the Center for Disease Control and Prevention’s 2022 CDC Clinical Practice Guideline for Prescribing Opioids for Pain revision at a later meeting.

Board Action: Accept Committee recommendation. Accept as Information.

Licensing Committee Report

Members present were: W. Howard Hall, MD, Chairperson; Miguel Pineiro, PA-C, MHPE; Melinda H. Privette, MD, JD and Robert L. Rich, Jr., MD

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The License Committee reviewed six cases. A written report was presented for the Board’s review. The Board adopted the Committee’s recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

License Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Four licensure interviews were conducted. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Advanced Practice Providers and Allied Health Committee Report

Members present were: Sharona Y. Johnson, PhD, FNP-BC, Chairperson; Devdutta G. Sangvai, MD, MBA; Miguel Pineiro, PA-C, MHPE; Shawn P. Parker, JD; Miguel A. Pineiro, PA-C and William M. Brawley

Old Business:

- a. Repeal of 21 NCAC 32B .1708 and 21 NCAC 32M .0119 Covid-19 Drug Preservation Rule – M. Jimison, Sr. Board Attorney

Committee Recommendation: Repeal both rules.

Board Action: Accept the repeal of both rules as written.

Disciplinary (Malpractice) Committee Report

Members present were: Christine M. Khandelwal, DO; Chairperson; Anuradha Rao-Patel, MD, Vice Chair; Melinda H. Privette, MD, JD; Miguel A. Pineiro, PA-C, MHPE; W. Howard Hall, MD, and John W. Rusher, MD, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Malpractice) Committee reviewed 47 cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Investigative) Committee Report

Members present were Christine M. Khandelwal, DO; Chairperson; Anuradha Rao-Patel, MD, Vice Chair; Melinda H. Privette, MD, JD; Miguel A. Pineiro, PA-C, MHPE; W. Howard Hall, MD, and John W. Rusher, MD, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Investigative) Committee reviewed 49 investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Complaints) Committee Report

Members present were: Christine M. Khandelwal, DO; Chairperson; Anuradha Rao-Patel, MD, Vice Chair; Melinda H. Privette, MD, JD; Miguel A. Pineiro, PA-C, MHPE; W. Howard Hall, MD, and John W. Rusher, MD, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Complaints) Committee reviewed 20 complaint cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Disciplinary (Department of Health and Human Services) (DHHS) Committee Report

Members present were: Christine M. Khandelwal, DO; Chairperson; Anuradha Rao-Patel, MD, Vice Chair; Melinda H. Privette, MD, JD; Miguel A. Pineiro, PA-C, MHPE; W. Howard Hall, MD, and John W. Rusher, MD, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (DHHS) Committee reviewed one complaint case. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

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A motion passed to return to open session.

Disciplinary (Compliance) Committee Report

Members present were: Devdutta G. Sangvai, Chairperson; W. Howard Hall, MD; (Vice-Chair) Sharona Y. Johnson, FNP-BC; Christine M. Khandelwal, DO; Melinda H. Privette, MD, JD and Anuradha Rao-Patel, MD. Absent were: Joshua D. Malcolm, JD.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Compliance) Committee reviewed ten investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Investigative Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Nine interviews were conducted. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Outreach Committee Report

Members present were: W. Howard, MD; Chairperson; Miguel A. Pineiro, PA-C, MHPE; Melinda H. Privette, MD, JD and Devdutta G. Sangvai, MD, MBA

Old Business:

- a. Update on presentations
 - i. Professional and public presentations

The Communications Director gave a summary overview of Outreach activity in 2022. Public presentations in a variety of settings reached more than 500 members of the public. NCMB

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presented 43 professional outreach presentations, about of half of which were to PA and medical students, including 12 presentations of the Regulation Immersion Series mock disciplinary course. NCMB is scheduling return visits to North Carolina medical schools and PA programs for 2023 and is in need of Board Member faculty for upcoming sessions. Board Members are invited to review the schedule of upcoming events and reach out to the Communications Director if they are interested in presenting at a particular session. In addition, Board Members should watch for emails announcing opportunities to present.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information

b. Wellness and Burnout Updates

i. Consortium review

The Chief Medical Officer gave a report summarizing a recent meeting of the newly revived NC Consortium on Physician and Clinician Resilience & Retention, which she attended along with NCMB's Chief Legal Officer. The initial meeting handled multiple housekeeping items, such as identifying co-chairs to lead the group, which is dedicated to addressing system drivers of occupational stressors contributing to reports of burnout, establishing a group charter, etc. Attendees discussed topics including shifting from the term "burnout" to "moral injury" to acknowledge what research suggests is at the core of the trends in practice dissatisfaction and early departure from practice. The feasibility of creating a "Healthy Workforce Excellence" gold star certification tool was also discussed. The goal of a successful certification campaign is to create incentive for health systems to share ideas and successful initiatives to foster wellness, satisfaction in work, patient satisfaction and stronger bottom lines.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

New Business:

a. Licensee survey topics

The Chief Communications and Administrative Officer gave an overview of NCMB's past endeavors in surveying licensees, to prep Committee Members for a discussion about conducting another survey this year. The basic format for licensee surveys includes questions that capture demographic information, inquire about interactions with NCMB and ask licensees about their thoughts on timely topics in medical practice. Past "special topics" include opioid prescribing, wellness/burnout and telemedicine. Committee members discussed possible topics for the 2023 licensee survey. It was noted that clinician wellness remains a pressing concern and likely should be included in the upcoming survey. Telemedicine practice has exploded since the onset of COVID-19, and Committee members agreed that it would be interesting to assess licensee use and experiences with telemedicine. It was further noted that, while opioid prescribing remains a concern, questions would

need to be overhauled to include current interests, including recognizing misuse and addiction, medication for addiction treatment and general controlled substances prescribing. Other topics mentioned include healthcare workforce issues and corporate practice of medicine.

Committee recommendation: Invite full Board to share their suggestions for the survey and direct Communications Staff to incorporate feedback into survey development.

Board action: Accept Committee recommendation: Invite full Board to share their suggestions for the survey and direct Communications Staff to incorporate feedback into survey development.

b. CS CME II project

The Chief Medical Officer gave an overview of a recently completed initiative to develop updated controlled substances prescribing CME with partners at the UNC School of Medicine Addiction Medicine Fellowship program and WakeAHEC. The project produced three new online modules that cover current topics in opioid prescribing, non-opioid treatments for chronic pain and medication for addiction treatment. The modules are designed to meet NCMB's CME requirement for controlled substances prescribers. NCMB provided funding for the first 50 users to complete each module to pay no fee; all other participants will pay \$25 per module. The new modules are linked on the NCMB website at www.ncmedboard.org/prescribingCME.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

c. Misc. Other Outreach Activities

i. Update on recent activities of the Communications Department

The Communications Director reported that a new feature suggested by Board Members serving on the NCMB Disciplinary Committee successfully launched in the November/December 2022 email edition of the *Forum*, NCMB's licensee newsletter. The recurring feature will present fictionalized case studies that reflect issues and challenges discussed at Disciplinary Committee, often related to cases that do not result in public action and, thus, are not seen by licensees who might learn from others' mistakes. The initial installment of the feature focused on proper procedure for dismissing patients. NCMB received a significant number of online comments from licensee readers, all of them positive. Many comments praised the idea and shared appreciation for NCMB's intention of helping licensees avoid problems.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

ii. Preview of the NCMB Annual Report

The Communications Director gave a brief update that the 2023 NCMB Annual Report is in

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production and on schedule to be finished by the March Board Meeting. Typically, time is allocated during the March meeting to allow a walkthrough of the report before it is finalized and posted to the NCMB website. Committee members were reminded that, if Board Members, are interested in capturing information not currently reflected in the report, now is the time to suggest it so staff can determine how best to collect relevant data.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation: Accept as information.

CEO Transition Team Meeting

Members present were: John W. Rusher, MD, JD, Chair; Michaux R. Kilpatrick, MD, PhD; Christine M. Khandelwal, DO; Devdutta G. Sangvai, MD, MBA; and Anuradha Rao-Patel, MD.

a. Introduction of Attorney Deborah Stagner

Staff introduced attorney Deborah Stagner whom the Board hired to advise the CEO Transition Team regarding the NC Open Meetings Law. Ms. Stagner is Of Counsel with Tharrington Smith law firm, and her practice focuses on education law, litigation, and appeals. She also advises school boards and local governments on various matters including the Open Meetings Law.

Transition Team recommendation: Accept as information.

Board Action: Accept the Transition Team recommendation. Accept as information.

b. Open Meetings Law Overview

Ms. Stagner provided an overview of the Open Meetings Law including exceptions that will apply to the Transition Team as it begins to review applications for the CEO position.

Transition Team recommendation: Accept as information.

Board Action: Accept the Transition Team recommendation. Accept as information.

c. Search Firm Presentation

In November 2022, the Board hired Armstrong McGuire to assist it with the search for a new CEO. Staci Barfield and Dana Mangum, Senior Advisors, Armstrong McGuire, met with the Transition Team to share the results of their leadership needs assessment, submit a proposed position profile, discuss their recruitment plan, and review next steps.

ADJOURNMENT

The Medical Board adjourned at 1:20 p.m. on Friday, January 27, 2023.

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The next meeting of the Medical Board is scheduled for March 15-17, 2023.



Devdutta G. Sangvai, MD, Secretary/Treasure

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