

REGULAR BOARD MEETING

MINUTES

September 14, 2011

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on September 14, 2011 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: George Parrott, President; Tryphina Wiseman, Vice President; Elizabeth Webber, Secretary; Rudy Lea, J. T. Willoughby III, Jack Briggs, Harris High, Ken Stainback and Lawrence Jackson III

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Dorman Caudle with Carolina Donor Services, Herbert Reichlin with Funeral Consumers Alliance, Fred Jordan with NC Eye Bank, Pat Hayes with the North Carolina Funeral Directors Association, and Lyn Cochrane.

Mr. Parrott called the meeting to order at 9:25 and thanked Ms. Wiseman and Ms. Webber for managing the meeting in August in his absence. Mr. Parrott asked the guests to introduce themselves and he then led the Pledge of Allegiance. Mr. Willoughby had the invocation.

Mr. Parrott read the Ethics Awareness & Conflict of Interest statement. Mr. Lea attended a meeting of Wake County funeral directors and Representative Dan Blue. Mr. High arranged a NCFDA District Meeting and attended their Legislative Committee meeting.

There was no public comment.

Mrs. Webber presented the minutes from the August meeting. Mr. High made the motion to approve the minutes and Mr. Lea seconded. The motion carried.

Exam Committee: Ms. Webber stated six applicants had taken the laws and rules examination since the August meeting and all passed. The committee completed its review of the statistical analysis of the laws and rules examination provided by Castle Worldwide. Thirty-two questions were deemed "too easy" and one deemed "too difficult." Committee does not make any recommendation to change the existing questions, however, does recommend development of more 'situational' questions for which applicants would apply knowledge of the Board laws and rules in order to select the correct answer. Review of specific questions or question content should be done in closed session in accordance with GS § 143-318.18(6). Committee will begin reviewing pathology exam questions in the future. This report was for information only.

Finance and Personnel Committee: Mr. Briggs yielded the floor to Mr. Harris. Mr. Harris stated the report was unreconciled and did not have any items of concern. He researched the year to date computer support line item and found the installation charge for the new server was included in computer support; however, had been budgeted under computer equipment.

Mr. Harris has a quote from the telephone vendor for replacing the telephone system in 2012. He obtained this because the voice mail system has reached the point where it is beginning to malfunction and replacement parts are difficult to obtain.

Mr. Harris has discussed with the 401(k) representative a change of carrier because of rate changes. This information will be given to the Finance.

The litigation fund needs to be brought back up to the \$100,000.

Mr. Parrott thanked Mr. Harris and Mr. Dirksen for their diligence during the absence of Ms. Cochrane and Ms. Stegall. Mr. Harris stated he was glad they were back on a part-time basis and other staff are still recovering.

Mr. Briggs made the motion to accept the report for information only. Mr. Willoughby seconded and the motion carried.

Laws and Rules Committee: Mr. Briggs stated the committee and staff completed the review of all permanent rules in accordance with Section 57 of Session Law 21011-398. This section requires agencies to determine if any rule is mandated by a federal law or regulation or if not mandated by federal laws or regulations, determine if a federal regulation is analogous federal law or regulation. None of the Board's rules are mandated by federal law or regulation, there are not federal laws or regulations analogous to any Board rule, therefore, no stringency testing is required. Mr. Briggs made the motion to adopt the report. Ms. Wiseman seconded and the motion carried.

Committee reviewed the advisory opinion for David Twiford. Mr. Briggs made the motion to approve the opinion excluding attachments for use in similar matters and forward a copy as a reply to Mr. Twiford. Mr. Stainback seconded and the motion carried.

Traineeship Committee: Ms. Wiseman stated two trainees have been on suspension. Trainee #1 was required to complete two additional months because of a previous suspension and took an extended time to decide whether to certify or renew. They renewed and submitted the reports. Committee recommends allowing renewal with no further action. Trainee #2 was suspended because they did not respond to a letter sent July 19 concerning the June report. Trainee is registered with a firm with low call volume so embalming portion of the traineeship is registered under the trade embalmer used by the firm. The trainee has counted all cases by the trade embalmer, not just the ones for funeral handed by the firm. Committee recommends lifting the suspension effective September 1. Review embalming cases to determine those for proper credit. Letters will be sent to the firm manager, funeral director supervisor, and embalming supervisor concerning the proper credit for embalming cases. Discussion ensued. Ms. Webber made the motion to accept the committee recommendations. Mr. Jackson seconded and the motion carried.

Preneed Committee: Mr. Willoughby presented the report for information only and referenced the report indicated two new firms were issued new preneed licenses but only one name was included on the report. Mr. Harris will check that and report back to the Board during the business section.

Two preneed establishments submitted requests to discontinue their bond. Committee and staff reviewed the information and the financials show solvency. Committee was recommending approval of both requests.

Committee reviewed a draft of advisory opinion in response to a request from NCFDA on whether an irrevocable preneed contract for traditional burial can be changed after death to a direct cremation and refunds issued. Committee was recommending approval of the advisory opinion for use in similar matters and forward a copy of the reply to NCFDA. Mr. Willoughby made the motion to accept the committee recommendations. Mr. High seconded and the motion carried.

Disciplinary Committee: Mr. Lea presented the report and stated there were two addendums. Discussion ensued. Mr. High made a motion to accept the recommendations for V11-052, V11-054, V11-055, V11-041, V11-050, V11-060, V11-040, V11043, V11-048, M11-017, M11-026, and V07-242, Mr. Jackson seconded and the motion carried. Mr. Briggs commended the committee for their hard work.

Ms. Wiseman made the motion to approve the recommendation for the addendum, which includes V11-039 and M11-001. Ms. Webber seconded and the motion carried.

Mr. Lea presented the second addendum. Discussion ensued. Mr. Willoughby made the motion to accept the recommendation for M09-028. Mr. Stainback seconded and the motion carried.

Attorney's Report: Mr. Dirksen presented the report and stated the hearings were set for 11:00 today. Mr. Dirksen stated Consent Order had settled afternoon hearing. Mr. Dirksen stated that the licensee for the 11:00 hearing called and was going to be late. Mr. Dirksen suggested the Board delay the start of the hearing to accommodate his arrival. Mr. Dirksen further stated that there would be an attorney making a continuance request for the matter scheduled for Thursday.

Executive Directors Report: Mr. Harris presented the Inspectors' reports.

Mr. Harris stated since the August meeting nineteen reports have been filed and reviewed.

New Establishments: Smith Funeral & Cremation Service, Greenville
Wesley Heights Funeral & Cremations Services, Charlotte

New Funeral Service Licensees: Wesley Sluder (convert to FS), Jenah Schott, Michael Mutton, Kyle Aler, Nicole Clary, Michael George

New Funeral Director Licensees: Roger Capps, Antenor Nixon, Edward Gregory

New Trainees: John Sossamon Jr., Pamela Enloe, Melody Shepherd, Kenneth Cummings, Ramona McFerran, Adrian Jefferies, Sandra Wadkins, Scott Groce, Anne White, Joseph Fairless

Staff Ethics report: Mr. Harris presented the program to NC Citadel Management Partners.

The advisory opinions and requests have been prepared.

Mr. Harris stated the staffing agency informed him that the person that had originally accepted the paralegal position had changed her mind.

The Text to Speech program to convert the laws and regulations to an audio version has been purchased.

Mr. Harris has an FTC Review for Piedmont District FD&MA of NC, Inc. on September 19 and for the Cape Fear District FD&MA of NC, Inc. on September 20. There is a Cremation Review scheduled for the Board office on September 22 and a Preneed/FTC Review on September 29.

New Business: There was no new business.

Old Business: There was no old business.

Informational Items: Notice of Appointment of Mr. Lawrence Jackson III, NC Ethics Commission June 2011 newsletter, Resolution of Appreciation of Service for Frank McCree, Sr., and a new Board Roster. Mr. Briggs made the motion to adopt the Resolution of Appreciation of Service for Mr. McCree. Ms. Webber seconded and the motion carried.

Public Comment: There was none.

With no further business, Mr. Parrott recessed the meeting until the 11:00 hearing.

Mr. Parrott reconvened the Board meeting. Reed Fountain, an attorney representing F&M McLendon and McLendon Funeral Home, made an appearance to request a continuance of at least 60 days in the matter that was scheduled for Thursday. Mr. Dirksen stated it would be scheduled for the November Board meeting. Mr. Stainback made the motion to approve the continuance until the November meeting. Ms. Webber seconded and the motion carried. Mr. Fountain thanked the members for their consideration.

Mr. Dirksen informed the Board that the licensee scheduled for the 11:00 hearing, had previously called to say that he would be late was mistaken about the time of the hearing and estimated he would arrive around noon. Mr. Dirksen recommended that the meeting be held in recess to allow him time to arrive and then convene the hearing.

Mr. Parrott declared the meeting to be in recess.

Following the hearing Mr. Parrott reconvened the Board meeting and asked if there was any further business to come before the Board. Mr. Harris clarified the question about the new preneed establishment licenses. There was only one newly licensed firm. The other had an error on their bond and because of that, the license was pending.

With no further matters before the Board, Mr. Parrott declared the meeting adjourned.

George S. Parrott, President

Elizabeth S. Webber, Secretary