

REGULAR BOARD MEETING

MINUTES

April 14, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on April 14, 2010 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: J. T. Willoughby III, President; George Parrott, Vice President; Tryphina Wiseman, Secretary; Rudy Lea, Frank McCree, Mark Blake, Elizabeth Webber, Jack Briggs and Larry Andrews.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Fred Jordan with the N. C. Eye Bank, Pat Hayes with North Carolina Funeral Directors Association, Herb Reichlin with the Funeral Consumers Alliance, Dan Funchess, Funeral Service Licensee, Dorman Caudle with Carolina Donor Services and, and Board Inspector Brett Lisenbee and Lyn Cochrane

Mr. Willoughby called the meeting to order at 9:03 a.m., led the Pledge of Allegiance and had the invocation.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Ms. Wiseman and Mr. Willoughby stated they had attended the FD&MA of NC, Inc. Board of Directors meeting in Hickory. Mr. Briggs attended a social function sponsored by Wilbert Vault in Greensboro.

Mr. Willoughby asked the guests to identify themselves. There were no public comments.

Ms. Wiseman presented the March minutes for approval. Ms. Wiseman made the motion to approve the minutes and Mr. Parrott seconded. The motion carried.

Clinics Committee: Ms. Wiseman stated the October clinic would be held at the Deep River Event Center in Greensboro. Vernie Fountain will provide five hours on the funeral service side and two hours by Casualty Affairs at Ft. Bragg. Ms. Wiseman requested suggestions from members for the remaining three hours. This is for information only.

Exam Committee: Mr. Willoughby reported staff had taken the laws and rules exam at a Castle Worldwide test center. The results were successfully downloaded. As of April 8, Board staff registered ten applicants with Castle. Three have completed the scheduling process but have not taken the exam yet. Ms. Wiseman mentioned that her trainee had to reschedule an exam due to a problem at the test center. Mr. Harris replied he would investigate the matter and follow-up. Mr. Willoughby presented this for information only. Mr. Andrews seconded and the motion carried.

Mr. Funchess entered the meeting.

Finance/Personnel: Mr. Briggs stated the Committee had met by teleconference and, as reported at the March meeting, discussed paying additional principal on the mortgage and establishing a business continuity and contingency reserve fund.

The Committee makes a recommendation of paying \$150,000 on the mortgage principal out of the unrestricted reserves. Mr. Parrott made the motion to accept the recommendation. Ms. Webber seconded. Discussion ensued. Mr. Willoughby called for the vote and the motion carried.

The Committee makes the recommendation of establishing a business continuity/contingency reserve fund of \$50,000 within the unrestricted reserves. Mr. Briggs made the motion to accept the recommendation and Mr. Lea seconded. The motion carried.

Mr. Briggs presented the report for review and made the motion to receive the report. Mr. Blake seconded and the motion carried.

Laws and Rules Committee: Mr. Briggs yielded the floor to Mr. Harris who stated that NC Vital Records is moving toward electronic death registration. They are reviewing vendors from which to purchase a computer software system. The NC Medical Board is proposing a change to the statutes adding physician assistants operating under a supervisory arrangement with the physician or nurse practitioners practicing under a collaborative practice agreement with the physician to those who can sign death certificates. The Medical Society has given an informal approval to this. Ms. Wiseman made the motion to give the NC Medical Board the Board's endorsement to this proposal. Mr. Parrott seconded and the motion carried.

Mr. Blake asked about the Board's complaint to the medical board concerning the physician charging for the signing of death certificates. Mr. Harris replied the Board had acknowledged receipt of the complaint but he has had no other correspondence regarding the complaint.

Mr. Harris stated he had received a telephone call from a licensee regarding a death certificate and problems he was having because he was twice given the wrong doctor's name.

Mr. Harris stated proposed rules were published in the April 1 edition of the North Carolina Register. The 60-day period to receive written comments began on that date and will end June 1. Copies of the proposed rules were sent to the Board's interested parties list last Friday. The Notice of Text filing for the rule making set a public hearing to coincide with the Board meeting at 9 a.m. on May 19. August 1 will be the earliest date for the rules to become permanent.

Mr. Andrews made the motion to accept the Laws & Rules report. Mr. Lea seconded and the motion carried.

Preneed Committee: Mr. Andrews presented the Activity Report. Discussion ensued. Mr. Andrews asked Mr. Harris if any additional 2009 Annual Reports had been received. Mr. Harris stated he would get that information at a break. Mr. Andrews made the motion to accept the report for information only. Mr. Briggs seconded and the motion carried.

Mr. Andrews stated the committee reviewed two requests to discontinue bond coverage. One was submitted prior to the Board's adoption of a policy for requests and included goodwill as an asset. The other lacked sufficient information to determine solvency. The committee was recommending denial of the requests. Mr. Briggs made the motion to accept the recommendation. Ms. Webber seconded and the motion carried.

The committee is considering a request from NCFDA to address several matters related to the refund of excess non-guaranteed funds that may exist in inflation proof contracts. Committee has discussed the matter and requested staff to conduct further research. Questions ensued. Mr. Andrews made the motion for further research. Mr. Lea seconded. Mr. Willoughby, Mr. Parrott, Ms. Wiseman, Mr. Lea, Mr. McCree, Ms. Webber, Mr. Briggs and Mr. Andrews voted yes. Mr. Blake voted no and the motion carried.

Disciplinary Committee: Mr. Lea stated there was an addendum to the report and the report would be presented and voted on first, then the addendum. Questions ensued. Mr. Briggs made the motion to accept the report excluding M09-022 and the addendum. Mr. Parrott seconded and the motion carried. Approved were V10-007, V10-009, V09-069, V10-001, M10-001, M10-004, and M10-005.

Discussion ensued regarding M09-022. Mr. Briggs made the motion to accept the recommendation for M09-022. Mr. Blake seconded and the motion carried.

Discussion ensued regarding V09-011. Mr. Briggs made the motion to defer action on V09-011 until staff can further research other records. Mr. Andrews seconded. Mr. Lea seconded. Mr. Willoughby, Mr. Parrott, Mr. Lea, Mr. McCree, Ms. Webber, Mr. Briggs and Mr. Andrews voted yes. Ms. Wiseman and Mr. Blake voted no. The motion carried.

Mr. Lea presented the addendum and discussion ensued. Mr. Parrott made the motion to approve M09-014. Mr. McCree seconded and the motion carried.

Mr. Russell entered the meeting.

Traineeship: The committee met this morning to discuss a trainee under suspension notice that had not responded to the staff letter. The supervisor was copied on the letter advising a reply within ten days following receipt of the letter. The committee was recommending immediate termination of the trainee. Ms. Wiseman made the motion to approve the recommendation. Mr. Andrews seconded and the motion carried.

Continuing Education Committee: Mr. Parrott stated a program sponsor appealed a staff denial for a program on April 11-13. Staff denied the application because it was not submitted at least 30 days prior to the program as required by 21 NCAC 34B .0411(b)(1). Sponsor faxed the applications on March 17 and sent hard copies overnight that were received March 18. The sponsor also requested approval for the same program to be presented April 25-27 and May 5-7, which staff approved. The committee was recommending denial of the appeal request. Discussion ensued. Mr. Blake made the motion to accept the recommendation and Mr. Andrews seconded. The motion carried.

Attorney Report: Mr. Dirksen stated a licensee was present to request a continuance for his Thursday hearing at 9:00 am and he was expecting another one later. Mr. Briggs recused himself and left the Boardroom. Larry Russell requested a first continuance in order to retain the services of an attorney. Mr. Blake made the motion to approve the continuance. Mr. Parrott seconded and the motion carried. Mr. Briggs reentered the meeting.

Mr. Dirksen presented his report for information only. Questions ensued. Mr. Parrott and Mr. Blake commended Mr. Dirksen.

Executive Director's Report: Since the January Board Meeting 31 inspection/audit reports have been filed.

Change of Ownership: Village Road Memorial Chapel, Leland

New Transport/Removal: Charles Mercer, Clayton; Curtis Lee Green, Windsor

New Unaffiliated: Carl Barnekow Funeral Service Licensee

New Funeral Service Licensee: Benjamin Strickland, Jr.

New Funeral Director Licensee: Sharon Worrell

New Trainees: Hallie Edwards, Dean Vinson, Scott MacKenzie, Michael Hardin

Mr. Harris stated Inspector Cox had been subpoenaed to testify in a civil matter between licensees as an expert witness to interpret the law. Mr. Harris directed Board legal council to draft and file a motion to quash the subpoena. Discussion ensued.

Questions ensued regarding Inspector Licensee's Monthly Status Report.

Staff Ethics report: Mr. Harris reported contact with NCFDA staff, an NCFDA District Director regarding a CE program, FD&MA of NC, Inc. officers and lobbyist, referral of a Medical Board attorney to the NCFDA and FD&MA of NC, Inc.

Governor Perdue has established Executive Order No. 34, Ethics and Attendance Standards for Gubernatorial Appointees to Boards. At least 75% attendance is required for these members. Mr. Harris will be reporting attendance annually to the Governor's Office for Boards and Commissions.

Executive Order No. 55, Enhanced Disclosures from Applicants to Board and Commissions was issued April 5, 2010. This will apply to new appointees to Boards and will affect all of the Governor's appointees to the Board of Funeral Service.

Mr. Willoughby requested a five-minute recess. At this time Mr. Russell departed and Mr. Crawford entered the meeting.

The meeting was reconvened and Mr. Lisenbee made comments regarding his inspections. Questions ensued. Mr. Blake commended Mr. Lisenbee for his work and Ms. Wiseman commended him for his written reports.

Mr. Harris stated there were not 15 outstanding preneed annual reports. Mr. Parrott made the motion to accept Mr. Harris' report. Ms. Webber seconded and the motion carried.

At this time Bob Crawford, an attorney retained by Pressley Ely with Evans Funeral Home, requested a first continuance for his client. Mr. Parrott made the motion to accept the request. Ms. Wiseman seconded and the motion carried. Mr. Crawford departed the meeting.

New Business: Mr. Harris stated a recommendation for the 2010 Mutual Burial Association assessments be set at \$100 per MBA and \$.35 per member. Mr. Briggs made the motion to accept the motion. Ms. Webber seconded and the motion carried.

At this time Mr. Lisenbee departed the meeting.

Mr. Harris recommended the 2011 MBA assessments be considered and set as part of the discussions for the 2011 budget that will occur later this year. Discussion ensued.

Old Business: Staff had no old business. Mr. Blake remarked on the April 15 deadline by which Board members must file their statement of economic interest forms. Mr. Harris confirmed the deadline. Mr. Harris also stated those members needing ethics and lobbying refresher training should make arrangements to do that as soon as possible. Discussion ensued regarding the training that Jack Nichols was scheduled to provide at the February meeting that had to be rescheduled. Mr. Harris stated that Mr. Dirksen covered the other areas of required member training at the February meeting with the exception of one part.

Mr. Willoughby asked Dan Funchess to identify himself since he entered the meeting after it had begun.

Informational Items: There were none.

Public Comment: There was none.

Mr. Willoughby recessed the meeting at 11:00 a.m.

J. T. Willoughby III, President

Tryphina Wiseman, Secretary