

## REGULAR BOARD MEETING

### MINUTES

October 17, 2012

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on October 17, 2012 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Try Wiseman, President; J. T. Willoughby III, Vice-President; Harris High, Secretary; Ken Stainback, John Shields, Stephen Aldridge III, Broadus Combs, and Kelly Byrd. Absent: Lawrence Jackson III.

Also Present: Peter M. Burke, Executive Director, Stephen N. Dirksen, General Counsel, Brett Lisenbee, Inspector, Larry Stegall and Pat Hayes with North Carolina Funeral Directors Association, and Herb Reichlin of Funeral Consumers Alliance of the Triangle.

The guests introduced themselves.

The meeting was called to order at 9:08 a.m. Ms. Wiseman led the Pledge of Allegiance, had the invocation and read the Ethics Awareness & Conflict of Interest statement. The following noted attendance at the NFDA Convention in Charlotte: Ms. Wiseman, Mr. Willoughby, Mr. High, Mr. Aldridge, Mr. Byrd, Mr. Stainback. Ms. Wiseman and Mr. Willoughby attended the Funeral Directors and Morticians Association meeting at the convention; Mr. High attended the NFDA Legislative session. Mr. Stainback and Rev. Shields attended NCFDA District 6 meeting. Ms. Wiseman recused herself from disciplinary item V12-049.

Mr. High presented the September 12, 2012, minutes. Mr. Aldridge made the motion to accept the minutes and Mr. Combs seconded. The motion carried.

Preneed Committee: Mr. High reviewed the report. There are 169,533 active contracts as of October 16, 2012; 659 licensed preneed funeral establishments; and 1,671 individuals licensed to sell preneed as of October 16, 2012. Since the last meeting, one new preneed funeral establishment license has been issued to The Mulkey Funeral Home, Edenton.

The Committee met by teleconference on Monday, October 15, 2012, to discuss the following:

1) An establishment submitted documentation of solvency and requested to discontinue their bond requirement. Firm was licensed in December 2009. Committee recommended approval of request. Mr. Willoughby made the motion to approve the report and the recommendation. Mr. Byrd seconded, and the motion carried.

2) The new PN-5 Certificate of Performance and Non-Guaranteed Calculator have been posted to the Board website. This is listed for Information only.

Mr. Aldridge noted there is an insurance company advising funeral directors that excess preneed funds can go to a named contingent beneficiary in lieu of the estate. Discussion ensued; Mr Dirksen is to research along with preneed committee.

Traineeship Committee: There were eleven (11) new trainees registered in September. Seven (7) Funeral Service and four (4) Funeral Director. This report is for information only.

Disciplinary Committee: Ms. Wiseman presented the report with an addendum. Mr. High made the motion to accept the recommendations for V12-038, V12-042, V12-044, V12-048, V12-051, V12-053, V12-055, V11-043, M12-023, M12-024, M12-025, M12-026, M12-027, M12-028, M12-029. Mr. Byrd seconded and the motion carried.

Mr. High made the motion to accept V12-049 and it was noted that Tryphina Wiseman recused herself from any action on this case. Mr. Byrd seconded and the motion carried.

Mr. High made the motion to accept the addendum, which includes recommendations for M12-001 and M12-002. Mr. Byrd seconded and the motion carried.

Finance/Personnel Committee Mr. Willoughby reviewed the financials. Discussion ensued concerning three line items which are above budget year-to-date. Mr. Burke noted there were extenuating circumstances earlier in the year primarily involving personnel matters. Mr. Willoughby moved to accept the report, Mr Aldridge seconded. Motion carried.

Exam Committee: Mr. Stainback stated eleven (11) candidates took the Laws & Rules exam in September. All passed. This report is for information only.

Laws & Rules Committee: Mr. Stainback stated the Committee had met by teleconference on October 12, to discuss the request from the North Carolina Funeral Directors Association. Citing recent Federal court action with regard to Pennsylvania funeral licensing law, NCFDA is asking the Board to undertake a thorough review of the case decision and determine if there are similarities in NC Laws and Rules, and consider whether adjustment(s) to North Carolina laws and rules are warranted in light of the decision. The Federal Court decision is currently under appeal. It was noted that North Carolina is in a different circuit, and that the case now goes before a three judge Appellate Court.  
RECOMMENDATION: Send request to Board staff for further study.

The committee discussed the recycling of metals from prosthetic devices and implants that remain at the completion of the cremation process. Currently there are no specific guidelines with regard to the recycling of said materials; the Model Cremation Authorization Form cites the potential for such material to be left at the end of the process in Paragraph D on page 2.  
RECOMMENDATION: Staff to consider possible changes to the Model Cremation Authorization Form to address recycling.

The committee discussed the removal and disposal of pacemakers prior to cremation. The discussion included noting that the College of Veterinary Medicine at NC State University is beginning to accept (non-radioactive) pacemakers for implant into animals.  
INFORMATION ITEM ONLY

Discussion ensued. Mr. Combs made the motion to approve the report. Mr. Byrd seconded and the motion carried.

Other Committee Reports: Continuing Education: The committee discussed a request from a licensee that those exempt from the continuing education requirement as stated in § 90-210.25(5)(e) be permitted to attend Board sponsored continuing education programs at no cost to the licensee. The request is based on the fact that continuing education is not required for the subject licensees; attendance allows them to stay current with laws, rules and changes in funeral service. The committee feels it would be appropriate to allow attendance at no cost, with the caveats that (a) there would be no financial impact to the Board and (b) attendance by said licensees would not preclude others who are required to earn CE hours from attending due to facility constraints.  
RECOMMENDATION: approve the request.

The committee discussed a proposal from the NC Funeral Directors Association and the NC Eye Bank regarding a continuing education program in January 2013. NCFDA and NC Eye Bank intend to sponsor

an embalming and restoration continuing education clinic presented by Matt Smith, a Michigan trade embalmer and speaker. The program is intended to generate six hours of continuing education.

-NCFDA and NC Eye Bank is offering the Board an opportunity to be listed as co-sponsors of the program, with no financial requirements for the Board. The program would be available to licensees in North Carolina, South Carolina and Virginia.

-NCFDA is looking into the feasibility of webcasting the program. Webcasting would be live and interactive. NCFDA and NC Eye Bank would be responsible to ensuring those attending via webcast are "present" for the entire program.

-NCFDA respectfully requests that the program be open for credit to all licensees, not just funeral service and/or embalmer licensees.

RECOMMENDATION: The committee submits the following recommendations:

-The Board not be listed as a program sponsor. Upon approval of the course material and presenter, the Board would provide continuing education hours to North Carolina licensees. Since the program would reach beyond North Carolina, recognition of the Board as a sponsor is not relevant.

-The Board should allow credit for interactive webcasting with verification of attendance provided by the program sponsors, NCFDA and NC Eye Bank.

-The Board should allow CE credit for all licensees, so long as course material does not include hands-on practical clinical work outside the scope of the individual's license. The committee feels information gleaned from a clinical demonstration with discussion is valuable to all licensees, and the knowledge gained can benefit families served.

Discussion ensued. Mr. Aldridge made the motion to approve the report and the Committee recommendations. Mr. Byrd seconded and the motion carried with one opposed by Ms. Wiseman.

Attorney's Report: Mr. Dirksen presented his report. Four hearings were originally scheduled for today, subsequently there are two consent orders. Mr. Willoughby commended Mr. Dirksen and the Disciplinary Committee for their good work in continuing to reduce the number of active files. A hearing scheduled for Thursday has a (first) request for continuance. Ms. Wiseman and Mr. Byrd thanked Mr. Dirksen for his efforts. Mr. Willoughby moved to accept the report and approve the request for continuance, seconded by Mr. Byrd. Motion carried.

Executive Director's Report: Mr. Burke presented the report. New establishment permits were issued in September to Steven L. Lyons Funeral Home, Raleigh and McEwen Ellington Funeral Services, Charlotte. A change of ownership establishes Lowe-Neddo Funeral Home, Matthews. There are two new establishment applications pending. A crematory permit was issued to Raymer-Kepner Funeral Home and Cremation Services, Huntersville.

New Funeral Service Licensees: Timothy E. Briggs, Gabriel Michael Cochran, Henry Downing, James William Haire, Paul Jonathan Marks, Jack Anthony Messer, Alice J. Pegram, John Thomas Richardson, Matthew Jordan Riggan, Christopher Earnest Wertman.

New Funeral Director Licensees: Rhonda Lewis Barnett, Stephen Daniels Spain, Lowell Steven Wilkes.

New Trainees: Sheila Erickson Buie, Matthew Reed Council, Lyle William Donaldson, Kenneth Allen Fitzgerald, Jr., Kimberly Gale Hart, Crystal Gayle Jackson, Alice Withers Johnson, Caleb Jordan Massey, Teri Yvette McLean, John Edward Snipes, Bertha Lene Worley.

Converted Licenses: Calvin L. Cherry from embalmer to funeral service; J. Wayne Fairless from funeral director to funeral service.

New Transport/Removal Registrations: Terry Marshall Chavis, Billy Wayne Cherry, Sarah A. Harrison, Michael Pendergrass, Willie Lee Whitley, Sr.

Mr. Burke noted the Electronic Death Registration System is running behind schedule. They are testing other states' systems to see if they would be compatible with North Carolina's needs. Michigan's looks to be the most compatible so far. New system is required to be in place by January 1, 2014. Discussion ensued.

As of October 15, there have been 24 ballots returned for the Crematory Authority elections.

Mr. Burke and inspector Susan Mitchell attended the ribbon-cutting ceremony of the new NC DHHS and Office of Chief Medical Examiner facility in Raleigh.

The Department of Revenue and the Office of the Secretary of State have both declined the Board staff's request to provide information concerning corporate revenue suspensions for funeral establishments, citing volume and privacy.

Board staff hosted continuing education classes on September 25 and 26. There were 15 attendees to the 09/25 preneed session and 11 for the afternoon's FTC review; 14 attended Crematory class on 09/26 with 11 for that afternoon's FTC session as well.

This report is for information only.

New Business: There was none.

Old Business: There was none.

Information Items: Mr Willoughby acknowledged Inspector Lisenbee's presence at the meeting and asked Mr. Lisenbee if there were any items he would like the Board to assist with. Mr. Lisenbee noted he has none at this time.

Public Comment: Mr. Stegall from NCFDA stated that he has been involved with the Electronic Death Registration System work group since its inception, noting they are way behind schedule and the State has insufficient funding. He said the January 2014 date is established by the Federal government. Mr. Reichlin from FCAT asked if the electronic death certificate would be part of an electronic medical record. Discussion followed.

At 10:10 this time Mr. Willoughby made the motion to go into recess to prepare for the 10 a.m. hearing, seconded by Mr. Combs. Motion carried.

Upon return to open session Mr. Aldridge asked Mr. Dirksen if the paralegal had accepted the Boards offer of part-time employment, and Mr. Dirksen indicated that she had.

Mr. Byrd made the motion to adjourn and Mr. Aldridge seconded. The Board adjourned at 1:07 p.m.

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Tryphina Wiseman, President

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Harris High, Secretary