

## BOARD MEETING

### MINUTES

May 11, 2016

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on May 11, 2016, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Valdus Lockhart, President; Kelly Byrd, Vice President; Charles Graves, Secretary; Elizabeth Williams-Smith, Craig Olive, Matt Staton, Stephen Aldridge, and Mark Blake.

Also Present: Christina Cress, General Counsel; Staff members Lyn Cochrane, Alice Knowles, Brett Lisenbee, and Dara Warner; Catherine Lee with Nichols, Choi & Lee; Michael Rulison with Funeral Consumers Alliance of the Triangle; Bill Forsberg, Executive Director of NC Funeral Directors Association; Dorman Caudle with Carolina Donor Services; and Andrew Deschler, law school student attending Campbell Law School.

Mr. Lockhart called the meeting to order at 9:02 a.m. and read the Ethics Statement. Mr. Blake reported that he received a letter from the NC Ethics Commission, dated March 24, 2016, in which the Commission advised that Mr. Blake does not have an actual conflict in serving on the Board but that the potential for conflict exists in light of his employment as a licensee working at Brown-Wynne Funeral Home in Raleigh.

Mr. Lockhart led the Pledge of Allegiance and Mr. Graves had the invocation.

Mr. Lockhart then welcomed the guests and asked them to introduce themselves. Mr. Lockhart welcomed Mr. Blake as a new appointee of the Board. Mr. Lockhart expressed condolences on behalf of the Board to Mr. Staton, on the recent passing of his grandfather, Roy Staton. Mr. Lockhart reminded everyone to turn off their cell phone ringers.

Mr. Lockhart entertained a motion to approve the minutes of the April 16, 2016 Board meeting. Mr. Graves made the motion to approve the minutes of the April 16, 2016 meeting. Mr. Olive seconded and the motion carried.

Public Comment: Mr. Rulison commented that the Board's entering into closed session for prolonged periods of time during the middle of Board meetings is an inconvenience to the observing public. Mr. Rulison suggested that the Board consider holding its closed sessions at the end of the Board meetings as a courtesy to the public observers.

Preneed Committee: Mr. Byrd stated a majority of the Committee met via teleconference on May 4, 2016 to discuss several matters for the Committee's review. The Commission reviewed a request from a preneed funeral establishment to review a situation involving funds paid in 1997 as restitution for unfunded preneed contracts that had already been performed by the establishment. The Committee recommended to allow reimbursement to the preneed funeral establishment of funds mistakenly paid in restitution for preneed contracts that already had been performed.

The Committee reviewed Preneed Recovery Fund Claim Number P15-001 in the amount of \$6,539.70, and recommended partial approval of the claim in the amount of \$3,579.40.

The Committee reviewed Preneed Recovery Fund Claim Number P15-003 in the amount of \$7,894.93, and recommended partial approval of the claim in the amount of \$7,842.69.

The Committee reviewed Preneed Recovery Fund Claim Number P15-006 in the amount of \$1,004.76, and recommended approval for the claim in full.

The Committee reviewed Preneed Recovery Fund Claim Number P15-013 in the amount of \$3,000.00, and recommended partial approval of the claim in the amount of \$700.27.

Mr. Graves made the motion to accept the recommendations of the Committee for all matters. Mr. Staton seconded and the motion carried.

Finance & Personnel Committee: Mr. Lockhart stated the Committee met on May 10, 2016 to interview candidates for the information technology position and the office manager positions to be created by the Board. Mr. Lockhart then stated that finalists for the office manager position had been invited back to meet with the full Board during this Board meeting's closed session.

Dr. Aldridge presented the Board's current balance sheet and profit and loss (P/L) statement. Dr. Aldridge highlighted that the Board is on track with its ordinary income and a little ahead of expected expenses but not off track. Dr. Aldridge noted that certain expenses, such as one-time conference costs, have been fully expensed for the year.

Mr. Byrd made the motion to accept the financial report presented by Dr. Aldridge on behalf of the Committee. Mr. Graves seconded and the motion carried.

Mr. Lockhart reported that he has met twice with the Board's auditor and was happy to report that the auditor concluded that the Board is in a strong financial position. Mr. Lockhart reported that, in fiscal year 2015, the operating revenues of the Board increased by \$206,116, or 16.5%, while the operating expenses increased by \$174,237, or 13.7%. Net non-operating expenses decreased by 117%, due primarily to the payoff of the Board's mortgage for its office located at 1033 Wade Avenue. The Preneed Recovery Fund experienced a net operating income of \$59,823 in 2015, as compared to an operating loss of \$223,456 in 2014.

Mr. Lockhart reported that the auditor did not find any transactions entered into by the Board for which there was a lack of authoritative guidance or consensus. All significant transactions for fiscal year ending December 31, 2015, have been recognized in the corresponding financial statements in the proper period. The auditor has identified a few areas that the Board Staff could take steps to improve the internal controls, including holding checks and segregation of duties pertaining to cash receipts processing. Mr. Lockhart reported that Board staff have taken steps to remedy these few concerns and has identified ways to help increase oversight and segregation of duties throughout all steps of the cash receipts processing.

Mr. Byrd made the motion to accept the recommendations. Mr. Graves seconded and the motion carried.

Disciplinary Committee: Mr. Graves reported that the Disciplinary Committee met via teleconference on May 11 to review pending matters. Mr. Graves presented the following case numbers: Dismissal for V12-062 and C16-011; Notice of Hearing for C15-059; Offer of Consent Order for M16-020; Letter of Caution for C15-021; Denial of Application for Transport Permit for M16-008; Denial of Application for Traineeship for M16-017, M16-024, M16-025; Denial of renewal application of

preneed establishment license for M16-022. Mr. Graves made the motion to approve the Disciplinary Committee's recommendations as to all matters. Mr. Byrd seconded and the motion carried.

Continuing Education Committee: Ms. Smith stated the Committee met via teleconference on May 2, 2016, to review one appeal from a CE course provider seeking approval for 5.0 CE credits pertaining to Insurance and Preneed Funeral Planning. The Board previously voted at its April Board Meeting to approve only the course for 1.5 hours of CE credit. Upon further review, the Committee recommended to approve the appeal only to the extent that 2.0 credit hours, instead of 1.5 credit hours, be approved for the portions of the course syllabus involving the "Evolution of Preneed (Insurance)" and "Insurance Regulations and Standards."

Mr. Byrd made the motion to approve the recommendation from the Committee. Mr. Olive seconded and the motion carried.

Laws & Rules Committee: Mr. Lockhart stated the Committee met on May 5, 2016 via teleconference to review a draft of the Board's proposed declaratory ruling in the matter of D16-002. The Committee recommended the proposed declaratory ruling in the matter of D16-002 to the Board.

The Committee reviewed a request for declaratory ruling in the matter of D16-003. The Committee recommended that the Board approve the request, and that the Board issue a ruling within 45 days from the date that the request is accepted.

Mr. Graves made the motion to accept the Committee recommendations and Mr. Staton seconded. The motion carried.

Acting Interim Office Manager Report: Ms. Cress reintroduced Alice Knowles, as the Board's recently hired legal assistant, and Andrew Deschler, who will be serving an externship of 120 hours at the Board office this summer.

Ms. Cress reported that the Board Staff received over 80 applications for the posted office manager position and conducted approximately 20 phone interviews. The Board Staff received 2 applications for the IT position.

Ms. Cress reported that she is working with outside vendors to accommodate the Board's recently hired and to-be-hired staff members through installation of 6 cubicle work stations and increased security measures. Office improvements to be done include improvements to lighting, fixing broken furniture, and painting.

Ms. Cress stated that Jack Ottensoser of System Automation would make an IT vendor presentation to the Board today.

Ms. Cress reported that SCI has offered to donate mausoleum space for the unclaimed remains currently housed in the Board's office space, and that she is working out an agreement and logistics with SCI's corporate counsel.

Ms. Cress reported that she attended a roundtable discussion on April 19 at the Office of Administrative Hearings regarding open meeting laws and that she would be implementing certain best practices that were recommended at the session.

Ms. Cress reported that, since the last Board meeting, the Board staff timely filed the required report on 2015 licensure activity with the Department of Commerce, a response to a legislative request for information from the Administrative Procedures Oversight Committee of the NC General Assembly, and the report required by all occupational licensing boards pursuant to N.C. Gen. Stat. §93B-2.

Ms. Cress reported that she has attended the mandatory ethics training that is required of all ethics liaisons and provided a guest lecture at the Funeral Law course at Fayetteville Technical Community College on April 25.

Ms. Cress reported that, on May 3, she and Mr. Lisenbee, as the Board's two registered legislative liaisons, met with Senator Woodard at his request to discuss alkaline hydrolysis. During that meeting, Senator Woodard expressed a willingness to support H296 and to possibly introduce a companion bill in the Senate. Ms. Cress and Mr. Lisenbee, as the Board's legislative liaisons, also met with Representatives Hunter and Alexander regarding H296 and Mr. Lisenbee spoke via teleconference with Representative Boles. All three representatives expressed interest in continuing support of H296.

Ms. Cress presented the updated committee appointments for the current Board members and a report to the Board regarding preneed activity. There are 663 licensed preneed funeral establishments and 1,684 individuals licensed to sell preneed as of May 9, 2016. There are 178,343 active contracts as of May 9, 2016, and 903 Certificates of Performance have been processed since the April Board meeting. As of the last report to the Board, 1,984 preneed contracts were recorded; of that amount, 265 were trust-funded contracts while 1,683 were insurance-funded contracts. 3 new funeral homes have been licensed since the April Board meeting: Congelton Funeral Home & Cremations; Clancy Strickland Wheeler Funeral Home; and First Cremation Society.

Dr. Aldridge thanked Ms. Cress for her well-delivered and thorough report.

Compliance: Mr. Lisenbee reported that, since assuming the position of Compliance Liaison/Lead Inspector, he has been working to establish streamlined strategies and procedures for compliance issues. Mr. Lisenbee explained that, in his new role, he is the point person to other inspectors and Board staff on compliance questions, but also continues to serve as the inspector for the Western region. Mr. Lisenbee indicated that the call volume to the Board office has not decreased yet, despite the fact that inspectors now are available to licensees by cell phone, but expects that the call volume will decrease in the months to come.

He reported that, for the month ending April 30, 2016, 26 funeral establishments were inspected, 18 preneed examinations were conducted, 3 crematories were inspected, 2 new chapels were inspected, and no unaffiliated practitioner was inspected. Inspectors fielded 233 compliance phone calls and, between April 13, 2016 and May 8, 2016, responded to 16 compliance opinions via email. Individual inspector reports were provided for the Board to review.

Dr. Aldridge requested that the spreadsheet used to track inspections that had been shared in past Board meetings be included in next month's materials.

Mr. Lockhart asked whether the Board staff typically attend the funerals of licensees. Mr. Lisenbee explained that, in the past, Board staff have done so if they have a personal connection to the licensee. Otherwise, the Board President has authorized and delegated Board staff to attend such funerals, from time to time.

Dr. Aldridge and Mr. Byrd thanked Mr. Lisenbee for the report and for stepping into his new role.

Attorney's Report: Ms. Cress reported that an injunction against Heritage Cremation Provider, LLC, Legacy Funeral Services, LLC, Anthony Joseph Damiano, and Joseph Damiano Sr. has been filed in Wake County Superior Court. Ms. Cress reported that two board hearings are scheduled for today, one of which the Board may not wish to call out of recess in light of continued efforts to reach a resolution through Consent Order.

Ms. Cress then presented the Legal Case Report for information only. The Board discussed the high volume of current active late renewal files (151 files, not including late renewal files).

Mr. Blake questioned whether the Board should extend its open business hours to 5:00 PM, so that the Board is in line with the working hours of other state agencies.

Mr. Graves made a motion to go into closed session for attorney-client privilege and to discuss personnel matters. Mr. Staton seconded and the motion carried.

Following discussion of attorney-client privileged matters and personnel matters, Mr. Graves moved for the Board to return to open session. Ms. Smith seconded, and the motion carried.

Mr. Graves moved for the Board to accept the recommendations of the Finance and Personnel Committee, and to move forward with the hiring of an Executive Director.

Old Business: There was none.

New Business: Jack Ottensoser from System Automation made a presentation for a licensure management IT resource that would provide back office functions, online licensure functions, indexing of Board records, and allow for license look-up and surveys. The platform is available either as a hosted solution or on-premise solution. System Automation or Board staff could manage the functionality, at the Board's option. System Automation currently serves licensing boards in 24 states, and works with funeral service boards in Indiana, Pennsylvania, New Jersey, and Virginia. System Automation does not currently work with any occupational licensing boards in North Carolina. Mr. Ottensoser estimated that the conversion would take approximately 3-6 months and could cost approximately \$100,000.00. This cost would include 3-4 days of user training, plus working side-by-side with Board staff during the transition. Mr. Ottensoser estimated that the Board would thereafter be responsible for \$6,000-\$7,000/month for hosting and management fees. There would be no annual license fee.

At 12:45 the Board prepared for the hearing.

Following the hearing, Mr. Blake moved to continue the recess for the second hearing until the June Board meeting. Mr. Graves seconded. The motion carried.

Mr. Byrd moved to adjourn the Board meeting and Mr. Staton seconded. The motion carried.

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Valdus T. Lockhart, President

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Charles Graves, Secretary