

BOARD MEETING

MINUTES

August 10, 2016

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on August 10, 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; Craig Olive, Matt Staton, Mark Blake, Elizabeth Williams-Smith and via teleconference Stephen Aldridge.

Also Present: David Shehdan, Executive Director; Christina Cress, General Counsel; Staff members Lyn Cochrane, Brett Lisenbee, Mary Elizabeth Lennon, Peter LaPiana; 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; Fred Jordan with Miracles in Sight; Brad Bailey with the Cemetery Association; Robert Crawford, Attorney; Don Brown, Funeral Licensee recommended public member by FD&MA of NC, Inc. to serve on the Board beginning January 1, 2017; Mike Stone appointed to the Board to fill the unexpired public member position, appointed by the Speaker of the House of Representatives.

Mr. Lockhart called the meeting to order at 9:08 a.m.

Mr. Lockhart reminded everyone to turn off their cell phone ringers.

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

Mr. Lockhart read the Ethics Statement and stated he had attended the 79th Annual National Convention of the FD&MA in Richmond, Virginia, in July. No one recused themselves at this time.

At this time Marty Mills entered the meeting and Mr. Lockhart presented her with a plaque honoring her for 15 years of service with the Board. Office staff was in attendance for the presentation and then departed the meeting.

Mr. Lockhart stated a note of condolence was mailed to Ms. Frankie Terry on the passing of her husband, former Board President, B. Stuart Terry. It was noted that the Board had also voted at the June meeting to cancel the July meeting.

Mr. Shehdan introduced Peter LaPiana hired August 4 as the new IT Manager.

Public Comment: None.

Mr. Graves made the motion to approve the minutes of the June 8, 2016 meeting. Mr. Olive seconded and the motion carried.

Preneed Committee: Mr. Byrd stated a majority of the Committee met via teleconference on August 27 to discuss and make recommendations pertaining to several recovery fund matters.

The Committee reviewed Preneed Recovery Fund Claim Number P14-001 in the amount of \$2,948.00, and recommended approval of claim in the amount of \$2,948.00

The Committee reviewed Preneed Recovery Fund Claim Number P15-008 in the amount of \$1,500.00, and recommended approval of the claim in the amount of \$1,175.00.

The Committee reviewed Preneed Recovery Fund Claim Number P15-010 in the amount of \$8,028.05, and recommended approval of the claim in the amount of \$8,000.00.

The Committee reviewed a reconsideration of a previous decision to the Preneed Recovery Fund Claim Number P15-013 in the amount of \$700.27. Additional documentation was presented in the amount of \$3,000.00, and recommended approval of the claim in the amount of \$2,920.37.

The Committee reviewed Preneed Recovery Fund Claim Number P15-028 in the amount of \$6831.55, and recommended approval of the claim in the amount of \$6831.55.

The Committee reviewed Preneed Recovery Fund Claim Number P15-035 in the amount of \$5,596.52, and recommended approval of the claim in the amount of \$5,596.52.

The Committee reviewed Preneed Recovery Fund Claim Number P15-005 in the amount of \$10,000.00, and recommended denial of the claim in the amount of \$10,000.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-006 in the amount of \$10,000.00, and recommended denial of the claim in the amount of \$10,000.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-008 in the amount of \$5,592.50 and recommended approval of the claim in the amount of \$5,592.50.

The Committee reviewed Preneed Recovery Fund Claim Number P16-022 in the amount of \$500.00, and recommended approval of the claim in the amount of \$500.00.

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

Exam Committee: Mr. Lockhart reported the Committee met via teleconference July 22 to discuss proposed revisions to the Laws & Rules Exam. The new exam was securely e-mailed to committee members. Ms. Smith made the motion to approve the recommended changes and Mr. Olive second. The motion carried. The Committee also discussed at the teleconference potential future changes to the Pathology Exam. Dr. Aldridge requested a review of the Crematory Exam.

Disciplinary Committee: Mr. Graves reported that the Disciplinary Committee met on several occasions by teleconference and e-mail to review pending matters. Mr. Graves presented the following case numbers and made the motion to accept the Committee recommendation: Summary Dismissals—C16-050, Concurrent Case C16-035; C16-061; C16-062, Concurrent Case C16-001; C16-064; Dismissals—M15-049; C15-062; C15-096, Concurrent Cases C15-108, C15-114; C15-105; C15-113; C15-114, Concurrent Cases C15-096, C15-108; C16-005; C16-008; C16-009; C16-010; C16-014, Concurrent Case C13-048; C16-015; C16-016; C16-017, Concurrent Case C15-099; C16-019; C16-022; C16-023; C16-024; C16-027, Concurrent Case C16-034; C16-032; C16-034, Concurrent Cases M16-006, C16-027; C16-036, Concurrent Case C16-060; C16-042; C16-046; C16-048; C16-049; C16-051; C16-052. Letters of Caution—C14-044; C15-057; C15-099, Concurrent Case C16-017; C15-104; C15-109; C15-110; C15-111, Concurrent Cases M14-015, M15-051, M15-053, C14-056, C15-054; C16-002, Concurrent Case C15-059; C16-003; C16-006; C16-007; C16-012, Concurrent Cases M16-003, C15-071, C15-109; C16-013; C16-018; C16-020; C16-028; C16-035,

Concurrent Case C16-050; C16-039; C16-043; C16-053; M16-040. Consent Orders—C15-112, C16-025, M16-004/R16-085; M16-028; M16-039. Notices of Hearing—C15-061; C15-067; C15-071, Concurrent Cases M16-003, C16-012; C16-001, Concurrent Case C16-062; C16-013; C16-021, Concurrent Case C16-047; C16-037; C16-047, Concurrent Case C16-021; M15-043, Concurrent Case C16-058; M16-037; M16-038. Mr. Byrd seconded and the motion carried. Mr. Byrd commended the Committee and staff for the handling of 71 cases.

Mr. Lockhart also commended and thanked the Disciplinary Committee members and office staff for their hard work on the cases reviewed since the last Board meeting.

Trainee Committee: Mr. Staton reported the Committee met prior to the Board meeting regarding five trainees. Trainee #1 missed two reports and recommendation is to lose credit for June, July and August and resume traineeship September 1, 2016; Trainee #2 was late with two reports and recommendation is to allow credit for March but lose credit for April, May, June, July and August and resume traineeship September 1, 2016; Trainee #3 has not responded to Board letters and did not attend the meeting. Recommendation is to come before the Committee with supervisor if late again and resume traineeship September 1, 2016; Trainee #4 has missed or had late reports. Recommendation is no loss of credit and resume traineeship immediately; Trainee #5 has missed or had late reports and did not show up for the last Committee meeting. Recommendation is to remain on suspension and bring before the Board. Mr. Blake made the motion to accept the recommendation for Trainees 1, 2, 3 and 4 and not vote on Trainee 5 at this time. Mr. Graves seconded and the motion carried. Mr. Blake made the motion to go into closed session to discuss Trainee #5 to consult with the Board's attorney. Mr. Byrd seconded and the motion carried.

Upon proper motion by Mr. Graves and seconded by Mr. Byrd, the meeting returned to open session. Mr. Staton made the motion for Trainee #5 to remain on suspension and for a Notice of Hearing to be issued. Mr. Graves seconded and the motion carried.

Continuing Education Committee: Ms. Smith stated the Committee met on July 19 via teleconference to review a course application involving restorative arts previously reviewed by the Board and denied during the April 2016 meeting. The recommendation is approval for funeral services licensees and embalmers only or approval for all. Discussion ensued. Mr. Graves made the motion to approve the recommendation for all. Mr. Byrd seconded and the motion carried.

Laws, Rules & Legislation Committee: The Committee met via teleconference on July 16 to review and approve the draft of the declaratory ruling in the matter of D16-004, J. Vernon Peterson. This report is for information only.

Executive Director's Report: Mr. Shehdan thanked the staff for their help and support since June.

Mr. Shehdan presented the Board a start-up plan which incorporated the Board's May 2016 goals. To date he has discussed with most of the staff the following: telephone coverage, incoming and outgoing mail, in-person visits, recognition of outstanding performance or performance concerns, cross-training, standard operating procedures, uniform protocols, employee work hours, lunch breaks, time keeping, new cubicles, purging/archiving/organizing files, one to one meetings with each employee (what is going well, what needs improvement, what is anticipated in the next 6 to 12 months).

All positions are now filled effective August 2016. Plans are in the process for the Access Database, website, online fees, legal software, and updating the RID (remote imaging deposit) machine.

HB1007 did not pass. It is anticipated that the bill will be revised and presented in the long session.

Mr. Shehdan stated that he and Mr. Lisenbee were are the Legislative Liaisons.

Mr. Byrd thanked Mr. Shehdan for his informative report. Mr. Blake asked about adding information to the Board's database regarding preneed contracts and if the Board had a crisis plan for an in-house emergency.

Mr. Lockhart stated the Financials had been previously sent out. Mr. Olive made the motion to approve the financials and Mr. Staton seconded. The motion carried.

Attorney's Report: Ms. Cress stated the report was for information only. Four hearings were scheduled. One was settled by consent order, two were continued until October and one would be heard today.

Summer extern, Andrew Dreshler, externed in an excess of 160 hours of the 120 hours for which he received credit. Campbell Law School's Extern program had written a thank you note regarding Mr. Dreshler.

New Board Member training was held Tuesday at 6:00 p.m. for Mr. Staton, Mr. Blake and Mr. Stone.

Ms. Cress requested a closed session to discuss several matters protected by attorney-client privilege as required by N. C. Gen. Stat. §93-B. Mr. Blake commended Ms. Cress for moving through the cases.

Compliance: Mr. Lisenbee stated, as requested at the last Board meeting, corrections had been made to his report and Ms. Pearson's and they were now combined into one report. The preneed information follows and included is a "Legend" for one of the reports.

Preneed—There have been 3,388 preneed contracts recorded since the last Board report; approximately 3,630 Certificates of Performance have been processed. There are 177,331 active contracts as of August 8, 2016 and preneed contracts have been enter through August 3, 2016. There are 660 licensed preneed funeral establishments and 1,704 individuals licensed to sell preneed as of August 8, 2016.

Mr. Lisenbee reported that, for the month ending June 30, 2016, 27 funeral establishments were inspected, 25 preneed examinations were conducted, 5 crematories were inspected, and one unaffiliated practitioner was inspected. Inspectors fielded 186 compliance phone calls and, between June 1 and June 30, 2016, responded to 1 compliance opinions via email. Individual inspector reports were provided for the Board to review.

Mr. Lisenbee reported that, for the month ending July 31, 2016, 13 funeral establishments were inspected, 9 preneed examinations were conducted, 3 crematories were inspected, 5 chapels were inspected and one unaffiliated practitioner was inspected. Inspectors fielded 216 compliance phone calls and, between July 1 and July 31, 2016, responded to 1 compliance opinions via email. Individual inspector reports were provided for the Board to review.

New Trainees—(June) Perry Ashford, Rebecca Bennett, Crystal Burrell-Braddy, Jordyn Faile, Milon Fenner, Pamela Frazier, MaryAnn Hersam, Richard Honeycutt, Kimberly Johnson, Michael McEwen, John Parks, Jr.; (July) Sean Clark, Constant Dickens-McCain, Dionne Gilmore, Timothy Goldsby, Terri Hintz, Nikki Lyons, Lee Pierce, Ebony Stevenson, Makla Thompson, Carlene White.

New Funeral Home—Ward Memorial Funeral Home-Cremation Services, Robersonville.

New Crematories—Community Crematory, Raleigh; Wright Cremations & Funeral Service, LLC High Point.

New Transport—Debra Hines, Dwight Arrington, Sean Clark, Cedric Hargrave.

New Funeral Service Licensees—Kristina Sloan, Robert Hood, Patrick Stover, Maryeileen Appio, Clay Bruggeman.

New Funeral Director Licensees—Heather Hill, Regina Brown-Tew.

Mr. Lisenbee stated that Inspector Hall did not have any inspections this month since he had been delivering preneed contracts stored in the Board's office from closed or revoked preneed establishments. This practice of bringing the contracts into the Board office for storage should not have happened and the procedure has been changed.

After reviewing Monthly Cremation Reports because of the Heritage Cremation Provider Legacy Funeral Services investigation and lawsuit seeking injunctive relief, it was found that some of the reports did not provide all the required information. Letters will be mailed to these funeral home informing them of the deficiencies and giving them the option of correction or using the form on the Board's website.

Old Business: Ms. Cress requested a closed session to discuss a matter protected by attorney-client privilege later in the meeting.

New Business: Mr. Lockhart stated he'd like to see a directory added on the Board's website for Transporters.

At this time Mr. Lockhart called for a 10 minute recess.

Upon return to open session, Catherine Lee, the Board staff's outside counsel, updated the Board members on Judge Overby's recommendation at the July 20 Office of Administrative Hearings proceedings regarding Kenneth Dale Stainback and Stephen Ray Smith and McClure Funeral Home. Mr. Crawford, attorney for Mr. Stainback, Mr. Smith and McClure also made comments. Questions ensued.

Mr. Byrd made a motion to go into closed session for attorney-client. Mr. Graves seconded and the motion carried. Upon motion by Mr. Graves and second by Mr. Byrd, the Board returned to open session. Mr. Byrd made the motion to accept the proposed decision on Case 15BMS09595 and Case 15BMS09598 from the Office of Administrative Hearings. Mr. Graves seconded and the motion carried. At this time Mr. Crawford departed the meeting.

At this time Mr. Olive made a motion to go into closed session to discuss matters of attorney-client privilege. Mr. Byrd seconded and the motion carried. Upon proper motion, the Board returned to open session.

Mr. Graves made the motion to accept the revised contract with SCI regarding the housed cremains. Mr. Staton seconded and the motion carried. Mr. Byrd made the motion to pursue reimbursement by Eric Mark Howell. Ms. Smith seconded and the motion carried. Mr. Graves made the motion to file a motion to seek injunctive relief against William Terry Cobb and Betty Barr Randolph. Mr. Byrd seconded and the motion carried.

At this time the Board recessed for lunch and to prepare for the hearing.

After the public hearing was held in the matter of Martin's Funeral Home and Alton Calvin Hunnicutt, Jr., and upon proper motion by Mr. Blake and second by Mr. Staton, the Board meeting was adjourned.

Valdus T. Lockhart, President

Charles Graves, Secretary