

BOARD MEETING

MINUTES

September 14, 2016

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on September 14, 2016, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

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

Also Present: David Shehdan, Executive Director; Christina Cress, General Counsel; Staff members Lyn Cochrane, Brett Lisenbee, and Mary Elizabeth Lennon; Catherine Lee with Nichols, Choi & Lee; Michael Rulison, President of the Funeral Consumers Alliance of the Triangle; Dorman Caudle with Carolina Donor Services; Fred Jordan with Miracles in Sight; Brad Bailey with the Cemetery Commission; Robert Crawford, Attorney; Laura Gallimore and Dan Funchess, funeral service licensees; David Reese and Jeff Gray, the Board's Administrative Law Counsel.

Mr. Lockhart called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. Mr. Graves had the invocation.

Mr. Lockhart read the Ethics Statement and no one recused themselves at this time.

Mr. Lockhart reminded everyone to turn off their cell phone ringers and the guests introduced themselves.

Mr. Lockhart stated there was one change that should be made in the minutes. Page 5, the next to the last paragraph should be changed from motion to pursue reimbursement from William Terry Cobb and Betty Barr Randolph to file a motion to seek injunctive relief against William Terry Cobb and Betty Barr Randolph. Mr. Graves then made the motion to approve the minutes with the correction of the August 10, 2016 meeting. Mr. Olive seconded and the motion carried.

Public Comment: There was none.

At this time Mr. Funchess entered the meeting.

Preneed Committee: Mr. Staton stated a majority of the Committee met via teleconference on September 8 to discuss and make the following recommendations.

A consumer with an in-state irrevocable preneed contract requested revocation on the basis that she has since moved out of state. Committee was provided with a signed, written request for revocation and a copy of the preneed contract executed in the new state of residence. Committee recommended approval of the revocation.

A Preneed establishment requested waiver of their surety bond requirement. The supporting documentation provided by the establishment does not demonstrate solvency to the satisfaction of the Committee. Recommendation is to deny the bond waiver request.

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

The Committee reviewed Preneed Recovery Fund Claim Number P15-017 in the amount of \$6,296.10, and recommended approval of the claim in the amount of \$6,296.10.

The Committee reviewed Preneed Recovery Fund Claim Number P15-023 in the amount of \$3,415.00, and recommended approval of the claim in the amount of \$3,415.00.

The Committee reviewed Preneed Recovery Fund Claim Number P15-027 in the amount of \$1,795.00, and recommended approval of the claim in the amount of \$1,795.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-002 in the amount of \$2,000.00, and recommended approval of the claim in the amount of \$2,000.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-007 in the amount of \$1,100.00, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-010 in the amount of \$6,800.00, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-011 in the amount of \$611.06, and recommended approval of the claim in the amount of \$611.06.

The Committee reviewed Preneed Recovery Fund Claim Number P16-017 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 \$164.50, and recommended approval of the claim in the amount of \$164.50.

The Committee reviewed Preneed Recovery Fund Claim Number P16-020 in the amount of \$150.00, and recommended approval of the claim in the amount of \$150.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-023 in the amount of \$6,434.00, and recommended approval of the claim in the amount of \$6,434.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-024 in the amount of \$7,948.69, and recommended approval of the claim in the amount of \$7,948.69.

The Committee reviewed Preneed Recovery Fund Claim Number P16-033 in the amount of \$3,250.00, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-034 for an unspecified amount, and recommended denial of the claim.

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

Exam Committee: Mr. Staton reported the Committee met via teleconference August 31, 2016. Ms. Williams-Smith joined the conference call as she transitions off the committee. New Committee assignments were made the day prior.

The Board's approved revisions to the Laws & Rules Exam is being performed by the test administrator with a target date of early October 2016. The Board staff is now capable of pulling the tests scores on a secure internet portal from the test administrator.

The Committee also recommends revising the Pathology Exam. A project plan was outlined and a timeline will be established. The Executive Director is in contact with the test administrator to initiate the information for review. The Committee discussed the revision of the Funeral Director Exams and the Crematory Exam at a later date.

The Committee recommends approval to implement the processes and revisions. Mr. Staton made the motion to accept the recommendations and Mr. Graves seconded. The motion carried.

At this time Mr. Reese entered the meeting.

Disciplinary Committee: Ms. Williams-Smith presented the following case numbers and made the motion to accept the Committee recommendation: Dismissals—C15-108; C16-055; C16-058, Concurrent M15-043; C16-059, Concurrent C16-069; C16-063; C16-065; C16-066; C16-067, Concurrent C15-005, C16-026; C16-069, Concurrent C16-059; C16-072; M15-030. Letters of Caution—C16-030; C16-054; M15-040; M16-042. Consent Orders—V11-059/C14-061; C16-068; M16-017. Notices of Hearing—M16-011 and M16-043; Refer to outside counsel for prosecution and petition to Office of Administrative Hearings-M16-019. Others Matters—M14-017. Questions ensued regarding C16-055. Mr. Olive made the motion to go into closed session to discuss a matter of attorney-client privilege. Mr. Graves seconded and the motion carried. Mr. Graves made the motion to return to open session and Mr. Olive seconded and the motion carried.

Mr. Olive seconded Ms. Williams-Smith motion to approve the noted cases. The motion carried.

Trainee Committee: Mr. Staton reported the Committee met prior to the Board meeting regarding two trainees. Trainee #1 missed two reports and Committee recommends the loss of July, August, September credits and to resume October 1, 2016. Trainee #2 missed two reports and did not appear and Committee recommends the continuation of suspension until the appearance before the Committee. Mr. Staton made the motion to accept the recommendations and Mr. Graves seconded. The motion carried.

At this time Mr. Blake departed the meeting.

Continuing Education Committee: Ms. Smith stated the Committee met on August 25, 2016, via teleconference to review two continuing education course applications. After requesting additional information regarding one of the applications, Committee recommends approval of both courses. Mr. Olive made the motion to approve the recommendation. Mr. Staton seconded and the motion carried.

Technology Committee: Mr. Olive stated the Committee met via teleconference on August 19 to discuss the following: upgrade of the Board's telephone system, purchase of an automated letter opener, an inventory system with tags and an outline of procedures for replacing outdated equipment, obtaining quotes to upgrade the existing copier to a copier/scanner that will interact with cloud-based SharePoint, the Board's E-mail domain and e-mail system. Future discussion will include the IT Manager reviewing the documents/notes from previous company presentations regarding the database and the potential of having iPads or a similar device for Board Members. The Committee recommends approval of the above items. Mr. Graves made the motion to accept the recommendations and Mr. Staton seconded. The motion carried and questions ensued.

Finance/Personnel Committee: In the absence of Dr. Aldridge, Mr. Lockhart stated the Committee met via teleconference on September 1, 2016 at 9:00 a.m. A closed session began at 9:05 a.m. to

discuss personnel matters. The Committee recommends approval of the Confidentiality Agreement Policy and the Technology Appropriate Use Policy. Mr. Staton made the motion to accept the recommendation. Mr. Olive seconded and the motion carried.

Mr. Lockhart presented the financials and Mr. Graves made the motion to accept them. Mr. Olive seconded and the motion carried.

Mr. Lockhart reported that a letter from the NC Ethics Commission had been received in which the Commission advised that Dr. Aldridge does not have an actual conflict in serving on the Board but that the potential for conflict exists in light of his employment at Stanly Funeral Home and Cremation Care in Albemarle.

The new Committee assignments were presented pending Mr. Stone's swearing-in.

Executive Director's Report: Mr. Shehdan reported the following: The Online atneed establishment renewals should be ready for 12/1/16. This renewal form does not require notarization per the Board's laws and rules and recommendation is to remove it from the current application. Discussion ensued. Mr. Graves made the motion to remove the notarization from the atneed application. Mr. Staton seconded and the motion carried.

A Standard Operating Procedure for Board Meeting preparation has been developed and will be revised as necessary and backups are being cross-trained. The IT Manager will present a report during the October meeting. The telephone system upgrade is currently in process. A plan is being developed to replace the database. As requested at a prior Board Meeting, the active Transporter Directory will be active on the website in October. Staff has met to prepare for 2017 renewals. The new letter opener is now being used by staff. The 2017 draft budget is being prepared for presentation to the Finance & Personnel Committee in September. Thanks to Ms. Cress, Ms. Knowles and Ms. Mauldin twenty-five more boxes of documents were taken to State Archives. Several outmoded computers and related equipment were removed (hard drives were removed). The recycle/shred bin has been emptied numerous times. All cremated remains have been removed from the office and thanks to Mr. Blake for his assistance. Board pictures will be scheduled for the October meeting.

The Joint Legislative Administrative Procedures Oversight Committee met Tuesday, September 6. Mr. Shehdan, Ms. Cress, and Attorney Anna Choi attended. A brief summary was presented by Mr. Shehdan. They will next meet on October 4.

Questions ensued regarding HB296 and Mr. Shehdan responded. Ms. Cress stated that it has been represented to the Board staff that Representative Boles plans to propose some revisions to HB-296.

Attorney's Report: Ms. Cress stated the report was for information only. Ms. Cress publicly thanked temporary employee Amy Mauldin for the work on compiling past Board precedent into a database and the compilation of documents in one place.

Eight hearings were rescheduled for Wednesday and Thursday. One was continued, three were settled and Consent Orders voted to be approved, three Consent Orders have since been received for presentation to the full Board and one case will be heard today.

Ms. Cress requested a closed session to discuss several matters protected by attorney-client privilege later in the meeting.

Compliance: Mr. Lisenbee stated Ms. Pearson had provided a detailed report on the deceased, cancelled, revoked, closed or transferred preneed contracts requesting if the Board had rather see that

report showing a three month period or the other report showing a ten month period of contracts. The Board stated they had rather see the ten month report.

There have been 1,707 preneed contracts recorded since the last Board report; approximately 1,222 Certificates of Performance have been processed. There are 177,346 active contracts as of September 9, 2016 and preneed contracts have been enter through August 28, 2016. There are 658 licensed preneed funeral establishments and 1,705 individuals licensed to sell preneed as of September 9, 2016. There is one change of ownership since August 10, 2016—Joyce-Brady Chapel in Bennett.

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 August 31, 2016, 16 funeral establishments were inspected, 13 preneed examinations were conducted, 8 crematories were inspected, no chapels were inspected and no unaffiliated practitioner was inspected. Inspectors fielded 157 compliance phone calls and, between August 1 and August 31, 2016, responded to 8 compliance opinions via email. Individual inspector reports were provided for the Board to review.

New Trainees: Tony Autry, Christopher Bracy, Keshia Leach, Staphanie Pardee, Alaina Pryor, Walton Rummage, Carla Smith, Heather Tallent

New Funeral Home: Mitchell Funeral Care & Cremations, Elizabeth City; Robinson Funeral Service, Concord

Change of Ownership: Chappell's Funeral & Cremation Service, Garner

New Funeral Service Licensees: Charles Brown, Evan Printy; Erica Flowers converted to FS

New Funeral Director Licensees: Amber Bridges, Regina Brown-Tew, Elizabeth Daniels, Denise Grandolfo

Mr. Lisenbee stated Inspector Hall has removed all preneed contracts from the Board office and distributed them to an accepting funeral home and now all inspectors should be back on a regular inspection schedule.

Old Business: There was none.

New Business: Mr. Shehdan proposed a two day hearings only meeting for November 16 and 17. Ms. Cress stated there were 39 pending notices. Discussion ensued. Mr. Staton made the motion to cancel the Board meeting for November and hold hearings on Wednesday, November 16 and Thursday, November 17. Mr. Graves seconded and the motion carried.

Discussion ensued regarding the Board President's Christmas Dinner on December 13. Board members will confirm to Mr. Shehdan by September 23 so final plans can be made.

Ms. Cress then presented the three Consent Orders to the Board for their review and vote.

- 1) Cremation Society of the Carolinas Establishment No. 677 and Henry B. Davis Funeral Service No. 2186. Attorney Robert Crawford was present for the Respondents.

At this time Mr. Gray entered the meeting.

Board staff recommends adopting the Consent Order. Mr. Crawford spoke on behalf of Mr. Davis and the funeral establishment. Discussion ensued. Mr. Graves made the motion to accept the Consent Order. Mr. Olive seconded and the motion carried.

- 2) In the Matter of M16-024 Delrika McManus is an applicant for traineeship and has been denied the last three times due to her criminal history and lack of sufficient good moral character. Board staff presented a proposed Consent Order granting Ms. McManus a conditional traineeship upon fulfilment of numerous restrictions and requirements. Discussion ensued. Mr. Staton made the motion to go into closed session to discuss a matter of attorney-client privilege. Mr. Graves seconded and the motion carried. Ms. Cress left the Board room but Attorneys Gray and Lee remained. Upon proper motion, the Board returned to open session and Mr. Graves made the motion to reject the Consent Order. Ms. Williams-Smith seconded and the motion carried. Ms. Cress stated this matter would now require a hearing, which would likely go forward at the next Board meeting.
- 3) In the matter of Ephram Irvin II. This matter resulted in the reporting of 33 preneed contracts not being filed in a timely manner in the 2015 Preneed Annual Report by Mr. Irving. The contracts have now been properly filed with the Board and Mr. Irving no longer is employed by McEwen Funeral Service. Board staff recommends accepting the prepared Consent Order disciplining him. His individual license and his sales license were suspended but stayed with conditions. Mr. Graves made the motion to accept the Consent Order. Mr. Olive seconded and the motion carried.

Ms. Lee gave a litigation update in the matter of Heritage Cremation Provider, LLC; Legacy Funeral Service, LLC; A. J. Damiano; and Joseph Damiano, Sr. Superior Court Judge Donald Stephens approved the terms of a Consent Judgment obtained by the Board against the Defendants. Defendants were ordered to cease any unauthorized practice of funeral service in North Carolina unless and until they become properly licensed by the Board. Should the Board be made aware of any future evidence that Defendants violated the terms of the Consent Judgement, the Board would be authorized to initiate contempt proceedings against Defendants. Mr. Staton made the motion to accept the Consent Judgment and Mr. Graves seconded. The motion carried.

At this time there was a five-minute recess.

Upon return Mr. Graves made a motion to go into closed session to discuss a personnel matter. Mr. Olive seconded and the motion carried. Upon motion by Mr. Olive and second by Mr. Staton, the Board returned to open session.

The Board recessed until 12:50 at which time the hearing would proceed.

Following the hearing, Mr. Graves moved the meeting be adjourned. Mr. Olive seconded and the motion passed.

Valdus T. Lockhart, President

Charles Graves, Secretary