## **BOARD MEETING**

## MINUTES

## February 8, 2017

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on February 8, 2017, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Charles Graves, President; Matt Staton, Vice President; Craig Olive, Secretary; Mark Blake, Mike Stone, Valdus Lockhart, and Don Brown. Via Teleconference: Kelly Byrd.

Also Present: David Shehdan, Executive Director; Christina Cress, General Counsel; Staff members Lyn Cochrane, Brett Lisenbee; Dorman Caudle with Carolina Donor Services; Catherine Lee with Nichols, Choi & Lee, PLLC.

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

Mr. Graves read the Ethics Statement. Mr. Lockhart stated he had attended the FD & MA of NC, Inc., District III Seminar on January 29 and 30. Also the Leadership Summit for 40 and Under of the FD&MA of NC, Inc. Mr. Lockhart also stated he would recuse himself from participation of Disciplinary Matter regarding M15-026 because of an appearance of conflict.

Mr. Graves stated Steve Herndon was the new NCFDA appointee to the Board and would be seated after he was cleared by the Governor and the Ethics Commission.

Mr. Graves reminded everyone to turn off their cell phone ringers. There were no guests at this time.

Mr. Olive presented the January 11, 2017, minutes and stated they had previously been mailed. Mr. Lockhart made the motion to approve and Mr. Brown seconded. The motion carried.

Public Comment: There was none.

<u>Preneed Committee:</u> Mr. Blake stated the Committee met via teleconference on February 3 and makes the following recommendations:

The Committee reviewed a request from a preneed establishment to waive its surety bond requirement. The supporting documentation provided by the establishment demonstrated solvency to the satisfaction of the Committee and approval of the request for bond waiver was recommended.

The Committee reviewed Preneed Recovery Fund Claim Number P15-020 in the amount of \$976.56, and recommended approval of the claim in the amount of \$976.56.

The Committee reviewed Preneed Recovery Fund Claim Number P15-029 in the amount of \$11,880.00, and recommended approval of the claim in the partial amount of \$10,800.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-018 in the amount of \$1,478.72, and recommended approval of the claim in the amount of \$1,478.72.

The Committee reviewed Preneed Recovery Fund Claim Number P16-036 in the amount of \$800.00, and recommended approval of the claim in the amount of \$800.00.

The Committee reviewed Preneed Recovery Fund Claim Number P16-044 in the amount of \$4,287.00, and recommended denial of the claim.

The Committee reviewed the Preneed Recovery Fund Claim Number P16-048 in the amount of \$2,036.94 and recommended approval of the claim in the partial amount of \$2,016.94.

The Committee reviewed Preneed Recovery Fund Claim Number P16-052 in the amount of \$7,395.24, and recommended approval of the claim in the amount of \$7,395.24.

The Committee reviewed Preneed Recovery Fund Claim Number P16-053 in the amount of \$6,447.35, and recommended denial of the claim.

The Committee reviewed Preneed Recovery Fund Claim Number P16-054 in the amount of \$3,000.00, and recommended denial of the claim.

At this time Dorman Caudle and Catherine Lee entered the meeting.

Mr. Blake made the motion to accept the recommendations of the Committee for all matters. Discussion ensued regarding what guidelines are used to determine solvency in a bond waiver case. The Committee will look at a threshold to determine solvency going forward. Mr. Staton seconded the motion and the motion carried.

Disciplinary Committee: Mr. Lockhart stated he will not participate in the discussion or vote of M15-026 and presented the following case numbers: Summary Dismissals—C17-011; C17-013; Dismissals--C16-104; C16-105; C16-106; C17-003; C17-004; C17-005; C17-006; M16-023; Letters of Caution—C16-103; C17-002 and Concurrent Case C17-012; M16-060; M17-003; M17-004; Consent Orders—C15-061; M15-028; M16-045; M16-047; Notices of Hearing—C16-101 and Concurrent Case M16-039; M16-050; M17-002; M17-001; and Late Renewals. Questions ensued. Mr. Blake made the motion to accept the recommendations. Mr. Olive seconded and the motion carried. Mr. Byrd made the motion to accept the recommendation for M15-026. Questions ensued and they were referred to Ms. Cress who requested a closed session for attorney-client privilege. Mr. Lockhart made the motion to go into closed session and Mr. Olive seconded. At this time Mr. Lockhart departed the closed session. Mr. Olive made the motion to return to open session and Mr. Staton seconded. Mr. Byrd made the motion to approve the recommendation and Mr. Staton seconded. The motion carried. Mr. Staton made the motion that the case M15-026 be referred to the Administrative Law Judge and Mr. Olive seconded. The motion carried.

<u>Continuing Education Committee:</u> Mr. Graves stated the Committee met by teleconference on January 25 to discuss three continuing education courses.

Course #1—Equity Indexed Annuities; Course #2—Unlocking the Insights: Cremation Receptions & Digital Marketing; and Course #3—Meet the Mentors. The Committee recommends that any continuing education course approved by the National Funeral Directors Association (NFDA) be automatically approved for CE credit by the Board since part of the NFDA's mission is to: Inform, Educate and Advocate. These courses are recommended for approval along with the automatic approval of courses provided by NFDA. Discussion ensued. Mr. Lockhart made the motion to approve the recommendations including courses offered by the National FD&MA Association. Mr. Olive seconded and the motion carried.

<u>Trainee Committee</u>: Mr. Blake reported the Committee met prior to the Board meeting. Two trainees were requested to attend. Trainee #1 missed two monthly reports and the recommendation is to lose February credit and resume traineeship on March 1, 2017. Trainee #2 refused to come (for the second

time) because of the distance involved and will stay on suspension until she comes before the Committee. There are two trainees that will be terminated due to lack of response and not submitting their work reports. They will have to come before the Board with their Supervisor to request completion of their traineeship. Mr. Blake made the motion to approve the Trainee Committee recommendations. Mr. Staton seconded and the motion carried.

<u>Finance/Personnel Committee</u>: Mr. Lockhart stated the Committee met via teleconference on January 24 for a closed session to discuss a personnel matter. They also met on January 31 to discuss a personnel matter. Mr. Lockhart reviewed the financials. The Committee also recommends approval to transition to a different 401(k) investment advisor. Questions ensued. Mr. Lockhart made the motion to approve the financials. Mr. Brown seconded and the motion carried. Mr. Lockhart made the motion to transition to a new 401(k) investment advisor. Mr. Olive seconded and the motion carried.

<u>Laws & Rules Committee</u>: Mr. Graves stated the Committee had met by teleconference on February 2 and makes the following recommendations:

1) Natural Disaster/Emergency Proposed Rules

Recommendation: Approve the proposed rules as worded, and allow staff to initiate the temporary rulemaking process pursuant to the North Carolina Administrative Procedure Act.

2) Proposed Periodic Review Report

Recommendation: Adopt the following suggested rule classifications for purposes of the Board's mandatory periodic rules review, and allow staff to publish the report on the Board's website and through the Office of Administrative Hearings as required:

--Classify as unnecessary the following twenty-three (23) rules: 21 NCAC 34A .0103 through 21 NCAC 34A .0107; 21 NCAC 34A .0109 through 21 NCAC 34A .0121; 21 NCAC 34A .0125; 21 NCAC 34A .0203; 21 NCAC 34B .0109; 21 NCAC 34B .0203 through 21 NCAC 34B .0205; 21 NCAC 34B .0212; 21 NCAC 34B .0301 through 21 NCAC 34B .0305; 21 NCAC 34B .0611; 21 NCAC 34B .0612; and 21 NCAC 34C .0302.

--Classify as necessary with substantive public interest the following six (6) rules: 21 NCAC 34A .0201; 21 NCAC 34B .0310; 21 NCAC 34C .0305; 21 NCAC 34D .0105; 21 NCAC 34D .0203; and 21 NCAC 34D .0303.

--Classify all remaining rules as necessary without substantive public interest.

## 3) Proposed Placeholder Bill

Recommendation: Allow staff to publicly disseminate the proposed placeholder bill, specifically for the purpose of sharing in advance of the public forum to be held on February 9 and for the purpose of sharing with legislators to allow time for attempting to find a bill sponsor before the filing deadline of the current session of this General Assembly.

On Item 1 Mr. Lockhart made the motion to approve and Mr. Staton seconded. The motion carried.

On Item 2 Mr. Lockhart made the motion to approve and Mr. Olive seconded. Mr. Stone voted no and the motion carried.

On Item 3 Mr. Blake made the motion to approve with the following change—The Board should approve the recommendation coming from the Committee, subject to a potential second vote-if necessary-depending on the feedback received at the forum on Thursday. Specifically, the Board should reserve the right to make further redactions and/or modifications to the proposed placeholder

bill depending on the comments received at the forum on Thursday. Mr. Lockhart seconded and the motion carried.

<u>Executive Director's Report</u>: Mr. Shehdan stated Catherine Ryan, State Registrar and Director of Vital Records, will be at the March meeting to speak on the online automated death certificates. Mr. Shehdan commended Mr. Olive for Johnston County's implementation of this procedure.

The new IT Manager, Chuck Grunewald, will begin work on February 13. The inspectors are focusing on the central and western areas to catch up on inspections. They have been issued credit cards for their overnight stay. The inspectors now have direct deposit for their expense checks. Mr. Shehdan met with Mr. Montgomery of Fayetteville Technical Community College. Mr. Shehdan has been invited to serve on the Funeral Services Licensing Committee at Fayetteville Tech.

Online renewals from December 1 – February 1:

Funeral Homes online	205	Individuals online	317
Funeral Homes mailed	557	Individuals mailed	2281

There are 82 individuals and 9 funeral homes that have not renewed.

The 2016 Preneed Annual Report is now open on the website.

The cloud based portal has received good comments from the inspectors. The Board's newsletter can now be subscribed to online from the Board's website.

The new Board member along with the in-house Ethical conduct refresher training has been postponed until Mr. Herndon is seated as a Board member.

Ms. Cress was unable to attend the meeting with Mr. Shehdan and Representatives Boles, Alexander, Hunter and Jones due to last minute time adjustments and pre-hearing responsibilities. The meeting resulted in the Representatives wanting to partner together to draft Board Legislation. The General Assembly wants to partner with the Board on legislation.

The International Conference of Funeral Service Examining Boards conference is March 1 and 2. Mr. Shehdan, Ms. Cress, Mr. Graves and Mr. Olive will attend.

Mr. Shehdan reminded Board members of the 2017 SEI forms to be filed by April 15<sup>th</sup>.

Cancellation of the June 2017 Board meeting was discussed since some of staff will be unavailable. Mr. Staton made the motion to cancel the June meeting. Mr. Lockhart seconded. Mr. Blake voted no and the motion carried.

Questions ensued regarding the turnaround time in testing. Mr. Shehdan will get additional data and respond to Mr. Lockhart. Questions ensued regarding the FTCC curriculum aligning with the Board's test. Mr. Shehdan will work with the Exam Committee and FTCC to address.

<u>Attorney's Report</u>: Ms. Cress thanked Mr. Byrd and Mr. Lockhart for the review of 25 cases this month. There were 6 hearings scheduled. Two were resolved by consent order; one continued until March; 2 consent orders signed yesterday and one permit was voluntarily surrendered.

Ms. Cress will be appearing at the Rules Review Commission as requested and on behalf of the Board to have an expedited periodic review next week.

Ms. Cress thanked Alice Knowles for her 20 plus hours calling other states for information the Board had requested. 27 states responded.

The leadless pacemaker company has done ballistics testing and there is no damage to the crematory.

The 82 licensees that have not renewed can request a hearing or make an appearance before a committee before they can receive their renewal. If there are many requests for a hearing, a "hearings only" day may be required.

Compliance: Mr. Lisenbee presented the following information.

There have been 2,806 preneed contracts recorded since the last Board report; approximately 1,706 Certificates of Performance have been processed. There are 178,677 active contracts as of February 3, 2017, and preneed contracts have been entered through January 3, 2017. There are 652 licensed preneed funeral establishments and 1,658 individuals licensed to sell preneed as of February 7, 2017.

Mr. Lisenbee reported that in January 2017: 28 funeral establishments were inspected, 20 preneed examinations were conducted, 7 crematories were inspected, 2 chapels were inspected, 1 unaffiliated practitioner, and 1 mutual burial association was inspected. Inspectors fielded 197 compliance phone calls and responded to approximately 2 compliance opinions via email. Four CE classes were taught and 3 investigations. Individual inspector reports were provided for the Board to review.

New Funeral Homes: Loving Care Cremations, Beam Funeral Service, J. B. Rhodes Funeral Home & Cremations.

New Funeral Director Licensees: Van-Boris Peterkin, Donzell Woodard, Alexandra Kozak, Mitchell Flora, Johnny Campbell.

New Funeral Service Licensees: Charles Miles, Jr., Cody Tatum, Lisa Allison-Moone, Stephanie Rodriguez.

New Transporters: Ralph McCoy

New Chapels: Cox-Needham-Danbury Chapel

New Trainees: Leah Taylor.

Old Business: None.

<u>New Business:</u> Mr. Graves stated the Executive Committee met on January 11, 2017 following the adjournment of the regularly scheduled January Board meeting. Past President Valdus T. Lockhart also attended. The Committee discussed Board and staff goals for 2017. It also discussed Board meeting and committee scheduling and attendance.

Mr. Shehdan stated the Board needed to vote on the MBA Assessment for 2017. In addition to the \$100 per association, the per member amount should be set. The amount of 30 cents per member has been used in previous years. This assessment is due in July. Also, it was suggested that the continuation of the 30 cents per member for future years be set until it needs to be changed. Mr. Lockhart made the motion to accept the 30 cents per member fee and continue at the same rate for future years until the rate needs to be changed. Mr. Olive seconded and the motion carried.

Mr. Blake had questions regarding the 5 hour continuing education program the Board sponsored in prior years and the reason it was no longer provided. Ms. Cochrane and Mr. Caudle made comments regarding this and that the classes provided in the Board office met the criteria of the law.

Mr. Staton made comments regarding the Catholic Diocese and cremations. Discussion ensued.

Public Comment: There was none.

At 10:45, Mr. Graves called for a five-minute recess and Mr. Caudle and Ms. Cochrane departed the meeting.

Mr. Lockhart made the motion to go into closed session to discuss a personnel matter. Mr. Staton seconded and the motion carried.

Upon motion by Mr. Lockhart and second by Mr. Olive, the Board returned to open session.

Upon proper motion by Mr. Graves and second by Mr. Staton, the meeting recessed until 9:00 a.m. on Thursday, February 9.

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The North Carolina Board of Funeral Service met for an open discussion at 9:00 a.m. on February 9, 2017, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Charles Graves, President; Matt Staton, Vice President; Craig Olive, Secretary; Mark Blake, Mike Stone, Valdus Lockhart, and Don Brown.

Also Present: David Shehdan, Executive Director; Christina Cress, General Counsel; Brett Lisenbee, Compliance Liaison; Brad Bailey, Karen Reardon, Bill Forsberg, Mary Rose Browder, Blair Nelsen, William O. Betts, Henry M. Lancaster II, George J. Durham, Jr., David Ferrell, Jodie Dupree, Lisa Wooten and Doris Ann McRae.

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

Mr. Graves read the Ethics Statement and no one recused themselves.

Mr. Graves made an opening statement welcoming those to this public comments session. Mr. Shehdan and Ms. Cress made additional comments toward the participatory process and goal toward proposed draft legislation. Ms. Cress continued with leading a review and discussion.

Discussion ensued covering each Legislative proposal from the presentation materials.

Motions were made and approved during the public comments session regarding any adjustments to the presentation materials.

The first public comments session concluded at 12:00 with the Board having approved any adjustments to the proposed language.

At this time Ms. Wooten and Ms. McRae entered the second public comments session beginning at 1:30 p.m. Mr. Graves made introductory comments followed by Mr. Shehdan and Ms. Cress.

Discussion ensued. There were no additional changes to the proposed legislative changes by which the Board has now endorsed.

Upon proper motion by Mr. Lockhart and second by Mr. Olive, the meeting was adjourned at 1:50 p.m.

Charles Graves, President

Craig Olive, Secretary