

## BOARD MEETING

### MINUTES

November 8, 2017

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on November 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; Valdus Lockhart; Steve Herndon; Mark Blake; Don Brown; Mike Stone; Kelly Byrd was present by teleconference.

Also Present: Catherine Lee, Executive Director; Christina Cress McLaurin, General Counsel; Staff members Amy Mauldin, Alice Knowles, Terri Robinson-McLean, Alice Knowles and Brett Lisenbee; Dorman Caudle with Carolina Donor Services and District 5 NCFDA Representative; Joseph Coleman, Licensee; David J. Wujastyk, Licensee; Gantt Stephens, NC Cemetery Commission; Edward Gregory, Jr., Licensee; Dan Funchess, Licensee; Evette Whitley, Licensee; Fred Jordan with Miracles in Sight.

Mr. Graves called the meeting to order and led the Pledge of Allegiance. Mr. Lockhart had the invocation.

Mr. Graves read the Ethics Statement.

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

#### October Minutes:

Mr. Olive stated the draft October meeting minutes were available and made the motion to approve the minutes. Mr. Staton seconded and the motion carried.

Public Comment: Mr. Graves reminded everyone that this was not a question and answer session. There was none.

Preneed Committee Report: Mr. Blake reported that a majority of the Preneed Committee members met by teleconference on November 3, 2017. Discussion ensued regarding Board staff's investigation into possible bonding and/or insurance coverage for the Board's Preneed Recovery Fund, which could reimburse the Fund for statutorily-compliant claims paid out to consumers. Ms. Lee reported that she requested a price quote for such coverage from First Citizens Bank, but First Citizens Bank could not offer such a product at this time. Mr. Stone asked that Board staff reach out to the North Carolina Department of State Treasurer and regulatory boards in other states regarding options for such bonding. Ms. Lee indicated that she would do so and would report her findings to the Board.

In addition, Mr. Blake presented the Preneed Committee's recommendation to approve Preneed Recovery Fund Claim # P17-038 in the amount of \$3,871.83. Ms. McLaurin gave more details on the matter. Discussion ensued.

Mr. Blake made a motion to accept the Preneed Committee Report. Mr. Brown seconded and the motion carried.

Finance and Personnel Committee Report: Mr. Lockhart reported that all members of the Finance & Personnel Committee met on October 26, 2017, and discussed the following items:

- Projected attendance of the 2018 Executive Committee and the Executive Director at the International Conference annual meeting in New Orleans from February 28 through March 1, 2018;
- New lease for Board copier;
- 2018 proposed budget;
- Review of proposals submitted by bidders for auditor contract beginning January 2018;
- Proposals for IT regulatory management solutions;
- Request from the International Conference to increase testing fee for the Pathology Exam; and
- Staffing needs of the Board.

Mr. Lockhart presented the Committee's following recommendations to the Board:

Recommendation No. 1: Select Bernard Robinson & Company as the Certified Public Accountants retained by the Board, pursuant to the terms of the RFP issued by the Board and the proposal submitted by Bernard Robinson & Company in October 2017. Discussion ensued regarding the longevity of using this firm.

Recommendation No. 2: Authorize the Executive Director to select a vendor for IT regulatory management that will be consistent with the budgeted line items for 2018.

Mr. Lockhart further reported that all members of the Finance & Personnel Committee also met on November 1, 2017, and made the following recommendations to the Board:

Recommendation No. 1: Approve the enclosed proposed budget for fiscal year 2018.

Mr. Stone asked that the Board table the 2018 Budget until December. Discussion ensued. Mr. Brown made a motion that the Board accept the 2018 Budget. Mr. Lockhart seconded and the motion carried. Mr. Stone opposed.

Recommendation No. 2: Hire an Assistant Executive Director with the goal of transitioning said employee to the position of Executive Director after a sufficient training period.

Mr. Stone asked about the process the Board will take for the hiring of an Assistant Executive Director. Discussion ensued.

Recommendation No. 3: Adopt the enclosed Compensation Policy for Board Members.

Mr. Lockhart made a motion to accept Recommendations Nos. 2 and 3. Mr. Herndon seconded and the motion carried.

Mr. Lockhart presented the Profit and Loss Statement and Balance Sheet. Mr. Lockhart made a motion to accept the Profit and Loss Statement and Balance Sheet. Mr. Staton seconded and the motion carried.

Mr. Blake asked for questions regarding Recommendation No. 3. No questions were asked.

Exam Committee Report: Mr. Staton reported that all members of the Exam Committee met via teleconference on October 30, 2017. The Committee discussed the following items:

- Review of proposed revisions to rules governing exam administration;
- Exam eligibility requirements in other jurisdictions;
- Exam review procedures; and
- The substance of the Board's NC Pathology examination.

Mr. Staton reported that the Exam Committee makes the following recommendations to the Board:

1. 21 NCAC 34B .0202 - Applications  
Recommendation: Authorize staff to obtain a pre-review from Rules Review Commission staff counsel of proposed substantive changes to rule.
2. 21 NCAC 34B .0208 – Passing Score  
Recommendation: Repeal rule.
3. 21 NCAC 34B .0210 – Request for Review of Examination  
Recommendation: Authorize staff to obtain a pre-review from Rules Review Commission staff counsel of proposed substantive changes to rule.
4. 21 NCAC 34B .0211 – National Board Certificate  
Recommendation: Repeal rule.
5. 21 NCAC 34B .0213 – Expiration of Test Scores  
Recommendation: Authorize staff to obtain a pre-review from Rules Review Commission staff counsel of proposed substantive changes to rule.

Ms. McLaurin and Ms. Lee offered more information regarding the recommendations.

Mr. Staton made a motion to accept the Exam Committee Report. Mr. Brown seconded and the motion carried.

Laws, Rules and Legislation Committee Report: Ms. McLaurin reported that all members of the Laws, Rules & Legislation Committee met by teleconference on November 3, 2017, and the Committee brings the following recommendations to the Board:

1. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34B .0309 – Renewal Form.
2. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34B .0310 – Practice of Funeral Service or Directing Not as an Owner, Employee or Agent of a Licensed Funeral Establishment.
3. Allow 21 NCAC 34B .0312 to automatically remain in NC Administrative Code, following periodic review report classifying rule as necessary without substantive interest, without proposing for readoption with changes.
4. Authorize Board staff to file with the Rules Review Commission a Notice of Intent to repeal 21 NCAC 34B .0510 – Courtesy Card Renewal Form.
5. Authorize Board staff to file with the Rules Review Commission a Notice of Intent to repeal 21 NCAC 34B .0610 – Funeral Establishment Permit Renewal Form. Ms. McLaurin offered more information regarding this recommendation.
6. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34C .0305 – Monthly Reports.
7. Direct staff to create a model form for preneed licensees to use to make Board staff aware of additional deposits made to fund a preneed trust account. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34D .0105 – Contract Copies to be Filed, only after staff has revised the draft to include information about a licensee's duty to inform the Board of additional deposits made to fund a preneed trust account, and the way in which a licensee can do the same.
8. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34D .0203 – Surety Bonds.
9. Authorize Board staff to obtain from the Rules Review Commission a pre-review of proposed substantive changes to 21 NCAC 34D .0303 – Certificate of Performance, only after staff has revised the draft to include that a performing funeral establishment, if different from the contracting funeral establishment, has a duty to notify the contracting funeral establishment within ten (10) days of the performance of a preneed funeral contract. The Laws, Rules and Legislation Committee directed staff to research how other states handle this issue and report back to the Board.
10. Board staff informed the Committee that the NC Cemetery Commission voted at its October meeting to propose to the Board a modified Memorandum of Understanding. The Committee recommends that the Board combine into the modified MOU proposed by the NCCC the Board-approved Memorandum of Understanding terms, with respect to the additional responsibilities that the Board, but not the NC Cemetery Commission, agrees to undertake.

11. Board staff informed the Committee that the North Carolina Department of Natural and Cultural Resources is currently in the process of overhauling and updating the Records Retention and Disposition Schedules for agencies across the state. The Laws, Rules & Legislation Committee recommends that the Board vote on the proposed new Records Retention and Disposition Schedule.
12. Approve proposed revisions to the Board's application for a new embalming facility.
13. Board staff informed the Committee of its recent discovery that courtesy cards have been issued within the past several years to individuals who are not statutorily eligible to obtain courtesy card permits from the Board. The Laws, Rules and Legislation Committee recommends that the Board discuss whether it wants to continue issuing courtesy cards; and, if so, what parameters are needed for a courtesy card holder's practice in North Carolina.
14. The Committee discussed the possibility of switching from a calendar year renewal process to an anniversary date renewal process, pursuant to N.C.G.S. 90-210.25(a)(5)a. The Committee does not bring any recommendations for changing the annual renewal deadline at this time.

Mr. Graves asked Ms. McLaurin to give more information regarding the manner in which courtesy cards are regulated. Discussion ensued. The Board asked Board staff to gather and present information regarding the manner in which courtesy cards are regulated in other states before the Board takes further action.

Mr. Lockhart made a motion to accept the Laws, Rules and Legislation Committee Report. Mr. Staton seconded and the motion carried.

Disciplinary Committee Report: Mr. Lockhart stated that the Disciplinary Committee met on November 2, 2017 and makes the following recommendations:

- Dismissals – C17-062; C17-066; C17-067; C17-072
- Letters of Caution – C17-068; C17-071; M17-027 (Mr. Byrd recused himself from this matter); M17-029; M17-032; M17-033
- Notice of Hearing – M15-027; M17-031 (Mr. Lockhart recused himself from this matter)
- Other (Deny Transport Permit) – M17-030

Mr. Staton asked for clarification regarding C17-066 and C17-072. Discussion ensued.

Mr. Blake asked for clarification of C17-071. Ms. McLaurin offered additional information.

Mr. Lockhart made a motion to accept the Disciplinary Committee Report, with the exception of M17-027. Mr. Brown seconded and the motion carried. Mr. Blake and Mr. Staton opposed.

Mr. Byrd made a motion to accept the Disciplinary Committee's recommendation regarding M17-031. Mr. Staton seconded and the motion carried.

Emily Sweitzer, a records analyst with the NC Department of Natural and Cultural Resources, entered the meeting at this time to discuss the cross-walking of the Board's current records retention policies with the proposed new records retention to be adopted by the Board.

Executive Director's Report: Ms. Lee reported that renewal season has arrived, and Board staff are reaching out to licensees electronically to encourage early renewal via email and the Board's online portals. In the 24 hours since sending out the initial electronic notice to licensees, Board staff received approximately 35 applications. Over 1,200 users have opened the electronic renewal notice emailed by Board staff and over 1,365 opened the October 2017 e-newsletter. The Board had approximately 1,100 visitors to its website in the week preceding the November Board meeting and 3,000 visitors to the website in the last month. Ms. Lee encouraged Board members to share the renewal information published on the Board's website with their colleagues.

Mr. Cagle and Ms. Pearson conducted a Continuing Education course for licensees at the Board office on October 24, which was well attended and received positive reviews from attendees. Ms. Lee thanked Mr. Cagle and Ms. Pearson for their work in putting the program together.

Ms. Lee reported that, to continue the Board staff's educational outreach efforts to state and county governmental agencies on preneed contracts, she and Mr. Lisenbee would attend a DHHS Clinical Exchange Social Work meeting, by invitation, at the Murdoch Development Center on November 17, 2017. Board staff also are in discussion with the Mecklenburg County Department of Social Services to plan a similar event early next year.

Ms. Lee reported that she attended the 1033 Wade Avenue Condo Owner's Association Annual Meeting in October. There will be no fee increase for the Board in 2018. Capital improvement projects for 2018 include resurfacing the parking lot.

Ms. Lee reported that she will be presenting on a disciplinary panel at the International Conference Annual Meeting in New Orleans from February 27 through March 1, 2018. The 2018 Executive Committee of the Board will be attending on behalf of the Board, but all other Board members also are encouraged to attend, if they are able to do so.

The North Carolina Department of Insurance has published a lost life insurance policy locator service on its website ([http://www.ncdoi.com/Consumer/Finding\\_a\\_Lost\\_Life\\_Insurance\\_Policy.aspx](http://www.ncdoi.com/Consumer/Finding_a_Lost_Life_Insurance_Policy.aspx)), which will help consumers locate benefits from life insurance policies or annuity contracts purchased in North Carolina.

Ms. Lee reported that the North Carolina Vital Records intends to move forward with a purchase of an Electronic Death Registration System. She will be participating in an Electronic Death Registration Business Partners Advisory Group on January 23, 2018 at the NC Division of Public Health. Board members were encouraged to attend, if they wished to do so.

The Board still is awaiting confirmation of the gubernatorial appointments of Mr. Lockhart, Mr. Herndon, and Mr. Watson, as the nominees from FDMANC and NCFDA respectively. The Board look forward to news of their appointments soon.

Ms. Lee provided to Board members a recent news article involving alkaline hydrolysis from the New York Times. Ms. Lee also provided the following Preneed Activity Report:

- As of October Board meeting, 1,303 preneed contracts were recorded. Of that amount 156 were trust funded, whereas 1,147 were insurance funded contracts.
- Approximately 1,539 Certificates of Performance have been processed.
- There are 181,124 active contracts as of November 6, 2017.
- Preneed contracts received as of November 1, 2017 have been entered.
- 1,491 individuals are licensed to sell preneed as of November 6, 2017.
- No preneed funeral establishments have had a change of ownership since the last Board meeting.
- No new preneed funeral establishments have been licensed since the last Board meeting.

Mr. Blake made comments as to the decrease in the Preneed Recovery Fund and asked that the Board consider increasing the amount of money earmarked for the Preneed Recovery Fund from \$2.00 per contract filing to \$5.00 per contract filing. Mr. Blake directed Ms. Lee to present a revised budget to reflect this increase in earmarked funds at the December Board meeting, to which Ms. Lee indicated that she would do so.

Ms. Lee also provided the following at-need licensure report for licenses issued between October 1 and November 1, 2017:

CHAPELS - 0

CREMATORIES - 0

#### TRANSPORTERS

Ashley Renee Santoyo Pineda – 10/06/2017

Marvin James Johnson – 10/18/2017

Bennie Hillyard Smarr -10/30/2017

UNAFFILIATED LICENSEES - 0

#### FUNERAL ESTABLISHMENTS

Matthews Family Mortuary, LLC – 10/13/2017

#### FUNERAL SERVICE LICENSEES

Bonnie Lee Morrison – Morehead City – 10/09/2017

Jason Ray Price – Hamptonville – 10/9/2017

Lakeshia Deloris Simmons – Roseboro - 10/13/2017

Donna Price – Newport News – 10/17/2017

Caroline King – Clifton Park, NY – 10/20/2017

Jason Edward Bradley – Concord – 10/26/2017

#### FUNERAL DIRECTOR LICENSEES

Keshia Nanett Leach – Midland - 10/12/2017

Atravis Sanier Powell – Fayetteville – 10/20/2017

#### TRAINEES

Shawann A. Bellamy – Knotts & Son Funeral Home (11/1/2017)

Michael W. Branch – Westmoreland Funeral Home & Cremations (11/1/2017)

Le’Shekia T. Coleman – Alexander Funeral Home, Inc. (11/1/2017)

Zachary M. Fox - Burke Mortuary (11/1/2017)

Deanna H. Norris – Peacock Funeral Home (11/1/2017)

Zachary D. Randall – Cleveland Funeral Services (11/1/2017)

Mildred B. Rogers – Betts and Son Funeral Home (11/1/2017)

Matthew S. Stilwell – A Simple Service (11/1/2017)

Pattie M. Sturdivant – Donaldson Funeral Home & Cremation (11/1/2017)

Jennifer L. Thomas – Grier Funeral Service (11/1/2017)

Compliance Liaison / Lead Inspector’s Report: Mr. Lisenbee offered the following information for the month of October:

- 20 Funeral Establishments were inspected
- 15 Preneed Establishments were inspected
- 3 Crematories were inspected
- 2 Mutual Burial Associations were inspected
- 1 Investigation was completed
- 173 Compliance calls were received
- No Compliance emails were issued

Mr. Lisenbee gave an update on the mutual burial associations that are in the process of being dissolved. Mr. Stone asked for clarification regarding inspector training. Discussion ensued.

Mr. Graves asked for clarification regarding the number of inspections that the inspectors must complete per month in order to inspect all entities subject to inspection within a three-year rotational cycle. Discussion ensued. Mr. Lisenbee indicated that he would gather the information to adequately answer these questions and report back to the Board.

Ms. Lee offered information regarding Mr. Stoessner’s training progress.

Mr. Blake asked for an increase in crematory inspections and what the compliance phone calls entailed. Discussion ensued.

Mr. Blake asked for a 5-minute recess.

Attorney’s Report: Ms. McLaurin offered the following information regarding disciplinary matters:

- Current Active Cases: 33

- Projected Active Cases: 22
- Pending Investigation: 14
- Pending Review by Disciplinary Committee: 1
- Pending Dispositive Action: 1
  - Pending Hearing: 4
  - Post-Hearing: 1
  - Other: 1 (stayed per Board Order)
- New files opened since last Board meeting: 11
- Notices of Hearing sent since last Board meeting: 1
- Consent Orders received since last Board meeting: 0
- Cases reviewed by Disciplinary Committee since last Board meeting: 13
  
- Projected Active Preneed Recovery Fund Claims: 1
- Preneed Recovery Fund Claims reviewed by Preneed Committee since August Board meeting: 1
- Preneed Recovery Fund Claims received since August Board meeting: 0
- Preneed Recovery Fund Claims re-opened since last Board meeting: 0

Mr. Blake commended Ms. McLaurin and Alice Knowles for their hard work with the Preneed Recovery Fund claims.

Ms. McLaurin reported that she had received a signed Consent Order from the Respondent in Case C14-056 *et al.*, the hearing for which had been noticed for the November Board meeting. As such, the signed Consent Order would be referred to the Disciplinary Committee for its recommendation to the full Board at the December Board meeting and the hearing would be continued.

Ms. McLaurin indicated that she had been working diligently to ensure the smooth transition of her responsibilities as General Counsel, in light of her upcoming resignation from employment, effective November 15, 2017. Ms. McLaurin reported that Mr. Lisenbee now was registered as the Board's Ethics liaison, and Mr. Cagle now was registered as the Board's Legislative liaison. Ms. McLaurin recommended that the Board designate a second Legislative liaison, in addition to Mr. Cagle, once the General Assembly returned to regular session. Ms. McLaurin recommended that the Board designate Ms. Lee as its Rulemaking Coordinator.

Ms. McLaurin asked that a request for the revocation of a preneed contract be added to the agenda. Mr. Blake made a motion to approve the transfer of the Preneed contract. Mr. Staton seconded and the motion carried.

Ms. McLaurin indicated that all other legal updates will happen in closed session for the purpose of preserving attorney-client privilege, pursuant to N.C. Gen. Stat. § 143-318.11.

Mr. Graves thanked Ms. McLaurin for her work and diligence during her tenure as General Counsel for the Board and presented her a commemorative plaque in honor of her service.

Old Business: There was none.

New Business: Mr. Staton made a motion to accept Ms. Lee as Rulemaking Coordinator for the Board. Mr. Herndon seconded and the motion carried. Proposed Board meeting dates for 2018 were discussed and approved.

Mr. Graves called for nominations of Board officers for 2018. Mr. Byrd nominated Mr. Herndon for the office of Secretary. Mr. Blake seconded and the motion carried.

Mr. Lockhart nominated Mr. Graves for the office of Vice President, and Mr. Brown seconded. Mr. Staton nominated Mr. Blake for the office of Vice President, and Mr. Olive seconded. Mr. Graves called for a vote. Mr. Graves received 5 votes from the following Board members: Mr. Lockhart, Mr. Brown, Mr. Byrd, Mr. Graves and Mr. Stone. Mr. Blake received 4 votes from the following Board members: Mr. Olive, Mr. Staton, Mr. Blake and Mr. Herndon.

Mr. Byrd nominated Mr. Lockhart for the office of President. Mr. Stone nominated Mr. Blake for the office of President. Mr. Brown nominated Mr. Staton for the office of President. Mr. Lockhart declined the nomination. Mr. Graves polled the members and the majority of the Board voted for Mr. Staton. Mr. Graves made a motion to accept the votes. Mr. Brown seconded and the motion carried.

Mr. Lockhart made a motion to go into closed session to discuss a matter of attorney-client privilege. Mr. Staton second and the motion carried.

Mr. Lockhart made a motion to allow the Board chair to make decisions for out-of-state preneed contract revocations. Mr. Staton seconded and the motion carried.

Upon motion by Mr. Lockhart and second by Mr. Staton, the Motion returned to open session.

Crematory Authority Election: Ms. Lee offered information regarding ballots. Some of the ballots went through the automatic mail slicer and were immediately resealed by Board staff. Board staff gave affidavits indicating that the ballots were not altered in any way. Ms. Lee instructed the Board that two ballots received after the deadline were included, but they should not be counted.

Ballots were opened and counted. Mr. Britt had 14 votes; Mr. Dodson had 20 votes.

Mr. Staton made a motion to go into closed session for the purpose of discussing the qualifications, competence, and performance of an employee or prospective employee, pursuant to N.C. Gen. Stat. § 143-318.11. Mr. Brown seconded and the motion carried.

Upon motion by Mr. Lockhart and second by Mr. Brown, the Board was brought back into open session.

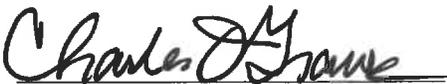
Mr. Staton made motion that instructors employed by FTCC will not receive CE credit for their teaching of funeral service classes as part of their employment responsibilities at FTCC. Mr. Brown seconded and the motion carried.

Mr. Stone made motion to immediately post a position for Executive Director to run through December 12, 2017 at 5:00 pm. Mr. Staton seconded and the motion carried. Mr. Blake and Mr. Lockhart opposed.

Mr. Stone made a motion to rescind Board's approval of Recommendation No. 2 from the Finance & Personnel Committee's November 1, 2017 meeting. Mr. Olive seconded and the motion carried. Mr. Blake and Mr. Lockhart opposed.

Mr. Lisenbee then provided additional information regarding inspection reports.

Mr. Stone made a motion to adjourn. Mr. Staton seconded motion carried.

  
Charles Graves, President

  
Craig Olive, Secretary