



NC BOARD OF FUNERAL SERVICE BOARD MEETING MINUTES

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:01 a.m. on June 13, 2018, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Charles Graves, Vice President; Steve Herndon, Secretary; Valdus Lockhart; Chris Watson; Don Brown; Mark Blake (via teleconference) and Craig Olive (via teleconference).

Also Present: Stephen Davis, Executive Director; Catherine Lee, General Counsel; Staff member Amy Mauldin; Dorman Caudle with Carolina Donor Services; Bill Forsberg, Executive Director of the NCFDA; Fred Jordan with Miracles in Sight; Attorney Henry Lancaster II, Funeral Directors & Morticians Association of N.C., Inc; Dan Funchess, Licensee; Blair Nelson, SCI North Carolina; Atravis Powell, Licensee.

Mr. Graves called the meeting to order and read the Ethics statement.

Mr. Graves led the pledge of allegiance and Mr. Lockhart had the invocation.

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

May Minutes:

Mr. Herndon stated the May meeting minutes were available and then made the motion to approve the minutes. Mr. Brown seconded, and the motion carried.

I. Public Comment: Mr. Graves reminded everyone that this was not a question and answer session. Mr. Forsberg acknowledge the outstanding job Mr. Davis and Mr. Blake did at the recent NCFDA convention.

Mr. Caudle announced regional meetings to be held July 16, 17, and 18, 2018 at the offices of Carolina Donor Services to recognize the increase in tissue recovery and meet with funeral directors.

II. Preneed Committee Report: All members of the Preneed Committee met by teleconference on June 8, 2018, and made the following recommendations:

Recommendation 1:

The Committee recommended that the full Board adopt the revised Preneed Recovery Fund Application for Reimbursement form.

Ms. Lee offered additional information regarding the Preneed Recovery Fund application.

Mr. Blake made motion to accept Recommendation 1. Mr. Lockhart seconded, and the motion carried.

Recommendation 2: The Committee recommended that the full Board adopt the revised Preneed Contract Forms, to be implemented in the event that House Bill 529 is ratified and made effective prior to the next Board meeting.

Mr. Blake made a motion to accept Recommendation 2. Mr. Lockhart seconded, and the motion carried.

Recommendation 3: The Committee recommended that the full Board issue an Order of Revocation for said consumer, contingent upon submission of a new preneed contract from New York equal to the value of the amount currently in place for the North Carolina contract.

Ms. Lee offered additional information regarding Recommendation 3. Discussion ensued.

Mr. Lockhart made a motion to accept the recommendation 3. Mr. Herndon seconded, and the motion carried. Mr. Watson opposed.

Recommendation 4: The Committee Recommended that the full Board issue an Order of revocation for a consumer that moved out of state.

Mr. Blake made a motion to accept Recommendation 4. Mr. Lockhart seconded, and the motion carried.

Recommendation 5: Mr. Blake made a motion to approve Preneed Recovery Fund Claim # P18-003 in the amount of \$7,000.00. Mr. Herndon seconded, and the motion carried.

Recommendation 6: Ms. Lee offered information regarding P18-004. Mr. Blake made a motion to approve Preneed Recovery Fund Claim # P18-004 in the amount of \$7,403.85. Mr. Lockhart seconded, and the motion carried.

Recommendation 7: Ms. Lee offered information regarding P18-005. Mr. Blake made a motion to deny Preneed Recovery Fund Claim # P18-005 in the amount of \$5,000.00. Mr. Herndon seconded, and the motion carried.

Recommendation 8: Mr. Blake made a motion to approve Preneed Recovery Fund Claim # P18-006 in the amount of \$5,922.05. Mr. Brown seconded, and the motion carried.

Recommendation 9: Mr. Blake made a motion to approve Preneed Recovery Fund Claim # P18-007 in the amount of \$6,934.50. Mr. Watson seconded, and the motion carried.

Recommendation 10: Mr. Blake made a motion to approve Preneed Recovery Fund Claim # P18-0011 in the amount of \$1,650.00. Mr. Brown seconded, and the motion carried.

Mr. Lockhart asked if the Preneed Recover Fund claims received were from actively licensed funeral establishments.

III. Finance and Personnel Committee Report: All members of the Finance & Personnel Committee met via teleconference on Wednesday, June 8, 2018. The Committee discussed the May 2018 Profit & Loss Statement and Balance Sheet. Mr. Herndon made a motion to approve the profit & loss statement and balance sheet. Mr. Brown seconded, and the motion carried.

The Committee also discussed the Board Employee Group Health Plan. Mr. Davis offered additional information regarding group health insurance plans. Discussion ensued.

Mr. Lockhart made a motion to accept the recommendation by offering the Blue Options Gold 1500C plan or the Blue Options HSA Silver 2000 plan with a \$1,000 contribution to each employee's HSA account and a continuation of the current payment of 93% of each employee's premium cost. Mr. Brown seconded, and the motion carried.

IV. Disciplinary Committee Report: Mr. Lockhart stated that the Disciplinary Committee met on June 8, 2018 and makes the following recommendations:

- Dismissals – C18-013; C18-014; C18-015; C18-016; C18-019; C18-021; C18-022; C18-037
- Letters of Caution – C18-023; C18-027; C18-034; C18-036; M18-022; M18-023; M18-025; M18-026; M18-027; M18-028; M18-029; M18-030; M18-031; M18-034; M18-035
- Consent Orders – M18-004; C17-070/M17-038
- Notices of Hearing – M18-032
- Other Matters – M18-0024

Mr. Blake asked how the Disciplinary Committee calculated compromise penalty amounts. Discussion ensued.

Mr. Blake asked for clarification regarding the transfer of C18-016 to the Office of the Chief Medical Examiner. Discussion ensued.

Mr. Blake expressed concerns regarding licensees' increased violations of statutes and rules governing the manner in which preneed calculations and refund of monies to estates should be handled. He encouraged the Board staff to address this issue in the newsletter and on the website.

Mr. Lockhart made a motion to accept the Disciplinary Committee Report. Mr. Brown seconded, and the motion carried.

V. **Executive Director's Report:** Mr. Davis offered the following information:

Ruler's Roundtable

- Public Hearings for Administrative Rules & Records Retention

Mr. Davis reported that on May 15th, he and Catherine Lee, General Counsel, attended a roundtable discussion regarding public hearings that required in the Board's rules review process. He noted that the review of the Board's administrative rules is an on-going process, and the ratification of HB 529, which makes changes to the Board's practice act, would certainly require the revision and possibly the elimination of some rules.

The roundtable discussion also offered information on the law's requirements for the retention of public comments and other written materials associated with the rule-making process.

Best Practices for Occupational Licensing Boards seminar. Topics included the following:

- Proposed legislation for new Financial Reporting Requirements for Occupational Licensing Boards

Mr. Davis reported that he and Amy Mauldin attended a Best Practices seminar on May 17th. He reported that one significant activity associated with financial reporting is a requirement from the Office of the State Controller for the Board to conduct a self-assessment on Internal Control which includes financial reporting, budget reporting, accounts receivables, human resources, capital assets, computer security, and tax compliance.

- Other state's responses to the concept of Active Supervision

Mr. Davis noted that Active Supervision is a concept embedded in rulings by the FTC on matters brought before it for adjudication. In North Carolina, the review of the case brought against the Board of Dental Examiners by non-licensed individuals wanting to offer teeth whitening services to the public resulted in a ruling against the Board. The FTC cited concerns about unfair competition created by some licensure boards and raised the issue of oversight for occupational licensing boards. The issue of active supervision or oversight of licensing boards has been a topic of discussion among the NC Joint Legislative Administrative Procedures Oversight Committee which has filed legislation in the short session for reforming financial reporting requirements for OLB's.

Heard about responses to the FTC's concerns regarding competition and broad oversight of occupational licensing boards in California, Massachusetts, Oklahoma, and Nebraska. There was also brief discussion of the Supreme Court's views on the concept of active supervision which was an element noted in judicial review of the case *N.C. Board of Dental Examiners v FTC* in 2015.

- Sovereign Citizen

Mr. Davis reported that this presentation was a discussion of the strategies and tactics used by those identified collectively by law enforcement as "sovereign citizens." These are individuals who typically reject laws imposed by federal, state and local governments including laws governing regulation and licensure. They do not believe that laws apply to them unless they agree that they do.

There are a number of common traits that identify members of this movement. The relevance to occupational licensing boards is that these individuals are increasingly common in attending public hearings, in filing consumer complaints, and in filing liens and other actions against public officials.

Meeting with Fayetteville Technical Community College

Mr. Davis reported that he and Amy Mauldin recently met with the Chair of the Department of Mortuary Science at Fayetteville Technical Community College and the instructor for Microbiology and Embalming. Their discussion centered on the curriculum, scope of instruction, students' mastery of course material, and concerns about failure rates on state or national board examinations.

The curriculum's focus is shifting from a general theoretical application of course material to a practical application of knowledge, and the focus of the science-related courses is shifting to mortuary-science specific. The program is now using textbooks authored by David Mullen which conforms to guidelines of the American Board of Funeral Service Education. Courses taught in Anatomy, Microbiology, Embalming and Pathology are directly related and specific to mortuary science.

To assist and support students' preparation for taking their state and/or national board examinations, FTTC is requiring the Associate Degree graduates [Funeral Service] to purchase a 3-month subscription to the MATS program, a self-directed course of study in mortuary science. They are also offering on a regular basis a pre-examination preparation course at no cost to those pursuing licensure either in Funeral Service or Funeral Directing.

Mr. Davis conveyed that the FTTC has extended an invitation for the Executive Director to attend their Advisory Committee meetings as well as an offer to host a future Board meeting on-site.

Electronic Death Registration Project

Mr. Davis reported that he and Amy Mauldin met with Catherine Ryan, the State Registrar, for an update on the state's progress toward the development and implementation of a statewide electronic death registration system. Ms. Ryan conveyed that the Vital Records Office housed in the NC Department of Health and Human Services is fully committed to the project, but she cited a

lack of continuity in the decision-making chain as a result of changes in administration from Governor McCrory to Governor Cooper. She also cited difficulty in convincing decision-

makers to identify the necessary funds to either purchase an off-the-shelf software program or to develop the software in-house to build a death registration system.

She could not state a firm target date for implementation but noted that bids were advertised in April 2017 for contractors to develop a system at a projected cost of \$5.5-\$6.5 million.

Memorandum of Understanding – NC Cemetery Commission

Mr. Davis reminded the Board of their earlier direction for him to send a letter to the President of the NC Cemetery Commission regarding the Memorandum of Understanding [MOU] that has circulated between the two boards for the past year. Mr. Davis stated that he had not received a written response to the Board's letter regarding the Memorandum, but he did discuss the issue briefly with his counterpart at the Commission, Gantt Stephens. Without a written response from the Cemetery Commission, Mr. Davis conveyed that he considered the proposed agreement at an impasse.

VI. Activity Measures & Metrics

PRENEED PROGRAM:

Total number of active contracts as of June 8, 2018	181,760
Number of contracts recorded since last Board meeting	1,998
Number of trust contracts	232
Number of Insurance funded contracts	1,765
Estimated number of Certificate of Performances processed	1,328
Number of preneed sales licensees	1,463
Number of newly licensed establishments	0

AT NEED PROGRAM:

CHAPELS	None
CREMATORIES	None
TRANSPORTERS	Eric Terrell Thomas – Smithfield, NC Joshua H. Bugajski – Raleigh, NC
UNAFFILIATED LICENSEES	None
FUNERAL ESTABLISHMENTS	None
FUNERAL SERVICE LICENSEES	Tamela Faye Smith (Conversion) – Hiawassee, GA Jimmi Anne Lowe – Burlington, NC James Cameron Earley – Forest City, NC Ryan P. Watts – Sunbury, OH Christopher Scott Halsey (Conversion) - Lake Wylie, SC
FUNERAL DIRECTORS	Robert Samuel Branum, Jr. – Knoxville, TN Kelvin Ford Lewis – Conway, SC Kendall Shane Taylor – Kinston, NC Melissa Lenore Rachels – Fuquay-Varina, NC

TRAINEES (Starting June 1, 2019)	Aneis R. Brown – Mills Funeral Home, Kinston, NC Johnny R. Bryant – Thomas-Yelverton Funeral Service, Wilson, NC Andrew J. Franklin – Andrews Mortuary, Wilmington, NC Michael A. Gochnauer – Forest Lawn West, Charlotte, NC Gregory D. Nelson – Cotton Funeral Home & Crematory, New Bern, NC Jacob E. Perkins – Heritage Funeral Home, Matthews, NC James A. Pierce – Nicholson Funeral Home, Statesville, NC Morgan E. Randall – Carpenter-Porter Funeral & Cremation Svcs., Cherryville, NC Kim Rocha – Renaissance Funeral Home, Raleigh, NC
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TRAINEESHIP PROGRAM:

Number of Active Trainees		183
Number of Trainees Certified in May		7
Trainees Starting Traineeships on June 1, 2018		9
Number Trainee Applications Currently Pending		11
Number Trainees Submitting Late Work Reports for April		4
Number Trainees Failing to Submit a Work Report for April		3
Number Trainees Submitting Deficient Work Reports for February		14
Number Trainees Failing to Timely Renew or Certify Traineeship		1

INSPECTIONS REPORT: Mr. Davis offered the following information:

- 37 Funeral Establishments were inspected
- 33 Preneed Establishments were inspected
- 4 Crematories were inspected
- 0 Unaffiliated Licensee was inspected
- 1 Chapel was inspected
- 5 Mutual Burial Associations were inspected
- 0 Embalming Facilities were inspected
- 0 Complaints were served
- 7 Investigations were completed
- 0 Notices of Hearing were served
- 0 Final Agency Decisions were served
- 170 Compliance calls were received
- 0 Continuing Education classes were taught
- 5 Compliance emails were issued.

Mr. Blake commended Mr. Davis on his performance as Executive Director and made comments regarding the Electronic Death Registration System.

Mr. Olive also commended Mr. Davis on his performance as Executive Director and made comments regarding the Register of Deed Association's support of an Electronic Death Registration System.

VII. General Counsel's Report: Ms. Lee offered the following information:

DISCIPLINARY MATTERS

Current Active Cases:	60
Pending Investigation:	18
Pending Review by Disciplinary Committee:	0
Pending Dispositive Action:	25
Pending Hearing:	17
Post-Hearing:	0
Other:	0
 New files opened since last Board meeting:	 25
 Notices of Hearing sent since last Board meeting:	 4
 Consent Orders received since last Board meeting:	 2
 Cases reviewed by Disciplinary Committee since last Board meeting:	 26

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 9

Pending Investigation: 3

Pending Dispositive Action: 6

Preneed Recovery Fund Claims received since last Board meeting: 4

Preneed Recovery Fund Claims re-opened since last Board meeting: 0

Preneed Recovery Fund Claims reviewed by Preneed Committee since May Board meeting: 6

VII. Old Business: There was none.

VIII. New Business: Ms. Lee offered additional information regarding HB 529.

Mr. Lockhart asked for a 5-minute recess.

Ms. Lee continued with offering additional information regarding HB 529. Discussion ensued.

Additional public comment were invited at this time.

Mr. Caudle asked for clarification regarding situations where DSS takes possession of unclaimed bodies and which county is responsible for payment of disposition. Discussion ensued.

Mr. Funchess asked for clarification regarding Preneed sales licensees being able to work at multiple locations. Discussion ensued.

Ms. Lee offered information regarding wall certificate formatting to include DBAs.

Mr. Herndon made a motion to approve the wall certificates for renewal. Mr. Brown seconded, and the motion carried.

Ms. Lee offered information regarding changes to the Cremation Authorization forms by allowing religious preferences to only to asserted on a Preneed basis. Discussion ensued.

Mr. Blake made a motion to accept the Cremation Authorization forms and requested that Board staff review the previously-published Cremation Manual. Mr. Herndon seconded, and the motion carried.

Mr. Herndon made a motion to go into closed session for the purpose of preserving attorney-client privilege regarding a pending disciplinary matter, pursuant to NCGS 143-318.11. Mr. Watson seconded, and the motion carried.

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

Mr. Lockhart made a motion to approve the closed session minutes from October 2017 through April 2018. Mr. Herndon seconded, and the motion carried. Mr. Watson abstained from voting.

Mr. Davis queried the Board members regarding their preferences for a 2018 holiday celebration in December. Mr. Davis offered members options for separate Board member and staff celebratory events or a combined celebration. Discussion ensued. Members asked Mr. Davis to poll the full Board as to a preference for either option and report the results.

Mr. Lockhart made a motion to adjourn. Mr. Herndon seconded, and the motion carried.

CERTIFICATION:



Charles Graves, Vice-President



Steve Herndon, Secretary