

# BOARD MEETING MINUTES

November 14-15, 2018

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on October 10 and October 11, 2018, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Charles Graves, Vice-President; Steve Herndon, Secretary; Mark Blake; Don Brown; Valdus Lockhart; Craig Olive; Mike Stone; Chris Watson. Mr. Staton was absent from the meeting.

Also Present: Stephen Davis, Executive Director; Catherine Lee, General Counsel; Staff members Amy Mauldin, Brett Lisenbee, and Alice Knowles; Dorman Caudle with Carolina Donor Services; Fred Jordan with Miracles in Sight; Blair Nelsen with SCI North Carolina; Charles McDarris with Bailey & Dixon; Bob Crawford with Crawford & Crawford.

Mr. Graves called the meeting to order at 9:03 am and led the Pledge of Allegiance. Mr. Herndon offered the invocation.

Mr. Graves read the Ethics Statement. No Board members recused themselves.

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

## **APPROVAL OF MINUTES**

Mr. Herndon stated the October 10-11, 2018, minutes had been previously provided to Board members. Mr. Herndon made the motion to approve the minutes. Mr. Olive seconded, and the motion carried.

## **PUBLIC COMMENT:**

Mr. Blair Nelsen, a member of the Virginia Board of Funeral Directors and Embalmers, offered brief comments on North Carolina's requirement for signatures by licensees on preneed contracts. Mr. Nelsen suggested to the Board that offering an option for electronic signatures would facilitate completion of preneed contracts and asked that the Board consider this option.

## **FINANCE AND PERSONNEL COMMITTEE:**

Mr. Herndon, Chair, presented the report of the Financial and Personnel committee which met on November 8, 2018. Mr. Herndon, Mr. Blake, Mr. Staton, and Mr. Stone met via conference call.

Stephen Davis, Executive Director, reported to the Board that the Profit and Loss Statement and Balance Sheet indicated a positive position on the Board's operational expenses in relation to revenue. He noted that 94.6% of the projected revenues have been received and that the remaining 2 months in the 4<sup>th</sup> quarter will allow sufficient time to collect more than the budgeted amount. He also noted that the Profit and Loss Statement shows that the Board has expended 80.9% of the 2018 operating budget which is slightly less than the target of 83% for the period ending October 31, 2018. Mr. Davis commented on the Balance Sheet inform Board members that there is a possibility of increasing the yield on the Board's CD's at Capital Bank and that he would pursue that possibility with the bank. He also noted that the Preneed Recovery Trust Fund balance was artificially lower than actual

because the receipts from the \$5 designation from preneed contract filing fees had not been deposited for September and October owing to the vacant Budget Officer position. He noted that the figure would increase by \$10,000 - \$12,000 once those deposits have been made. In addition, he reported that recently, an agreement between Edward McGimpsey and the court had been reached. In that agreement, Mr. McGimpsey agreed to repay the Board approximately \$32,000.00 for preneed monies that were unaccounted for and would be repaid into the preneed recovery fund. In response to a question from the Board, Mr. Davis agreed to investigate the advisability of maintaining a small checking account that the Board has with First Citizens Bank.

Mr. Davis informed the Board about staff's current recruitment efforts in circulating vacancy announcements for hiring qualified individuals for the Preneed Program Manager and Administrative Officer positions.

Mr. Davis also reported that the Committee considered an application for donation of leave from a former employee but found that the intended recipient was ineligible to receive voluntary shared leave donations. Discussion ensued. He noted that the Committee declined to approve the application for Voluntary Shared Leave.

Mr. Olive moved that that the Board accept the report of the Finance and Personnel Committee and approve the October Profit and Loss Statement and Balance Sheet. Mr. Brown seconded the motion. The motion carried.

#### **DISCIPLINARY COMMITTEE:**

Mr. Lockhart stated that he and Mr. Herndon met via conference call on October 10, 2018.

The following recommendations were made to the Board:

- Dismissals – C18-0068, C18-0070, C18-0070
- Letters of Caution – C18-0064, C18-0069, M18-0063, M18-0066
- Notice of Hearing – M18-0065
- Consent Order – C18-0001, M18-0036, M18-0045 et. al., M18-0059
- Other — Complaint - establishment is no longer licensed by the Board; therefore, the Board has no jurisdiction over non-licensees and no violation over which the Board has jurisdiction was found.

M18-0064 – A Mutual Burial Association's accounts had been frozen for several years, pursuant to a Board Order. Since there is no evidence to show the necessity of maintaining the freeze on the operating accounts at this time, the Disciplinary Committee recommends that the Board lift the freeze on the operating accounts of the association.

Mr. Blake made a motion that the Board accept the Disciplinary Committee Report. Mr. Olive seconded, and the motion carried.

#### **PRENEED COMMITTEE:**

Mr. Blake, Chair; Mr. Brown; and Mr. Staton convened via conference call on November 1, 2018, at 8:30 AM to and make the following recommendations:

**Discussion No. 1: Request for Order of Revocation No. 1**

The Committee recommends that the full Board issue an Order of Revocation for said consumer.

**Discussion No. 2: Request for Order of Revocation No. 2**

The Committee recommends that the full Board issue an Order of Revocation for said consumer.

**Discussion No. 3: Request for Order of Revocation No. 3**

The Committee recommends that the full Board issue an Order of Revocation for said consumer.

**Discussion No. 4: Request for Order of Revocation No. 4**

The Committee recommends that the full Board issue an Order of Revocation for said consumer.

**Discussion No. 5: Review of Pending Preened Recovery Fund Application P18-013**

Preened Recovery Fund Claim # P18-013 in the amount of \$5,582.00 does not appear to meet the statutory requirements for reimbursement.

The Committee recommends that the Board deny Preened Recovery Fund Claim # P18-013 in the amount of \$5,582.00.

Mr. Blake made a motion that the Board accept the Preened Committee Report. Mr. Herndon seconded, and the motion carried.

**LAWS, RULES, AND REGULATIONS COMMITTEE:**

Mr. Graves, Mr. Brown and Mr. Stone convened via conference call on November 2, 2018 for the Laws, Rules and Regulations Committee meeting. Mr. Graves presented the report outlining changes to the Board's Compliance Manual. Brett Lisenbee and Ms. Lee presented additional information and answered questions from the Board. Discussion followed.

Mr. Olive made a motion that the Board accept the Laws, Rules & Regulations Committee Report. Mr. Lockhart seconded, and the motion carried.

Mr. Davis thank Mr. Lisenbee for his diligence in writing the compliance manual.

**EXECUTIVE DIRECTOR'S REPORT:**

**2019 Renewals**

Licensure renewal for 2019 is underway, and the Board is offering a new option for on-line renewal this year. Board staff have communicated to licensees through the newsletter and through the e-mail distribution list that the link on the iGov system allows for both renewal and payment on the same portal. Licensees do not have to complete an on-line form and then go to the on-line payment site as in the past. This year, they can complete their renewal and payment on one site which offers them a more efficient and timely service for

renewal. It's a client-centered service that is designed to increase the number of on-line renewals in the future. Approximately 200 licensees have thus far logged onto iGov to renew their licenses using this option. Board staff plan to send additional e-mail reminders encouraging licensees to renew on-line in hopes that the volume of hard copy applications and checks for renewal fees can be reduced.

Licensees not renewing on-line will receive a hard copy of the renewal application and instructions for completion and payment beginning December 1<sup>st</sup>.

**Meetings and Conferences:**

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| October 10, 2018     | <u>SCI Representatives</u><br>Introductory Meeting and general discussion of roles and relationship with SCI Corporate Counsel, Dan Kleban, and Managing Director of Governmental and Industry Relations, Caressa Hughes.                         |
| October 17, 2018     | <u>NC Cemetery Commission</u><br>Next meeting is January 16, 2019   |
| October 23, 2018     | <u>Condominium Owners Association Annual Meeting</u><br>No increase in dues for 2019<br>Major projects will include repairs, resurfacing and restriping parking lot;<br>Condominium Owners' Association 2019 Budget Approved;<br>Officers Elected |
| February 27-28, 2019 | The International Conference of Funeral Examining Boards –<br>San Diego, California   |

**Staffing:**

- Administrative Officer and Preneed Program Manager

Recruitment is currently underway for an Administrative Officer and a Preneed Program Manager position. The Administrative Officer is the position formerly held by Sharon Devine, and the Preneed Program Manager was held by Tanya Pearson. Both positions have been posted to the Board's website with an option for on-line submission of resumes. The positions have also been posted to the NCFDA website, and Cheryl Anderson of the Funeral Directors and Morticians Association has also agreed to advertise these positions on the Association's website. The closing date for recruitment is November 30, 2018.

- New Temporary Employee

Mr. Archie Hunt has been hired to fill the Administrative Officer position until an appointment on a permanent basis can be made. Mr. Hunt holds a BS degree in Accounting from the University of North Carolina at Greensboro, and he has worked with the Rowan-Salisbury School District and the NC Division of Social Services where he gained invaluable knowledge and skill with the NC Accounting System, budget development and administration, payroll processing, accounts payable and receivable and other fiscal-related duties.

- Senior Program Assistant

This position, formerly held by Marty Mills, has been eliminated and the duties divided among Board staff. The position's primary duties for at-need licensure including transporter permits have been shifted to Amy Mauldin, Assistant Director; the at-need business licensure responsibilities have transferred to the field inspections team; the Continuing Education program has been delegated to Alice Knowles; and the responsibility for processing monthly cremation reports has been delegated to Valencia Brown.

**Statement of Mission and Core Values**

Mr. Davis provided the Board members a draft Mission Statement and Core Values document which he and Ms. Mauldin developed as a reminder to staff and stakeholders alike that the Board adheres to certain fundamental principles in conducting its business and fulfilling its statutory mandate for regulation and licensure of North Carolina's funeral profession. He noted that the Board may want to consider these documents in future planning sessions and amend as necessary.

**Board-Sponsored and Other Continuing Education Training**

Mr. Davis reported that Brown-Wynne Funeral Home in Raleigh, NC, hosted board-sponsored training led by Compliance Officer Brett Lisenbee on October 24 and 25, 2018. He reminded the Board that all continuing education courses are currently listed on the Board's website. He also announced that the Funeral Directors and Morticians of NC Association [FDMANC] would be sponsoring a training seminar on December 4, 2018, in Greenville, NC. Mr. Don Brown, Board Member and Chair, FDMANC Eastern District will host the seminar.

**Memorandum of Understanding with the North Carolina Cemetery Commission**

In May, the Board instructed the Executive Director to draft a letter outlining the Board's thoughts and expectations for the Memorandum of Understanding which was discussed in late 2017 and early 2018. The letter was mailed to Mr. Bill Gaffney, President of the Cemetery Commission, on May 9, 2018. The Executive Director received Mr. Gaffney's response in October which acknowledged the Board's issues and concerns but reiterated the Commission's position on the MOU. Mr. Gaffney reiterated that the Commission was affirming their January 2018 vote to approve the MOU without Section G which had been adopted by the Board in November 2017 to include a listing of commitments and responsibilities that would pertain only to the NC Board of Funeral Services.

**Activity Measures & Metrics:**

Mr. Davis offered the following information:

**Licensure Report**

CHAPELS	None
CREMATORY LICENSEES	L. Harold Poole Funeral Service & Crematory – Knightdale (ownership change)
HYDROLYSIS LICENSEES	None
TRANSPORTERS	Harry L. Smith, Jr. Yvette M. Whitley

EMBALMING FACILITIES	None
UNAFFILIATED LICENSEES	None
FUNERAL ESTABLISHMENTS	Life and Legacy Funerals and Cremations, LLC – Indian Trail L. Harold Poole Funeral Service & Crematory – Knightdale (ownership change) Wells Funeral Homes & Cremation Services – Canton (ownership change) Wells Funeral Homes & Cremation Services – Waynesville (ownership change)
PRE-NEED ESTABLISHMENTS	L. Harold Poole Funeral Service & Crematory – Knightdale (ownership change) Wells Funeral Homes & Cremation Services – Canton (ownership change) Wells Funeral Homes & Cremation Services – Waynesville (ownership change)
FUNERAL SERVICE LICENSEES	Gary D. Pendry – Bassett, VA Scott H. Willison – Manteo, NC
FUNERAL DIRECTORS	Camille-Macie Rumph – Winston-Salem, NC
TRAINEES Beginning Nov. 1, 2018	Julien A. Buckmire – Brown-Wynne Funeral Home Ryan J. Clark – Apex Funeral Home Levi J. Elliott – Willis-Reynolds Funeral Home Jefferson R. Green – J.C. Green and Son Funeral Home Gustavo E. Gomez – Boles Funeral Home Richard P. Howard – Townson Rose Funeral Home Hunter E. Hildreth – Gordon Funeral Service & Crematory Clarence B. Hunt, II – Serenity Funeral Home and Cremations, LLC Nathaniel Johnson – Macon Funeral Home Ryan B. Knight – Hartsell Funeral Home Tara Beth Korhonen - Jones Funeral Home Amanda L. Negron – Boston’s Mortuary

Mr. Davis congratulated the new licensees, trainees, transporters, and establishments.

**Compliance and Inspections Report:**

Funeral Establishments inspected	18
Preneed Establishments inspected	16
Crematories inspected	4
Hydrolysis Licensee inspected	0
Unaffiliated Licensees inspected	1
Chapels inspected	1
Mutual Burial Associations were inspected	2
Embalming Facility	0
Complaints served	1
Investigations completed	1
Notices of Hearing served	0
Final Agency Decisions served	0
Continuing Education classes taught	3

Compliance emails issued	1
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**ATTORNEY'S REPORT:**

Ms. Lee stated that the Legal Department is on track to resolve most pending hearings within the next several months. She offered the following information:

<b><i>Current Active Cases</i></b>	<b>27</b>
Pending Investigation	4
Pending Review by Disciplinary Committee:	0
Pending Dispositive Action	9
Pending Hearing	14
Post-Hearing	0
Other	0
New files opened since last Board meeting	4
Notices of Hearing sent since last Board meeting	3
Consent Orders received since last Board meeting	2
Cases reviewed by Disciplinary Committee since last Board meeting	9

<b><i>Current Active Preneed Recovery Fund Claims</i></b>	<b>1</b>
Pending Investigation	1
Pending Dispositive Action	0
Preneed Recovery Fund Claims received since last Board meeting	0
Preneed Recovery Fund Claims reviewed by Preneed Committee since September	0

Ms. Lee reported on a meeting of the Commission on Anatomy during which discussion occurred regarding procedures to be used when licensees have an unclaimed body following the ten-day waiting period required by statute. The Commission decided that it will decide whether they need the body for their programs; licensees are encouraged to email the individual Commission member who is geographically closest to the location of the decedent to determine whether the Commission will accept the donation. Discussion ensued.

**Old Business:**

A question arose regarding the difficulties of families to receive final notice of cause of death from the state Medical Examiner's office. Mr. Brown stated that by law the Medical Examiner has 180 days to render a decision on the cause of death. Mr. Davis said that he will arrange a meeting with Dr. Michelle Aurelius, Deputy Chief Medical Examiner, to discuss licensees' concerns. In addition to Mr. Davis, Mr. Herndon and/or Mr. Blake will also attend the meeting.

**New Business:**

Mr. Lisenbee and Ms. Lee offered information regarding the revised Certificate of Performance and Preneed Calculator which will be posted to the Board's website. Mr. Lockhart made a motion to accept the revised Certificate of Performance and Preneed calculator with a mandatory effective date of January 1, 2019.

Mr. Davis provided the Board members a proposed meeting schedule for 2019. Mr. Lockhart recommended that the Board adopt the 2019 Meeting Schedule as presented. Mr. Olive seconded, and the motion carried.

Mr. Davis said that the Board in 2017 had mandated the election of officers annually at the November meeting. Mr. Staton then proceeded with the election of officers after a brief discussion concerning the order by which officers would be elected. Mr. Staton asked for nominations beginning with President and concluding with Secretary.

- Mr. Lockhart nominated Steve Herndon for President. Mr. Staton seconded, and Mr. Herndon was elected.
- Mr. Staton recommended Mark Blake for Vice-President. Mr. Olive seconded, and Mr. Blake was elected.
- Mr. Olive recommended Don Brown for secretary. Mr. Blake seconded, and Mr. Brown was elected.

The Board conducted a disciplinary hearing in the matter of M18-060. Mr. Herndon and Mr. Lockhart recused themselves as they are members of the Disciplinary Committee. Mr. Graves presided at the hearing. Respondent requested a continuance of the hearing. Mr. Olive made a motion to enter into closed session to deliberate Respondent's request, and Mr. Blake seconded. The motion carried. Upon proper motion by Mr. Olive and seconded by Mr. Brown, the Board concluded the closed session and resumed its open session. Respondent did not return to the hearing to hear the decision of the Board regarding his request for a continuance. Mr. Blake made and Mr. Brown seconded a motion to recess the Board meeting until 9:30 AM on Thursday, November 15, 2018. The motion carried.

The Board reconvened on Thursday morning at 9:30 to conduct a disciplinary hearing in the matter of C18-0006. Mr. Herndon and Mr. Lockhart were recused. Following the conclusion of the hearing, Mr. Brown made a motion to adjourn the meeting, and Mr. Blake seconded. The motion carried, and the meeting was adjourned.



*Charles Graves, Vice-President*



*Steve Herndon, Secretary*