



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes June 12, 2019 Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on June 12, 2019, at the Board's office located at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Steve Herndon, President; Mark Blake, Vice-President; Don Brown, Secretary; Valdus Lockhart; Craig Olive; Mike Stone; Hubert Saunders; Chris Watson; and Charles Graves.

Staff and Counsel: Stephen Davis, Executive Director; Assistant Director Amy Mauldin; Robert Berry, staff member; and Jack Nichols, Senior Partner, Nichols Choi & Lee.

Guests and Visitors: Dorman H. Caudle, Carolina Donor Services, Blair Nelson, SCI; Fred Jordan, Miracles In Sight; Deborah Cunningham, licensee.

Mr. Herndon called the meeting to order at 9:10 am and led the Pledge of Allegiance. He then asked Mr. Brown to offer the invocation. Following the invocation, Mr. Herndon read the Statement of Ethics and asked if any members found it necessary to recuse themselves from the meeting. None recused. Mr. Herndon then asked guests to introduce themselves and invited any public comment. None was offered.

Approval of Minutes

Mr. Herndon recognized Mr. Don Brown, Secretary, for presentation of the minutes from the May 8, 2019, meeting. Mr. Brown asked members if there were any questions or amendments to the minutes as presented. Hearing none, Mr. Brown invited a motion to approve the minutes.

Upon a motion by Mr. Graves and a second by Mr. Watson, the Board unanimously adopted the minutes as presented.

Mr. Herndon continued the meeting and called upon Mr. Mark Blake for the Finance and Personnel Committee report.

Finance and Personnel Committee Report

Mr. Blake stated that the Finance and Personnel Committee met by conference call on Thursday, June 6, 2019, to discuss the Board's year-to-date financial reports and to hear updates from the Executive Director

on recruitment for the General Counsel position. Mr. Blake noted that outsourcing the Board's accounting functions to an external accounting firm has thus far resolved many of the concerns that the Board had discussed in recent months resulting from staff turnover. He noted that the audit of the Board's financial statements in March indicated the need for improved internal controls in certain areas including the timely deposit of checks and reconciliation of bank statements with deposits.

Mr. Blake then asked the Executive Director, Stephen Davis, to offer additional details regarding the Committee's meeting. Davis reported that the Statement of Revenues and Expenditures indicated that 57% of the projected income for Fiscal Year 2019 had been collected. He also stated that the operating expenses at the end of the 1st quarter were at 31.1% which is just under the 33.3% that would be typical for that time period. He also noted that the Committee discussed the timing of furnishing financial reports to the Committee for review. Prior to outsourcing the accounting functions to Thomas, Judy & Tucker, Board staff prepared a Profit and Loss Statement and Balance Sheet as of the end of each month. Those reports, however, were incomplete since they did not reflect all accounts payables and receipts for a particular month. Thomas, Judy and Tucker do not provide financial reports until all monthly payables and receivables have been closed out to assure that the Board receives accurate information regarding operating expenses and net position. Under the current system, financial reports are provided by the end of the first two weeks in the following month. Since the Board typically meets around a mid-month date, the financial reports provided the Finance and Personnel cannot include information for the month immediately preceding the monthly Board meeting. Mr. Davis conveyed to the Board that he and Amy Mauldin are in continuous communication with the accounting firm and review financial data constantly throughout each week. Doing so enables staff to monitor spending levels and manage the budget more precisely than in the past.

Members discussed whether or not the Board should consider moving the monthly meeting to a later date in the month to allow sufficient time for Thomas, Judy and Tucker to provide financial reports after the preceding month's accounts have been closed out. Mr. Graves endorsed this idea while Mr. Stone expressed concern that the financial information the Board now receives is thirty [30] days later than in the past. Mr. Blake noted that changing the Board meeting schedule mid-year could create confusion since the schedule is published on the website and that licensees or other stakeholders may have adapted their own schedules to the Board's meeting schedule. Mr. Brown agreed that changing the meeting schedule would have impact on stakeholders. Mr. Herndon suggested that the Board defer a decision on whether or not to change the meeting schedule until the August meeting.

Mr. Blake continue his report by asking Mr. Davis if there were additional comments on items the Committee had discussed in their conference call. Mr. Davis reported the following:

- Employee Health insurance rates will increase by 2-5% depending on which plan an employee has elected. The HSA will increase by approximately 2% while the Blue Options plan will increase by 5.2%.
- Digital Information Systems, Inc. purchased the Microsoft SurfacePro tablets for nearly \$200 less than the original proposed cost.
- Recruitment for legal counsel continues, and Mr. Davis recommended a contractual arrangement with the Attorney General's Office to provide a part-time staff attorney. He noted

- that the applicants from the recent job posting did not have administrative law background that the work requires.
- Mr. Davis conveyed to the Committee that he and Ms. Mauldin plan to meet with a firm recommended by Thomas, Judy and Tucker to identify cost savings by analyzing the Board's invoices, payment records, contract and other financial documents. He noted that the firm does not assess any fee for this service unless it identifies savings that accrue to the Board. He will report back to the Committee after an initial meeting with the firm's CEO to gather more detailed information about their services.

Mr. Herndon continued the meeting and asked Mr. Blake to present the Preneed Committee Report.

Preneed Committee Report

Mr. Blake reported that the Preneed Committee convened by conference call on June 6, 2019, to discuss a request from a preneed contract beneficiary wishing to revoke a trust-funded preneed contract. Mr. Blake explained that the beneficiary had moved out-of-state and executed a contract in another state. He noted that staff confirmed the execution of a new contract as required by the Board's statutes. He further noted that the Committee agreed with staff's recommendation to revoke the contract as requested because the request fully complied with the Board's statutes and rules.

Mr. Blake offered a motion that the Board accept staff's recommendation to allow revocation of the trust-funded preneed contract based upon compliance with prevailing statutes and rules. Mr. Lockhart offered a second to the motion. The Board voted unanimously to accept the recommendation for revocation as moved.

Mr. Blake continued his report by stating that the Committee had discussed the status of the proposal to amend the existing preneed contract instruments. He noted that the proposal which included drafts of the amended contract forms had been placed on the Board website as well as forwarded through the licensee email distribution list. He reminded the Board that this information was sent earlier in the year and allowed a 90-day comment period by stakeholders. He continued by stating that he could not support the proposed forms as presented given the negative feedback he had heard from the NC Funeral Directors Association as well as other stakeholders. Mr. Herndon asked about the kind of feedback the Board had received, and Mr. Davis responded that both licensees as well as insurance providers had expressed concerns about the length of the forms and the extent of content expressed in legal terminology which they thought would confuse consumers. Davis noted that many of those responding offered suggestions for improvements to the proposed forms. Mr. Brown said that using addenda as a supplement to the contract form would reduce the length of the contract form. Mr. Stone suggested a survey of other states to assess other formats for preneed contracting. Members continued their discussion of the issue and agreed that staff should continue to study the feasibility of any changes to the contract forms and report to the Board at a later date.

Executive Director's Report

[Following is the content of the written report given by Executive Director Stephen Davis to the Board]

Pending Legislation

- HB 554 – Technical Amendments Bill

I understand that there is a possibility that this legislation will be calendared this week on the Senate Rules and Operations Committee for consideration.

- HB 484

This bill was referred to the House Judiciary Committee on March 28th. If it is reported out favorably, it will be sent to the State and Local Government Committee. If reported out favorably, it will then be sent to the House Rules, Calendar and Operations Committee.

- HB 770

This legislation requires occupational licensing boards to consider eight [8] criteria when determining whether or not to issue a license to individuals with a criminal history. If a board denies licensure, then the unsuccessful candidate may file a petition at any time for a hearing before the board for a determination of whether the petitioner's criminal history is grounds for denial of a license. If license is denied, the Board must within 30 days notify the petitioner in writing specific information regarding the reasons for denial.

- SB 553: *An Act To Provide Regulatory Relief To The Citizens of North Carolina.*

One provision of this proposed legislation is a requirement for occupational licensing boards to study and report on their on-line continuing education programs and services. The report will be due by December 1, 2019 if the legislation passes.

Employee Health Plans – Renewal for 2019

The Board currently offers a Health Savings Account and a Blue Cross/Blue Shield Options Plan. Premiums will increase slightly this year. The HSA premium increase is approximately 3% and the BC/BS Option Plan will increase by 5%. There are no premium increases for:

- Group Term Life Insurance
- Accidental Death & Dismemberment
- Long Term Disability
- Short Term Disability
- Vision

There will be a \$2.00 per month premium increase for the dental plan.

Rulemaking

The temporary rules that the Board adopted in emergency session in April will be published in the NC Administrative Code and will be posted on the website for the NC Office of Administrative Hearings.

Meetings and Conferences

NCFDA Pinehurst, NC May 20 – 21

Amy Mauldin and I attended the NC Funeral Directors Association conference and exhibition on May 20 and 21 and spoke with many licensees on a number of issues ranging from the preneed contract proposals to a suggestion that the Board waive the requirement for the surety bond for preneed sales licensees.

FDMANC Durham, NC June 17 – 20

We look forward to joining the Funeral Directors and Morticians Association convention planned next week beginning on Monday in Durham.

At-Need Licensure Report

CHAPELS	Affordable Cremations - Fayetteville
CREMATORY LICENSEES	None
HYDROLYSIS LICENSEES	None
TRANSPORTERS	None
EMBALMING FACILITIES	Forest Lawn West Funeral and Cremations Service - Charlotte
UNAFFILIATED LICENSEES	None
FUNERAL ESTABLISHMENTS	Lori's Funeral Home and Cremations Services - Selma
PRE-NEED ESTABLISHMENTS	Gilmore Mortuary Services, LLC – Charlotte Coastal Cremations and Funeral Care - Jacksonville
FUNERAL SERVICE LICENSEES	Graham H. Hatley – Albermarle, NC Eddie T. Morris – Lavonia, GA Cassius I. Murray – Marion, NC
FUNERAL DIRECTORS	None
TRAINEES Beginning April 1, 2019	Frank P. Basinger – Whitley's Funeral Home C. Manning Burton, Jr. -Cecil M. Burton Funeral Home & Crematory Kasey Castevens – Hayworth-Miller Funeral Homes and Crematory William R. Cavalier – Lafayette Funeral Home Kyler Eagle – Powles Staton Funeral Home Vincent J. Jordan – Knotts and Son Funeral Home John C. Lewis, IV – Colvin Funeral Home

	Kailah F. Rose – Bunch-Johnson Funeral Home Bernard R. Vereen – McEwen Funeral – Pineville Chapel Brandon A. Wood – Butler Funeral Home
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Compliance and Inspections Report:

Funeral Establishments inspected	26
Preneed Establishments inspected	25
Crematories inspected	3
Hydrolysis Licensee inspected	0
Unaffiliated Licensees inspected	2
Chapels inspected	1
Mutual Burial Associations were inspected	1
Embalming Facility	1
Complaints served	0
Investigations completed	0
Notices of Hearing served	0
Final Agency Decisions served	0
Continuing Education classes taught	0
Compliance emails issued	0

To allow a brief break in the proceedings, Mr. Herndon recessed the Board meeting at 10:15 a.m. and reconvened at 10:36 a.m.

Mr. Herndon asked members if there were any items under Old Business for the Board’s consideration and discussion. There were none. He asked if there were any items under New Business for the Board’s consideration and discussion. There were none.

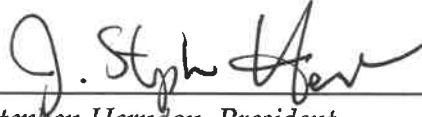
Mr. Herndon then noted that Jack Nichols, Senior Partner at Nichols, Choi and Lee had information on pending litigation to share with the Board. Mr. Herndon then invited a motion for the Board to convene in closed session to protect attorney-client privilege.

Upon a motion by Mr. Graves and a second by Mr. Saunders, the Board voted unanimously to reconvene in closed session.

The Board returned to open session upon a motion by Mr. Graves and second by Mr. Brown. The vote was unanimous.

Mr. Herndon then recognized Mr. Graves for a motion to approve Mr. Nichols’ continued representation of the Board in two pending matters requiring filings in the general court system. Investigations of each matter are currently pending. Mr. Brown offered a second to the motion. The Board voted unanimously to approved Mr. Nichols as the Board’s outside counsel on the matters currently under investigation.

Affirmation:



J. Stephen Herndon, President



Don Brown, Secretary

8-14-19

Date