

NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes August 12, 2020 Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting by Webex videoconference at 9:00 a.m. on August 12, 2020, at the Board's office located at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Mark Blake, President; Don Brown, Vice-President; Chris Watson, Secretary; Valdus Lockhart; Steve Herndon; Mr. Hubert Saunders; Mr. Craig Olive; Dr. Steven Lyons; and Mr. Darrell McCormick.

Staff and Counsel: Stephen Davis, Executive Director; Amy Mauldin, Assistant Director; Catherine Lee, General Counsel; and Brett Lisenbee, Compliance Officer.

Guests and Visitors: Lauren Thomas, Membership Director, The International Conference of Funeral Service Examining Boards; Dalene Paull, Executive Director, The International Conference of Funeral Service Examining Boards; Karen Davis-Brunson, Compliance Inspector for the Board.

Mr. Blake called the meeting to order at 9:07 a.m. and noted that the Board's meeting by videoconference would require procedures outlined in Session Law 2020-3, legislation which addressed North Carolina's response to the coronavirus crisis. Among its provisions, Mr. Blake noted that all votes taken by the Board during the meeting would be by roll call. Mr. Blake then read the Statement of Ethics and asked if any members would be recusing themselves. None recused. Mr. Blake then asked Mr. Watson to present the minutes from the July 15, 2020, Board meeting.

Approval of Minutes

Upon a motion by Mr. Olive and a second by Mr. McCormick, the Board voted by roll call and adopted the minutes as presented by majority vote.

Mr. Blake continued the meeting by presenting the Finance and Personnel Committee report.

Finance and Personnel Committee Report

Mr. Blake reported that the Finance and Personnel Committee convened by conference call at 9:08 a.m. on Thursday, July 6, 2020, at the Board office located at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. In attendance were Mr. Mark Blake, Chair; Mr. Valdus Lockhart; and Mr. Steve Herndon. Staff in attendance were Mr. Stephen Davis, Executive Director and Ms. Amy Mauldin, Assistant Director.

Mr. Blake asked Mr. Davis to summarize the financial reports for the period ending June 30, 2020. Mr. Davis referred members to the Statement of Net position and reported that the Preneed Recovery Trust Fund showed a balance of \$359,566. He summarized the fund balances under Net Position and said that the Unrestricted Fund Balance was at \$1,165,274.56. Davis said that the unrestricted fund balance affirms that the Board has an 8 to 9-month reserve of operating capital which indicates an exceptionally strong net position.

Mr. Davis then referred committee members to the Statement of Revenue and Expenses which indicated that Total Revenue collected at the end of June was \$991,074 which represented 65.5% of the total budgeted revenue amount of \$1,513,038.00. Mr. Davis reported that the Board's expenditures as a percentage of Total Budget were at 49.1% compared to 46.6% for the same period in 2019. He noted that at the end of the June 2020 reporting period, the expected percentage would be 50% and stated that the budget is on track as in past years without any indication of expenses exceeding revenue.

Mr. Blake invited questions or comments regarding the financial reports for the period ending June 2020. Brief discussion ensued.

Upon a motion by Mr. Olive and a second by Mr. Lockhart, the Board voted by roll call and approved by majority vote the Finance and Personnel Committee recommendation to approve the June 2020 financial reports as presented.

Mr. Blake continued his report with a reference to the Request for Proposal that will be sent in early September to solicit bids for an independent audit firm to conduct the Board's annual audit of financial statements. Mr. Davis affirmed that the RFP had been drafted and would be sent to a list of firms that had applied in 2017 during the last solicitation as well as those firms with experience in auditing occupational licensing boards. He noted that the law requires that occupational licensing boards send an RFP every 3 years to identify an independent accounting firm.

Mr. Blake continued and asked Mr. Davis for a status report on the recruitment to fill the vacant Compliance Inspector position. Mr. Davis summarized staff efforts and noted that finalists for the position had been selected and would be subject to a two-stage interview process beginning with an initial structured interview which would identify final candidates. From that applicant pool, one or two finalists would be identified who would then return for a second interview. The interviews, he noted, are conducted by Mr. Lisenbee, Ms. Mauldin and himself. At the conclusion of the interviews, Mr. Davis said that a selection and offer would be made.

Mr. Blake asked members for any questions or comments regarding the RFP or the recruitment procedures that Mr. Davis outlined. None were offered. Mr. Blake continued the meeting and asked Mr. Lockhart to present the Disciplinary Committee report.

Disciplinary Committee Report

Mr. Lockhart stated that the Disciplinary Committee met to consider and discuss cases and recommendations from General Counsel Catherine Lee for the following:

Dismissals

C20-0043

Letters of Caution

C20-0031	C20-0037	C20-0041	M20-0095
M20-0096	M20-0097	M20-0098	M20-0099
M20-0100	M20-0101	M20-0104	M20-0105
M20-0107/M20-0108			

Notices of Hearing

C20-0033
Concurrent Cases: C19-0034; C19-0041; C20-0038; C20-0040; and M20-0111

C20-0038
Concurrent Cases: C19-0034; C19-0041; C20-0033; C20-0040; and M20-0111

C20-0040
Concurrent Cases: C19-0034; C19-0041; C20-0033; C20-0038; and M20-0111

M20-0106
Concurrent Cases: M16-0057

M20-0110
Concurrent Cases: None

M20-0111
Concurrent Cases: C19-0034; C19-0041; C20-0033; C20-0038; and C20-0040

Other

M20-0103

Mr. Blake offered questions to Ms. Lee concerning cases M20-0095 through M20-0108 and how these cases originated. Ms. Lee responded that these cases are generated through the compliance inspections of funeral establishments. Mr. Blake noted that these cases presented common issues and expressed concern that many of these cases reflected chronic bookkeeping errors and failure to comply with the federal Funeral Rule. Discussion ensued.

Upon a motion by Mr. Lockhart and a second by Mr. Herndon, the full Board voted by roll call to unanimously accept the Disciplinary Committee's recommendations for the referenced cases.

After the vote, Mr. Blake asked Mr. Lockhart about the duration of the time needed for the Disciplinary Committee to meet and consider the recommendations. Mr. Lockhart responded. Mr. Blake commended the Disciplinary Committee for its diligence and deliberations on cases coming before it.

Mr. Blake asked Ms. Lee, General Counsel, to present the Legal Report.

Legal Report

Ms. Lee reported the following activity to the Board:

Current Active Cases: 69 total cases broken down as follows:

Pending Investigation:	23
Pending Review by Disciplinary Committee:	0
Pending Dispositive Action:	22
Pending Hearing:	19
Post-Hearing:	0
Other:	5

New files opened since last Board meeting: 34

Notices of Hearing sent since last Board meeting: 4

Consent Orders received since last Board meeting: 4

Cases reviewed by Disciplinary Committee since last Board meeting: 22

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 1

Pending Investigation:	0
Pending Dispositive Action:	1

Preneed Recovery Fund Claims received since last Board meeting: 0

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

Preneed Recovery Fund Claims reviewed by Preneed Committee since last Board meeting: 0

Ms. Lee offered to answer any questions or respond to any comments from Board members. Mr. Blake asked if the denials of applications were from prospective licensees or trainees. Ms. Lee summarized those particular cases.

Ms. Lee continued her report with the following information:

- **Update on Administrative Rulemaking**

Ms. Lee reminded the Board that members had approved at an earlier meeting a temporary rule for the waiver of administrative rules not otherwise statutorily required. She noted that such waivers can be approved on a case-by-case basis as the Board deems appropriate in response to the impact of the pandemic. Ms. Lee stated that the Board has the option to initiate permanent rulemaking for this particular temporary rule if it so desired.

Ms. Lee continued and reminded members that the public comment period for 21 NCAC 34B .0110 for which the Board proposed amendments at an earlier meeting will expire soon. She explained the

amendments to the rule and noted that the primary purpose was to update the rule, to eliminate any ambiguity in the completion of trainee work reports, and to assure consistency in the completion of trainee work reports and checklists with current practice. She noted that the proposed amendments to the rule would include the imposition of a \$25.00 fee for trainee work reports that are not timely filed with the Board.

- **Joint Legislative Program Evaluation Oversight Committee**

Ms. Lee stated that this legislative committee has in the past addressed issues impacting occupational licensing boards. She noted that the committee met recently but no agenda items were presented that had any impact on occupational licensing boards.

Ms. Lee offered to respond to any questions or comments from members. Mr. Lockhart asked whether or not the Board had received negative comments on the proposed waiver rule during the public comment period, and Ms. Lee confirmed that there had been two responses in opposition to the proposed rule. She also confirmed that there will be an additional public comment period should the Board proceed at a later time with initiating permanent rulemaking for the waiver of administrative rules not otherwise required by statute.

Mr. Blake then invited Mr. Davis to present the Executive Director's Report.

Executive Director's Report

Mr. Davis noted the following in his comments to the Board:

- Mr. Davis echoed Mr. Blake's earlier comments regarding the livestreaming format for the Board meeting and said that the August meeting was a pilot before implementing this format on a regular, recurring basis for future Board meetings. He affirmed that the objective for livestreaming Board meetings on YouTube was to expand access to licensees who can join remotely for CE credit and by the public. He noted that staff were continuing work with Digital Information Systems on implementation.
- Mr. Davis updated members on the outcome from the Board's letter to Governor Cooper regarding the disclosure of death for decedents at the Office of the Chief Medical Examiner and UNC Rex Healthcare. He noted that the letter had been sent to a number of organizations and officials at UNC Healthcare as well as Rex Hospital and OCME. He reminded members that the letter had been sent to various media outlets across the state, and he said that several had aired interviews with Mr. Blake or published articles concerning the issue.
- Mr. Davis continued and updated the Board on the Petition for Rulemaking which had been sent at the Board's request to the NC Commission for Public Health concerning amendments to an administrative rule under their jurisdiction. Mr. Davis said that the Commission convened on August 5th and included the Board's Petition on their agenda and invited comments from Mr. Blake. Mr. Davis noted that the Commission was receptive to the amendments that the Board had proposed and would initiate rulemaking soon.
- Mr. Davis briefly commented on a recent remote meeting with the International Conference of Funeral Service Examining Boards to join a discussion on the impact of the coronavirus on operations of funeral service boards in District 3 which includes North Carolina, South Carolina, Georgia, Florida and Alabama. Mr. Blake invited comments from Ms. Thomas and Ms. Paul.

- Mr. Davis then referenced the monthly At Need Report and Inspections Report.

Old Business

There were no Old Business items.

New Business

Mr. Blake introduced Karen Davis-Brunson, Compliance Inspector, who appeared at the Board's invitation to discuss compliance issues and concerns that she and her colleagues in the field encounter. Ms. Davis-Brunson described her role and affirmed that the Board's communications efforts with advisories were positive and well-received. She expressed concern that more licensees are not accessing the advisories and other email communications to them.

Mr. Watson asked about the apparent prevalence of problems with preneed recordkeeping and other deficiencies. Ms. Davis-Brunson said that her experience has been that most licensees and establishments are in compliance with the preneed program requirements. Mr. Blake commented that he had observed and was concerned about the improper completion of cremation authorization forms by licensees in acquiring proper signatures of decedents' families. Ms. Davis-Brunson responded that she receives inquiries about this issue on her on-call day and refers licensees to the Board's on-line compliance guide. Mr. Blake noted the importance of licensees having a clear understanding of disposition rights and may need to rely upon a power-of-attorney to resolve confusion among families.

Mr. Blake thanked Ms. Davis-Brunson and commended her work as a Compliance Inspector and her effectiveness in that role.

Mr. Blake then introduced another New Business item regarding the per diem reimbursement for committee meetings. He stated that the per diem should be \$100.00 for those committees that deliberate for more than one hour which would justify a higher per diem. He said that he was not proposing any across-the-board increase but thought an increase would be reasonable for those committees meeting for more than one hour of deliberation and preparation. Mr. Watson agreed that the Disciplinary Committee members often must consider significant materials and documents in preparing for their meetings. Mr. Blake asked members for their thoughts and comments. Discussion ensued.

Dr. Lyons offered a motion for increasing the per diem rate to \$100.00 for those Board committees with meetings exceeding one hour. Mr. McCormick seconded the motion.

Mr. Herndon asked how the decision would be made as to when the increased amount would be awarded and by whom. Members discussed the issue further and agreed that the Finance and Personnel Committee would address the issue at its next meeting.

The Board voted by roll call as follows: Yea: 6 votes; Nay: 1 vote; Abstain: 2 votes. Subsequent to the vote, Mr. Olive stated that his vote should have been Yea instead of Nay. The vote was then Yea: 7 votes; Nay 0 votes; Abstain: 2 votes. The motion carried.

Mr. Blake announced that the Board would recess at 10:18 a.m. and reconvene at 10:30 a.m.

When the Board reconvened, Mr. Blake stated that the Board would meet in closed session to consider disciplinary matters protected by attorney-client privilege pursuant to NCGS 143-318.11.

Upon a motion by Mr. Herndon and a second by Mr. Olive, the Board voted unanimously by roll call to convene in closed session.

Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted unanimously by roll call to reconvene in open session.

Mr. Blake invited any motions necessary to address matters discussed in closed session.

Upon proper motion, the full Board through a roll call vote approved the following proposed Consent Orders:

C18-0046/C21-0005	In the Matter of Alpha and Omega Funeral Services, Inc. d/b/a New Beginnings Funeral Service and Cremation including direction to General Counsel to initiate contempt proceedings against Betty Barr Randolph for unlicensed practice
M20-0011	Herring Funeral Care & Cremations, LLC, and Sharon Arlene Worrell
M20-0020	Friendship Mutual Burial Association, Inc. and Kema Mainor Boney
C20-0028	Aldridge Holdings, LLC d/b/a Southern Piedmont Cremation Service
C19-0073/M20-0058	GRM Enterprises, Inc. d/b/a Massey Funeral Home and George Rigsby Massey, II

Mr. Blake then announced that the Business Session was concluding and that the Board would conduct a hearing in the matter of Monroe Mortuary Services, LLC and Carletta Mungo Foster, Respondents.

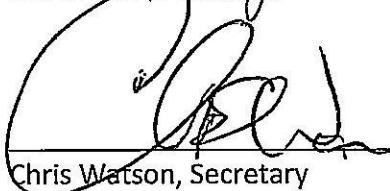
At the conclusion of the referenced hearing, Mr. Blake invited a motion for adjournment.

Mr. McCormick moved for adjournment and Dr. Lyons seconded the motion. The Board voted unanimously by roll call vote to adjourn the meeting.

Affirmation:



Mark Blake, President



Chris Watson, Secretary

Date