



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes
November 17, 2020 Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on November 17, 2020, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. The meeting was livestreamed through YouTube to allow public access and CE credit for licensees.

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

Staff and Counsel: Stephen Davis, Executive Director and Amy Acord, Assistant Director; and Catherine Lee, General Counsel.

Guests and Visitors: Robb Jansen, prospective Board member; Thomas T. Hilderbrand, licensee and prospective Board member; Chase Noble, Executive Administrator, NC Funeral Directors Association.

Mr. Blake called the meeting to order at 9:08 a.m. and read the Statement of Ethics and asked if any members would be recusing themselves. None recused. He then recognized guests in attendance. Mr. Blake then asked for any public comment. In the absence of any public comment, Mr. Blake continued and asked Mr. Watson to present the minutes from the October 14, 2020, Board meeting.

Approval of Minutes

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

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

Finance and Personnel Committee Report

Mr. Blake asked Mr. Davis to summarize the financial reports for the period ending September 2020. Mr. Davis presented the Statement of Net Position and noted that the Board's net position continues to show strength with an 8-month operating capital reserve as shown in the Unrestricted Fund balance. He stated that the Statement of Net Position did not show any balances or indicators that would create concern regarding the Board's net position. He then reported that the Preneed Recovery Trust Fund balance was

at \$330,394 which was slightly lower than for the last reported balance for the period ending August 2020 at \$339,381.

Mr. Davis then summarized the Statement of Revenues and Expenses. He explained that revenues are currently at 83.7% of the total projected at the beginning of the fiscal year and expressed optimism that revenue collections would meet the projected amount. He reported that operating expenses were at 73.4% of the Year-To-Date Budget Used which is slightly lower than the target percentage of 75% for the first nine months of the fiscal year. He affirmed that operating expenses for the reporting period are consistent with trends for the past two fiscal year periods. Brief discussion ensued. Mr. Blake invited a motion for approval of the financial reports.

Mr. Lockhart moved that the Board approve the financial reports for the period ending September 2020 as reported. Mr. Watson offered a second, and the Board voted unanimously by roll call to approve the motion.

Mr. Blake asked if there were other items for the Board's consideration from the Finance and Personnel Committee. Mr. Davis stated that he presented to the Committee the proposals from three [3] accounting firms in response to the Request for Proposal that staff mailed in August for an independent audit firm to conduct the Board's annual audit of its financial statements. He summarized the technical qualifications from each respondent for the Committee's consideration and assessment based on their staffing, peer reviews, scope of service, and experience in auditing government entities and specifically occupational licensing boards. Mr. Davis noted that the Committee reviewed each firm's qualifications in relation to the expectations outlined in the RFP. After a discussion of the firms' technical qualifications, he reported that the Committee then reviewed the cost proposals. Upon discussion of the firms' technical qualifications and proposed costs, the Committee determined that Bernard Robinson, LLC would be the recommended firm.

Mr. Blake invited a motion in response to the Committee's recommendation for an independent audit firm for the period 2020-2022.

Upon a motion by Mr. Olive and a second by Mr. McCormick, the Board voted unanimously by roll call vote to approve Bernard Robinson, LLC for a three-year engagement as the Board's independent auditing firm.

Mr. Blake then continued by presenting the Preneed Committee report.

Preneed Committee Report

Mr. Blake reported that the Committee met on November 16, 2020, to discuss Claim #P20-0004 in the amount of \$4,435.96 from the Preneed Recovery Trust Fund. Ms. Lee, General Counsel, summarized the claim for committee members and noted that the decedent had entered into a standard insurance preneed contract in 1995 for which she was both the beneficiary and purchaser. It was noted that the insurance company provided the claimant a statement that the decedent had taken out loans in the amount of \$4,435.96 against the funding policy which decreased the amount of the death benefit paid at the time of death. Given these circumstances, the Committee determined that the application for a claim against the Preneed Recovery Trust Fund should be denied.

Mr. Blake asked Board members for any questions or comments. Brief discussion ensued. Mr. Blake then invited a motion on the Committee's recommendation for denial.

Upon a motion by Mr. Watson and a second by Mr. Olive, the Board voted unanimously by roll call to deny Preneed Recovery Fund Claim #P20-0004 in the amount of \$4,435.96.

Mr. Blake continued the meeting and asked Ms. Lee to present the next agenda item that the Preneed Committee considered at its meeting.

Ms. Lee summarized a letter from a licensed funeral establishment requesting waiver of the pre-need bond requirement. She noted that the establishment had provided a current balance sheet affirming its solvency but also reported that the Committee expressed concern that a CPA had not certified the balance sheet. She stated that the Committee was recommending that the Board approve the waiver contingent upon the establishment's submission of certification of their balance sheet by a CPA.

Mr. Blake asked for any questions or comments from the Board. Brief discussion ensued. Mr. Blake then invited a motion on the Committee's recommendation.

Upon a motion by Mr. McCormick and a second by Mr. Brown, a majority of the Board voted by roll call to approve the request for a waiver contingent upon the submission of certification by a CPA of the establishment's balance sheet. Mr. Saunders was unable to vote due to technical difficulties.

Mr. Blake then asked Mr. Lockhart to present the Disciplinary Committee report.

Disciplinary Committee Report

Mr. Lockhart prefaced his presentation of the Committee Report by expressing concern about an apparent increase in the number of disciplinary matters pertaining to cremations and deficiencies in recordkeeping and proper completion of Cremation Authorization Reports particularly with respect to rights of disposition.

Mr. Lockhart stated that the Disciplinary Committee considered and discussed cases and recommendations from General Counsel Catherine Lee for the following:

Dismissal

C20-0065 C20-0066

Letters of Caution

C20-0056 C20-0068 C20-0070 C20-0072

Notices of Hearing

C20-0064 C20-0067

Other

M20-0126

Mr. Lockhart invited any questions or comments from Board members. Discussion ensued regarding the case recommendations. Mr. Blake then invited a motion on the Committee's recommendations.

Upon a motion by Mr. Lockhart and a second by Mr. Herndon, the Committee voted unanimously to approve the Disciplinary Committee Report as presented.

Before continuing the meeting, Mr. Blake said that he shared Mr. Lockhart's concerns regarding the deficiencies among licensees for record keeping and proper documentation associated with cremations. He noted that not only did these deficiencies result in an increase in disciplinary cases before the Board but that these problems often have significant impact on families. Members discussed the issue at length as well as additional concerns regarding the timeliness in filing death certificates. Members' discussion also included acknowledgement that the coronavirus pandemic had some impact on the issue.

Mr. Blake then recognized Mr. Davis for the Executive Director's Report.

Executive Director's Report

Mr. Lockhart asked Mr. Davis for a status report on the implementation of the Electronic Death Registration system pilot program. Mr. Davis reminded members that the NC Department of Health and Human Services had implemented a training program in eight counties. Mr. Olive and Mr. Watson commented that there had been some initial problems with the rollout of training in Johnston County and hoped that these issues could be resolved to assure more effective training. Members discussed the EDR program and its benefits for funeral service but noted that a critical issue would be the timely completion of death certificates by physicians.

Mr. Davis then reported on the following topics:

- Governor Cooper has issued Executive Order 176 which extends Phase III measures through December 4, 2020. This order extends the exemptions from Executive Order 169 pertaining to funeral services and drops the number who may gather indoors from 25 to 10 individuals in the same space at the same time.
- The Conference will convene the 2021 Annual Meeting remotely. They have also announced that the Model Practice Act Committee has completed its work and proposed a number of changes in regulatory and licensure guidelines for member states.
- 2021 Renewals are underway. Staff posted the 2021 Online Renewal Portal on the Board website on November 2nd. Davis said that staff added a new feature for the 2021 renewals to enable multiple renewals for licensees and establishments with a single payment option.
- Davis reported that he had received several inquiries from the media regarding the Order for Summary Suspension in the Thomas Shepherd and Son matter. One is from WSOC in Asheville; the others are from newspapers in the Hendersonville area.

Mr. Davis noted that he had sent members the monthly inspections and licensure reports and would answer any questions or address any concerns from members about this information. Mr. Blake thanked Mr. Davis for his report and then recognized Catherine Lee, General Counsel, for the Legal Report.

Legal Report

Ms. Lee reported the following activity to the Board:

Current Active Cases: 44

Pending Investigation: 18
Pending Review by Disciplinary Committee: 0
Pending Dispositive Action: 9
Pending Hearing: 15
Post-Hearing: 1
Other: 1

New files opened since last Board meeting: 15
Notices of Hearing sent since last Board meeting: 4
Consent Orders received since last Board meeting: 1
Cases reviewed by Disciplinary Committee since last Board meeting: 9

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 3

Pending Investigation: 0
Pending Dispositive Action: 3

Preneed Recovery Fund Claims received since last Board meeting: 1
Preneed Recovery Fund Claims re-opened since last Board meeting: 0
Preneed Recovery Fund Claims reviewed by Preneed Committee since last Board meeting: 1

Ms. Lee continued her report and presented an Order of Dissolution and Liquidation in the matter of Groce Mutual Funeral Association, Inc.

- **Proposed Order of Dissolution and Liquidation: Groce Mutual Funeral Association, Inc.**

Ms. Lee summarized the background and circumstances associated with the Order and noted that the request for dissolution was voluntary and that assets would be distributed to the Association membership in response to a question from Mr. Lockhart. She reported that the Association would be required to file with the Board a final report of all transactions pertaining to the proposed dissolution by December 31, 2020. Ms. Lee offered to answer any questions from Board members. Brief discussion ensued. Mr. Blake then invited a motion on the Order.

Upon a motion by Mr. Herndon and a second by Mr. Lockhart, the Board voted unanimously by roll call to approve the proposed Order of Dissolution for Groce Mutual Funeral Association, Inc.

Before continuing with the meeting, Mr. Blake announced that Mr. Thomas Hilderbrand, a prospective Board member anticipating appointment by Governor Cooper for a seat representing the Funeral Directors and Morticians Association of NC, had joined the meeting remotely. Mr. Blake welcomed Mr. Hilderbrand to the meeting.

Ms. Lee continued her report to the Board with an update on administrative rulemaking.

- **Update on Administrative Rulemaking**

Ms. Lee reminded the Board that it had earlier approved the submission of temporary rules pertaining to cremations and alkaline hydrolysis. She noted that the Public Comment period for these rules expired on November 16, 2020, and that staff had conducted a Public Hearing on October 14, 2020, pursuant to the statutory requirements for rulemaking. She noted that if it was the Board's pleasure to proceed on these rules, the effective date for permanent adoption would be January 1, 2021.

Ms. Lee offered to answer any questions from Board members. Brief discussion ensued. Mr. Blake then invited a motion for the adoption of the proposed rules.

Upon a motion by Mr. Olive and a second by Mr. Brown, a majority of the Board voted to submit the following administrative rules for permanent adoption and codification to the NC Office of Administrative Hearings: 21 NCAC 34C .0102; .0103; .0104; .0105; .0106; .0201; .0202; .0205; .0206; .0207; .0303; and .0306. It was noted that Mr. Saunders could not record a vote due to technical difficulties.

Ms. Lee concluded her report by stating that the NC General Assembly required an Interim Report to the Joint Legislative Committee on Government Operations regarding the Board's actions toward regulatory flexibility in response to the pandemic. She noted that she would prepare the report so that staff could submit to the General Assembly by the December 1, 2020, submission deadline.

Mr. Lockhart asked Ms. Lee if there were any matters pending for outside litigation. She noted that the matter involving denial of a reciprocal license application for Mr. Craig Smith was pending in the NC Office of Administrative Hearings.

Mr. Blake then invited any items for Old Business.

Old Business

Mr. Blake noted the importance for licensees who are recognized as supervisors for resident trainees to assume a proper oversight role in reviewing trainee work reports and assuring that such reports are complete and timely filed. He emphasized the importance of the supervisory role in assuring appropriate and meaningful supervision particularly with regard to those supervisors who are also Location Managers.

Mr. Blake then announced that the Board would conduct election of officers for 2021 under New Business.

New Business

Mr. Blake opened the floor for nominations for the office of President.

Upon a motion by Mr. Lockhart and a second by Mr. Olive, a majority of the Board voted by roll call to elect Mr. Brown as President for 2021.

Mr. Blake then invited nominations for Vice-President.

Upon a motion by Mr. Olive and a second by Mr. Brown, a majority of the Board voted by roll call to elect Mr. Watson as Vice-President for 2021.

Mr. Blake then invited nominations for Secretary.

Upon a motion by Mr. Herndon and a second by Mr. Watson, a majority of the Board voted by roll call to elect Dr. Lyons as Secretary for 2021.

It was noted that Mr. Saunders was unable to record a vote due to technical difficulties.

Mr. Blake then reminded members that the NC Funeral Directors Association was conducting an election to identify its nominees for two [2] open seats representing the Association and subject to appointment by Governor Cooper. Mr. Blake invited Mr. Chase Noble, Executive Administrator of the Association, to comment. Mr. Noble reported that the Association election would end on November 20, 2020, and that the Association President and Vice-President would count the votes on December 1, 2020, with an announcement to follow soon after. Mr. Blake thanked Mr. Noble for his report to the Board.

Mr. Blake recessed the meeting at 10:38 a.m. and reconvened at 11:00 a.m. for disciplinary hearings.

The Board met in open session to hear the matter in Case No. C20-0021/M20-0057 pertaining to the issue of establishment licensure. Upon proper motion, the Board voted to accept the Consent Order against Beach Rivers Funeral Home, LLC. The Board continued in open session to conduct a disciplinary hearing in Case No. C20-0021/M20-0057 pertaining to Mr. Kirk Rivers in his capacity as an individual licensee. At Mr. Rivers' request, the Board will deliberate on this matter on December 9, 2020, on the written record.

The Board continued in open session to conduct a disciplinary hearing in Case No. M20-0115. The respondent requested a decision from the Board following the hearing.

On a motion by Mr. McCormick and a second by Dr. Lyons, the Board convened in closed session to deliberate in ruling on Case No. M20-0115.

Upon proper motion, the Board voted to reconvene in open session. Mr. Blake invited a motion.

Upon a motion by Dr. Lyons and a second by Mr. McCormick, the Board voted unanimously to deny the respondent's application for Registration as a Resident Trainee in Funeral Service but to allow him to re-apply for registration upon successful completion of the probationary conditions associated with his pending criminal matters.

The Board recessed until 9:30 a.m. on November 18, 2020.

The Board re-convened at 9:30 a.m. on November 18, 2020, to conduct a hearing on the summary suspension in Case Numbers C19-0034, C19-0041, C20-0033, C20-0038, C20-0040, and M20-00111. Following the hearing and upon proper motion, the Board convened in closed session to rule on the Order for Summary Suspension pertaining to the referenced case numbers.

Upon a motion by Mr. Olive and a second by Dr. Lyons, the Board voted to reconvene in open session.

Mr. Blake invited a motion in the matter of Case No. C19-0034 et.al.

Upon a motion by Mr. McCormick and a second by Mr. Brown, the Board voted unanimously to keep the summary suspension in place until a hearing can be held on the allegations set forth in the Notice of Hearing to Show Cause.

Mr. Blake then stated that the Board would meet in closed session to deliberate on Case No. C20-0122 which came before the Board in a hearing on October 14, 2020.

Upon a motion by Dr. Lyons and a second by Mr. Olive, the Board voted unanimously to convene in closed hearing to rule on Case No. C20-0122.

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

Mr. Blake invited a motion pertaining to the Board's ruling in Case No. C20-0122.

Upon a motion by Mr. McCormick and a second by Mr. Brown, the Board voted unanimously to revoke the At-Need Establishment Permit No. 0169 of C.E. Willie Funeral & Cremation Services, Inc.; to permanently prohibit C.E. Willie from serving as a licensed manager of a funeral establishment; from serving as a licensed owner, officer, director, or member of a funeral establishment; from practicing funeral service under an unaffiliated permit pursuant to NC General Statute 90-210.25(a2)(2); or holding a preneed sales license on behalf of any preneed funeral establishment; to order C.E. Willie to reimburse the Board's Preneed Recovery Trust Fund on or before December 31, 2023, in the amount of \$11,364.65; and to suspend the funeral service license No. 2672 of Claude E. Willie for three [3] years, provided that said suspension shall be stayed upon his repayment of \$11,364.65 to the Board's Preneed Recovery Trust Fund.

Without further business before the Board and upon proper motion, the Board voted to adjourn.

North Carolina Board of Funeral Service
 Inspection Report – Nov. 17, 2020

Inspections and Other Duties Performed

| | <u>2020</u> | <u>Jan.</u> | <u>Feb.</u> | <u>March</u> | <u>April</u> | <u>May</u> | <u>June</u> | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> | <u>Total</u> |
|----------------------------------|-------------|-------------|-------------|--------------|--------------|------------|-------------|-------------|-------------|--------------|-------------|-------------|-------------|--------------|
| ESTABLISHMENT | 15 | 14 | 15 | 0 | 24 | 25 | 17 | 19 | 19 | 19 | 0 | 0 | 0 | 167 |
| PRENEED | 12 | 13 | 9 | 0 | 13 | 20 | 16 | 16 | 13 | 12 | 0 | 0 | 0 | 124 |
| CREMATORY | 5 | 4 | 3 | 1 | 3 | 7 | 5 | 6 | 6 | 5 | 0 | 0 | 0 | 45 |
| HYDROLYSIS LICENSEE | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| UNAFFILIATED | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| CHAPEL | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 3 |
| MBA | 0 | 3 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 7 |
| EMBALMING FACILITY | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| SERVICE OF COMPLAINT | 0 | 2 | 4 | 2 | 1 | 1 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 13 |
| INVESTIGATION | 0 | 3 | 1 | 4 | 2 | 7 | 0 | 1 | 5 | 4 | 0 | 0 | 0 | 27 |
| SERVICE OF NOTICE OF HEARING | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 2 |
| SERVICE OF FINAL AGENCY DECISION | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TEACH CONTINUING EDUCATION | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| COMPLIANCE OPINION EMAIL | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 3 |

Inspection Data Per Region/Inspector

| <u>October</u> | <u>FE</u> | <u>PN</u> | <u>CR</u> | <u>HY</u> | <u>UNAF</u> | <u>CH</u> | <u>EMB</u> | <u>MBA</u> | <u>Total</u> |
|----------------|-----------|-----------|-----------|-----------|-------------|-----------|------------|------------|--------------|
| Cagle | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D-Brunson | 9 | 6 | 3 | 0 | 0 | 0 | 0 | 0 | 18 |
| Hamm | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lisenbee | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Robinson | 6 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 10 |
| Stoessner | 4 | 3 | 1 | 0 | 0 | 0 | 0 | 2 | 10 |
| | 19 | 12 | 5 | 0 | 0 | 0 | 0 | 2 | 38 |



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Monthly Status Report: LICENSURE REPORT

Nov. 17, 2020

| | |
|---------------------------|--|
| CHAPELS | None |
| CREMATORY LICENSEES | None |
| HYDROLYSIS LICENSEES | None |
| TRANSPORTERS | Shawn R. Warren – Chocowinity, NC Evan B. Hankinson – Raleigh, NC Lonnie F. Varnam – Supply, NC LC Clark – Harrisburg, NC |
| EMBALMING FACILITIES | None |
| UNAFFILIATED LICENSEES | None |
| FUNERAL ESTABLISHMENTS | Congleton Funeral Home and Cremations, Inc. – Williamston |
| PRE-NEED ESTABLISHMENTS | None |
| FUNERAL SERVICE LICENSEES | Silas J. Denlinger – Goldsboro, NC Le'Shekia T. Coleman – Gastonia, NC Anastasia N. Belk – New Bern, NC Corey O. Marshall – Grifton, NC |
| FUNERAL DIRECTORS | Amber T. Pearson – Sanford, NC Patrick L. Best – Kinston, NC Daniel L. McGee – Lenoir, NC Ryan J. Mancini – Fuquay-Varina, NC Victor K. Johnson – Reidsville, NC Kelly S. Ary – Raleigh, NC Crystal L. Ashley – Wilmington, NC |

Affirmation:

Mark Blake

Mark Blake, President

Chris Watson

Chris Watson, Secretary

12/11/20

Date