



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes
December 9, 2020 Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting at 9:00 a.m. on December 9, 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 asked for any public comment. Mr. Noble stated that the Board's waiver of the limit on CE courses taken online have been helpful to licensees and wondered if the Board would continue the waiver and other flexibility in the CE program in 2021. Mr. Blake indicated that the Board was receptive and would consider a continuation of the waiver for 2021. Mr. Blake continued and asked Mr. Watson to present the minutes from the November 17, 2020, Board meeting.

Approval of Minutes

Upon a motion by Mr. McCormick and a second by Mr. Brown, 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 October 2020. Mr. Davis presented the Statement of Net Position and noted that the Board's net position continues to show strength based upon the balances shown in the Unrestricted Fund Balance and the Board's operating account at First Citizens Bank. 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 Preeed Recovery Trust Fund balance was at \$347,860 which was nearly \$20,000 more than the last reported balance for the period ending September 30, 2020 at \$330,394.

Mr. Davis then summarized the Statement of Revenues and Expenses. He explained that revenues are currently at 89.5% of the total projected at the beginning of the fiscal year and expressed optimism that revenue collections would meet or exceed the projected amount. He reported that operating expenses were at 82% of the Year-To-Date Budget Used which is slightly lower than the target percentage of 83% for the first ten 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 October 2020 as reported. Mr. McCormick offered a second, and the Board voted in the majority by roll call to approve the motion. Mr. Saunders was not present for the vote.

Mr. Blake then introduced the next item that the Committee considered and asked Mr. Davis to present staff's recommendations for the 2021 budget. Mr. Davis reported that he and Ms. Acord had reviewed the Board's annual budgets for the prior 3-year period to identify trends or issues that should be considered in the 2021 budget proposal. He noted that the budget expanded by 5% compared to the 2019 budget. He then stated that the uncertainties associated with the pandemic and any subsequent impact on the Board's fiscal resources suggested that the most practical strategy for 2021 was to continue the same projected revenue and operating expenses as for fiscal year 2020. He then summarized the 2021 budget proposal and explained that he and Ms. Acord were proposing adjustments to selected line items to assure that they aligned with actual expenditures for FY 2020. He noted that these line-item adjustments did not increase the total projected budget which would remain at \$1,501,983.00 for FY 2021. He reported that the FY 2021 budget included funding for a proposed 2% Cost-of-Living Increase for full-time Board staff. Mr. Davis then noted that the projected revenue collections would remain the same as for 2020 at \$1,513,038 in the proposed 2021 budget. He reminded members that maintaining the 2021 budget at 0% expansion was a practical strategy reflecting the uncertainties of fees and receipts collections during the pandemic.

Mr. Blake invited and questions or comments from Board members. Brief discussion ensued. Mr. Watson asked about the proposed budgeted amount for the Board's accounting services, and Mr. Davis explained that the proposed amount was increased in anticipation of additional services from Thomas Judy and Tucker, the Board's outsourced accounting firm. Discussion ensued. Mr. Blake noted that staff should continue to monitor the accounting costs and discuss with TJT specific deliverables and the cost for each to determine a more precise line-item recommendation. Mr. Blake then invited a motion in response to the Committee's recommendation to approve staff's proposal for the 2021 budget.

Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted unanimously by roll call vote to approve the proposed budget for FY2021

Mr. Blake then stated that the Committee considered two other items related to staff compensation and would present those proposals to the Board in closed session since the discussion would require discussion of staff salaries.

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 considered and discussed cases and recommendations from General Counsel Catherine Lee for the following:

Dismissal

C20-0049 C20-0071 C20-0073 C20-0077 C20-0078

Letters of Caution

C20-0069 C20-0074 C20-0076

Mr. Lockhart invited any questions or comments from Board members. Mr. Blake asked about the rationale for the recommendation for C20-0069. Ms. Lee responded with additional information and clarification. Members asked for more information regarding C20-076 regarding the interaction between the licensee and the NC Office of the Chief Medical Examiner. Brief discussion ensued. 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 by roll call to approve the Disciplinary Committee Report as presented.

Mr. Blake recessed the Business Session at 9:58 a.m. to announce that the Board would convene a public hearing at 10:00 a.m. pertaining to 21 NCAC 34C .0128 for Adoption and 21 NCAC 34B .0308 for Amendment. Mr. Blake adjourned the Public Hearing at 10:19 a.m. No public comment was offered.

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

Executive Director's Report

Mr. Davis reported on the following topics:

- Governor Cooper has issued Executive Order 180 which imposes additional requirements for wearing masks and expands enforcement authority where necessary. This order extends the exemptions from Executive Order 169 pertaining to funeral services and retains the number who may gather indoors at no more than 10 individuals and no more than 50 if outdoors.
- 2021 Renewals – Status Report. Online renewals are tracking ahead of 2020 renewals for the same time period. 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.
- Discussed the need for changes to the Laws and Rules Examination with Scantron, our outsourced test administrator. We are working with them to offer an option for virtual testing to expand access to prospective licensees needing to sit for the exam.
- The Conference has circulated to member states a draft of the proposed Model Practice Act for comment and feedback.

- Preneed Portal – in response to concerns you have expressed about the rising number of disciplinary cases resulting from deficient administration and management of preneed programs among licensees, staff is creating a portal which can be accessed through the homepage on our website. We will be loading procedural guidance, policy information, and documents related to the preneed program as an online resource that will be immediately available to licensees. We will begin with the transfer of preneed contracts and the requirements expressed in statute and rules when transfers occur. The portal will also include information on COP's.
- Staff will also make available a similar portal for the online completion and submission of monthly cremation reports as well as information and guidance on proper completion of Cremation Authorization Forms and the need for licensees to be fully aware of disposition rights.
- The Conference will convene the 2021 Annual Meeting remotely.
- 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 while others are from newspapers in the Hendersonville/Henderson County 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:	17
Pending Review by Disciplinary Committee:	0
Pending Dispositive Action:	8
Pending Hearing:	15
Post-Hearing:	2
Other:	2

New files opened since last Board meeting:	8
Notices of Hearing sent since last Board meeting:	0
Consent Orders received since last Board meeting:	0
Cases reviewed by Disciplinary Committee since last Board meeting:	8

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

- **Update on Administrative Rulemaking**

Ms. Lee summarized a number of technical changes that the Rules Review Commission attorney had recommended to the administrative rules adopted by the Board in November pertaining to cremations and alkaline hydrolysis. Ms. Lee pointed out the substance of the changes that the Rules Review Commission proposed to 21 NCAC 34C/0105, .0201, .0202, .0206, .0207, .0106 and .0303 in her report. Discussion ensued. Ms. Lee pointed out that members may wish to consider adding COVID-19 to .0207 along with other infectious diseases listed in the rule which states that *“An hydrolysis licensee shall not remove from the outer case required by G.S. 130A-395(b) and 10 NCAC 41A 14 .0212, or to hydrolyze, any decedent who is known or suspected to have been infected with the plague, smallpox, or 15 severe acute respiratory syndrome (SARS), without first obtaining the written consent of the local health director.”* Discussion continued. Mr. Blake invited a motion regarding the technical changes Ms. Lee presented to the Board for the referenced administrative rules.

Upon a motion by Mr. Lockhart and a second by Mr. Herndon, the Board voted unanimously by roll call to accept the technical changes Ms. Lee presented including the addition of COVID-19 to the list of infectious diseases in 21 NCAC 34C .0207.

Ms. Lee continued her report by reminding the Board of its earlier approval for two resolutions in response to legislation passed allowing occupational licensing boards to implement regulatory flexibility for licensees and funeral establishments. She noted that one resolution removed the limit on the number of continuing education hours that could be attained through online instruction and the other enable additional time for payment of civil penalties that the Board imposed in disciplinary matters if requested. Ms. Lee stated that staff recommended a continuation of the waivers. Brief discussion ensued.

Upon a motion by Mr. McCormick and a second by Mr. Olive, the Board voted unanimously by roll call to continue both Resolutions for Waivers regarding continuing education and civil penalties as allowed by legislation or executive order.

Mr. Blake continued the meeting and asked Ms. Lee about a pending claim against the Preneed Recovery Trust Fund. He noted that this particular claim had been associated with a disciplinary action that the Board had earlier considered against a funeral establishment, and he asked Ms. Lee about the procedure for the Board to discuss the case and issue a decision. Ms. Lee indicated that the case could be a matter for open session so long as no protected information was disclosed. Mr. Blake asked Ms. Lee if she could summarize the case without disclosure of protected information, and she provided members a brief overview of the case. Ms. Lee indicated that staff had reviewed the case and determined that the consumer had not suffered any monetary loss. Mr. Blake then invited a motion to deny the claim since it had been resolved with the contracting funeral home reimbursing the performing funeral home for the full cost of the beneficiary's service.

Upon a motion by Mr. Brown and a second by Mr. McCormick, the Board voted unanimously by roll call to deny the claim against the Preneed Recovery Trust Fund since there were no monetary losses to the consumer.

Mr. Blake then invited any items for Old Business. There were none offered. Mr. Blake invited any items for New Business.

Mr. Davis stated that he had a proposed meeting schedule for 2021 with two options for the Board's consideration. One option would be to continue meeting monthly on the second Wednesday of the month; the second option would be to meet on alternate months but to schedule disciplinary hearings for those months when the Board would not meet. Brief discussion ensued. Members agreed that monthly meetings would be important given the need to effectively address issues coming before the Board particularly with concerns resulting from the pandemic. Mr. Blake invited a motion for the 2021 meeting schedule.

Upon a motion by Mr. Herndon and a second by Mr. McCormick, the Board voted unanimously by roll call to meet monthly on the second Wednesday of each month.

Mr. Blake asked if there were any other New Business items. Mr. Davis reported that he had drafted a letter at the request of Mr. Blake to the NC COVID-19 Advisory Committee stating that the Board considers funeral service workers as essential infrastructure and therefore eligible to be in the initial phases of the vaccine's administration. Mr. Davis briefly described the content of the letter and asked for the Board's consent on whether or not to send it to the Advisory Committee. Brief discussion ensued. The Board agreed that Mr. Davis should proceed with the letter to make the Advisory Committee aware of the Board's position on funeral service workers as critical infrastructure in the administration of the vaccine.

Mr. Blake asked for any other items to come before the Board. Ms. Lee stated that there had been a possibility of a disciplinary hearing in the matter concerning Thomas Shepherd & Son Funeral Home but that the respondents were still in the discovery phase of their preparations. She noted that it was unlikely that the hearing would proceed for January. She reported that counsel from Bailey and Dixon would not be available on January 13th or 14th, dates for the next scheduled Board meeting and asked the Board's direction on scheduling other matters for the January meeting. Mr. Blake asked members for their thoughts on limiting the January 13th meeting to a Business Session only with the understanding that the Thomas Shepherd matter would come before the Board at a later date. Brief discussion ensued.

Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted unanimously by roll call to meet on January 13th for a Business Session only with no scheduled disciplinary hearings.

Mr. Blake continued and formally recognized Mr. Lockhart and Mr. Olive for their service to the Board and acknowledged that they would be missed when their terms expire on December 31, 2020. He thanked both for their dedication, commitment and contributions to the Board during their tenure.

Mr. Blake then thanked the Board for their collective support during 2020 in his term as Board President and described major events occurring during the year with an emphasis on the challenges associated with the COVID-19 pandemic. He conveyed to the Board his honor in service as Board President and noted his appreciation to members for working together in confronting the challenges that came before the Board in 2020.

Mr. Blake then announced that the Board would convene in closed session.

Upon a motion by Mr. McCormick and a second by Mr. Olive, the Board voted unanimously by roll call to meet in closed session to consider a human resource matter not subject to public disclosure.

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

Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted unanimously to adopt the recommendations from the Finance and Personnel Committee regarding an annual increase in compensation and a one-time pay supplement for Board staff. The annual increase would be effective January 1, 2021 in the amount of a 2.0% cost-of-living increase. The one-time supplement would be effective December 15, 2020 as recommended.

Mr. Blake then invited a motion to convene in closed session to deliberate on Case Number C20-0021/M20-0057.


Upon a motion by Mr. McCormick and a second by Mr. Brown, the Board voted in the majority to convene in closed session to deliberate on Case Number C20-0021/M20-0057. Mr. Herndon, Mr. Watson and Mr. Lockhart recused.

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


Upon a motion by Mr. Brown and a second by Mr. Olive, the Board voted in the majority to place the respondent in C20-0021/M20-0057 on probation for three [3] years on the following terms and conditions: During the period of probation, respondent must comply with all statutes and rules governing the practice of funeral service; and within ninety [90] days from the date the Consent Order takes effect, respondent shall pay a compromise penalty of \$500.00 to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes. Mr. Herndon, Mr. Lockhart and Mr. Watson recused.

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


Affirmation:



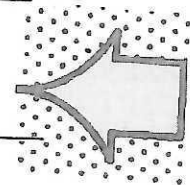
Mark Blake, President



Chris Watson, Secretary



Date



**SIGN
HERE**

North Carolina Board of Funeral Service
 Inspection Report – Dec. 9, 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	18	19	19	19	0	185
PRENEED		12	13	9	0	13	20	16	16	13	12	14	0	138
CREMATORY		5	4	3	1	3	7	5	5	6	5	1	0	45
HYDROLYSIS LICENSEE		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	3
CHAPEL		2	0	0	0	0	0	0	0	1	0	1	0	4
MBA		0	3	0	0	0	1	0	1	0	2	0	0	7
EMBALMING FACILITY *		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	2	0	15
INVESTIGATION		0	3	1	4	2	7	0	1	5	4	7	0	34
SERVICE OF NOTICE OF HEARING		0	0	0	0	0	0	1	0	1	0	1	0	3
SERVICE OF FINAL AGENCY DECISION		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	2
COMPLIANCE OPINION EMAIL		0	0	0	0	0	0	2	0	1	0	0	0	3

Inspection Data Per Region/Inspector

<u>November</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	5	3	1	0	0	0	0	0	9
D-Brunson	6	5	0	0	0	0	0	0	11
Hamm	0	0	0	0	0	0	0	0	0
Lisenbee	0	0	0	0	0	0	0	0	0
Robinson	5	5	0	0	0	0	0	0	10
Stoessner	3	1	0	0	0	1	0	0	5
	19	14	1	0	0	1	0	0	35



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Monthly Status Report: LICENSURE REPORT

Dec. 9, 2020

CHAPELS	None
CREMATORY LICENSEES	None
HYDROLYSIS LICENSEES	None
TRANSPORTERS	None
EMBALMING FACILITIES	None
UNAFFILIATED LICENSEES	None
FUNERAL ESTABLISHMENTS	Davis Funeral Service, Inc. – Monroe (ownership change) Joseph B. Paul Funeral Service – Washington Genesis-Crow Funeral Home – Salisbury
PRE-NEED ESTABLISHMENTS	Davis Funeral Service, Inc. – Monroe (ownership change)
FUNERAL SERVICE LICENSEES	Gail J. Gall – Hiram, OH Noah D. Saldo – Grover, NC
FUNERAL DIRECTORS	Mildred B. Rogers – Oxford, NC David A. Hunter – Winston-Salem, NC Haley J. Dupree – Kenly, NC Tyler B. Noblitt – Durham, NC Brooke L. Noreikis – Faison, NC Barry L. Hill, Kernersville, NC