NORTH CAROLINA
BOARD OF FUNERAL SERVICE

Minutes
November 10, 2021, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on November 10, 2021, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605.

Present: Don Brown, President; Chris Watson, Vice-President; Steven Lyons, Secretary; Mark Blake; Steve Herndon; Hubert Saunders; Robb Jansen; and Thomas Hilderbrand. Mr. McCormick joined by remote connection.

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

Guests and Visitors: Mr. Chase Noble, NC Funeral Directors Association; Mr. Roland H. Whitted, Jr., Shawn Lea Funeral Home, licensee.

Mr. Brown called the meeting to order at 9:02 a.m. and lead members and staff in a recitation of the Pledge of Allegiance followed by the invocation. He proceeded by reading the Statement of Ethics and asked if any members would be recusing themselves. Mr. Hilderbrand stated that he would be recused from voting on the disciplinary matter M21-0081. Mr. Watson stated that he would be recused from voting on the matter regarding Thomas Shepherd & Son, Inc. Mr. Herndon stated that he would be recused from disciplinary matters C21-0097 and C21-0102. He said that Dr. Steven Lyons would present those matters to the Board on behalf of the Disciplinary Committee. Mr. Brown then asked if any guests were present and if they wished to offer any public comment. None offered comment.

Mr. Brown continued and asked Dr. Lyons to present the minutes from the October 13, 2021, Board meeting.

Approval of Minutes

Dr. Lyons reported that Board staff had sent the minutes to each member for their review prior to the meeting. He asked if there were any questions or changes to the minutes. Hearing none, Dr. Lyons offered a motion.

Upon a motion by Dr. Lyons and a second by Mr. Hilderbrand, the Board voted to adopt the October 13, 2021, minutes as presented.

Mr. Brown recognized Mr. Blake for 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 4:30 p.m. on Monday, November 8, 2021. All committee members were in attendance. Staff in attendance was Mr. Stephen Davis, Executive Director. Mr. Blake opened the meeting and thanked members for their attendance. He noted that the Committee would be reviewing the financial reports for the period ending September 2021, and he recognized Mr. Davis for a summary of the reports.

Mr. Davis reported that the Statement of Net Position continues to affirm the Board's strength in net position with $1,063,146.84 in the Unrestricted Fund Balance which represents a 7-8 month reserve in operating capital. He also noted that the Preneed Recovery Trust Fund balance declined slightly at $402,564.01 compared to $415,838.99 for the prior reporting period. He said that the difference in these balances resulted from payment of an approved preneed claim of $2,800. He said that the remainder represented Recovery Trust Fund fees awaiting deposit. He offered to answer questions or provide further information. Dr. Lyons questioned the balance shown for Compromise Penalties Due to Counties, and Mr. Davis explained that these are civil penalties paid to the Board as a result of discipline imposed for non-compliance. He said that the Board is a "pass through" for these funds and that such funds are paid on a timely basis to those counties due to receive them as a result of a respondent's or respondent establishment's location in a particular county.

Mr. Davis continued by summarizing the Statement of Revenues and Expenditures. He discussed the revenue received to date from all sources and noted that the revenue collection rate for the reporting period ending September 2021 showed 91.0% compared to 83.7% for the same period in 2020. He reminded members that the Board's annual revenues have likely reached a ceiling but increases in preneed contract filing fees and cremation fees could indicate that collections would exceed the budgeted amount of $1,513,038. Mr. Davis continued by highlighting certain line items exceeded a 75% expenditure rate with an explanation for each. He noted that the Board's operating costs primarily in Gross Wages/Benefits, Utilities, Postage & Printing and Bank Fees had increased as a result of higher insurance premiums and increased utility and postal rates. He also stated that the Board's legal expenses increased due to more litigation and other matters requiring counsel than in the prior fiscal year.

Brief discussion ensued. Mr. Blake said that he was offering a motion for approval of the September financial reports.

Mr. Saunders offered a second to Mr. Blake's motion, and the Board voted unanimously for approval of the September financial reports.

Mr. Blake continued the meeting and asked staff if there were any HR issues to bring to the Committee's attention. Mr. Davis reported that Ms. Phyllecia Townsend-Banks had resigned to accept employment in her career field in criminal justice. He noted that Ms. Townsend-Banks had been employed in the Preneed Program since her initial employment in 2019 as a temporary employee. Mr. Davis then informed the Committee on a matter he previously reported concerning whether or not an employee was in compliance with the Board's terms and conditions for employment. He noted that the employee was separated from employment and would offer additional details in closed session if necessary.

Mr. Davis continued and reported that the Assistant Director, Amy Acord, would be moving to Iowa but had agreed to continue her employment from her new location subject to the Board's approval. Mr. Davis noted that one outcome of the pandemic was a proliferation in remote work in conjunction with significant improvements in remote meeting technology and IT connectivity which allows and encourages non-traditional work arrangements. Discussion ensued.

Mr. Blake concluded his report with a reminder to the Board that the United States Marine Corps was celebrating its 246th anniversary to recognize its establishment on November 10, 1775.

Mr. Brown thanked Mr. Blake and Mr. Davis for their comments and continued the meeting by asking Mr. Herndon to present the Disciplinary Committee report.

Disciplinary Committee Report

Mr. Herndon stated that the Disciplinary Committee met on Friday, November 5, 2021, to consider and discuss cases and recommendations from General Counsel Catherine Lee for the following cases:

Dismissals

C21-0070 C21-0082 C21-0090 C21-0095 C21-0097 *(Mr. Watson recused)*
C21-00100 C21-0101 C21-0102 *(Mr. Herndon recused)*

Letters of Caution

C21-0076 C21-0077 C21-0079 C21-0104 M21-0088 M21-0092
M21-0093 M21-0095 M21-0096 M21-0097 M21-0098 M21-0100

Notice of Hearing

M21-0087 M21-0094 M21-0099 M21-0103

Other

M21-0090 M21-0091 M21-0102

Mr. Herndon invited questions regarding the presentation of cases in the Disciplinary Committee report. He noted that Ms. Lee would also respond to questions or comments. Brief discussion ensued. Mr. Herndon then offered a motion for approval of the recommendations from the Disciplinary Committee.

Upon Mr. Herndon's motion, Mr. Blake offered a second. The Board then voted to adopt the recommendations from the Disciplinary Committee as presented with the exceptions of C21-0097 and C21-0102.

Dr. Lyons then offered a motion for the adoption of the Disciplinary Committee's recommendations on C21-0097 and C21-0102. Mr. Hilderbrand offered a second, and the Board voted in the majority for adoption of the recommendations as noted.

Mr. Brown continued the meeting and recognized Mr. Davis for the Executive Director's report.

Executive Director's Report

Mr. Davis reported that staff had developed preliminary language for amending NCGS 90-210.25(b)(1)(2)(3), *Persons Licensed Under the Laws of Other Jurisdictions*. He noted that the Board had discussed at the October meeting the feasibility of amending the referenced statute to clarify the Board's statutes governing reciprocal licensure. He stated that North Carolina's statute is difficult to interpret and

administer given the existing standard for "equal to or greater than" requirements for licensure for those seeking reciprocity from North Carolina. He summarized the proposed language and reported that staff recommended a dual standard which would recognize a "length of service" requirement or a "substantial equivalency" standard. Mr. Watson questioned the basis for interpreting and applying the substantial equivalency standard. Ms. Lee suggested that administrative rulemaking would be an option for the Board's consideration in defining the "substantial equivalency" standard. Discussion ensued. The Board asked staff to continue its development of an amended statute with companion administrative rules to govern reciprocal licensure and report back at a future meeting.

Mr. Davis continued his report and said that the Board would be meeting on December 8, 2021, at the NCSU University Club in Raleigh, for its duly scheduled meeting which would include a luncheon to recognize former and current Board officers as well as those whose terms expired in 2020.

Mr. Davis concluded his report by explaining that The Conference announced that nominations are open for filling a vacant seat on their Board of Directors. The vacancy would be a seat designated as District 3 representative. Mr. Davis said that District 3 includes North Carolina. He said that he would be glad to provide additional details to any Board member interested in this election.

Mr. Brown then recessed the Business Session at 10:00 a.m. and announced that the Board would canvass votes to fill 2 vacant seats on the NC Crematory Authority.

Mr. Davis provided the sealed ballots received as of October 31, 2021, which was the closing date for voting by licensed crematory managers. He noted that 24 ballots had been inadvertently opened by staff and that he was presenting his affidavit affirming that no ballot had been altered or changed and that these ballots had been properly secured to protect them. Mr. Brown then opened each ballot and Dr. Lyons recorded the vote for each of three (3) candidates. Mr. Brown announced the voting results as follows:

Mr. Mitchell D. Ward	30
Mr. Edward J. Kosmos	21
Ms. Soo Ying Kilian	19

Mr. Brown asked Mr. Davis to promptly notify the candidates of the results.

Mr. Brown then announced that the Board would conduct a disciplinary hearing in the matter pertaining to Thomas Shepherd & Son, Inc. and noted that Mr. Jeff Gray from Bailey & Dixon was present to serve as Board Counsel during the proceedings. He asked Ms. Lee if the respondents were present, and she noted that they would join by remote connection. The Board proceeded with the hearing. At the conclusion of the hearing, Mr. Brown noted that the Board would deliberate in closed session to reach any decisions regarding the matter.

Upon a motion by Mr. Blake and a second by Mr. Herndon, the Board voted to convene in closed session to consider matters subject to attorney-client confidentiality pursuant to NCGS 143-318.11.

Upon proper motion and vote, the Board reconvened in open session. Mr. Brown invited a motion pertaining to the matter regarding Thomas Shepherd & Son, Inc.

Mr. Herndon moved that the allegations in the Amended Notice of Hearing to Show Cause for cases C19-0034; C19-0041; C20-0033; C20-0038; C20-0040; C20-0084; C20-0090; C21-0011; C21-0056; and M20-0111 shall be found as fact. The funeral establishment permit of Thomas Shepherd & Son; the permit for Shepherd Memorial Park Crematory; the individual funeral director license for Thomas R. Shepherd; and the crematory manager license for Melody Shepherd shall be revoked. The above establishments and individuals shall not be eligible to reapply for five (5) years. With the loss of the establishment and preneed permits, the preneed files shall be administratively transferred immediately. Further, the Board directs Board staff to pursue criminal charges for any appropriate violations.

Mr. Hilderbrand offered a second to Mr. Herndon's motion. The Board voted by roll call vote to adopt the motion as stated. Mr. Watson was recused from the vote.

Mr. Brown then reconvened the Business Session and continued with the published Agenda for the meeting. Mr. Brown recognized Ms. Lee for the Legal Report.

Legal Report

Ms. Lee reported the following activity to the Board:

Disciplinary Matters

Current Active Cases: 61

Pending Investigation:	9
Pending Review by Disciplinary Committee:	2
Pending Dispositive Action:	27
Pending Hearing:	9
Post-Hearing:	0
Other:	4

New files opened since last Board meeting:	26
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:	27

Preneed Recovery Fund Claims

Current Active Preneed Recovery Fund Claims	3
Pending Investigation	3
Pending Dispositive Action	0

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 Committee since last Board meeting: 0

Ms. Lee invited questions from Board members. Hearing none, Mr. Brown thanked Ms. Lee for her report to the Board. He then asked for any Old Business items.

Old Business:

Mr. Brown raised concerns regarding the implementation of the Electronic Death Registration System [EDRS] that is proposed to go online January 1, 2022. Mr. Brown expressed concerns about participation among medical certifiers and other issues involving the proposed implementation date. Mr. Blake agreed and said that the Wake County Register of Deeds was not participating in the new system. Discussion ensued. Mr. Brown questioned if a communication from the Board regarding these concerns would be appropriate, and if so, to whom should the communication be directed. Brief discussion ensued. Mr. Davis said that he would develop a communication and bring a recommendation back to the Board at the December meeting.

Mr. Brown asked for any New Business items. He then announced that the Board would conduct elections for the 2022 slate of Board Officers.

New Business:

- Mr. Brown invited nominations for President.
  Upon a motion by Mr. Herndon and a second by Mr. Blake, the Board voted unanimously to elect Mr. Chris Watson as the 2022 Board President.

- Mr. Brown invited nominations for Vice-President.
  Upon a motion by Mr. Watson and a second by Mr. Saunders, the Board voted unanimously to elect Dr. Steven Lyons as the 2022 Board Vice-President.

- Mr. Brown invited nominations for Secretary.
  Upon a motion by Mr. Blake and a second by Dr. Lyons, the Board voted unanimously to elect Mr. Thomas Hilderbrand as the 2022 Board Secretary.

Mr. Brown thanked Board members and staff for their comments and attention on all matters raised in the Business Session. He announced that the Board would next meet in closed session to consider matters subject to attorney-client confidentiality pursuant to NCGS 143-318.11.

Upon proper motion and vote, the Board met in closed session to consider the matter of Case Number M21-0101 and Case Number M21-0081.

Upon proper motion and vote, the Board reconvened in open session. Mr. Brown invited any motions pertaining to the disciplinary matters discussed in closed session.

Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted to approve a Consent Order in settlement of Board Case Number M21-0101.

Upon a motion by Mr. Jansen and a second by Mr. Watson, the Board voted to accept a Consent Order in settlement of Board Case Number M21-0081.

Upon proper motion and vote, the Board then convened in closed session to discuss a confidential human resources issue pertaining to the status of employment and compensation for a staff member.

Upon proper motion and vote, the Board reconvened in open session. Mr. Brown asked if there were any other matters to come before the Board. Hearing none, he adjourned the meeting upon proper motion and vote.

Affirmation:

Don Brown, President

Steven Lyons, Secretary

12-8-2021

Date