



NORTH CAROLINA BOARD OF FUNERAL SERVICE

Minutes
January 12, 2022, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on January 12, 2022, at the NC Board of Funeral Service office suite at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605.

Present: Chris Watson, President; Steven Lyons, Vice-President; Thomas Hilderbrand, Secretary; Don Brown; Mark Blake; Steve Herndon; Robb Jansen; and Darrell McCormick.

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

Guests and Visitors: Mr. Dorman Caudle, Funeral Director licensee and representing HonorBridge.

Mr. Watson called the meeting to order at 9:05 a.m. and led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Dr. Lyons offered. He proceeded by reading the Statement of Ethics and asked if any members would be recusing themselves. None recused. Mr. Watson then asked if any guests were present and if they wished to offer any public comment. Mr. Dorman Caudle introduced himself as a representative of HonorBridge formerly known as Carolina Donor Services.

Mr. Watson continued and asked Mr. Hilderbrand to present the minutes from the December 8, 2021, Board meeting.

Approval of Minutes

Mr. Hilderbrand 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, he offered a motion for approval of the minutes.

Upon a motion by Mr. Hilderbrand and a second by Mr. McCormick, the Board voted to adopt the December 8, 2021, minutes as presented.

Mr. Watson recognized Mr. Blake for the Finance and Personnel Committee report.

Finance and Personnel Committee Report

Mr. Blake reported that the Finance and Personnel Committee met on January 6, 2022, with all members present. He stated that the Committee reviewed and discussed the Board's financial reports

for the period ending November 2021, and he asked Mr. Davis to summarize the Statement of Net Position and the Statement of Revenue/Expenditures.

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 to 8 month reserve in operating capital. He also noted that the Preneed Recovery Trust Fund balance increased to \$455,133.26 compared to \$418,527.80 for the prior reporting period. Mr. Davis noted that the increase is attributed primarily to the deposit of funds earmarked for the Preneed Recovery Trust Fund that derive from preneed contract filing fees and reported that at the same time in 2020, the Fund balance was \$382,514. Mr. Davis continued by explaining that the Deferred Income balances shown on the second page represented renewal fees which will be deferred for deposit until the 2022 fiscal year beginning January 1, 2022. He also noted that the Board's bank account which supports operating expenses had increased from \$1,262,714.80 as of October 2021 to \$1,324,096.76 as of November 2021. Mr. Davis concluded by reporting that the Fund Balance – Recovery Fund showed an increase from the prior reporting period. He explained that this Fund shows the profitability of the Preneed Recovery Trust Fund from its beginning and reflects income from the preneed contract fees and interest derived from funds deposited with the NC State Treasurer. He reported that claims paid from the Trust Fund are also factored in when determining the Fund balance so that the net amount shown indicates the cumulative gains and losses over the Trust Fund's existence.

Mr. Davis continued his report to the Committee 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 November 2021 showed 104.0% growth rate which exceeds the Total Revenue projected for FY2021. He said that the revenue collected for the same reporting period in 2020 was at 94.8% indicating that fees received for cremations and preneed contracts were ahead compared to the same time last year. He reported that the operating expenses for the period ending November 2021 exceeded the projected revenue by 4.7% and that revenues yet to be reported for the period ending December 2021 would hopefully offset the overage in expenses compared to revenue. Mr. Davis offered to answer any questions or provide additional information for Board members. Brief discussion ensued. Mr. Blake offered a motion to recommend approval of the November financial reports.

In response to Mr. Blake's motion for approval of the November 2021 financial reports, Mr. Brown offered a second. The full Board voted unanimously to approve the November 2021 financial reports.

Mr. Blake continued his report and said that the Committee had discussed Board staffing with regard to the current Compliance Inspector position in Region 4. Mr. Blake asked Mr. Davis to offer additional comment regarding the vacant position. M. Davis reported that the position had been posted in early November with a closing date in mid-December and that he had received two resumes in response. He noted that the lack of response to the vacancy announcement reflected recruitment trends both in North Carolina and nationally. He noted that staff recommended holding the position vacant primarily as a means for generating lapsed salaries given the possibility that the Board's expenditures by the end of the 2021 fiscal year would exceed revenue collections. He noted that generating lapsed salaries would be an important strategy in offsetting expenditures that exceed revenue. Board members discussed the issue at length with an emphasis on recruitment strategies. Mr. Jansen asked if the Board actively recruited from other states as a way of expanding the candidate pool. Mr. Davis responded that doing so would likely require reciprocal licensure and noted that candidates not licensed in North Carolina would not necessarily hold a reciprocal license. If not, then those candidates would be required to apply for reciprocal licensure without any assurance that they would qualify for a NC license. Members continued

their discussion emphasizing the lack of candidates available for employment in funeral service throughout North Carolina and the competitive nature of the labor market in terms of compensation and benefits. Mr. Blake commented that starting salaries for a qualified funeral professional likely exceeded the starting salary for a Board Compliance Inspector which creates challenges in hiring. Members briefly discussed the need for identifying sufficient funds to support competitive salaries and noted that increases in fees should be considered since some of the Board's fees have not been adjusted since 1990. Members then discussed the impact of the COVID pandemic on staffing noting the necessity for hiring temporary staff to help full-time staff overcome periods of telework or office closure when staff have been exposed to the virus. Davis noted that the need for temporary staff has been a long-standing practice particularly during the license renewal season, but with the increased numbers for online renewals, the need for temporary staff has diminished. Members were in agreement that staff continue to determine appropriate strategies for recruitment and selection of a qualified candidate.

Mr. Watson 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, January 7, 2022, to consider and discuss cases and recommendations from General Counsel Catherine Lee for the following cases:

Summary Dismissal

C21-0128

Dismissals

C21-0117 C21-0120 C21-0121 C21-0122 C21-0123 C21-0124 C21-0126

Letters of Caution

M21-0106

Notice of Hearing

M21-0104 M21-0105 M21-0107

Other

M21-0108 M21-0109

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. Mr. Blake asked for additional information regarding C21-0122 and acknowledged his concern about multiple issues that were the subject of the consumer's complaint. Brief discussion ensued. Mr. Herndon then offered a motion for approval of the recommendations from the Disciplinary Committee.

Upon Mr. Herndon's motion, Mr. McCormick offered a second. The Board voted to adopt the recommendations from the Disciplinary Committee as presented.

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

Executive Director's Report

Mr. Davis reported that the NC Department of Health and Human Services had been engaged in discussions with the NC Healthcare Association regarding the urgent need for increased participation among medical certifiers in the NCDAVE system which supports electronic death registration. Mr. Davis highlighted progress towards implementing the new system for recording and certifying death certificates, and he confirmed that the date for full implementation had been pushed back to March 1, 2022. He also summarized the content of letters between NCDHHS and the NC Healthcare Association regarding plans and strategies for increasing participation in the new system by physicians and other medical certifiers. Members discussed concerns and issues regarding the electronic death registration system and shared their experiences in their regional locations in working with the new system.

Mr. Davis continued by asking Ms. Acord to report on the status of license renewals for the 2022 cycle. Ms. Acord noted that approximately 90% of individuals and establishments have renewed their licenses and permits using the Board's online renewal portal. She noted that this percentage was pacing slightly higher than that in 2021. Brief discussion ensued.

Mr. Watson then recognized Ms. Lee for the Legal Report.

Legal Report

Ms. Lee reported the following activity to the Board:

Disciplinary Matters

Current Active Cases: 40

Pending Investigation:	10
Pending Review by Disciplinary Committee:	2
Pending Dispositive Action:	15
Pending Hearing:	10
Post-Hearing:	0
Other:	3

New files opened since last Board meeting: 14

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 1

Cases reviewed by Disciplinary Committee since last Board meeting: 15

Preneed Recovery Fund Claims

Current Active Preneed Recovery Fund Claims	1
Pending Investigation	1
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: 1

After presenting the metrics regarding legal activity, Ms. Lee responded to an earlier question from Mr. Blake regarding the timeframes regarding fee increases. Mr. Blake asked about the number of preneed claims presented to the Board and the fiscal impact on the Board’s Preneed Recovery Trust Fund. Ms. Lee noted that approximately 18 claims were filed in 2020 and 15 claims in 2021 with an average payout of \$5,000 per claim. Mr. McCormick expressed interest in demographic analyses of preneed claims in determining an annual assessment of claims paid and whether or not there might be trends in claims filed and then paid. Ms. Lee explained the detailed analysis of the Preneed Recovery Trust Fund during the annual audit process in determining claims projections. Members discussed the range of claims paid over past years in terms of the highest dollar amount paid. Ms. Lee stated that the skill and competency of the Board’s Compliance Inspectors are instrumental in identifying misappropriation of preneed funds and in assuring that preneed sales licensees are fully aware of their fiduciary and legal requirements for the receipt and administration of preneed funds. Ms. Lee stated that she would continue her analysis of claims filed and paid in developing information that might be useful in identifying trends having impact on the Preneed Recovery Trust Fund.

Mr. Watson thanked Ms. Lee for her report to the Board. He then asked for any Old Business and New Business items.

Old Business:

There were no Old Business items offered.

New Business:

Mr. Herndon questioned the implications for removal of gastric pacemakers prior to cremation and noted that such pacemakers are similar to cardiac pacemakers. Ms. Lee noted that the Board’s administrative rules refer to “pacemaker” when alluding to the removal of such devices prior to cremation. Mr. Blake stated that the cremation authorization forms require disclosure of such devices. Brief discussion ensued.

Mr. Blake asked staff if there had been any measurable increase in traineeship registrations in the past year, and Ms. Acord responded with information affirming that the number of trainees has been steady for the past 2 years at approximately 200. Brief discussion ensued.

Mr. Watson thanked staff and Board members for their discussion and attention to issues brought before them in the Business Session. He stated that the Board would convene in closed session to consider matters requiring attorney-client confidentiality pursuant to NCGS 143-318.11.

Upon a motion by Mr. Brown and a second by Mr. Herndon, the Board voted to convene in closed session.

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

Upon a motion by Mr. Herndon and a second by Mr. Brown, the Board voted unanimously to accept a Consent Order in settlement of Case Number C21-0029/M21-0040.

Upon a motion by Mr. Herndon and a second by Mr. Jansen, the Board voted unanimously to accept the Consent Judgement in the matter pertaining to Convenient Cremations, LLC in the Rutherford County Superior Court.

Mr. Watson announced a recess until 1:00 p.m. for additional hearings before the Board. Mr. Watson reconvened the Board at 1:40 p.m. to continue hearings before the Board. Following the hearings, Mr. Watson stated that the Board would convene in closed session to deliberate on Case Number M22-0005.

Upon proper motion and vote, the Board reconvened in open session. Mr. Watson invited any motions pertaining to Board Case Number M22-0005.

Upon a motion by Mr. Hilderbrand and a second by Mr. McCormick, the Board voted in the majority that in the matter of Case Number M22-0005, the Funeral Director license of Thomie D. Douthit and the Establishment License of Douthit Funeral Home both be summarily suspended, but that the summary suspension of each be suspended on the condition that:

- 1. Respondents shall not accept from any consumers any funds that are intended to pay for funeral services for a person who has not yet died;*
- 2. Respondent shall not access any funds set forth in any existing "payable upon death" bank account or any other bank account that contains funds deposited as prepayment for funeral services; and*
- 3. Respondent shall not deposit any funds received as prepayment for funeral services into any "payable upon death" bank account or any other bank account.*

The motion carried with five (5) votes in favor and one (1) vote opposed.

Mr. Watson continued scheduled hearings before the Board. Upon proper motion and vote, the Board voted to convene in closed session to consider the matter of Board Case Number M21-0010.

Upon proper motion and vote, the Board reconvened in open session. Mr. Watson asked if there were any motions pertaining to Case Number M21-0010.

Upon a motion by Mr. Blake and a second by Mr. McCormick, the Board voted unanimously to revoke the establishment preneed license for Respondent Funeral Home and the individual preneed sales license for Regional Orlanda Pruitt and to suspend the Funeral Service license for Regional Orlanda Pruitt stayed on condition that Mr. Pruitt pay a \$1,000 fine and identify a new location manager for Pruitt Funeral Home. Further, the Board voted to suspend the Funeral

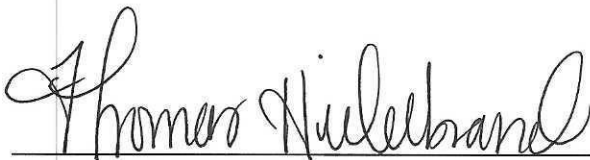
Director License of Russell T. Costner stayed on the condition that he resign as manager of Pruitt Funeral Home.

Mr. Watson then asked if there were any other matters to come before the Board. Hearing none and upon proper motion and vote, the Board voted unanimously to adjourn.

Affirmation:



Christian E. Watson, President



Thomas T. Hilderbrand, Secretary

March 9, 2022

Date