



NORTH CAROLINA
BOARD OF FUNERAL SERVICE

Minutes
June 8, 2022, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on June 8, 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; Le'Shekia Coleman; Darrell McCormick; and Robert Jansen.

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, Executive Director, NC Funeral Directors Association

Mr. Watson called the meeting to order at 9:00 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. Mr. Hilderbrand announced that he would be recused from deliberating and voting on Case Number M22-0017. Mr. Watson then asked if any guests were present and if they wished to offer any public comment. Mr. Chase Noble introduced himself as Executive Director of the NC Funeral Directors Association.

Mr. Watson noted for the record that all votes taken by the Board would be by roll call to assure compliance with existing requirements for remote meetings. He continued and asked Mr. Hilderbrand to present the minutes from the May 11, 2022, 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.

Upon a motion by Mr. Hilderbrand and a second by Mr. McCormick, the Board voted to adopt the May 11, 2022, 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 June 2, 2022, to review the financial reports for the period ending April 2022. He reported that Mr. Brown and Dr. Lyons were in attendance in addition to himself and were joined by Mr. Davis and Ms. Acord. He then recognized Mr. Davis for a summary of the reports.

Mr. Davis commented on the Statement of Net Position and reported that there were no outliers or other concerns in the balances shown for Assets and Liabilities that would create any concerns. He noted that the Board's net position as reflected in the Unrestricted Fund Balance of \$1,187,243.43 represents nearly 9 months of operating reserve for the Board. He affirmed that the Board's financial position is strong. He then briefly discussed the Preneed Recovery Trust Fund balance and explained that the balance is variable from one reporting period to another depending on when deposits are made to the Fund. He said that funds received from preneed contract registration fees must be posted to the iGov system and must then be independently reconciled to assure compliance with audit requirements. He noted that there are two pending deposits of 11,051.67 and 13,540 which would increase the Fund balance on future reports. Mr. Davis offered to answer any questions from Board members. Mr. Watson asked if the Fund deposits were made on the same day each month, and Mr. Davis replied that they are not but are subject to variation.

Mr. Davis continued his summary by reporting on the Statement of Revenues and Expenses. He said that revenue collections indicated a continuation of a trend noted in FY2021 with increased fee collection for Cremation Fees and Preneed Contract Fees. He said that Cremation Fees for the period ending April 2022 were 180,110.00 compared to 170,895 for the same reporting period in 2021. He noted that the collections for Preneed Contract Fees were 131,150.00 for the period ending April 2022 compared to 124,750 for the same period in 2021. Mr. Davis reported that revenue collections as of April 2022 were at 59.7% of the total budgeted revenue for FY 2022 which compared with 59.2% for the same period in 2021. He said that the Board's expenses thus far in 2022 were less than those reported for the same period in 2021 and that the expenses thus far represented 35.1% of the budget for FY2022. Mr. Davis concluded his summary by reporting that the Office Condominium Owners Association would be meeting later in June to vote on raising the annual assessment for the building's occupants. He stated that the Association had determined that the Reserve Account for future capital improvements was underfunded and that it would be necessary to raise the 2023 annual assessment by 43%. Discussion ensued. Mr. McCormick elaborated on the need for a sufficient reserve fund to assure funding for future improvements to the building structure and grounds. Mr. Blake asked that a representative from the Board attend the meeting, and Mr. Davis said that he planned to do so.

Mr. Blake asked members for any questions or comments. Hearing none, Mr. Blake offered a motion.

Upon a motion by Mr. Blake and a second by Mr. McCormick, the Board voted unanimously to approve the Financial Reports for the period ending April 2022.

Mr. Watson continued the meeting and asked Mr. Brown for the Laws, Rules and Legislation Committee report. Mr. Brown asked Mr. Davis to summarize the committee's discussion and next steps. Mr. Davis offered members a "macro" view of the primary issues associated with reciprocal licensure and the Board's current standard for determining whether or not to issue a license to applicants from other jurisdictions. He said that the Board's current standard which has been in place through legislation ratified in 2018 includes the phrase "at the time the license was issued." This phrase requires that staff assess candidates for reciprocal license by determining if their jurisdiction's licensing requirements were "equal to or greater than" those of North Carolina "at the time the license was issued." Davis noted that this determination required legal research by General Counsel and often created disparity in approval of applications from different individuals in the same jurisdiction. He urged the Board to eliminate this language and stated that it was unnecessarily restrictive. He then said that current labor market conditions made it difficult for funeral establishments to recruit and retain funeral licensees to fill vacancies. He noted that the NCFDA website includes several pages of vacancies. Mr. Chase Noble affirmed that the NCFDA currently is advertising 37 vacancies on behalf of its membership. Mr. Davis explained that the current restrictive language in the Board's reciprocal licensure statute creates a barrier to expanding the pool of qualified funeral professionals in North Carolina who might be available to fill vacant positions. He said that the current standard enables staff

to approve applicants from jurisdictions with licensure requirements equal to or greater than those in NC with confidence since the requirements for education, examination and resident traineeship would at least be equivalent. For those jurisdictions with licensing requirements less than North Carolina's, staff was proposing a licensed practice experience range to determine whether or not they qualified for licensure. Davis noted that a reasonable experience requirement would be an acceptable measure of qualification for licensure so long as those candidates successfully passed the North Carolina Laws and Rules examination and possessed a license that was active and in good standing in the other jurisdiction. He noted that the requirements for education, examination and resident traineeship must still be substantially equivalent to North Carolina for those applicants coming from jurisdictions with a standard less than North Carolina.

Members discussed the standards and requirements for reciprocal licensure and the extent to which the Board's statute should be amended to facilitate reciprocity. Mr. Brown said that the Committee was offering information at this point and that there would need to be additional discussion before a recommendation could be fully developed. He said that the Committee would need to meet prior to the July Board meeting with an expectation that they would convey a recommendation on reciprocal licensure at that time.

Mr. Watson thanked the Committee members and staff for their analysis and research regarding reciprocal licensure. He then recognized Mr. Hilderbrand for the Preneed Committee report.

Preneed Committee Report

Mr. Hilderbrand reported that the Preneed Committee convened by WebEx teleconferencing on June 7, 2022, and that all members were present. Staff in attendance were Ms. Amy Acord, Assistant Director and Ms. Catherine Lee, General Counsel. He said that the Committee reviewed and considered recommendations from staff regarding a request for waiver of a surety bond for a Mutual Burial Association as well as a consumer claim for reimbursement through the Preneed Recovery Trust Fund. Mr. Hilderbrand briefly summarized each of the recommendations from the Committee and noted that Ms. Lee would provide additional information if needed. Mr. Watson asked if the decedent had a surviving husband and if not, was a claim filed on his behalf. Ms. Lee indicated that she had made the successor funeral home aware of the decedent's claim but that she did not know if the husband was still living or not. Mr. Jansen questioned the time period associated with the claim, and Ms. Lee explained the Board's practice at the time this misappropriation occurred in considering claims for reimbursement from the Preneed Recovery Trust Fund. She noted that, at the time this misappropriation occurred, the Board considered claims pending until the time of death occurred. Mr. Hilderbrand asked for any other questions or comments. Mr. Watson invited a motion on the Committee's recommendations and noted that there would be a separate vote on each recommendation.

Upon a motion by Mr. Herndon and a second by Mr. Brown, the Board voted unanimously to approve the request for a preneed bond waiver as recommended by the Preneed Committee.

Upon a motion by Mr. Hilderbrand and a second by Dr. Lyons, the Board voted unanimously to approve Preneed Recovery Fund Claim #P22-0004 in the amount of \$8,176.90 as recommended by the Preneed Committee.

Mr. Watson conveyed his thanks and appreciation to Mr. Hilderbrand and the Preneed Committee for their work in developing the recommendations for the surety bond waiver and the Preneed Recovery Fund claim. He then recognized Mr. Herndon for the Disciplinary Committee Report.

Disciplinary Committee Report

Mr. Herndon said that he and Dr. Lyons met on June 3, 2022, to consider preliminary disciplinary recommendations from staff as follows:

Dismissals

C22-0021	C22-0023	C22-0025	C22-0027	C22-0028	C22-0032
C22-0034	C22-0035	C22-0043	C22-0045		

Letters of Caution

C22-0036	M22-0033	M22-0034	M22-0035
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Other

M22-0037	M22-0039	M22-0040
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Mr. Herndon invited any questions or comments. Mr. Blake asked for additional information concerning C22-0036 and the type of cremation authorization form which had been used in the matter. Ms. Lee offered additional details in response and noted that the form in question was the form prescribed by the Board, but it failed to include all information required by statute.

Mr. Herndon then offered a motion for approval of the Disciplinary Committee's recommendations as presented.

Upon Mr. Herndon's motion, Mr. McCormick offered a second. The Board voted unanimously by roll call vote to approve the Disciplinary Committee report as presented.

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

Executive Director's Report

Mr. Davis presented the following items to the Board for information and discussion:

- As you are aware, there have been changes in the Funeral Service Education program at Fayetteville Technical Community College. As I reported earlier, Amy and I had a productive and welcomed meeting with the new department chair, James Bullard and the Academic Dean. Since that meeting, the department has appointed Mr. John Hill as the lead instructor for Embalming

and Sciences. In speaking with Mr. Hill recently, he said that the Funeral Service Education program would be developing its outreach program to funeral establishments across the state.

- You may recall an earlier report to you concerning difficulty staff has encountered with the submission and receipt of background checks from the NC State Bureau of Investigation. We noted a spike in background checks for individuals not familiar to us as well as a significant increase in duplicate background reports for our licensure applicants. Amy and I changed our internal procedures for assisting applicants with their fingerprint submission through local law enforcement as one way to avoid charges for background checks on individuals who were not applicants of the Board. I subsequently wrote to the SBI Assistant Director who has oversight over background checks and explained our concern that we were being charged for background checks for individuals with no association with the Board. I'm glad to report that the SBI has been very cooperative, and I believe we have virtually eliminated these concerns through a cooperative effort with the SBI.
- Dr. Lyons, Mr. Blake, Mr. Watson, and Mr. Hilderbrand represented the Board at the recent NC Funeral Directors Association conference in May, and I wanted to recognize Mr. Noble and his colleagues at the NCFDA for their efforts in staging a well-attended, successful conference. Mr. Watson presented remarks on behalf of the Board which were well-received – heard many compliments on his presentation.
- The Funeral Directors and Morticians Association of NC will hold its annual conference the week of June 13th, and I will be attending on behalf of the Board. Mr. Hilderbrand will present remarks concerning the Board's mission, objectives and accomplishments at the General Session.
- I had a call from the Hendersonville Lightning on Monday regarding the sale of the Thomas Shepherd & Sons property in Hendersonville. The newspaper has reported that the property has been sold to Altmeyer Funeral Homes and Crematory which is headquartered in Virginia Beach. Mr. Altmeyer said that he will renovate the structure and will reopen it to the local community as a funeral home and chapel. Brief discussion ensued regarding Altmeyer's ownership of multiple funeral homes in the same community. Mr. Lisenbee said that there are no prohibitions in the Board's statutes and rules preventing multiple ownership in the same community. He noted that if the Federal Trade Commission had concerns regarding multiple ownership, they would address that issue with the ownership.

Mr. Watson thanked Mr. Davis for his report and then recognized Ms. Lee for the Legal Case Report.

Legal Case Report

DISCIPLINARY MATTERS

Current Active Cases: 60

Pending Investigation: 20
Pending Review by Disciplinary Committee: 0
Pending Dispositive Action: 20
Pending Hearing: 20
Post-Hearing: 0
Other: 4

New files opened since last Board meeting: 16

Notices of Hearing sent since last Board meeting: 2

Consent Orders received since last Board meeting: 2

Cases reviewed by Disciplinary Committee since last Board meeting: 20

Ms. Lee noted that there is no backlog of pending legal matters and that the Board is in a “good place” relative to the number of complaints filed by consumers, ongoing investigations, and hearings.

PRENEED RECOVERY FUND CLAIMS

Current Active Preneed Recovery Fund Claims: 0

Pending Investigation: 0

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 continued her report and updated the Board on the lawsuit filed against Heritage Funeral Providers and Legacy Cremation Services in the Southern District of Florida. She reminded the Board that she would provide updates and report on the suit’s progress through the courts as she learned additional facts. Mr. Herndon recognized and thanked Ms. Lee and staff for their collective work in the management and administration of the Board’s business particularly with Ms. Lee’s management of legal issues.

Mr. Watson then asked for any Old Business and New Business items.

Ms. Lee reported that at the Board’s direction in May, she had drafted amended administrative rules pertaining to preneed and continuing education matters that the Preneed Committee had recommended and discussed in the April and May Board meetings. She noted that the Board could proceed with rulemaking if it so desired by voting on a recommendation to initiate rulemaking on the proposed amended rules through the Rules Review Commission. She identified the rules as 21 NCAC 34B .0408 and 21 NCAC 34D .0202. Mr. Blake said that he had received feedback at the recent meeting of the NC Funeral Directors Association expressing concern about lifting the limit on the number of online CE credits that licensees could accrue. He noted that some licensees believe there should be some requirement for in person instructional hours for licensees as they accrue CE hours necessary for annual renewal. Brief discussion ensued. Mr. Watson invited a motion for the Board to initiate rulemaking on the proposed amendments to the referenced administrative rules.

Mr. McCormick offered a motion that the Board initiate rulemaking for 21 NCAC 34B .0408 and 21 NCAC 34D .0202. Mr. Hilderbrand offered a second. Mr. Watson began the roll call vote. Mr. Jansen asked for

clarification on the purpose of the voting. He noted that he did not have the draft rules before him to review. Members noted that the amendments were those that the Board discussed in May and had voted to approve at that time. Ms. Lee indicated that the voting underway was to initiate the procedures imposed by the NC Rules Review Commission for amending an administrative rule. Brief discussion ensued. Some members indicated that they did not receive the draft rules, and Mr. McCormick suggested that the vote be delayed until July to allow member sufficient time for the review of the draft rules. He withdrew his original motion and offered a substitute motion. Mr. Watson suspended the vote on Mr. McCormick's original motion.

Upon a motion by Mr. McCormick and a second by Mr. Blake, the Board voted to delay a vote to initiate rulemaking until the July Board meeting to assure ample time for members to review the draft rules, NCAC 21 34B .0408 and NCAC 21 34D .0208.

Mr. Watson asked if there were any other Old Business items. Mr. Blake said that he had heard from several out-of-state funeral establishments that they were having significant difficulty with the registration of death certificates through NCDAVE. He said that they were unable to create an account through the system and were having difficulty reaching the technical support HelpDesk in the NC Department of Health and Human Services. Brief discussion ensued. Mr. Davis noted that Board staff has conveyed concerns regarding the implementation of the electronic death registration system to the NC DHHS and would continue to do so. Mr. Brown noted that the Board has no jurisdiction over the system but agreed that there are concerns regarding the new system. Mr. Davis said that he would convey Mr. Blake's concerns to the NC Center for Health Statistics which oversees the NCDAVE system.

Mr. Watson then asked for any New Business items. Hearing none, he announced a brief recess. Upon return from recess, Mr. Watson announced that the Board would convene in closed session to hear legal matters requiring attorney-client confidentiality pursuant to NCGS 143-318.11. Upon proper motion and vote, the Board convened in closed session.

Upon proper motion and vote, the Board voted to reconvene in open session. Mr. Watson stated that the respondents and their counsel in the matter of M22-0017 would join the meeting remotely so that Board members would have an opportunity to ask questions and gather additional information before deliberating on a proposed Consent Order. After a brief interchange between respondents and the Board in the matter of M22-0017, and upon proper motion and vote, the Board convened in closed session to consider a proposed Consent Order in the matter. Mr. Hilderbrand did not participate in either the open or closed session regarding Case Number M22-0017.

Upon a motion by Mr. Brown and a second by Mr. McCormick, the Board reconvened in open session. Mr. Watson invited a motion on the proposed Consent Order in settlement of Case Number M22-0017.

Upon a motion by Mr. Jansen and a second by Mr. McCormick, the Board voted to accept the proposed Consent Order with the stipulation that a copy of the Order be sent to the new location manager for the respondent funeral establishment. Mr. Hilderbrand was recused from the vote.

Mr. Watson asked if there were other motions.

Upon proper motion and vote, the Board voted to accept a Consent Order in settlement of Case Number C21-0131, Susanne Blair and Susanne Blair d/b/a Memorial Funeral Service.

Mr. Watson then announced that the Board would convene in closed session to hear legal matters requiring attorney-client confidentiality pursuant to NCGS 143-318.11. Upon proper motion and vote, the Board convened 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.

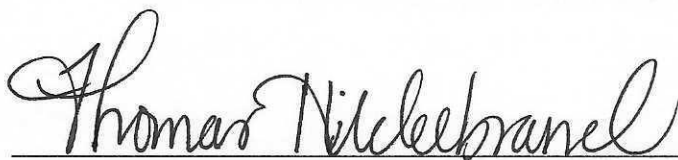
Upon proper motion and vote, the Board voted to request General Counsel to pursue an injunction against Alight and Feggins & Feggins Friendly Home of Memorials; Alight Casket & Monuments; and Allen Simmons to prevent the unlicensed practice of funeral service.

Without further business before the Board and upon proper motion and vote, Mr. Watson adjourned the meeting.

Affirmation:



Christian E. Watson, President



Thomas T. Hilderbrand, Secretary

July 13, 2022

Date