



NORTH CAROLINA  
BOARD OF FUNERAL SERVICE

Minutes  
August 10, 2022, Board Meeting

*The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on August 10, 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; 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. Fred Jordan, Miracles in Sight. Joining via YouTube livestream: Dorman Caudle, Valdus Lockhart, and Sean Gillen.

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Mr. Watson called the meeting to order at 9:12 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 22CVS 1288, Consent Judgment re: NCBFS v. Garcia F. Johnson. 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; and Mr. Fred Jordan introduced himself as a representative of Miracles in Sight.

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 July 13, 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. Mr. Hilderbrand asked if the reference to "certifiers" included under the Executive Director's report meant "medical certifiers," and he asked for a correction to assure clarity. Mr. Davis acknowledged the change and said that he would assure that the particular reference would be changed to read "medical certifiers." Mr. Hilderbrand then offered a motion for approval of the minutes.

*Upon a motion by Mr. Hilderbrand and a second by Mr. Brown, the Board voted to adopt the July 13, 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 August 5, 2022, to review the financial reports for the period ending June 2022. He reported that Mr. Brown and Mr. Watson 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 opened his summary by reporting that the Board's net position as reflected in the Statement of Net Position is strong and continues to show strength based on the Unrestricted Fund balance which represents approximately eight (8) months of reserve operating capital. Mr. Davis then reported that the Preneed Recovery Trust fund balance is \$469,016.84 as of June 30, 2022, which is an increase over the balance shown for the same period in 2021. The 2021 balance was \$418,316.91. Mr. Davis said that the current balance reflects any payments from the Fund since the last reporting period as well as pending deposits which are considered Accounts Payables. Board members acknowledged his explanation and affirmed their understanding that the balance is a "snapshot" of a particular point in time and subject to variation. He then explained several new entries on the Statement of Net Position including amounts shown for Accrued Expenses, AFLAC Payable, and Accrued Payroll Taxes. He invited any questions or comments from the Board. No questions or comments were offered, and Mr. Blake asked Mr. Davis to continue with a summary of the Statement of Revenues and Expenses.

Mr. Davis said that the June financial reports included information for the first two quarters of the fiscal year, and he noted that the revenues as well as operating expenses were nearly the same as for the same reporting period in 2021. He said that the Total Revenue collections were at 71% of the projected total for FY2022 which compared to 71.4% for 2021. He noted that the Cremation Fees and Preneed Contract fees continue to exceed the rates seen since 2021 which indicated that revenue collections will hopefully exceed the projected totals for revenue at the beginning of the fiscal year. He further noted that the Operating Expenses YTD were at 51% of the total projected which means that the expenses are 1% over budget. He said that the Total Operating Expenses YTD Actual were less than for the same reporting period in 2021 which was an important metric in evaluating the Board's current expenditures. He said that a sustained lower rate of expenditures coupled with elevations in revenue collections would hopefully result in a modest surplus at the end of the fiscal year. Mr. Blake invited questions or comments from the Committee. Hearing none, he offered a motion for approval of the June financial reports as presented.

*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 June 2022.*

He then recognized Dr. Lyons for the Disciplinary Committee Report in Mr. Herndon's absence.

## Disciplinary Committee Report

Dr. Lyons said that Mr. Herndon met on August 5, 2022, with General Counsel to consider preliminary disciplinary recommendations from staff as follows:

### Summary Dismissals

C22-0054      C22-0056      C22-0063

### Dismissals

C22-0046      C22-0048      C22-0053      C22-0055      C22-0057

Letters of Caution

M22-0041    M22-0046    M22-0048    M22-0049    M22-0050    M22-0043  
M22-0053

Notice of Hearing

C22-0042    M22-0038/M22-0044    M22-0042    M22-0052

Dr. Lyons invited any questions or comments. Mr. Hilderbrand questioned the information presented for C22-0046 regarding the respondent funeral home cancelling a consumer's bank draft. Ms. Lee offered further details in response to his question. Mr. Blake asked for additional information regarding M22-0046, Letter of Caution, to a funeral establishment failing to notify the Board of an establishment manager within the prescribed period of time. Ms. Lee responded with more detailed information and said that the Board would issue a Notice of Hearing if proper notice is not forthcoming. Brief discussion ensued.

Without further questions or comments, Dr. Lyons offered a motion for approval of the committee report.

*Upon Dr. Lyons' motion, Mr. McCormick offered a second. The Board voted in the majority by roll call vote to approve the Disciplinary Committee report as presented. Mr. Blake voted nay.*

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:

**BOARD REPORTS**

Mr. Davis said that he and/or staff had prepared and timely submitted the following mandatory reports:

Secretary of State	Appointment Reporting
Office of the State Controller	Assessment of Internal Controls
Office of State Budget and Management	Collection Costs for Civil Penalties

Mr. Davis offered a brief explanation for the content and purpose for each report.

**LAWS & RULES EXAMINATION**

Mr. Davis said that he and Ms. Acord are currently rewriting test questions for amending and updated the Laws & Rules examination. He noted that upon completion, he would present the recommended changes to the Exams Committee.

## NC CREMATORY AUTHORITY

Mr. Davis reported that an election is underway to fill 3 vacant seats on the Authority. Nomination letters were sent Monday, August 8 with a requested due date of September 8. He said that staff will then send ballots to all licensed crematories with an expectation that they will be tallied at the October Board meeting. He said that following the election, he will then convene a meeting of the Authority so that members can elect officers and offer any suggestions for administrative rules.

## NC OFFICE OF THE CHIEF MEDICAL EXAMINER

Mr. Davis said that he had a recent conversation with the General Counsel from the NC Office of the Chief Medical Examiner pertaining to individuals engaged in the removal and transportation of decedents. OCME has asked about the Board's requirements and procedures for issuing Removal and Transportation permit.

Mr. Davis closed his report and said that the inspections and licensure reports were included in the Board's materials. Mr. Blake noted that three of the compliance inspectors reported higher numbers of establishment inspections than one, and he asked why. Mr. Davis and Mr. Lisenbee explained that the one inspector with lower numbers of compliance inspections is the Board's lead staff in auditing preneed records that have been remanded to the Board's custody prior to release to a successor funeral home when the originating funeral home has either closed or been subject to disciplinary action such as revocation of licensure. Mr. Lisenbee also noted that the referenced compliance inspector has the lead responsibility for auditing all finances associated with a Mutual Burial Association upon the Board's consent for dissolution. Mr. Brown asked if compliance inspectors would be joining future Board meetings as in the past. Mr. Davis indicated that the current schedule for establishment inspections could limit their availability but that there was no objection should the Board wish to have them appear.

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: 44

Pending Investigation: 12  
Pending Review by Disciplinary Committee: 0  
Pending Dispositive Action: 20  
Pending Hearing: 10  
Post-Hearing: 0  
Other: 2

New files opened since last Board meeting: 13

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: 20

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 invited any questions or comments concerning the Legal Case Report. Hearing none, Mr. Watson then asked for any Old Business and New Business items.

Old Business

Mr. Davis said that he had three matters to bring to the Board's attention. He said that staff was proposing a statutory change to enable a resident trainee supervisor to oversee more than one trainee at a time. He noted that the current statute at NCGS 90-210.25(a)(4)(i) limits the number of trainees who may work under an approved supervisor to no more than one trainee. Mr. Blake concurred and said that such a revision to the statute would create more employment opportunities for resident trainees and would be of significant value to licensed establishments in expanding the number of on-site trainees at a particular location. Mr. McCormick expressed support and noted that placing all trainees under a single point of administrative oversight in an establishment could be an efficient, effective way to assure timely submission of reports and compliance with other administrative requirements associated with the resident traineeship program. Board members discussed these issues at length and agreed that expanding the number of trainees under a single supervisor would benefit licensed establishments as well as those seeking resident traineeships. Mr. McCormick said that enabling legislation would be an appropriate approach which would be the least restrictive statutory change.

*Upon a motion by Mr. McCormick and a second by Dr. Lyons, the Board voted unanimously by roll call to direct Mr. Davis in his capacity as a Legislative Liaison or other appropriate Board representative to seek an amendment to NCGS 90-210.25(a)(4)(i) increasing the number of resident trainees under an approved supervisor from one to two.*

Mr. Davis continued his presentation and said that staff was proposing the deletion of certain language in 90-210(b)(1) in response to prior discussions in the Laws, Rules & Legislation Committee as well as prior

Board meetings with regard to reciprocal licensure. Mr. Davis reminded Board members that prior discussions focused on the phrase “at the time it was issued by the other jurisdiction” which sets forth a condition for reciprocal licensure under current statutory provisions. Mr. Davis said that this phrase curtails the Board’s ability to identify and then license otherwise qualified candidates in a particular jurisdiction, and he said that eliminating this particular phrase would open reciprocal licensure to more candidates than the current law allows. He also proposed a return to a standard of “substantial equivalency” rather than the more restrictive “equal to or greater than” standard currently expressed in statute when evaluating the licensing credentials of reciprocal licensure candidates from other jurisdictions. Mr. Davis said that he would be glad to answer any questions or concerns from Board members. Members asked about the rationale for the current language and for more detail regarding the Board’s requirements for reciprocal licensure prior to the introduction of the more restrictive language in 2018. Discussion ensued. Mr. Watson noted that members seemed in agreement with staff’s recommendation and invited a motion.

*Upon a motion by Mr. Blake and a second by Mr. Brown, the Board voted unanimously by roll call to direct Mr. Davis in his capacity as Legislative Liaison or other appropriate Board representative to seek an amendment to NCGS 90-210(b)(1) to delete the phrase “at the time it was issued by the other jurisdiction” and to change the current text “equal to or greater than” to “substantially equivalent” in evaluating the credentials of candidates for reciprocal licensure.*

Mr. Davis continued and said that he had included statutory revisions resulting from Session Law 2022-63 regarding the redefinition of an “entry-level examination in funeral directing” so that members could see the content of the new definition as it now appears in NCGS 90-210.20(e1). Mr. Davis said that he was including the new statutory provisions regarding entry-level examinations for informational purposes. He noted that staff’s analysis and assessment indicated minimal impact on the Board’s current practices in recognizing the current State Board Examination – Arts or its equivalent as one of three examination requirements for licensure in funeral directing. He noted that candidates for the funeral director license must also pass the NC Laws and Rules examination as well as the Pathology exam. Mr. Davis offered more details about the concept of a capstone course as referenced in the revised statute based upon his research particularly focused on Gupton-Jones Mortuary College, the Cincinnati College of Mortuary Science, and the McAllister Institute of Mortuary Science. Members discussed the new statutory provisions at length. Mr. Davis said that he and Ms. Acord had recent discussions with the Director of the Funeral Service Education program at Fayetteville Technical Community College to discuss any implications or impact on students.

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 conduct a scheduled disciplinary hearing in the matter of Case Number M21-0105, Mercedes Fornay and Mercedes’ Funeral Mansion and Cremation Services.

Following the hearing, Mr. Watson announced that the Board would convene in closed session to deliberate on the referenced matter in M21-0105 unless there were objections from either party. Hearing none, Mr. Watson invited a motion.

*Upon a motion by Mr. Brown and a second by Mr. Hilderbrand, the Board voted by roll call to convene in closed session to deliberate in the matter of Case Number M21-0105.*

Upon a motion by Mr. Brown and a second by Mr. Hilderbrand, the Board voted by roll call to reconvene in open session. Mr. Watson invited any motions pertaining to the matter discussed in closed session.

*Upon a motion by Mr. Blake and a second by Mr. McCormick, the Board voted by roll call to suspend the Funeral Director license of Mercedes Fornay and the at-need establishment permit for Mercedes' Funeral Mansion and Cremation Services, LLC for one (1) year stayed on the condition that Ms. Fornay pay a \$1,000 penalty within 60-days of the signed Final Agency Decision; that Mercedes' Funeral Mansion and Cremation Services, LLC undergo a reinspection with minimal deficiencies; and that Ms. Fornay complete Board-sponsored continuing education in cremation statutes and rules as well as The Funeral Rule by December 31, 2022.*

Mr. Watson recessed the meeting briefly for lunch. The Board reconvened to hear the matter in Case Number M21-0102, in re Jinwright. Following the hearing, Mr. Watson announced that the Board would meet in closed session to deliberate on the referenced matter in Case Number M21-0102 unless either party objected. There were no objections. Mr. Watson invited a motion to convene in closed session.

*Upon a motion by Mr. McCormick and a second by Mr. Hilderbrand, the Board voted by roll call to convene in closed session to deliberate on the matter in Case Number M21-0102.*

Upon proper motion and vote, the Board voted by roll call to reconvene in open session. Mr. Watson invited any motions pertaining to the matter discussed in closed session.

*Upon a motion by Mr. Blake and a second by Ms. Coleman, the Board voted by roll call in the majority to approve the respondent's request for reinstatement of his funeral service license subject to the following conditions: that he not serve as an establishment manager for a period of three (3) years and that he not hold a preneed sales license for a period of three (3) years from the date the Final Agency Decision is signed. Mr. McCormick voted nay.*

Mr. Watson announced that the Board would continue the scheduled disciplinary matters and would hear the matter of Case Number M21-0107, Janice Ray Owens and Gilliam Memorial Mortuary, Inc. Mr. Brown announced that he would recuse himself from participating and voting in the referenced matter pertaining to Gilliam Memorial Mortuary. Mr. Watson noted that no respondents appeared before the Board in the matter of Case Number M21-0107. Following the hearing, Mr. Watson announced that the Board would convene in closed session to deliberate on the referenced matter in Case Number M21-0107 unless there were objections from either party. Hearing none, Mr. Watson invited a motion.

Upon a motion by Mr. McCormick and a second by Mr. Hilderbrand, the Board voted by roll call to convene in closed session to deliberate in the matter of Case Number M21-0107.

Upon proper motion and vote, the Board voted by roll call to reconvene in open session. Mr. Watson invited any motions pertaining to the matter discussed in closed session.

*Upon a motion by Mr. Hilderbrand and a second by Mr. Blake, the Board voted by roll call to revoke the preneed sales license of Janice Ray Owens and the preneed permit for Gilliam Memorial Mortuary, Inc.*

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 voted to reconvene in open session. Mr. Watson invited any motions pertaining to the matter discussed in closed session.

*Upon a motion by Mr. McCormick and a second by Mr. Blake, the Board voted by roll call to approve the request for a Consent Judgment in the matter of North Carolina Board of Funeral Service v. Garcia Fenwick Johnson in the General Court of Justice/Superior Court Division, 22 CVS 1288.*

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

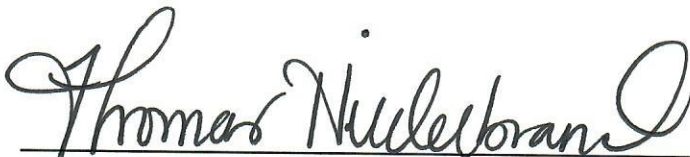
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**Affirmation:**



Christian E. Watson, President



Thomas T. Hilderbrand, Secretary

October 12, 2022

Date