

NORTH CAROLINA  
BOARD OF FUNERAL SERVICE



October 11, 2023, Board Meeting

---

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on October 11, 2023, at the Grandover Hotel in Greensboro, North Carolina. This meeting was coupled with a Board Strategic Planning Retreat following the Business Session.

Present: Dr. Steven Lyons, President; Thomas Hilderbrand, Vice-President; Steve Herndon; Chris Watson; Dr. Kimberly Kelsey; LeShekia Coleman; Richard Hinchey; and Roger Barnes.

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

Dr. Lyons called the meeting to order at 10:02 a.m. and led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Mr. Barnes offered. He then read the Statement of Ethics and asked if any Board members had any conflict or appearance of conflict of interest. Dr. Lyons proceeded by asking if any guests were present and if they wished to offer any public comment. Mr. Garland Smith, President of the NC Funeral Directors Association, introduced himself and expressed appreciation for the opportunity to join the meeting. Mr. Damien Shell, Funeral Director licensee, also joined the meeting.

Dr. Lyons continued and recognized Mr. Hilderbrand for the presentation of the minutes from the September 13, 2023 meeting. Mr. Hilderbrand stated that staff had provided the minutes prior to the meeting for review and invited any changes or amendments. None were offered. Dr. Lyons invited a motion for approval.

*Upon proper motion and vote, the Board voted unanimously to approve the September 13 2023, minutes as presented.*

Dr. Lyons continued and recognized Mr. Herndon for the Disciplinary Committee report.

**Disciplinary Committee**

Mr. Herndon said that the Disciplinary Committee met on Friday, October 6, 2023, to consider the following disciplinary cases along with recommendations and rationale for each case number

**SUMMARY DISMISSALS**

C23-0084      C23-0085      C23-0086      C23-0087

**DISMISSALS**

C23-0050      C23-0064      C23-0070      C23-0071      C23-0072      C23-0074  
C23-0076      C23-0078      C23-0080      C23-0081

**LETTER OF CAUTION**

C23-0024      C23-0077      M23-0049

NOTICE OF HEARING

C23-0082      M23-0047

OTHER

M23-0048

Mr. Herndon invited any questions or comments concerning the cases he presented in the Disciplinary Committee report. Mr. Herndon then offered a motion for approval of the Disciplinary Committee Report.

*Upon Mr. Herndon's motion, Dr. Kelsey offered a second. The Board voted unanimously to accept the recommendations presented by the Disciplinary Committee*

Dr. Lyons continued and recognized Mr. Davis for a summary of the Finance and Personnel Committee report.

Finance and Personnel Committee

Mr. Davis presented a summary of the following Committee report:

The Finance and Personnel Committee convened by WebEx teleconference at 9:00 a.m. on Thursday, October 5, 2023. In attendance were Dr. Steven Lyons, Chair; Mr. Steve Herndon; Mr. Thomas Hilderbrand; and Mr. Chris Watson. Staff in attendance were Mr. Stephen Davis, Executive Director, and Ms. Amy Acord, Assistant Director. Dr. Lyons called the meeting to order and thanked members for joining. He then recognized Mr. Davis for the Financial Reports for the period ending August 2022.

Mr. Davis summarized the Statement of Net Position and reported that there were no indicators or trends noted in the Statement that would create concerns for the Board's overall net position. He said that the Preneed Recovery Trust Fund showed a balance of \$603,601.71 which reflects a continuing increase in these funds for the past several years. He stated that the Board's net position continues to be strong and that all balances reported for both assets and liabilities were consistent with reports for the preceding 12-month period. He noted that the Board's banking account at First-Citizens Bank showed a balance of \$1,607,330.16 compared to \$1,487,706.23 for the same period in 2022. He asked for any questions or comments. Mr. Watson asked about the investment of Board funds in Certificates of Deposit with Capital Bank and noted that interest rates on savings have increased recently and are increasingly competitive. He commented that the Board may want to consider re-investing these funds in a higher yield account. Discussion ensued. Mr. Davis said that he and Ms. Acord would research the issue and would plan to report further at the October 11<sup>th</sup> Board meeting if they could compile information by then.

Mr. Davis continued his report to the Committee and summarized the Statement of Revenues and Expenses. He summarized the revenues the Board has received through August 2023 and said that the revenue for License Fees exceeded the amount reported for the same period in 2022. He further noted that the Total Revenue for the Year-to-Date Actual was approximately \$8,000 more than for the same period in 2022. He also reminded the Committee that the Board had approved a 2% increase in the budget for FY2023 which made percentage comparisons difficult. He said that comparing actual balances reported for both 2022 and 2023 offered a more realistic comparison and affirmed that the Board's revenues are tracking slightly higher than in 2022. He further noted that Cremation Fees and Preneed Contract Registration fees showed slight variations from 2022 to 2023 but that these slight differences were not outliers or significant. Mr. Davis concluded by reporting that the Board's expenses for 2023 through August were higher than for 2022, but that the operating

expenses as a percentage of the budgeted expenses was exactly where they should be at 66.8%. He then invited questions or comments.

Dr. Lyons thanked Mr. Davis for his summary of the Finance and Personnel Committee report and invited any questions or comments regarding the financial reports for the period ending August 2022. Brief discussion ensued. He then invited a motion for approval of the Financial Reports.

*Upon proper motion and vote, the Board voted unanimously to approve the Financial Reports for the period ending August 2022.*

Dr. Lyons then recognized Mr. Hilderbrand for presenting the Exam Committee Report.

#### Exam Committee

Mr. Hilderbrand summarized and highlighted the following report from the Exam Committee:

The Exam Committee convened by WebEx at 9:00 a.m. on Wednesday, October 4, 2023. In attendance were Dr. Steven Lyons, Chair and Mr. Thomas Hilderbrand. Staff in attendance were Mr. Stephen Davis, Executive Director, and Ms. Amy Acord, Assistant Director; and Mr. Brett Lisenbee, Compliance Officer. Dr. Lyons opened the meeting and thanked members for their attendance and asked Mr. Davis to introduce the agenda.

Mr. Davis said that the primary purpose of the meeting was an introduction and orientation to the Board's recent activities associated revising the Laws, Rules and Regulations examination. He said that Ms. Lee and Mr. Lisenbee had completed an initial review of the LRR questions to determine which were in need of revision, and he added that Mr. Lisenbee recognized that the exam should include questions pertaining to alkaline hydrolysis which was adopted by the General Assembly and incorporated in the Funeral Practice Act in 2018. He then briefly summarized the current Letter of Agreement with the test provider, Meazure Learning, and noted that this Agreement will expire on December 31, 2023, which offers the Board an opportunity to review its terms and determine how best to proceed with updating the LRR exam. Mr. Davis said that the Board's prior activities associated with the LRR included discussion with the former test administrator, Scantron, regarding remote proctoring, and he said that the Committee may wish to consider whether to move forward with this concept particularly in light of a newly executed Letter of Agreement. The Committee discussed these issues in depth to include a question from Mr. Hilderbrand on the feasibility of introducing remote proctoring for the Laws, Rules and Regulations examination. Ms. Acord provided details about the security of remote proctoring and its basic requirements for implementation. Discussion continued.

Mr. Davis then reminded the Committee of the Board's discussion in April regarding the Pathology examination as a requirement for licensure in funeral directing. Dr. Lyons recognized that the issue is unresolved and would benefit from further discussion among both the Committee and the full Board. Discussion ensued. Ms. Acord alerted the Committee that staff has concerns that the Pathology examination questions have likely been disclosed through the years based on elevations in consistently high passing rates for those taking the exam. She encouraged the Committee's consideration to update the Pathology examination but noted that there would be a cost involved. Mr. Davis echoed her comments and asked the Committee to refer to the Letter of Agreement for the LRR exam which outlines a base cost of approximately \$1,800 just to make the revised examination available to those deemed eligible to sit for it. Ms. Acord disclosed that here would be additional costs for psychometrics, content development, and exam validation at

the typical rate of \$250.00 per hour. Discussion ensued. The Committee discussed the advantages and disadvantages of shifting the LRR exam to The Conference which would then create a seamless administration for all Board exams under a single administrator. Mr. Hilderbrand said that moving the LRR examination to The Conference would assure continuity and reduce any confusion among students when faced with registering for examinations with two different administrators. Ms. Acord noted that her prior conversations with Ms. Dalene Paull, Executive Director of The Conference, made her aware that the cost to those taking the exam would be higher if The Conference had responsibility for it compared to a lower cost by Meazure Learning, the current administrator. The Committee agreed that the Board retreat would provide an opportunity to discuss the issue in greater detail with Ms. Paull when she participates in the upcoming Board retreat. Mr. Hilderbrand asked if the Board should provide study guides for those planning to take the LRR exam. Discussion ensued.

Mr. Davis commented that some licensees have been critical of the current examinations and have a belief that the exams are too difficult, too expensive, and do not reflect the material taught in a mortuary science education program. He noted that he wanted the Committee to be aware of these beliefs and criticisms as they continued their study and review of the Board examinations. Mr. Hilderbrand agreed that continuing to educate the Board as well as licensees about examination protocols would be important including an invitation for staff from The Conference to meet in 2024 with the Board to discuss these issues. Dr. Lyons expressed support for this process and for continued discussions to decide if the LRR examination should transition to The Conference. Mr. Davis and Ms. Acord noted the approaching deadlines for executing a new Letter of Agreement with Meazure Learning and the need for careful coordination should the Board approve a transition to The Conference.

Mr. Hilderbrand invited questions or comments regarding the summary of the Exam Committee Report. Brief discussion ensued. Dr. Lyons then asked Mr. Watson for the Laws, Rules and Regulations Committee Report.

#### **Laws, Rules & Regulations Committee**

Mr. Watson acknowledged the meeting of the Laws, Rules and Regulations Committee on October 3, 2023, and asked Mr. Davis to offer a summary and highlights from the meeting. Following is the report from the Laws, Rules & Regulations Committee:

The Laws, Rules and Legislation Committee met on Tuesday, October 3, 2023, via Webex teleconferencing. Members in attendance were Dr. Steven Lyons, Chair, Mr. Stephen Herndon; and Mr. Chris Watson. Staff attending were Stephen Davis, Executive Director; Amy Acord, Assistant Director; and Catherine Lee, General Counsel.

Mr. Davis noted that the primary agenda item was the Committee's consideration and discussion of a recommendation from the NC Crematory Authority that all crematories be required to submit monthly cremations reports through the Board's online portal. Mr. Davis said that before this discussion, he wanted to make the Committee aware of recent conversations he had with an attorney representing Walker's Funeral Home in Chapel Hill, NC. He reported that the attorney expressed concerns about licensees leaving Walker's employment without giving sufficient notice. He said that their abrupt departure meant that there was no one to sign what he described as intern reports for the month of September which had significant negative impact on at least one intern working at the funeral home. Mr. Davis said that the attorney was proposing that the Board impose a 30-day notice requirement for any licensee resigning their employment. The Committee discussed this issue in detail and acknowledged that the proposal lacked merit since the Board has no authority in statute or rule to intervene in an employment matter between a

licensed funeral establishment and a licensee. Mr. Davis noted that the attorney had called the day before with similar concerns and repeated his assertion that the Board should sanction licensees who resign with less than 30-days notice to their employer. Mr. Davis said that he would return the attorney's call to make him aware of the Committee's discussion and conclusion that such employment matters are not within the Board's purview.

Dr. Lyons thanked Mr. Davis for the briefing on this situation. He then asked him to introduce the primary agenda item regarding the submission of the monthly cremation reports. Mr. Davis explained that the NC Crematory Authority expressed their belief that the Board should require the submission of monthly cremated reports via the online cremations portal. Mr. Davis said that the current utilization of the portal is near 65%, and he conveyed confidence that this rate would continue to rise over a period of time. Mr. Watson asked how the Authority's recommendation was developed. Mr. Davis noted that one of the Authority members was very supportive of the portal given the convenience and low risk of a late submission of cremation reports which would then result in a late fee. Committee members discussed the advantages of filing their cremation reports online and noted that the online submission facilitated recordkeeping since crematories did not have to pull hardcopy records during a compliance inspection. Mr. Davis said that the utilization of the online annual license renewal portal was initially in the 70% range but has now reached nearly 98% if not more for the 2023 renewal cycle. He stated that there was no reason not to believe the utilization of the cremations portal would follow a similar pattern. Ms. Lee offered information regarding the current statutes and administrative rules pertaining to cremation reports. She noted that there are no provisions for mandatory submission of the reports and said that the statute only addresses the fees that the Board can collect per cremation report. Ms. Lee said that the Board has the option for promulgating rules for the mandatory submission but that there may be questions as to the Board's authority to do so.

Committee members discussed the issue at length. The discussion included comments on the logistics and communications associated with a mandatory submission of cremation reports. Members also briefly discussed the implementation of such a mandate and the consequences for failure to comply. Following their discussion, members agreed that full utilization of the cremations report portal is a desirable goal but also recognized that crematories are using the portal in increasing numbers. The Committee further agreed to continue to monitor usage but proposed that the Executive Director send targeted communications to crematories encouraging them to use the portal and to highlight the issue in upcoming Board newsletters. Prior to adjournment, Ms. Lee briefed the Committee on a recent letter the Board received from Legacy Cremations, Inc. and reported that a number of jurisdictions across the United States had received a similar letter. She said that The Conference had conducted a member survey regarding receipt of the letter, and she added that the letter makes various observations but was not requesting any action or response from the Board. Brief discussion ensued.

Dr. Lyons continued the meeting and asked Mr. Davis to present the Executive Director's report.

#### **Executive Director's Report**

Mr. Davis presented the following items to the Board:

I have mailed a Request for Proposal to 8 accounting firms for their consideration as the Board's Independent Auditor for the period beginning January 1, 2024 and ending December 31, 2026. The first year of the engagement is subject to the Board's approval for cost submission and then is reviewed annually thereafter. So, once the Board has approved on of the competing firms for a 3-year engagement, only the first year is certain. The remaining two years of the engagement are subject to the Board's review and discretion.

The Conference has circulated a membership survey question regarding any language requirements for state Board examinations. The questions asked if examinations are available in Spanish, French, Arabic, or others. Dale Atkinson, Legal Counsel for The Conference, has advised careful consideration in offering translations of Board exams.

An update on the accreditation of the Funeral Service Education program at FTCC:

- The mandatory self-study has been completed – included 300 pages and more than 2000 documents.
- Site visit by an ABFSE team is scheduled for November 12, 13 and 14
- The Advisory Board for the FSE program will meet with the ABFSE Team – Mr. Bullard has invited me to attend on behalf of the Board, and I have accepted.

Dr. Lyons recently convened a Work Group to develop a Board response to an ABFSE Survey of Accreditation Standards. The Work Group met on Monday, October 2<sup>nd</sup> and completed the Survey which I forwarded to the ABFSE. Dr. Lyons, Mr. Hilderbrand, Mr. Watson and Dr. Kelsey formed the workgroup. This Survey is offered once every 5 years to stakeholders for their input and feedback on 13 Accreditation Standards.

Mr. Davis reminded Board members that the Inspections and New Licensure Reports were included in their materials. Dr. Lyons thanked Mr. Davis for his report and then recognized Ms. Lee for the Legal Report.

**Legal Report**

Ms. Lee reported the following information for current and pending disciplinary matters and preneed claims:

Current Active Cases: 42

Pending Investigation: 16  
Pending Review by Disciplinary Committee: 0  
Pending Dispositive Action: 20  
Pending Hearing: 6  
Post-Hearing:  
Other:

New files opened since last Board meeting: 17

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: 20

**PRENEED RECOVERY FUND CLAIMS**

Current Active Preneed Recovery Fund Claims: 4

Pending Investigation: 4  
Pending Dispositive Action: 0

Preneed Recovery Fund Claims received since last Board meeting: 2

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 offered to answer any questions or receive comments about the Legal Report. Hearing none, Dr. Lyons then asked for any Old or New Business items.

**Old Business**

There were no Old Business items presented to the Board.

**New Business**

There were no New Business items presented to the Board.

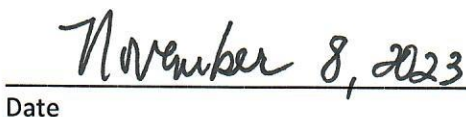
Dr. Lyons then announced at 11:06 a.m. that the Business Session was adjourned and that the Board would convene for the first presentation of the Strategic Planning Board Retreat by Ms. Nahale Kalfas, General Counsel, Council of State Governments. He noted that she would be speaking to the Board on a range of regulatory matters. He noted that the Board would resume the Planning Retreat following a luncheon at 12:30 a.m. He said that Ms. Dalene Paull, the Executive Director of The International Conference of Funeral Service Examining Boards would speak to the Board about National Board Examinations to include discussion of examination development, security protocols, examination content, and the role of funeral licensees in the examination process.

---

**Affirmation:**

  
\_\_\_\_\_  
Dr. Steven L. Lyons, President

\_\_\_\_\_  
Mr. Darrell McCormick, Secretary

  
\_\_\_\_\_  
Date