


NORTH CAROLINA
BOARD OF FUNERAL SERVICE

Emergency Board Meeting – October 23, 2023

The North Carolina Board of Funeral Service met in emergency session on October 23, 2023, by Webex teleconferencing. The purpose of the meeting was to immediately address and respond to an urgent notification that the Board's Pathology Examination had been publicly disclosed on the Internet in contradiction of examination security protocols.

Present: Dr. Steven Lyons, President; Thomas Hilderbrand, Vice-President; Darrell McCormick, Secretary; 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; and Catherine Lee, General Counsel.

Dr. Lyons called the meeting to order at 9:03 a.m. and noted that all Board members were present. He then conveyed thanks for the Board's attendance on short notice but noted that the emergency meeting was necessary and urgent in addressing a breach of the Pathology Examination which is a requirement for licensure in funeral directing. He then announced that Mr. Barnes had completed his Oath of Office prior to the meeting and was joining as a voting member. Dr. Lyons continued and read the Statement of Ethics. He asked if any members would be recusing themselves from matters coming before the Board. None recused.

Dr. Lyons said that the Board's Pathology Exam had been breached through public disclosure on the Internet website known as Quizlet, and he emphasized that this circumstance was a serious breach of exam security and would require the Board to consider an appropriate course of action. He said that key issues before the Board include discussion and debate on actions necessary to quickly restore the exam's security since there were candidates who had registered and been scheduled to take the exam as a licensure requirement. He reminded the Board that they would also need to consider any consequences for those licensure candidates who may have accessed the Pathology Exam on the Internet prior to sitting for it.

Dr. Lyons then recognized Mr. Davis for further information. Mr. Davis noted that Ms. Acord had discovered a link on an Internet site known as Quizlet. Mr. McCormick asked for more information about this particular site. Ms. Acord said that it was an exam preparation site that exam candidates can visit prior to taking a particular exam, and she confirmed that the link she discovered did include the NC Pathology exam. She recognized that she could not determine if the exam had been disclosed intentionally or who might have had access to it. She said she did not know how many students eligible to take the exam knew about the Quizlet posting but said that she had suspected the exam had been disclosed since several students who recently took the exam had made a perfect passing score. She noted that the sudden spike in perfect exam scores suggested that the exam content had been accessed and disclosed.

Dr. Lyons asked Ms. Lee for her opinion on the matter. She said that Board staff would likely want to discuss the issue with the exam administrators to determine, if possible, how and when the breach could have occurred. She said that preliminary investigation and gathering facts would be an important first step in addressing the matter. She continued and said that it would be useful for the Board to consider immediate steps which could include pausing the exam until there could be further evaluation and assessment of the matter. Ms. Acord said that she and Mr. Davis had not yet alerted staff at The Conference or at PearsonVue which schedules examinations for eligible candidates but would be doing so immediately following the Board's

emergency meeting. She said that it would be difficult to determine who and how many individuals might have accessed the examination content on Quizlet. Mr. Davis said that staff wanted to apprise the Board first and to have benefit of the Board's discussion on the matter before contacting The Conference. Mr. McCormick said that it seemed logical to take the exam down from the website immediately, and Ms. Acord agreed but acknowledged that staff does not know the website's protocols, requirements or procedures at the present time for removing content. She said that staff planned to report the situation to Quizlet and to identify their procedures for removing the exam questions from their site. Discussion ensued.

Dr. Lyons asked Ms. Lee if she had encountered a similar situation with other occupational licensing boards with whom she works or if she was familiar with any process for removing the exam content from the Quizlet website. Ms. Lee stated that she had not been confronted with a similar situation because most rely upon testing administrators to address these issues when they occur. She continued and said the NC Pathology Exam was somewhat different since it is under the purview of the Board, and she recalled the Board's discussion at the recent planning retreat regarding updates and redevelopment of the exam content which offered an opportunity for the Board to replace the current exam. Discussion ensued. Ms. Lee briefly described the response from The Conference when they discovered a security breach of the National Board Exam several years ago. She said that the breach had been reported to them which is not the case with the breach of the Pathology Exam matter under discussion. She said that not having the breach reported to The Conference could make the identification of anyone responsible difficult.

Mr. Davis asked Ms. Acord how many students are currently registered to take the Pathology Exam. Ms. Acord explained the registration process and said that this information was not readily available to staff. Ms. Acord suggested that taking the exam down immediately might be the most logical step and proceed with redevelopment of the exam. Discussion ensued regarding how Quizlet is used and accessed by students. Dr. Lyons asked how much time might be required to pause the exam. Mr. Davis said that there were two prevailing issues. One is the immediate removal of the exam content from Quizlet and, more importantly, a discussion with The Conference about pausing registration for the exam. He also noted the importance of a communication to those students who have registered to take the exam as well as those who have already been scheduled so that they will know the impact on their plans for licensure. Mr. Herndon said that the Board should immediately cease offering the Pathology exam. Ms. Coleman said that it was important for the Board to know the exam administrator's policy and procedure governing exam administration and security to determine what changes, if any, the Board might suggest as a way to prevent future occurrences.

Ms. Acord recalled the discussion during the recent retreat with Ms. Paull from The Conference who emphasized that the exam content is the Board's responsibility, and Ms. Lee said that The Conference would most likely want to know about this security breach since they implement security protocols during the administration of the exam. Discussion ensued, and members acknowledged that the current situation regarding the breach of the Pathology Exam occurred apparently by someone posting the exam content on a website rather than a breach of security at a testing site. Discussion about the Quizlet site continued.

Mr. Hilderbrand asked if there was confidence that the Laws and Rules exam had not also been breached. Ms. Acord said that staff had not thus far identified any breach of the Laws and Rules exam but would continue to investigate that possibility. Discussion ensued regarding the security of the Pathology Exam in the future and the advantages for having The Conference redevelop the exam content. Dr. Lyons questioned the impact of an interruption in testing and pausing the Pathology Exam on students needing the exam for licensure. Mr. Hilderbrand asked if the Board should consider adopting an emergency plan to address the situation which would include pausing the Pathology Exam. Ms. Lee said that she would defer to the Board on how to address the impact of such decisions particularly when licensure might be delayed. She suggested that the Board could consider a case-by-case approach in addressing this impact on students to determine an appropriate response. She said the Board may also want to consider provisional licensure as another alternative, but she acknowledged the need for additional thought and research to determine if this approach was feasible. Mr.

Davis said that the Board's discussion suggested an immediate pause on the Pathology Examination and discussion with The Conference on how best to address the security breach issues based on their prior experience with such situations. Dr. Lyons asked if a motion would be in order directing staff to proceed with these discussions which would include an immediate pause on the Pathology Exam.

Mr. McCormick offered a motion that the Board direct The Conference to suspend the Pathology testing indefinitely and to request Board staff to investigate the security breach matter further in collaboration with The Conference. Dr. Kelsey offered a second to the motion. Dr. Lyons conducted a roll call vote on the motion, and it passed with unanimous consent.

The Board continued discussion on the Pathology examination and addressed whether or not to transition the Laws and Rules examination to The Conference for exam administration while also seeking assistance from The Conference in the redevelopment and updating of the Pathology Examination. Dr. Lyons expressed support for the elimination of the Pathology Examination which was discussed earlier in the year upon a proposal by Board staff as a way to level the licensure requirements between the traditional and provisional pathways for licensure in funeral directing. Mr. Davis acknowledged his comments and agreed but also conveyed concern that such a decision would require a change in statute which could pose its own challenges. He referenced an earlier discussion regarding the Board's authority to identify an equivalent examination for Pathology by accepting the final Pathology course exam score from an accredited college of mortuary science.

Ms. Lee agreed that current statute would allow such authority but that it would not enable the Board to eliminate the Pathology exam since statute also requires it for licensure in funeral directing. She said that the Board could consider the promulgation of a rule to enable the Board to accept a passing score on a pathology exam from an accredited college of mortuary science as an equivalent to the NC Pathology exam and noted that rulemaking might require up to six months. The Board agreed that the Exam Committee should discuss the feasibility of promulgating a rule regarding the recognition of a passing score on a pathology exam at an accredited college of mortuary science as an equivalent to the NC Pathology exam and report its recommendations to the full Board at the November Board meeting.

Dr. Lyons then stated that the Board would need to consider whether to move forward with a decision to transition the Laws and Rules exam to The Conference which would include updating it as well as updating the Pathology examination. Discussion ensued. Dr. Lyons then invited a motion.

Mr. McCormick moved that the Board direct and authorize staff to request that The International Conference of Funeral Service Examining Boards redevelop and update the NC Pathology examination. Dr. Kelsey offered a second to the motion. On a roll call vote, the Board voted unanimously to adopt the motion.

Dr. Lyons continued the meeting and reminded the Board of the opportunity to ask The Conference to assume responsibility for the administration of the Laws and Rules examination. Mr. Hilderbrand asked about the current administrator and the Letter of Agreement for that organization to administer the Laws and Rules exam, and Mr. Davis acknowledged that the Agreement would not be continued beyond December 31, 2023. He further noted that the timing of this transition would need to involve all parties with some assurance that The Conference could complete the update to the Laws and Rules exam by that date or as soon as possible thereafter. He also noted that this transition would also require discussion with Measure Learning to continue an Agreement on a short-term basis if the transition would go beyond December 31, 2023. Mr. Hilderbrand asked what happens to the Laws and Rules content once the transition is complete per the Agreement. Ms. Lee said she and Mr. Davis would discuss the contractual terms to develop a response to his question. Dr. Lyons then invited a motion.

Ms. Coleman offered a motion to direct Board staff to request that The International Conference of Funeral Service Examining Boards assume responsibility for the administration of the Laws and

Rules examination as of December 31, 2023 or as soon thereafter as possible. Mr. Hilderbrand offered a second to the motion. Upon a roll call vote, the Board voted unanimously to adopt the motion.

Dr. Lyons continued the meeting and asked Mr. Davis to offer additional information about the Board's strategic planning process which was a core purpose of the recent Board retreat. Mr. Davis said that he would be convening a Planning Work Group and would submit names to Dr. Lyons to enable its formation. The primary purpose of this Group would be to identify short-term and long-term strategies for the Board in accomplishing its goals and objectives. He noted that such plans are essential for reporting on the Board's planning initiatives during the annual audit as well as developing critical information for stakeholders with an interest in the Board's regulatory and consumer protection mission.

Mr. Watson asked if the Board should discuss any appropriate measures for those individuals suspected of having accessed the NC Pathology Exam online and subsequently attained a perfect passing score. Mr. Lee said that she would be glad to follow up with Mr. Watson and discuss that issue.

Dr. Lyons then invited a motion for adjournment. Upon proper motion and vote, the Board adjourned the meeting at 9:52 a.m.

Affirmation:



Dr. Steven L. Lyons, President

Mr. Darrell McCormick, Secretary



Date