

NORTH CAROLINA  
BOARD OF FUNERAL SERVICE



January 10, 2024, Board Meeting

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The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on January 10, 2024, at the Board offices at 1033 Wade Avenue, Suite 108, in Raleigh, North Carolina.

Present: Mr. Thomas Hilderbrand, President; Mr. Richard Hinchler, Vice President; Ms. Le'Shekia Coleman, Secretary; Dr. Steven L. Lyons; Dr. Kimberly Kelsey; Mr. Robert Nunnaley; Mr. Michael Allen; and Mr. Gary Overcash. Staff in attendance were Mr. Stephen Davis, Executive Director; Ms. Amy Acord, Assistant Director; Mr. Brett Lisenbee, Compliance Officer; and Ms. Catherine Lee, General Counsel.

**Administration of the Oath of Office**

Mr. Hilderbrand opened the meeting at 9:02 a.m. and announced that newly appointed Board members would assemble in front of the room for a brief ceremony for the administration of their Oath of Office. He asked Mr. Robert Nunnaley, Mr. Gary Overcash, and Mr. Michael Allen to join him for the Oath. Ms. Elizabeth Berger from the law firm Hedrick Gardner Kincheloe & Garofalo, LLP, then administered the Oath to each newly appointed member.

Mr. Hilderbrand then led members and staff in a recitation of the Pledge of Allegiance followed by the invocation which Dr. Lyons offered. He then read the Statement of Ethics and asked if any Board members had any conflict or appearance of conflict of interest. None recused. Mr. Hilderbrand proceeded by asking if any guests were present and if they wished to offer any public comment. Guests were Mr. Fred Jordan representing Miracles in Sight and Mr. Hasten Wall, Funeral Service licensee.

Mr. Hilderbrand continued and recognized Ms. Coleman for the presentation of the minutes from the December 6, 2023, meeting. Ms. Coleman stated that staff had provided the minutes prior to the meeting for review and invited any changes or amendments. None were offered. Mr. Hilderbrand invited a motion for approval of the December 6, 2023, minutes.

*Upon a motion by Mr. Hinchler and a second by Dr. Kelsey, the Board voted in the majority by roll call to approve the December 6, 2023, minutes as presented.*

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

**Disciplinary Committee**

Dr. Lyons said that the Disciplinary Committee met on Friday, January 5, 2024, to consider the following disciplinary cases along with recommendations and rationale for each case number

## DISMISSALS

C23-0013      C23-0021      C23-0098      C23-0102      C23-0107      C23-0111  
C23-0112

## LETTERS OF CAUTION

C23-0104

Dr. Lyons invited any questions or comments concerning the cases he presented in the Disciplinary Committee report. None were offered. Dr. Lyons then offered a motion for approval of the Disciplinary Committee Report.

*Upon Dr. Lyons' motion, Ms. Coleman offered a second. The Board voted in the majority by roll call to accept the recommendations presented by the Disciplinary Committee.*

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

### **Finance and Personnel Committee**

Mr. Davis said that the Finance and Personnel Committee convened by WebEx teleconference at 8:30 a.m. on Thursday, January 4, 2024. In attendance were Mr. Thomas Hilderbrand, Chair; Mr. Richard Hincer; Dr. Steven Lyons; and Mr. Roger Barnes. Staff in attendance were Mr. Stephen Davis, Executive Director, and Ms. Amy Acord, Assistant Director.

Mr. Davis began the report by summarizing the Statement of Net Position and noted that the Preneed Recovery Trust Fund was accruing approximately \$200,000 annually since 2020 and is now funded at \$701,235. He continued and reported that the license renewal fees for 2024 were shown as Deferred Income under Current Liabilities. Mr. Davis noted that the Board's net position is robust and strong based on its reserve operating capital as shown under the Fund Balance – Unrestricted. He said that Committee members discussed the Fund Balances under Net Position, and Mr. Davis explained that these are threshold amounts that they Board may approve for the specific purpose listed for each Fund Balance.

Mr. Davis continued with highlighting the Statement of Revenues and Expenses. He reported that the Total Revenue collected exceeded the amount for the same period in 2022 by approximately \$13,000. He noted that the 2022 budget projected \$1,513,038 in revenue compared to \$1,601,000 for fiscal year 2023, and he explained that this difference resulted in a 102.8% collection rate compared to 97.9% for 2023. He then summarized the operating expenses and noted that the rate of encumbrance was 90.2% which was exactly the same percentage as for FY2022, and he reminded the Committee that the benchmark percentage for the period ending November 2023 was 91.6% meaning that the Board was "under" budget. Mr. Davis reported that the Committee questioned the \$12,380.50 shown under Contract Services – Other. Mr. Davis and Ms. Acord explained that this particular line-item recorded costs accrued through contracts with various providers including the

monthly filtered water service; housecleaning; alarm systems/access control; HVAC maintenance; and calligraphy for license certificates.

Mr. Davis invited any questions about the Statement of Net Position or the Statement of Revenues and Expenses. Hearing none, Mr. Hilderbrand invited a motion regarding the financial reports for the period ending November 2023.

*Upon a motion by Mr. Allen and a second by Mr. Hinchler, the Committee voted unanimously by roll call to approve the November 2023 financial reports.*

Mr. Davis concluded the Committee report by stating that projected costs for the redevelopment of the NC Pathology Examination by The Conference was \$4200. He also reported that the Committee Chair, Mr. Hilderbrand, asked staff to continue efforts to transition the Board's telephone system to an IPO format and to secure quotes for the renovation of the Board office suite. He also recommended that the Board proceed with quotes on the installation of enhanced security for controlled entry into the Board office suite. Members agreed. Dr. Kelsey asked about security during monthly Board meetings, and Mr. Davis responded that he had made arrangements for a plainclothes security officer to be present at each Board meeting.

Mr. Hilderbrand asked for any questions from Board members. Hearing none, he then recognized Dr. Kelsey for the Exam Committee report.

### **Exam Committee Report**

Dr. Kelsey reported that the Exam Committee convened by WebEx at 1:00 p.m. on Friday, January 5, 2024. She said that members in attendance were Mr. Thomas Hilderbrand and Mr. Robert Nunnaley. Staff in attendance were Mr. Stephen Davis, Executive Director, Ms. Amy Acord, Assistant Director, and Ms. Catherine Lee, General Counsel.

Dr. Kelsey said that Board staff updated the Committee on activities associated with the revisions to the Laws and Rules Examination and the NC Pathology Examination as well as provided information on the investigation into the 2023 security breach resulting from the illegal disclosure of the pathology exam on the Internet. She noted that Mr. Davis and Ms. Acord also briefed the Committee on a recent discussion they had with Measure Learning, the administrator for the Laws and Rules exam.

Dr. Kelsey stated that Ms. Lee briefly highlighted the events that emerged in October 2023 regarding the unauthorized and illegal disclosure of the NC Pathology Examination on an Internet site. Ms. Lee explained that the Board sent a letter to the individual who uploaded the exam content seeking additional facts and information. His response disclosed the name of another individual whom he identified as one who provided him the exam content. Ms. Lee noted that neither of these individuals is currently licensed or eligible for licensure by the Board.

Ms. Lee summarized staff's belief that the information from these two individuals would not be a sufficient basis to pursue the matter in the courts, and she noted that the alleged source of the exam content offered by one of the individuals responding to the Board's letters is now deceased.

She said that the Board acted appropriately and timely in pausing the NC Pathology Examination immediately upon learning that it had been breached.

Dr. Kelsey continued her report and said that Ms. Acord was leading the efforts to revise the Laws and Rules exam and the pathology exam. She conveyed to the Board that Ms. Acord had explained to the Committee staff's conversations with The Conference and the requirements for exam development. She noted that Board staff have provided exam blueprints for both the Laws and Rules exam as well as the pathology exam which then enabled The Conference to proceed with content development. Mr. Hilderbrand asked who would be responsible for writing the exam questions, and Ms. Acord said that a decision had not been made at this time on that issue. She indicated that the content development would likely be at a staff level but that she did not have specific details on the procedures for writing exam questions. She noted that the revisions would require approximately 3-4 months for completion.

Dr. Kelsey summarized the Committee's discussion on the development of these exams. Mr. Hilderbrand noted that Mr. Davis had earlier reported to the Finance and Personnel Committee that the cost for redeveloping the pathology exam would be approximately \$4,200. Discussion ensued. Dr. Kelsey continued and said that Mr. Davis and Ms. Acord met recently with the Project Manager and others from Meazure Learning to discuss a proposed contract beyond December 31, 2023 for the Laws and Rules examination. She explained that the Board had a 3-year engagement with Scantron which then transitioned to Meazure Learning and that this contractual agreement expired on December 31, 2023. She continued and said that the meeting with Meazure Learning included discussion about a short-term contractual agreement until the Board could address key issues associated with the redevelopment of the Laws and Rules examination.

Dr. Kelsey invited any questions or comments. Mr. Allen asked if the Board had the means to monitor those who may have breached the Pathology Exam should they become licensed in the future. He expressed a concern that the Board may need to be aware of the individual or individuals involved as they progressed through the licensure process to determine if any future action would be advisable. Ms. Lee responded that the Board's licensing management system enables Board staff to track those individuals through the licensing process. Brief discussion ensued.

Mr. Hilderbrand noted that the Exam Committee report was for informational purposes and that there were no recommendations requiring a Board vote. He then recognized Ms. Coleman for the Traineeship Committee report.

### **Traineeship Committee Report**

Ms. Coleman reported that the Traineeship Committee met on January 8, 2024 with Mr. Nunnaley and Mr. Barnes joining her in attendance. Staff attending were Mr. Davis and Ms. Acord. Ms. Coleman said that the meeting agenda focused on an issue that arose in early December when Mr. Sean Bannon, the licensee owner of Strickland Funeral Home in Wendell, NC, asked staff to rescind the disciplinary action imposed on his trainee. The trainee did not submit his October work reports timely, and Board staff properly imposed discipline in accordance with the Board's administrative rules. Mr. Bannon had objected and sent a letter to former Board President Dr. Steven Lyons asking reconsideration since Mr. Bannon said he had sent the report rather than the trainee.

Ms. Coleman said the Committee discussed this matter at length and heard from Ms. Acord who said that the trainee had been disciplined once before for the same deficiency, and she noted that the imposition of discipline is not subject to appeal unless the trainee has been terminated.

Ms. Coleman said that the Committee agreed that Board staff's decision to impose discipline was in accordance with past practice pursuant to its administrative rules regarding trainee discipline. She noted that both the trainee and the trainee supervisor receive detailed information regarding their respective responsibilities as well as specific information regarding the submission of monthly work reports.

Ms. Coleman also noted that Mr. Davis said he would sent Mr. Bannon a letter announcing the Committee's acknowledgment that the decision to impose discipline was in strict accordance with the Board's policy and procedure which is codified in the NC Administrative Code. She emphasized that her report was to make the Board aware of these circumstances and to follow-up in response to Mr. Bannon's December letter to Dr. Lyons. Mr. Hilderbrand invited any questions or comments. Mr. Nunnaley asked Board staff about the impact on the trainee with the imposition of disciplinary action. Ms. Acord responded that the trainee would lose credit for hours worked in the month of October which would necessitate a 1-month extension of his current traineeship.

Mr. Hilderbrand continued and invited Mr. Davis to present the Executive Director's report.

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

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

- The Raleigh N&O ran a feature story in their December 17, 2023 edition entitled:  
*How Funeral Directors Help Families*

It's an excellent article and one that would hopefully provide useful guidance to families seeking support and help from our funeral establishments and licensees

- We have received our Annual Letter of Understanding from The Conference. This document outlines the policies and procedures that govern the administration of the National Board Exam Arts. I'll be sending this document to you as a reference on the NBE Arts exam.
- 2024 License and Permit renewals are continuing and have gone smoothly other than the problems I reported to you in December regarding our IT host for our licensing management system. In spite of those problems, we are anticipating that nearly 99% of our licensees and permit holders will have used the Board's online portal to renew.
- We are currently working on processing Certificates of Performance and entering preneed contracts for 2023 in anticipation of preparing the Preneed Annual Report which will be sent out at least by the first week in February.
- The Conference gave us an update yesterday on their work in rewriting the NC Pathology Exam.

Mr. Davis then recognized Mr. Lisenbee for the Inspections Report. Mr. Lisenbee summarized the information provided on the Report and invited any questions or comments. Mr. Davis concluded his report with an update to the Board on arrangements for the upcoming Annual Meeting of The Conference, which is scheduled for February 27, 2024 though February 29, 2024 in Myrtle Beach, South Carolina.

Mr. Hilderbrand then asked Ms. Lee to present the Legal Report.

### **Legal Report**

Ms. Lee presented the following to the Board:

#### **DISCIPLINARY MATTERS**

Current Active Cases: 24

Pending Investigation: 8

Pending Review by Disciplinary Committee: 0

Pending Dispositive Action: 8

Pending Hearing:

Post-Hearing:

Other:

New files opened since last Board meeting: 7

Notices of Hearing sent since last Board meeting: 3

Consent Orders received since last Board meeting: 0

Cases reviewed by Disciplinary Committee since last Board meeting: 8

#### **PRENEED RECOVERY FUND CLAIMS**

Current Active Preneed Recovery Fund Claims: 2

Pending Investigation: 2

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

In the course of her presentation, Ms. Lee offered additional details and elaboration on the status of pending matters as well as the number of new files opened since the December Board meeting. Mr. Hilderbrand asked if most complaints are consumer-generated. Ms. Lee responded and

explained that most complaints do originate with consumers, and these are known as C-files as opposed to M-files which are staff-generated. Dr. Lyons asked for guidance on how Board members should respond when receiving calls that could involve a pending disciplinary matter. Ms. Lee offered guidance and information including an option for the caller to contact her or Mr. Davis if they have questions regarding a particular matter. She noted that Board members should always tactfully remind callers that they cannot discuss matters that are pending before the Board.

At 10:00 a.m., Mr. Hilderbrand recessed the Business Session and announced that the Board would open a Public Hearing to allow comment from interested parties on the amendment of 21 NCAC 34B .0208 and .0211; and the repeal of 21 NCAC 34B .0213. He stated that the hearing would be open for the next 20 minutes to allow time for interested parties to arrive and offer comment.

Mr. Davis offered to provide copies of the rules subject to amendment and repeal. Ms. Acord noted that members could view the referenced rules on their tablets under the Rulemaking folder. Mr. Hilderbrand asked if interested parties could offer comments through the Board's live-streamed meeting on YouTube. Ms. Lee said as long as the Board could preserve those comments, then they could offer feedback to the Board.

Mr. Hilderbrand then resumed the Business Session and asked for any Old Business items.

### **Old Business**

Dr. Kelsey offered information regarding the possibility of photographing Board members at an upcoming meeting so that there would be a group photo of the Board as well as individual photographs which could be included on the Board's information page on the website. Dr. Kelsey confirmed that she had arranged for a professional photographer to visit an upcoming Board meeting to photograph Board members and staff.

Mr. Hilderbrand then invited any items for New Business

### **New Business**

- Mr. Hincer asked the Executive Director about the deadline for submission of the annual Statement of Economic Interest forms required annually by the NC State Ethics Commission. Mr. Davis said that these reports are due April 15, 2024.
- Mr. Davis offered information about a survey that the NC Office of the Chief Medical Examiner was distributing including licensees of the Board. Mr. Davis said that he cooperated with their request to make the survey available to licensees and that he had done so in late December. He noted that the NC Office of the Chief Medical Examiner was developing a Comprehensive Strategic Plan at the request of the NC General Assembly.
- Ms. Lee reminded Board members of the upcoming mandatory training that she would be providing known familiarly as 93-B training as she referenced earlier in the meeting. She noted that this training is different than the mandatory Ethics Awareness training that is required within 6 months of a new Board member appointment and then every 2 years thereafter. She and Mr. Davis assured the Board that they would receive reminders prior to the individual due dates for the Ethics Awareness training.

Mr. Hilderbrand then asked Mr. Davis to provide information regarding the new Board member training that will be available at the Annual Meeting of The Conference in late February. Mr. Davis

gave a brief summary of the training and affirmed that it was invaluable particularly to new Board members regarding their regulatory roles and responsibilities.

Mr. Hilderbrand then asked new appointees to the Board to offer information about their current roles as funeral licensees and any information they wished to share with the Board. Mr. Nunnaley, Mr. Overcash and Mr. Allen each offered brief background information about their current duties and responsibilities either as a funeral licensee or in other occupational areas.

Mr. Hilderbrand then announced at 10:22 a.m. that the Public Hearing to receive comment from interested parties regarding the Board's rulemaking pertaining to 21 NCAC 34B .0208, .0211, and .0213 was now closed. No interested parties appeared before the Board to offer comment on the rules.

Mr. Hilderbrand announced a brief recess prior to the first duly scheduled Board meeting at 11:00 am.

The Board reconvened at 11:03 a.m. and conducted an administrative hearing in the matter of Board Case Number C23-0095, Akridge Services, LLC d/b/a Akridge Family Funeral Care and Brandon Tyrone Akridge, Respondents.

Following the hearing in Case No. C23-0095, Mr. Hilderbrand invited a motion for the Board to convene in closed session to deliberate on the matter heard in the administrative hearing.

Upon a motion by Dr. Kelsey and a second by Mr. Nunnaley, the Board voted by roll call to convene in closed session to deliberate on the matter of Board Case Number C23-0095.

Upon a motion by Mr. Nunnaley and a second by Dr. Kelsey, the Board voted by roll call to reconvene in open session. Mr. Hilderbrand invited any motions members wished offer in the matter discussed during closed session.

***Upon a motion by Mr. Overcash and a second by Mr. Nunnaley, the Board voted unanimously by roll call to issue the following decision:***

***To suspend for twelve (12) months the at-need establishment permit of the Respondent Establishment except that such suspension is stayed but shall be automatically lifted upon failure to comply with the following terms and conditions:***

***During the period of suspension, Respondents must submit in writing to the Board, no later than the tenth business day of each month, a log containing the following information for each decedent for whom Respondents have taken custody during the preceding month:***

- ***Decedent's name***
- ***Decedent's date of death***
- ***Date on which Respondents took custody of the decedent***
- ***Date on which Respondents filed the decedent's completed death certificate with the local county registrar***
- ***Any extenuating circumstances surrounding the filing of said death certificate***



*Further, during the period of suspension, Respondents shall file death certificates with the local registrar for all decedents taken into their custody within five (5) days following the decedent's death, as required by NC General Statute § 130A-115(b). Respondents' failure to maintain 100% compliance with NC General Statute § 130A-115(b) at all times during the period of suspension shall result in a lifting of the stay of suspension without further disciplinary proceedings, unless extenuating circumstances beyond the control of Respondents contribute to said failure, as determined in Board staff's sole discretion.*

Thereafter, the Board conducted a hearing on a summary suspension in Case No. M23-0060 in the matter of Bruce D. Martin and Long House Funeral Home Incorporated. Following the hearing, Mr. Hilderbrand invited a motion for the Board to convene in closed session to deliberate on the matter heard in the administrative hearing.

Upon a motion by Dr. Kelsey and a second by Mr. Overcash, the Board voted unanimously by roll call to convene in closed session to deliberate on whether the order for summary suspension should be lifted or continued in the matter of Board Case Number M23-0060.

Upon a motion by Mr. Overcash and a second by Dr. Kelsey, the Board voted unanimously by roll call to reconvene in open session. Mr. Hilderbrand invited any motions members wished to offer in the matter discussed during closed session.

Upon a duly made motion, the Board voted unanimously by roll call to issue the following decision:

- I. *The suspension of Funeral Service Licensee No. 2771 held by Bruce D. Martin, Jr. shall be continued until a full adjudication of his pending criminal charges at issue in the hearing have been adjudicated.*
- II. *The summary suspension of Funeral Establishment Permit No. 0752 and Preneed Establishment Permit No. 0974 held by Long House Funeral Home Incorporated shall be lifted upon Respondents' compliance with the following terms and conditions within thirty (30) days following the effective date of this Order:*
  - a. *Respondent establishment submit in writing to the Board the identify of a licensed manager for Respondent Establishment other than Bruce D. Martin, Jr.; and,*
  - b. *Respondent Establishment adhere to the compliance advice of Board staff to ensure that it meets the requirements of N.C. Gen. Stat. §90-210.27A(e), identifying a licensed officer of Respondent Establishment other than Bruce D. Martin, Jr.*

Mr. Hilderbrand asked if there were other matters to come before the Board. Hearing none and upon proper motion, the Board voted unanimously by roll call to adjourn the meeting.

**Affirmation:**

*Thomas T. Hilderbrand*

Mr. Thomas T. Hilderbrand, President

*Le'Shekia Coleman*

Ms. Le'Shekia Coleman, Secretary

*February 14, 2024*

Date