

NORTH CAROLINA  
BOARD OF FUNERAL SERVICE



February 14, 2024, Board Meeting

The North Carolina Board of Funeral Service met for a duly scheduled Board meeting on February 14, 2024, at the Board offices at 1033 Wade Avenue, Suite 108, in Raleigh, North Carolina.

Present: Mr. Thomas Hilderbrand, President; Mr. Richard Hincer, Vice President; Ms. Le'Shekia Coleman, Secretary; Dr. Steven L. Lyons; Dr. Kimberly Kelsey; Mr. Robert Nunnaley; Mr. Michael Allen; and Mr. Roger Barnes. 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.

Mr. Hilderbrand convened the meeting at 9:00 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. Mr. Hincer announced that he would be recused from voting in the matter of C23-0115 when presented to the Board during the Disciplinary Committee report. Mr. Hilderbrand proceeded by asking if any guests were present and if they wished to offer any public comment. No guests were present.

Mr. Hilderbrand continued and recognized Ms. Coleman for the presentation of the minutes from the January 10, 2024, meeting. Ms. Coleman stated that staff had provided the minutes prior to the meeting for review and invited any changes or amendments. Mr. Hincer and Mr. Hilderbrand noted that the date shown in the heading for the Minutes was incorrect. Mr. Davis said that he would amend the minutes to show the year "2024" instead of "2023" for the January Board meeting. Mr. Hilderbrand then invited a motion for approval of the January 10, 2024, minutes.

*Upon a motion by Ms. Coleman and a second by Dr. Kelsey, the Board voted in the majority by roll call to approve the January 10, 2024, 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, February 9, 2024, to consider the following disciplinary cases along with recommendations and rationale for each case number

**DISMISSALS**

C23-0113      C23-0114      C23-0115      C23-0116

**LETTERS OF CAUTION**

C23-0117      M24-0001

## OTHER

M22-0058      M24-0002

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 Case Number C23-0115 and noted that Mr. Hinchler was recused from voting on this case.

Mr. Hilderbrand asked the Board for any questions prior to voting on the motion. Ms. Lee said that the Disciplinary Committee report also included a recommendation to continue the Board's past practice in reinstatement of individual licenses for those individuals failing to renew by the February 1, 2024 renewal deadline. Ms. Lee said that she would be notifying those failing to renew of the expiration of their licenses along with instructions for reinstatement. Ms. Lee offered a detailed summary of the procedures for reinstatement for those who have practiced since their license expired on December 31, 2023, and for those who have attested that they did not practice since that date.

Mr. Hilderbrand asked members for any questions or discussions regarding the reinstatement procedures that Ms. Lee presented. Board members were in agreement to continue the practice for reinstatement of licenses and permits as she explained. Mr. Hilderbrand then asked for any discussion regarding the motion on the table. He said that there would be two motions so that there would be a separate vote on Case Number C23-0115 since Mr. Hinchler announced he would be recused from voting on this matter.

*Upon a motion by Dr. Lyons and a second by Mr. Allen, the Board voted in the majority by roll call to accept the recommendations presented by the Disciplinary Committee for Board Case Number C23-0115. Mr. Hinchler did not vote.*

Mr. Hilderbrand continued and invited a motion on the remaining cases that Dr. Lyons presented in the Disciplinary Committee report.

*Upon a motion by Dr. Lyons and a second by Mr. Hinchler, the Board voted in the majority by roll call to accept the recommendations presented by the Disciplinary Committee excluding Board Case Number C23-0115.*

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

### **Finance and Personnel Committee**

Mr. Davis summarized the Statement of Net Position and reported that the Board's net position continues to be strong and to exceed expectations. He said that the amount shown for the Unrestricted Fund Balance signaled that the Board could sustain and continue operating for several months in the event of an unanticipated interruption in providing services. He noted that there were no indicators shown on the Statement that would indicate any cause for concern with regard to the Board's financial condition. He said that the Preneed Recovery Trust Fund was \$695,994.11 which is slightly less than the balance shown at the end of November, but he stated that the lower balance likely reflected payment of claims in December. He invited any questions regarding the Statement of Net Position.

He continued and highlighted the Statement of Revenues and Expenses. He said that revenues exceeded projections for FY2023 by 3.4% which indicated that fee collections continue to rise though at a more modest rate than in the past three years. He reported that the surplus revenue was approximately \$54,000. He then stated that the year-end report showed that the Board was "under budget" for FY2023. Total Operating Expenses were 1.2% less than the projected revenue for the year, according to Mr. Davis. He said that the financial reports for the period ending December were both encouraging and reassuring. He noted that the reports demonstrated the Board's conservative management of the budget and indicated effective oversight in the Committee's management of the Board's fiscal resources. He noted that the Committee had briefly discussed the Contract Services line item and asked for what costs are included in that line item. He said that he reported to the Committee that contracts for ancillary services such as housekeeping, calligraphy and filtered water were included. He said that there was a separate sub-line item for Temporary Employment costs as well as a breakout for Legal Costs so that he and Ms. Acord could more easily analyze Contract Services. He invited questions or comments. Brief discussion ensued.

Mr. Hilderbrand asked Mr. Davis to continue with the Committee report and said that he would invite a motion regarding the financial reports when Mr. Davis concluded his summary.

Mr. Davis continued his summary of the Committee report and briefed the Board on a plan approved in 2023 to investigate and then negotiate the purchase and installation of a new telephone system. Mr. Davis explained that the Board wanted to transition from an outdated analog PBX system to an internet-based IP VOIP system which would dramatically improve and expand the Board's communications capability. He summarized the activities he and Ms. Acord had been engaged in with the NC Department of Information Technology which must approve the transition if the Board seeks an independent vendor other than the Department. He said that the next step in the process would be to submit a Letter of Exemption to the State Chief Information Officer seeking a release of the Board's telephone numbers to an independent vendor.

He then reported that Board staff had recently renewed several insurance policies on behalf of the Board. These policies typically are due for renewal in the 1<sup>st</sup> Quarter of the Fiscal Year. He said that the policies were for Cybersecurity, Employee Dishonesty, and Directors/Officers Liability.

He continued and said that he had invited local painting and flooring contractors to provide quotes for the renovation of the Board office suite. Mr. Davis summarized the quotes received and offered a brief overview of each contractor submitting a quote. Committee members discussed the costs associated with the proposed renovations and agreed that the investment was crucial in assuring that the Board office suite is upgraded. He said that it would likely be necessary to close the Board office for up to a week but that staff were prepared to work remotely. Mr. Davis said that the Committee agreed that this project should move forward, and he stated that the total costs would be capitalized over a period of time which would lessen the impact on the Board's annual budget for 2024.

He then reported on pending human resources issues and said that he had posted a vacancy announcement through ZipRecruiter in a search for a full-time Receptionist. Mr. Davis said that it would be necessary to launch a similar recruitment effort to fill the vacant position in the Preneed

program area responsible for the daily entry of preneed contract information into the Board's licensing management system.

Mr. Davis said that he did not have any other items to present. Mr. Hilderbrand thanked Mr. Davis and Ms. Acord for their work on the Board's financial and human resources operations, and he then invited a motion on the Committee's recommendation that the full Board approve the Financial Reports for the period ending December 2023.

*Upon a motion by Mr. Nunnaley and a second by Mr. Allen, the Board voted unanimously by roll call to approve the Financial Reports for the period ending December 2023.*

Mr. Hilderbrand then recognized Mr. Davis for the Executive Directors Report.

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

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

### **OCME Survey**

The survey is one piece of a larger puzzle for OCME. The General Assembly, particularly former Rep. Jamie Boles and Rep. Kelly Alexander, have had continuing concerns about the Office of the Chief Medical Examiner and issues regarding timeliness in completing death investigations, autopsies, and related procedures. You will likely recall the in-depth media coverage by the Charlotte Observer and most recently the Raleigh News & Observer about these issues and the negative impacts on funeral professionals and families in trying to arrange funeral services, secure death certificates and to settle estates.

The NC House of Representatives filed House Bill 259 on March 2, 2023, and the General Assembly subsequently ratified this legislation on October 3, 2023. This bill was more familiarly known as the 2023 Appropriations Act. Among its provisions was a requirement that the NC Office of the Chief Medical Examiner develop a Comprehensive Strategic Plan which would identify plans for improving the operations and efficiency of the state's Medical Examiner System to enable timely, high-quality death investigations of all appropriately identified deaths occurring in North Carolina.

I believe this is an outcome of the long-term concerns I noted above. There may be others, i.e., funds allocated to the OCME for hiring additional forensic and toxicology staff to whittle down any backlog of death investigations. During my employment with state government, one project assigned to me was to conduct a job classification and compensation study of the Chief Medical Examiner's Office to determine North Carolina's ranking in compensation for the forensic pathologists and the Chief Toxicologist. What I recall from that study was that North Carolina faced many challenges in competing with other state governments in hiring trained, competent pathologists because NC was clearly below prevailing market rates for these occupations. Over the years, the General Assembly has approved increases in annual compensation for forensic pathologists and for the state's Chief Toxicologist, but I'm not certain that NC has ever caught up with the labor market. Subsequently, OCME has encountered staffing shortages that had impact on the timely completion of death investigations and autopsies because of difficulties in the recruitment and retention of these employees.

## **Licensee Concerns**

Mr. Davis said that he had received calls from licensees regarding several issues including the following:

- Organ Procurement Agency Notification Policy
- NC College of Emergency Physicians – Organ Procurement Agency Notification Policy

Mr. Davis said that Wake County has apparently implemented a policy requiring that an organ procurement organization be notified when an EMS provider has declared death. He said that it's not clear what agency directed the implementation of this policy. He noted that the policy was developed by the NC College of Emergency Physicians, and it appeared that it was their policy that Wake County Emergency Medical Services adopted. Wake County Emergency Medical Services is under the oversight and jurisdiction of the NC Department of Health and Human Services through their Division of Health Services Regulation. Mr. Davis said that it appears that the NC Department of Health and Human Services through its Division of Health Services Regulation/Office of Emergency Medical Services has issued a policy to all local EMS throughout North Carolina's 100 counties requiring them to contact their OPO in cases where advanced life support has been terminated or discontinued in the field. When an EMS provider has declared death, then that triggers a call to HonorBridge for Wake County deaths. Mr. Allen offered a likely explanation for the implementation of the local policy by acknowledging that the NC Office of Emergency Medical Service would typically have input into such policies in their oversight role over local emergency management services.

- Fayetteville Technical Community College Projects Class

Funeral homes hiring students as staff (receptionist, funeral assistant) rather than trainees or as part of their educational requirements are receiving requests from these students for funeral records and documents to fulfill requirements for the Projects Class. I've heard from licensees who are concerned about releasing documents to individuals who are students but who are not trainees or otherwise hired in a student-based role. Ms. Lee explained that in past years, FTCC sent registration lists to the Board identifying those students who had a formal relationship with a funeral home for training purposes under supervision pursuant to Article 13A. Mr. Nunnaley offered information about a student from the FTCC program who is working under his supervision through a work-based learning program which does require students to submit certain funeral-related documents to meet their program requirements. He noted that there may be confusion about the requirements for the resident traineeship program and the work-based learning program. Mr. Davis said that he would follow-up with Mr. James Bullard, Director of the Funeral Service Education program at FTCC for additional details and information.

- Ever Loved

EverLoved is an on line referral service that will convey to a funeral home a consumer's questions or requests for assistance as they research the market for funeral arrangements. The licensee with whom I spoke was concerned because this organization continues to intervene with families in funeral arrangements even after a referral has been made to a funeral home. Mr. Lisenbee offered additional details and information about this organization based on his knowledge of their

operations. Ms. Lee said that she had reviewed the Ever Loved website but did not recognize any information that would suggest that this organization is currently engaged in unlicensed practice.

### **O-Net Request**

Mr. Davis said that Mr. Lisenbee had received an email from an individual gathering occupational data for Embalmers on behalf of the federal Department of Labor for a registry of occupations known as the O-Net. The individual represents the Research Triangle Institute which is conducting surveys of occupations, and they have requested information allowing them to contact licensed embalmers to interview them in gathering occupational data.

Mr. Davis concluded his report by reminding Board members that they must file a Statement of Economic Interest with the NC State Ethics Commission by April 15, 2024. He provided information on procedures for filing manually or online. He also reminded Board members of the upcoming Annual Meeting of The Conference scheduled for February 26-February 29 in Myrtle Beach, NC. He said that he had provided agenda and conference information in their folders.

There was a brief discussion among members regarding Mr. Davis' report. Mr. Davis recognized Mr. Lisenbee and Ms. Acord for any updates they wished to provide in addition to the items he presented. Mr. Lisenbee echoed Mr. Davis' comments about information received from licensees about various issues of concern to them. He noted that he had heard from licensees about a concern that some hospitals in primarily rural areas of the state are no longer in service in particular counties. Those counties subsequently rely upon a regional medical center for health care and clinical services. Mr. Lisenbee said that one outcome of these circumstances is apparently a trend among some health-related individuals declaring themselves as Acting Medical Examiners. Mr. Lisenbee said that he was unaware of such a role and questioned whether or not these individuals could sign the Medical Examiner's Cremation Authorization Form. Mr. Lisenbee added that confusion apparently exists among these Acting Medical Examiners about the Board's requirement for the Cremation Authorization Form. He noted that he and the compliance staff would continue to monitor this situation to see if other licensees report similar situations. Mr. Lisenbee then briefly described situations regarding the responsibility for securing a medical certifier's signature on death certificates and clarified that it is not a funeral licensee's responsibility to assure a medical certifier has signed the death certificate.

Mr. Davis then recognized Ms. Acord for offering the Board a brief update on the progress toward redevelopment of the Laws, Rules and Regulations Committee. Ms. Acord provided a summary of the procedures used by The Conference for exam development and then focused her comments on the specific activities between The Conference and Mr. Lisenbee, Ms. Lee and herself in structuring the new examination.

Mr. Hilderbrand thanked Mr. Davis, Mr. Lisenbee and Ms. Acord for their comments and then recognized Ms. Lee for the Legal Report.

### **Legal Report**

Ms. Lee presented the following metrics to the Board:

### **DISCIPLINARY MATTERS**

Current Active Cases: 25

Pending Investigation: 10

Pending Review by Disciplinary Committee: 0

Pending Dispositive Action: 8

Pending Hearing: 6

Post-Hearing: 0

Other: 1

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

Ms. Lee said that she would be glad to answer any questions regarding the Disciplinary Matters and Preneed Recovery Fund Claims that she presented. Hearing none, she then reminded that Board that the public comment period had ended for the proposed amendments of two administrative rules: 21NCAC 34B .0208 and .0211; and for the repeal of 21NCAC 34B .0213. She noted that if the Board desired, it could proceed to initiate rulemaking through the NC Rules Review Commission. Mr. Hilderbrand asked for any discussion and also noted that the Board had previously reviewed these rules for content and impact. He then invited a motion to amend as published 21 NCAC 34B .0208 and .0211, and repeal as published 21 NCAC 34B .0213.

***Upon a motion by Dr. Kelsey and a second by Ms. Coleman, the Board voted unanimously by roll call to request General Counsel to file the appropriate documents with the NC Rules Review Commission to amend as published 21 NCAC 34B .0208 and .0211 and to repeal as published 21 NCAC 34B .0213.***

Following the vote, Ms. Lee briefly described the process by the Rules Review Commission to negotiate any technical changes to the Board's proposal regarding the amendment and repeal of the referenced rules.

Mr. Hilderbrand continued and asked for any Old Business items. None were offered. He then asked for any New Business items. None were offered. He announced at 10:13 a.m. that the Board would recess briefly and then resume its meeting with a photography session to take individual photographs of Board members and staff for the Board's website.

Following the photography session, Mr. Hilderbrand announced that the Board would convene in closed session.

*Upon a motion by Dr. Lyons and a second by Dr. Kelsey, the Board voted unanimously by roll call to convene in closed session to hear matters subject to attorney-client confidentiality pursuant to NCGS 143-318.11.*

*Upon a motion by Ms. Coleman and a second by Mr. Barnes, the Board voted unanimously by roll call to reconvene in open session.*

Mr. Hilderbrand invited any motions from Board members pertaining to the matters discussed in closed session.

*Upon a motion by Dr. Lyons and a second by Ms. Coleman, the Board voted unanimously by roll call to accept Consent Orders for Board Case Numbers M23-0050, C23-0036 and C23-0043.*

Mr. Hilderbrand then recognized Ms. Lee for presentation of a request from Ivie Mutual Burial Association, Inc. for dissolution and liquidation. Mr. Lee provided the Board background information and the specific circumstances prompting the request for dissolution. Brief discussion ensued.

*Upon a motion by Dr. Kelsey and a second by Ms. Coleman, the Board voted unanimously by roll call to approve an Order of Dissolution and Liquidation on behalf of Ivie Mutual Burial Association, Inc.*

Mr. Hilderbrand then announced that Ms. Lee, General Counsel, would conduct a comprehensive training session for all Board members on the pertinent provisions of NC General Statute 93B to satisfy the requirement for such training for Board members.

Following the training session, Mr. Hilderbrand invited a motion for adjournment.

*Upon a motion by Dr. Lyons and a second by Ms. Coleman, the Board voted unanimously by roll call to adjourn the meeting.*



Affirmation:

*Thomas Hilderbrand*

Mr. Thomas T. Hilderbrand, President

*Le'Shekia Coleman*

Ms. Le'Shekia Coleman, Secretary

*March 13, 2024*

Date