

REGULAR BOARD MEETING

MINUTES

February 10, 2010

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on February 10, 2010 at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: J. T. Willoughby III, President; George Parrott, Vice President; Tryphina Wiseman, Secretary; Rudy Lea, Frank McCree, Mark Blake, Elizabeth Webber (entered meeting at 10:03 am) Jack Briggs and Larry Andrews.

Also Present: Paul Harris, Executive Director; Stephen N. Dirksen, General Counsel; Fred Jordan with the N. C. Eye Bank, Pat Hayes with North Carolina Funeral Directors Association, Herb Reichlin with the Funeral Consumers Alliance, Dan Funchess, Funeral Service licensee, and Lyn Cochrane.

Present for Crematory Authority Oath of Office: Judge Michael R. Morgan, James D. Weatherspoon, Tommy Prickett and J. Barry Bowman (entered meeting at 9:34 am).

Mr. Willoughby called the meeting to order at 9:07 a.m., led the Pledge of Allegiance and had the invocation.

Mr. Willoughby read the Ethics Awareness & Conflict of Interest statement. Ms. Wiseman and Mr. Willoughby both stated they had attended the Board of Directors Meeting for the Funeral Directors and Morticians Association of North Carolina, Inc. Mr. Briggs stated he had attended the funeral of Robert Miller.

Mr. Willoughby asked the guests to identify themselves. There were no public comments.

Ms. Wiseman presented the January minutes for approval. Mr. Harris stated one correction had been made since the minutes were mailed. He had added to the last page, first paragraph Mr. Parrott "made the motion." Ms. Wiseman made the motion to approve the minutes with that correction and Mr. Blake seconded. The motion carried.

Clinics Committee: Ms. Wiseman reported that the Committee had met with staff last Friday to discuss the 2010 Board clinic. Staff will research the following: locations in the Greensboro area; speakers from the Charles C. Carson Center for Mortuary Affairs at Dover Air Force Base and from the Casualty and Mortuary Affairs Office at Fort Bragg; and a nationally known authority on embalming and restorative arts. This report was presented for information only.

Exam Committee: Mr. Willoughby reported six applicants took the exam in January. Four were retakes and two were first-timers. Both of the first time applicants and one re-take passed, the rest failed.

Staff has held three teleconferences with Castle Worldwide to review the applicant registration procedures and the procedures for obtaining the results. Staff continues to practice the procedures. Mr. Harris will register for and take the exam within the next two weeks. This is the final step before using the exam beginning March 1. This report was presented for information only.

Finance/Personnel: Mr. Briggs presented the report for review and made the motion to receive the report. Mr. Andrews seconded and the motion carried.

At this time Judge Michael Morgan administered the Oaths of Office to Mr. Weatherspoon for the Crematory Authority. Mr. Willoughby congratulated him on behalf of the Board and presented Judge Morgan with an appreciation gift. Judge Morgan departed at 9:25 a.m. after making comments and thanking the Board for allowing him to administer the oaths. Mr. Weatherspoon and Mr. Prickett also departed at this time.

Laws and Rules Committee: Mr. Briggs yielded the floor to Mr. Harris for discussion of the proposed rules. Discussion ensued regarding 21 NCAC 34A.0203 Report to the General Assembly, 21 NCAC 34B .0311 Special Procedures for Licensing of Active Military Personnel and 21 NCAC 34D.0203 Surety Bonds.

At this time Mr. Bowman entered the meeting.

Discussion resumed regarding the rules and Mr. Briggs made the motion to adopt the three rules for publication. Mr. Andrews seconded and the motion carried.

Discussion ensued regarding the committee recommendation to adopt the Surety Bond procedure as a temporary policy until the rule had final approval. Mr. Lea seconded and the motion carried.

Mr. Harris represented the recommendations to permanently repeal the Mutual Burial Association rules except 04 NCAC 04 .0301. Rule 04 NCAC 04.0301 should be placed under 21 NCAC 34. Repeal of the rules should have occurred when the MBA statutes were placed under the Board Authority in 2003. Mr. Briggs made the motion and Ms. Wiseman seconded. The motion carried.

Mr. Briggs made the motion to delegate authority to staff to make any technical or format changes to the three rules and to file them with Rules Review. Mr. Harris stated this would not change the contents of the documents. Mr. Parrott seconded and the motion carried.

Mr. Willoughby called for a five-minute recess at 9:50 a.m. Ms. Webber entered the meeting at 10:03 and the meeting was reconvened at 10:04 a.m.

Mr. Harris stated during the recess Mr. Bowman received the Oaths of Office as a new Crematory Authority member, and introduced him to the Board. Mr. Bowman then departed the meeting.

Preneed Committee: Mr. Andrews presented the Activity Report for information only and discussed the inspectors' reports. Discussion ensued. Mr. Harris discussed the calculations of percentages on cash advances and refunds and funeral home concerns he had addressed regarding these.

Mr. Willoughby stated his concerns regarding the refund of excess preneed proceeds of \$100 or more. He cited the cost to establish estates in some counties, and proposed future consideration to increase that amount that could be refunded to individuals. Discussion ensued. Mr. Harris will research if other laws affect the amount that can be refunded.

Mr. Harris explained the background and explained the recommendations:

In cases when the beneficiary is still living and a new preneed contract has been executed, the recovery fund payment will be made to the new funeral home to be applied to the new contract. If no new preneed contract exists, recovery fund payment goes back to the nursing home with advisory to consult with the department of social services regarding effect on the beneficiary's Medicaid qualification.

If the contract beneficiary is deceased and the funeral bill remains fully or partially unpaid, the payment would be sent to the performing funeral home as long as we determine through an affidavit the bill was outstanding and receive a release from the legal representative of the deceased

If the contract beneficiary is deceased and the funeral bill is paid, the payment goes to the estate if one exists or to the clerk of superior court of the county where the estate could be filed

Mr. Andrews stated the Preneed committee had met by teleconference regarding a recovery fund case and yielded to Mr. Harris for explanation.

Mr. Andrews made the motion to accept the recommendation. Mr. McCree seconded and the motion carried. Mr. Parrott made the motion to accept the preneed report. Mr. McCree seconded and the motion carried.

Disciplinary Committee: Mr. Lea presented the report. Discussion ensued. Mr. Harris was asked to request an opinion from the Dental Society regarding gold dental fillings in deceased. Mr. Parrott made the motion to accept the recommendation and Mr. Andrews seconded. The motion carried. Mr. Lea read for the record the following cases: V09-076, V09-072, V09-075, V09-077, V09-048, M09-030, M10-002 and M10-003.

Traineeship: There was no report.

Other Committee Reports: There were none.

Attorney Report: Mr. Dirksen presented his report for information only.

Executive Director's Report: Since the January Board Meeting 21 reports have been filed.

As of February 8, 2010 the following renewals have been received: 734 funeral homes, 7 renewal applications pending review, 10 renewal applications not received, 654 preneed funeral establishments, 16, renewal applications pending review, 6 renewal applications not received, 2465 active licensees, 64 renewal applications not received, 173 inactive licensees, 26 renewal applications not received, 91 crematories, 1 renewal applications not received, 12 unaffiliated, 5 renewal applications not received, 11 chapels, 2 renewal applications pending review, 2 renewal applications not received and 57 removal-transport permits, 2 renewal applications pending review.

New Funeral Homes—Altmeyer Funeral Home, Hendersonville; Ownership Change—Cox-Needham-Huff, East Bend; Location Change—Carolina Mortuary Service & Cremation, Charlotte; Conversion from Chapel to Funeral Establishment—Townson-Rose Haysville Chapel. Eastover Community Funeral Home, Fayetteville ceased operations pending an ownership re-organization.

New funeral director licensees: Mary Brand

New funeral service licensees: Cornell Whitehead

New trainees: Murvyn Kelsey, Dionne Evans, John Kewlicz, Wander Smith-Butcher, James McGinnis, Jr., Keith Crumpler, Fred Handsel, Jr., Sharon Sauls, Regina Graham-Hauser, Shelby Martin and Matthew Payne.

Staff Ethics report: Mr. Harris reported telephone contact with NCFDA staff. He presented a continuing education program for the NC Mutual Insurance Company in Durham on Monday afternoon. Funeral consumers Alliance of the Triangle has published their price survey and some funeral homes did not comply with their request.

Mr. Harris discussed the need to revise the preneed establishment applications to include a section for surety bond and exam applications to require an e-mail address. Discussion ensued. Mr. Parrott made the motion to revise the preneed application to include the bond information. Mr. Andrews seconded. The motion carried.

Mr. Briggs made the motion to revise the examination application to require an e-mail address and Ms. Webber seconded. The motion carried.

Mr. Harris presented a letter from a doctor that had been mailed to funeral directors stating a fee would be charged to complete a death certificate. Discussion ensued. Mr. Briggs made the motion to forward documentation and file a complaint to the Medical Board and request a response and request vital Records also file a complaint. Mr. Andrews seconded and the motion carried.

Mr. Harris mentioned Carolina Donor Service now performing deep tissue retrievals. Mr. Harris has been contacted by a licensee regarding a letter sent by Carolina Donor Services, which appeared to offer arrangements for embalming in these instances. Mr. Harris had discussed this letter with Bruce Nicely of Carolina Donor Services and clarified that Carolina Donor Services should not be making the arrangements or offering to make the arrangements for embalming. Mr. Blake asked about disclosure and permission for the deep tissue retrieval. Mr. Harris replied that was not a subject of the discussion of Mr. Nicely.

Discussion ensued regarding the funeral establishments that have not renewed.

Mr. Andrews made the motion to accept Mr. Harris' report and Mr. Lea seconded. The motion carried.

New Business: There was none.

Old Business: Mr. Harris presented a calendar for review to set future Board meetings for 2010. Discussion ensued. The April Board meeting will be held April 14 with April 15 for hearings and other Board business.

Mr. Parrott asked about the status of the construction for the office security. Mr. Harris stated the cost was approved with the 2010 budget and he will send out requests for bids. Mr. Blake commented about the use of outside investigators.

Informational Items: The 2010 Board Members & Officers list was included.

Public Comment: Mr. Jordan stated that the Eye Bank call center was handling permission for the deep tissue recovery and would not be discussing embalming with the families. The call center script is part of a CE program currently being offered by the Eye Bank. He invited Board members to attend the seminar.

Mr. Harris stated Mr. Nichols would be at the office at 1:00 to present the Board Member Training.

Mr. Willoughby recessed the meeting at 11:20 a.m.

Mr. Willoughby reconvened the meeting at 1:05 p.m. in order to begin the training as required by 93B-2. During the recess Mr. Harris was informed that Mr. Nichols would not be in attendance as originally scheduled to conduct the training and Mr. Dirksen would conduct the training. Mr. Dirksen proceeded to review Chapter 150B

The Administrative Procedure Act, Chapter 132 Public Records Law, Article 33C of Chapter 143, The State Tort Claims Act.

Following questions about training Mr. Harris informed the Board that there was an additional correction needed for the January minutes approved earlier in this meeting. The January minutes referred to the approval of the November minutes during the January meeting when that should have been the December minutes. On motion by Mr. Andrews and second by Ms. Webber, motion to correct the January minutes to reflect the change was approved.

The meeting was recessed for the 3:00 p.m. hearing.

Following the hearing President Willoughby reconvened the Board into regular session to consider consent orders that Mr. Dirksen had. Mr. Dirksen explained the terms of the consent orders. Mr. Briggs made the motion to accept the consent orders. Ms. Webber seconded and the motion carried.

With no further business before the Board, Mr. Willoughby asked for a motion to adjourn. Mr. Andrews made the motion and Ms. Webber seconded and the motion carried.

J. T. Willoughby III, President

Tryphina Wiseman, Secretary