

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA  
BOARD OF FUNERAL SERVICE  
CASE NOS. M22-0038/M22-0044

In the matter of: )  
)  
Wells Family Mortuary, LLC and )  
Vashti Lenique Ayers, )  
Respondents. )  
)

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION**

In accordance with N.C. Gen. Stat. § 150B-40 the North Carolina Board of Funeral Service (hereinafter the “Board”) issues the following Findings of Fact, Conclusions of Law, and Final Agency Decision in this matter.

The record reflects that a quorum of the Board was present at the hearing and at the time the Board made this decision on March 8, 2023. Thomas Hilderbrand, Vice President of the Board, presided at the hearing. The record reflects that Dr. Steven Lyons, Board President, and Mr. Stephen Herndon elected to recuse themselves from participating in the matter, as they served on the Board’s Disciplinary Committee that reviewed this matter. Catherine E. Lee, General Counsel, appeared for the Board staff. Respondent Vashti Ayers (“Respondent Individual”) and Respondent Wells Family Mortuary, LLC (“Respondent Funeral Home”), appeared *pro se*. Sabra Faires appeared as the Administrative Law Counsel for the Board.

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: “Does any Board member other than the one previously identified have any known conflict of interest with respect to the matter coming before the Board today? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved.” No Board Members identified any conflicts of interest or appearances of a conflict of interest, other than Dr. Lyons and Mr. Herndon.

PETITIONER’S LIST OF EXHIBITS

Notice of Hearing	1
Proof of Service for NOH on Vashti Ayers	2
Proof of Service for NOH on Wells Family Mortuary, LLC	3
iGov Profile for Wells Family Mortuary, LLC	4

iGov Profile for Vashti Ayers	5
Initial Establishment Permit Application	6
Denial Letter for Initial Establishment Permit Application	7
Revised Funeral Establishment Permit Application	8
Establishment Inspection Report (5/24/22)	9
Wells Family Mortuary Facebook Profile (5/18/22)	10
K. Wells Facebook Profile (5/17/22)	11
K. Wells Facebook Post (3/16/22)	12
Wells Family Mortuary Facebook Review (2/26/22)	13
K. Wells Facebook Posts regarding Community Funeral Plan	14
Statement of Funeral Goods and Services Selected signed by K. Wells	15
Unsigned Statement of Funeral Goods and Services Selected	16
2023 Establishment Permit Renewal Application for Wells Family Mortuary	17
2023 Individual License Renewal Application for Vashti Ayers	18
Google Map Directions	19
Wright Memorial Mortuary Staff	20

RESPONDENTS' LIST OF EXHIBITS

None

FINDINGS OF FACT

1. Respondent Wells Family Mortuary, LLC (hereinafter "Respondent Funeral Home"), is licensed by the Board as a Funeral Establishment Permit No. 1029 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.

2. Respondent Funeral Home is located in Charlotte, NC and obtained Funeral Establishment Permit No. 1029 from the Board on or about July 8, 2021.
3. Vashti Lenique Ayers (hereinafter “Respondent Individual” or collectively with Respondent Funeral Home as “Respondents”) has been licensed by the Board as Funeral Service Licensee No. 3563 since February 5, 2021, and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code. Respondent Individual has been designated as the licensed manager of Respondent Funeral Home for all times relevant to this Notice of Hearing.
4. Respondent Individual has resided in Rockmart, Georgia for all times relevant to this proceeding. Rockmart, Georgia is located approximately 300 miles away from Respondent Funeral Home.
5. According to Respondent Funeral Home’s 2023 Funeral Establishment Renewal Application, Keaton Wells is the sole member of Wells Family Mortuary, LLC. Mr. Wells does not hold a license or permit issued by the Board.
6. On or about May 24, 2022, Board Inspector Debbie Hamm (“Inspector Hamm”) and Board Inspector Brett Lisenbee (“Inspector Lisenbee”) conducted an establishment inspection of Respondent Funeral Home, pursuant to N.C. Gen. Stat. §§ 90-210.23(d) and (e), 90-210.24, and 90-210.27A (“2022 Inspection”).
7. During the 2022 Inspection, Inspector Hamm and Inspector Lisenbee found evidence tending to show Respondents had violated statutes and rules governing the practice of funeral service, including the following:
  - a. Respondents failed to display the wall certificate of Anthony B. Roberts, who is a licensee performing services at Respondent Funeral Home, in violation of N.C. Gen. Stat. § 90-210.25(c)(1);
  - b. Respondents failed to enclose instruments used for embalming, in violation of 21 NCAC 34B .0704;
  - c. Respondents failed to provide accurate “price cards” for all items of merchandise offered for sale on display, in violation of N.C. Gen. Stat. § 90-210.25(e);
  - d. Respondents failed to have a written agreement with an entity that grants access to a refrigeration unit that is compliant with the provisions of 21 NCAC 34B .0707(a) and (b);
  - e. Respondents failed to include the price of each casket offered for sale in the selection room on the Casket Price List, in violation of 16 C.F.R. § 453.1(b)(2)(i);

- f. Of the twenty (20) case files for burial and cremation performed by Respondents since July 2021, none contained a Statement of Funeral Goods and Services Selected (“SGSS”) that was signed by a licensed funeral director or funeral service licensee, in violation of N.C. Gen. Stat. § 90-210.25(e) and 21 N.C. Admin. Code 34B .0613;
  - g. Of the twenty (20) case files for burial and cremation performed by Respondents since July 2021, two (2) SGSS were signed by Keaton Wells, as the non-licensed owner of Respondent Funeral Home. The two SGSS were for decedents Valachie Leggett and Jennyfer Serben, respectively; and
  - h. Of the seven (7) case files for cremation performed by Respondents since July 2021, none contained a copy of the Cremation Authorization, the death certificate, or the Board Form 56D1 (“Delivery of Cremated Remains from Funeral Provider”), in violation of N.C. Gen. Stat. § 90-210.125, 21 N.C. Admin. Code 34C .0303(c) and 21 NCAC 34C .0306.
8. Respondent Individual was not present when Inspector Hamm performed the 2022 Inspection. Rather, Keaton Wells participated in the inspection as the representative of Respondent Funeral Home. The findings of the 2022 Inspection, as set forth above, were conveyed to Mr. Wells verbally and in writing by email following the 2022 Inspection.
9. Prior to the 2022 Inspection, Inspector Hamm and Inspector Lisenbee reviewed postings that Keaton Wells had made to social media about funeral services offered by Respondent Funeral Home, including but not limited to the following:
  - a. A public Facebook profile for Keaton Wells, identifying him as the “Owner/Manager/CEO of Wells Family Mortuary;”
  - b. A public Facebook post made by Keaton Wells, displaying a business card that identifies Keaton Wells as “Owner, Funeral Director” for Respondent Funeral Home;
  - c. A public Facebook post made by a consumer of services through Respondent Funeral Home, alleging that “Mr. Wells personally handled everything . . .;” and
  - d. Multiple public Facebook posts by Keaton Wells, advertising a “Community Funeral Plan” whereby consumers could pre-pay for direct cremation through Respondent Funeral Home.
10. Respondent Funeral Home never has held a Preneed Establishment Permit issued by the Board.
11. During the 2022 Inspection, Inspector Hamm discussed with Keaton Wells the social media posts set forth in Paragraph 9 above. Mr. Wells conveyed to Inspector Hamm that no

consumers had remitted funds to him through the “Community Funeral Plan” referenced in Paragraph 9 above but did not deny his solicitation of payments from consumers to be applied toward future funeral services.

12. On or about December 7, 2022, Respondent Funeral Home submitted to the Board a 2023 Funeral Establishment Renewal Application. Said renewal application was pending at the time the above-captioned case was heard by the Board.
13. A Notice of Hearing for the above-captioned case was issued to Respondents on or about January 24, 2023.
14. The Notice of Hearing was properly served on Respondent Individual on February 16, 2023. The Notice of Hearing was properly served on Respondent Funeral Home on February 15, 2023.
15. The hearing for the above-captioned case was heard on March 8, 2023 before the Board.
16. At hearing, Inspector Lisenbee testified credibly that the initial application for funeral establishment permit submitted by Respondent Funeral Home to the Board on or about April 16, 2021 (the “Initial Application”), was denied by Board staff. In a correspondence dated April 21, 2021, Inspector Lisenbee advised Respondent Funeral Home that its proposed operating name of Wells Family Mortuary was not compliant with N.C. Gen. Stat. § 90-210.27A(f), in Board staff’s opinion.
17. N.C. Gen. Stat. § 90-210.27A(f) provides that “[i]f a funeral establishment uses the name of a living person in the name under which it does business, that person must be licensed by the Board as a funeral director or a funeral service licensee.”
18. Thereafter, Respondent Funeral Home submitted a revised application for funeral establishment permit, which indicated that its operating name would be “Wells Memorial Family Mortuary.” Board staff approved the revised application for funeral establishment permit.
19. Notwithstanding the representations to the contrary on the revised application for funeral establishment permit, Respondent Funeral Home has continued to use the operating name of Wells Family Mortuary in advertisements to the consuming public.
20. The Initial Application submitted by Respondent Funeral Home listed Keaton Wells as the sole member of Wells Family Mortuary, LLC. In denying the Initial Application, Inspector Lisenbee advised Respondent Funeral Home that “[i]f [the funeral establishment is to be owned by] a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee,” in accordance with N.C. Gen. Stat. § 90-210.27A(e), in Board staff’s opinion.

21. Thereafter, Respondent Funeral Home submitted a revised application for funeral establishment permit, which listed “Keaton Wells, Vashti Ayers Board Member” as the owners of Wells Family Mortuary, LLC.
22. Respondents submitted a 2023 Funeral Establishment Renewal Application for Respondent Funeral Home to the Board on or about December 7, 2022. On this 2023 renewal application, Keaton Wells is listed as the sole member of Wells Family Mortuary, LLC.
23. At hearing, Keaton Wells testified that, notwithstanding the representation made on the 2023 Funeral Establishment Renewal Application, Respondent Individual is a member of Wells Family Mortuary, LLC, with a 25% membership interest, that he has a 25% membership interest in the LLC, and that his mother and brother each have a 25% membership interest in the LLC.
24. At hearing, Respondent Individual testified credibly that Keaton Wells is the “owner” of Respondent Funeral Home and testified credibly that she did not know what percentage of ownership interest, if any, that she holds with Respondent Funeral Home.
25. The Board does not find Keaton Wells’ testimony as to Respondent Individual’s ownership interest in Respondent Funeral Home to be credible.
26. At hearing, Inspector Lisenbee and Inspector Hamm testified credibly about their observations and findings made during the 2022 Inspection. At hearing, the Respondents did not dispute the violations set forth in Paragraph 7 above. The Board finds that each of the violations cited in Paragraph 7 above have been substantiated, based on the evidence presented during the hearing.
27. At hearing, Keaton Wells testified that he signed the two SGSS that are identified in Paragraph 7(f) and were introduced as an exhibit at hearing. Keaton Wells testified that he signed the SGSS even though a funeral service licensee, Anthony B. Roberts, participated in the arrangements conference with the consumers.
28. N.C. Gen. Stat. § 90-210.25(e) provides that, “[a]t the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time.”
29. Mr. Anthony B. Roberts did not testify at the hearing. Inspector Lisenbee testified credibly that he had no recollection of Keaton Wells mentioning Mr. Roberts’ alleged involvement

in arrangement conferences for decedents Valachie Leggett and Jennyfer Serben when Inspector Lisenbee discussed with Mr. Wells his signing of their SGSS.

30. The Board does not find credible Keaton Wells' testimony that Anthony Roberts participated in the arrangement conferences for the decedents Valachie Leggett and Jennyfer Serben.
31. At hearing, Keaton Wells did not dispute that he and Respondent Funeral Home made the social media posts identified in Paragraph 9 a., b., and d. above. Mr. Wells testified that some of the verbiage in the postings were made in error by the graphic design company that he employed. The Board does not find Mr. Well's testimony about the alleged errors to be credible.
32. At hearing, Keaton Wells testified about his offering of the "Community Funeral Plan" on behalf of Respondent Funeral Home. Mr. Wells testified that he solicited consumers to remit \$250 to Respondent Funeral Home, which he intended to place into an FDIC-insurance bank account owned by Respondent Funeral Home. Mr. Wells further testified that he would commingle all such deposits by consumers into the bank account or "fund," and that payment of \$250 would entitle the consumers to certain funeral services upon their death. Mr. Wells further testified that he intended to keep a copy of each consumer's contract for future funeral services on file at Respondent Funeral Home.
33. In the social media postings in which the "Community Funeral Plan" was offered, it was advertised that the consumers' payments of \$250 would be non-refundable, non-transferable, and that the availability of funeral services for consumers would start ninety (90) days "after enrollment."
34. At hearing, Inspector Lisenbee testified credibly as the Compliance Officer for the Board that the "Community Funeral Plan" constitutes the offering of preneed funeral planning, in his opinion.
35. N.C. Gen. Stat. § 90-210.60(8) defines "preneed funeral planning" to mean the "offering to sell or selling preneed funeral contracts, or making other arrangements prior to death for the providing of funeral services or merchandise."
36. N.C. Gen. Stat. § 90-210.60(5) defines "preneed funeral contract" to mean any contract, agreement, or mutual understanding, or any series or combination of contracts, agreements, or mutual understandings, whether funded by trust deposits or prearrangement insurance policies, or any combination thereof, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, or mausoleum."

37. The Board finds that the “Community Funeral Plan” offered by Respondent Funeral Home constitutes the offering of preneed funeral planning.

38. N.C. Gen. Stat. § 90-210.25(f)(1) provides as follows:

Unlawful Practices. – The following shall constitute unlawful practices:

(1) Any person who practices or holds himself or herself out as practicing the profession or art of embalming, funeral directing or practice of funeral service or operating a funeral establishment without having complied with the provisions of this Article shall be guilty of a Class 2 misdemeanor.

39. The Board finds that Keaton Wells has held himself out as practicing funeral service or operating a funeral establishment without being licensed to do so.

40. At hearing, Respondent Individual testified credibly that she was employed as a licensed funeral director and embalmer at Wright Memorial Mortuary in Rose, Georgia between October 2021 and January 2023.

41. Based on the testimony presented at hearing, the Board finds that Respondent Individual has not been actively engaged in the operation of Respondent Funeral Home for all times relevant to this proceeding.

42. Based on the testimony presented at hearing, the Board finds that Respondent Individual has failed to oversee the daily operations of Respondent Funeral Home while serving as the licensed manager of Respondent Funeral Home.

#### CONCLUSIONS OF LAW

1. Respondents are subject to jurisdiction before the Board.
2. Respondents were properly served with process.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes, to hear this matter.
4. To the extent that the Findings of Fact contain conclusions of law, or that the Conclusions of Law are findings of fact, they should be so considered without regard to their given labels. Charlotte v. Heath, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); Peters v. Pennington, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).
5. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.27A(e), which requires at least one member of a funeral home owned by a limited liability company to be licensed by the Board as a funeral director or a funeral service licensee and actively engaged in the operation of the funeral home.



6. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(c)(1), which requires all licenses issued by the Board to be displayed in a conspicuous place in the funeral establishment where the holder renders services.
7. The acts and omissions of Respondents described in Paragraphs 1-42 violate 21 NCAC 34B .0704, which requires all instruments and appliances used in the preparation of a body to be stored in an enclosed cabinet or drawer.
8. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e), which requires a card or brochure setting forth the price of the merchandise to be directly associated with each item of merchandise at the time funeral arrangements are made and prior to the time of providing merchandise.
9. The acts and omissions of Respondents described in Paragraphs 1-42 violate 21 NCAC 34B .0707(a) and (b), for failing to have a written agreement with an entity that grants access to a refrigeration unit.
10. The acts and omissions of Respondents described in Paragraphs 1-42 violate 16 C.F.R. § 453.1(b)(2)(i) by failing to include the price of each casket offered for sale in the selection room on the Casket Price List.
11. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e) and 21 N.C. Admin. Code 34B .0613 by failing to obtain and retain a SGSS that was signed by a licensed funeral director or funeral service licensee for approximately twenty (20) files.
12. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.125, 21 N.C. Admin. Code 34C .0303(c) and 21 N.C. Admin. Code 34C .0306 for failing to retain a copy of the Cremation Authorization, death certificate, or the Board Form 56D1 (“Delivery of Cremated Remains from Funeral Provider”) for approximately seven (7) files.
13. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e)(1)c. by engaging in false or misleading advertising as the holder of a license.
14. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e)(1)b. by engaging in fraud or misrepresentation in obtaining or renewing a license.
15. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e)(1)h. by aiding and abetting an unlicensed person to perform funeral services, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.

16. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating or cooperating with others to violate the laws, rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended from time to time.
17. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.69(c)(1), which prohibits offering to engage or engaging in preneed funeral service without having obtained a license to do so.
18. The acts and omissions of Respondents described in Paragraphs 1-42 violate N.C. Gen. Stat. § 90-210.69(c)(2), which prohibits aiding and abetting an unlicensed person or entity to offer to engage or engage in preneed funeral service.
19. The Board concludes that one or more of the violations described in Paragraphs 1-42 were committed by an owner, officer, operator, manager, member, or partner of Respondent Funeral Home or by an agent or employee of Respondent Funeral Home acting with the consent of a person, firm, or corporation operating it. Pursuant to N.C. Gen. Stat. § 90-210.25(d)(4), the Board has the authority to revoke, suspend, or refuse to issue or renew the funeral establishment permit of Respondent Funeral Home.
20. The Board concludes that Respondent Individual committed one or more of the violations described in Paragraphs 1-42 but remains fit to practice. Pursuant to N.C. Gen. Stat. § 90-210.25(e)(2), the Board has the authority to place Respondent Individual on probation and to assess a civil penalty not to exceed \$5,000.00.


#### FINAL AGENCY DECISION

The Board of Funeral Service issues the following decision:

1. The 2023 renewal application funeral establishment permit of Respondent Wells Family Mortuary, LLC (Funeral Establishment Permit No. 1029) is denied.
2. The funeral service license (FSL No. 3563) of Respondent Vashti Lenique Ayers is placed on probation for one year. She is ordered to take a Board-sponsored course on the FTC Rule, in addition to five (5) hours of continuing education, before she is eligible to renew her funeral service license for 2024.
3. This decision shall take effect upon service of this Final Agency Decision on the Respondents.
4. Under N.C. Gen. Stat. § 150B-45(a), Respondents have thirty (30) days from the date that they receive this Final Agency Decision to file a Petition for Judicial Review. Under N.C. Gen. Stat. § 150B-45(b), the Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision

resides, or in the case of a person residing outside the State, in the county where the contested case that resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.

By order of the North Carolina Board of Funeral Service, this, the 23rd day of March, 2023.

By:   
Thomas Hilderbrand  
Vice President and Presiding Chair