

North Carolina Board of Funeral Service

1033 Wade Avenue, Suite 108, Raleigh, NC 27605

(919)-733-9380 or 1-800-862-0636

www.ncbfs.org

E-NEWSLETTER May 2016: Volume 12, Issue 5

The Board will next meet at 9 a.m. on Wednesday, June 8, 2016, at 1033 Wade Avenue, Ste. 108, Raleigh, NC. The agenda will be posted on the Board's website by June 3.

LEGAL ANNOUNCEMENTS

Board Files Injunction against Heritage Cremation Provider, LLC and Legacy Funeral Services, LLC

On May 10, 2016, the North Carolina Board of Funeral Service filed a Complaint and Motion and Application for Preliminary and Permanent Injunction against Heritage Cremation Provider, LLC; Legacy Funeral Services, LLC; Anthony Joseph Damiano; and Joseph Damiano, Sr. (the "Defendants"). In the Complaint, the Board alleges that the Defendants have engaged in the unlicensed practice of funeral service in North Carolina, which violates the Board's governing statutes. The Board is asking Wake County Superior Court to order the Defendants to cease their practice of funeral service in North Carolina until they become properly licensed by this Board. Licensees with any questions about unlicensed practice may contact their regional inspectors as follows: Brett Lisenbee – blisenbee@ncbfs.org (West); Darrell Cagle – dcagle@ncbfs.org (Central); Inez Green – igreen@ncbfs.org (East); David Hall – dhall@ncbfs.org (Southeast).

ANNOUNCEMENTS FROM THE INSPECTORS

New Inflation-Proof Preneed Calculator Online

Please be advised that a new calculator for calculating the percentages of non-guaranteed cash advance items has been uploaded to our website. A link to the calculator is located on the "Preneed" drop-down menu at the top of the home page. You can also locate it by typing the following URL into your internet browser: <http://ncbfs.org/PreneedCalculation/pncalculator.html>.

The new fillable calculator is designed to more closely correspond with data required to be entered on the certificate of performance. Also, its implementation will hopefully prompt funeral homes to allow proper credits for service and merchandise items which may have been funded on the preneed contract but not used when the contract was performed.

Should you have questions, please feel free to reach out to your inspector. They will be more than happy to assist you with learning to use the new calculator. As a reminder, each inspector's contact information is as follows:

Darrell Cagle, Central Region Inspector: (919) 604-4828; dcagle@ncbfs.org
Inez Green, Northeast Region Inspector: (919) 215-8851; igrreen@ncbfs.org
David Hall, Southeast Region Inspector: (919) 219-8701; dhall@ncbfs.org
Brett Lisenbee, Western Region Inspector: (919) 218-8083; blisenbee@ncbfs.org

Q&A Sessions and Continuing Education Programs Taught by Inspectors

Is your funeral establishment interested in hosting a continuing education course taught by one of the Board's Inspectors? Or, is your funeral establishment interested in hosting an informal Question & Answer session with one of the Board's Inspectors? If so, please e-mail your request to Brett Lisenbee, Compliance Liaison / Lead Inspector, at blisenbee@ncbfs.org. You may also call Mr. Lisenbee at (919) 218-8083.

PRENEED ANNOUNCEMENTS

The Board's Staff has received several questions recently regarding how to transfer and revoke a preneed contract executed in North Carolina if a consumer subsequently moves out of state. Please see N.C. Gen. Stat. § 90-210.65(e)(1), which reads as follows:

“(1) The Board may order an irrevocable contract revoked when the preneed contract beneficiary is no longer domiciled in this State and has submitted a written copy to the Board of a new preneed funeral contract executed under the laws of the state where the preneed contract beneficiary is domiciled. Upon receipt of the Board's order, the original contracting preneed licensee shall immediately follow the provisions of G.S. 90-210.63 to transfer the funds to the successor firm.”

If you have executed a preneed contract with a consumer that subsequently moves out of state, Board Staff will need to receive a signed, written copy of a new preneed funeral contract executed in the consumer's new state of residence. The Board's Preneed Committee will then review the documents and make a recommendation to the full Board. If the Board votes to approve a revocation for an out-of-state preneed contract transfer, the local establishment, out-of-state establishment, and consumer will all receive a copy of the Board's Order.

As a reminder, the circumstances outlined above are the only situation in which the Board has the authority to revoke an irrevocable preneed contract. A consumer seeking to revoke an irrevocable preneed contract under any other circumstances than transferring it out of state would need to pursue an action in the general courts.

IN MEMORIAM

The Board and Board Staff extend heartfelt condolences on behalf of the following individuals who have recently passed away:

Roy Staton, FD # 2483, grandfather of Board Member Matt Staton

Herbert C. Davis, brother of the Board's Mutual Burial Association Auditor, Lloyd Davis

Edward Carlton Stevens, FSL # 604

Charles Wilkerson, III, FSL # 1975

COMPLIANCE OPINIONS

Have a compliance question? Remember to use our question-and-answer feature, Compliance Opinion. If the question relates to your own prospective conduct, you may send an electronic correspondence to complianceopinion@ncbfs.org. You may also send a facsimile to the legal department at (919) 733-8271, attention "Compliance Opinion." Your correspondence must include: (1) your name; (2) your licensee affiliation/status; (3) all facts necessary for an opinion to be rendered; and (4) any supporting, pertinent documentation. In the order they are received, the Board Staff will provide responses to these inquiries, to the extent they pertain to future actions and matters within the purview of the Board's Laws and Rules only. If your question relates to past conduct (your own or that of another licensee), the Board Staff may decline to answer.

This month's sample question with the answer:

Q: We have had a request to fund a preneed contract from a purchaser who wishes to remain anonymous. Is it acceptable for the funeral home to be listed as the purchaser on the contract?

A: No. In the situation described the contract beneficiary would also be the purchaser because the monies being received to fund the contract are technically being gifted to the contract beneficiary.

Generally speaking, an individual can purchase or fund a preneed contract for anyone of their choosing. They cannot, however; authorize the cremation of another individual absent proper authority, i.e. a properly executed health care power of attorney specifically conveying the right of disposition to the contract purchaser.

Please note – Compliance Opinions are not reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. If one disagrees with Board Staff's position on a matter, they may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the North Carolina General Statutes. Should you wish to submit a Request for Declaratory Ruling, you may find the

form necessary to complete on the Board's website at this link:
<http://www.ncbfs.org/applications/RequestForDeclaratoryRuling.pdf>

DISCIPLINARY MATTERS

Case File Number: M16-006; R16-136.

Licensee: Genesis Funeral Home of Salisbury NC (FE # 830); Anthony Brown (FSL # 3007).

Summary: According to sworn testimony provided by Board Staff and a private investigator retained by Board Staff, the results of an undercover investigation indicated that Marcus Barber, an unlicensed employee of Genesis Funeral Home of Salisbury NC, committed the unlicensed practice of funeral directing on January 6, 2016. The Board also found evidence that Anthony Brown aided and abetted the unlicensed practice of Marcus Barber.

Board Action: Revocation of the funeral establishment permit of Genesis Funeral Home of Salisbury NC; active suspension of the funeral service license of Anthony Brown for a period of six (6) months, unless Mr. Brown pays a fine of \$500.00 to the Civil Penalty and Forfeiture Fund.

Effective Date: May 18, 2016.

Case File Number: R16-102

Licensee: Ryan S. Shipley (FSL # 2498)

Summary: Ryan Shipley failed to deliver an application for annual renewal of his funeral service license by the close of business on February 1, 2016, thereby failing to timely renew said license. Mr. Shipley engaged in the practice of funeral service, as defined in N.C. Gen. Stat. § 90-210.20(k) after the date his license expired on December 31, 2015.

Board Action: The Board entered into a Consent Order with Mr. Shipley. Pursuant to the terms of said Consent Order, Mr. Shipley paid a \$250.00 fine to the Civil Penalty and Forfeiture Fund, paid a license reinstatement fee of \$50.00, and submitted a complete annual renewal application with payment of the annual renewal fee of \$100.00. Upon receipt of the aforementioned items, Mr. Shipley's funeral service license was renewed retroactive to January 1, 2016.

Effective Date: May 4, 2016.

Case File Number: R16-132

Licensee: Glassie Locklear, Jr. (FSL # 3041)

Summary: Glassie Locklear, Jr. failed to deliver an application for annual renewal of the corresponding funeral service license by the close of business on February 1, 2016, thereby failing to timely renew said license. Glassie Locklear, Jr. engaged in the practice of funeral service, as defined in N.C. Gen. Stat. § 90-210.20(k) after the date said license expired on December 31, 2015.

Board Action: The Board entered into a Consent Order with Glassie Locklear, Jr. Pursuant to the terms of said Consent Order, Glassie Locklear paid a \$250.00 fine to the Civil Penalty and Forfeiture Fund, paid a license reinstatement fee of \$50.00, and submitted a complete annual renewal application with payment of the annual renewal fee of \$100.00. Upon receipt of the aforementioned items, Glassie Locklear, Jr.'s funeral service license was renewed retroactive to January 1, 2016.

Effective Date: May 4, 2016.

Case File Number: R16-111

Licensee: Adam Fisher (FSL #3082)

Summary: Adam Fisher failed to deliver an application for annual renewal of his funeral service license by the close of business on February 1, 2016, thereby failing to timely renew said license. Mr. Fisher engaged in the practice of funeral service, as defined in N.C. Gen. Stat. § 90-210.20(k) after the date said license expired on December 31, 2015.

Board Action: The Board entered into a Consent Order with Mr. Fisher. Pursuant to the terms of said Consent Order, Mr. Fisher paid a \$250.00 fine to the Civil Penalty and Forfeiture Fund, paid a license reinstatement fee of \$50.00, and submitted a complete annual renewal application with payment of the annual renewal fee of \$100.00. Upon receipt of the aforementioned items, Mr. Fisher's funeral service license was renewed retroactive to January 1, 2016.

Effective Date: May 4, 2016.

DECLARATORY RULING

In the Matter of Terri Robinson-McLean, Petitioner, Board Ruling No. D16-002.

Summary: Terri Robinson-McLean (hereinafter "Petitioner") filed a request for declaratory ruling on April 7, 2016, requesting that the Board provide guidance on the following question: Did Robinson-McLean Funeral Service, LLC undergo "a change in ownership," as referenced in N.C. Gen. Stat. § 90-210.25(d)(5), when it changed its legal entity from an establishment owned by Petitioner individually to a limited liability company with Petitioner listed as a member of the LLC? If so, was Robinson-McLean Funeral Service, LLC required to file a new establishment application and pay a \$250.00 new establishment application fee?

Ruling: No and no. The Board found that no “change of ownership,” as referenced in N.C. Gen. Stat. § 90-210.25(d)(5), “occurs when an establishment changes from an individually-owned entity to a limited liability company, provided that the owner of the individually-owned entity becomes the sole member of the limited liability company. However, regardless of whether a ‘change of ownership’ occurs, an establishment must inform the Board when its name is legally changed. See N.C. Gen. Stat. § 90-210.27A(j) (‘A funeral establishment will not use any name other than the name by which it is properly registered with the Board.’)”

Effective Date: May 16, 2016.

NEW LICENSEES

The Board congratulates the following individuals licensed in March:

NEW FUNERAL DIRECTOR LICENSEES

Carlos T. Callards
Davis B. Brown

NEW FUNERAL SERVICE LICENSEES

Thomas H. Renaud
Otilie S. Sommars

NEW TRAINEES

Joseph V. Barron – Richmond Funeral & Cremation Service, LLC
Joyce K. Best – Trinity Memorial Funeral Home, Inc.
Zachery A. Brown – Wilkerson Funeral Home
Ivan T. Davis – F W Newton Services, LLC
Natalia F. E. Felix – Roberts Funeral Service
Colleen K. Heck – Altmeyer Funeral & Cremation
Johnny A. Jernigan, Jr. – Johnson Funeral Home
Victor K. Johnson, I – Citty Funeral Home, Inc.
Hanna C. Kiger – Hayworth-Miller Funeral Home, Inc.
Deundra L. Mayo – Stevens Funeral Home, LLC
Stacey L. Neave – Bryan Lee Funeral Home, Inc.
Richard S. Nixon – Gentry Family Funeral Service, Inc.
James A. Smith – Vogler & Sons Funeral Home
Nolan B. Solis – Rich & Thompson Funeral Service, Inc.
Laura R. B. Tart – Brown-Wynne Funeral Home
James P. Warren,II – Groce Funeral Home
Ryann C. Welch – Roberts Funeral Service

NEW FUNERAL ESTABLISHMENTS

- #854 Stallings Funeral Home
- #856 Madison Funeral Home
- #860 Covenant Funeral Home
- #862 Tranquility Funeral & Crem. Serv.
- #864 Pierce-Jefferson Funeral Service
- #865 Long & Son Mortuary Service
- #866 Clancy, Strickland & Wheeler FH

NEW CREMATORY

- #135 Pierce-Jefferson FS

RECENTLY APPROVED CONTINUING EDUCATION COURSES

Date(s):	June 12, 2016		
Sponsor:	National Funeral Directors Association		
Title:	NFDA Leadership Conference – “Tough Talking: Initiating and Managing Difficult Discussions”		
Location(s):	Four Seasons Hotel 3960 Las Vegas Blvd. Las Vegas, Nevada		
Time:	10:00 am to 12:00 pm		
Hours:	2 CE Hours		
Contact:	Jacklyn Lindberg 1-800-228-6332		
Registration Fee:	NFDA Member	\$425.00	\$475.00 after June 14
	Nonmember	\$660.00	\$710.00 after June 14

Date(s):	June 24, 2016		
Sponsor:	Centurion Enterprises		
Title:	Death Can Hurt You		
Location(s):	Sleep Inn – 129 Circuit Lane – Jacksonville, NC 28546		
Time:	9:00am to 3:00pm		
Hours:	5 CE Hours		
Contact:	Steve Ertzberger		
Registration Fee:	\$40.00		

Date(s):	July 11, 2016
Sponsor:	National Funeral Directors Association
Title:	NFDA Leadership Conference – “Leadership Today”
Location(s):	Four Seasons Hotel 3960 Las Vegas Blvd. Las Vegas Nevada
Time:	8:30 am to 9:30 am
Hours:	1 CE Hour
Contact:	Jacklyn Lindberg 1-800-228-6332
Registration Fee:	NFDA Member \$425.00 \$475.00 after June 14 Nonmember \$660.00 \$710.00 after June 14

Date(s):	July 12, 2016
Sponsor:	National Funeral Directors Association
Title:	NFDA Leadership Conference-“Arranger Training...like you have never experienced before.”
Location(s):	Four Seasons Hotel 3960 Las Vegas Blvd. Las Vegas, Nevada
Time:	8:45 am to 9:45 am
Hours:	1 CE Hour
Contact:	Jacklyn Lindberg 1-800-228-6332
Registration Fee:	NFDA Member \$425.00 \$475.00 after June 14 Nonmember \$660.00 \$710.00 after June 14

Date(s):	July 14, 2016
Sponsor:	National Funeral Directors Association
Title:	Proposed Revisions to Wage & hour Regulations
Location(s):	NFDA – 13625 Bishop’s Drive – Brookfield, WI 53005
Time:	1:00 pm to 2:00 pm
Hours:	1 hour
Contact:	Shari Foucault / Jacklyn Lindberg
Registration Fee:	\$0 to \$60.00

Date(s):	July 20, 2016
Sponsor:	Selected Independent Funeral Homes
Title:	“Choose to Make Positive Changes”
Location(s):	Baue Funeral And Memorial Center 3950 W. Clay St. Charles, MO 63301
Time:	9:00 am to 12:00 pm
Hours:	3 CE Hours
Contact:	Amy Hunt 847-236-9401
Registration Fee:	Member \$95.00 Nonmember \$150.00/CE Hour

Date(s):	July 28, 2016
Sponsor:	National Funeral Directors Association
Title:	NFDA Certified Crematory Operator Program
Location(s):	Danville Life Saving Crew Training Ctr.-202 Christopher Lane – Danville, Virginia
Time:	8:00 am to 4:00 pm
Hours:	7 hour
Contact:	Shari Foucault / Jacklyn Lindberg
Registration Fee:	\$160 - \$655

Date(s):	September 13, 2016
Sponsor:	National Funeral Directors Association
Title:	“NFDA Arranger Training”
Location(s):	Okemos Conference Center- Holiday Inn Express Lansing- Okemos 2209 University Park Drive Okemos, Michigan 48864
Time:	8:00 am to 4:30 pm Registration 7:30 am to 8:00 am
Hours:	8 CE Hours
Contact:	Jacklyn Lindberg 1-800-228-6332
Registration	NFDA Member \$445.00 Non-Funeral Director \$445.00 (No

Fee:	CE)
	Nonmember FD \$565.00 Student Member \$160.00 (No CE)

If you are a sponsor submitting an application for course approval, please be reminded that you must submit your application and all supporting materials at least thirty (30) days in advance of the scheduled Continuing Education course.

Board Staff is encouraging licensees to complete their Continuing Education hours early this year! Please consider attending some of the approved Continuing Education courses that can be found on the Board's website at the following link: <http://www.ncbfs.org/list.html>.