

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 September 2016: Volume 12, Issue 8

The Board will next meet at 9 a.m. on Wednesday, October 12, 2016, at 1033 Wade Avenue, Ste. 108, Raleigh, NC. The agenda will be posted on the Board's website by Oct. 7.

BOARD STAFF ANNOUNCEMENTS

Please note: The date for the November 09 Board meeting has been changed to November 16 & 17. The meeting will be for **Hearings Only**. Any updates to the Board's calendar may also be found on the Board's website at www.ncbfs.org/calendar.html.

RENEWALS

Your license expires on December 31, 2016. Active licensees are encouraged to utilize the online renewal process. The online portal will open late November. License renewal forms will be mailed around this time as well.

Litigation Update: North Carolina Board of Funeral Service v. Heritage Cremation Provider, et al., Wake County Superior Court, 16 CVS 006190

In its May 2016 E-Newsletter, the Board announced that it 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. ("Defendants"). In the Complaint, the Board alleged that Defendants engaged in the unlicensed practice of funeral service in North Carolina, which violates the Board's governing statutes. The Board asked Wake County Superior Court to order Defendants to cease their practice of funeral service in North Carolina unless and until they become properly licensed by this Board.

On September 16, 2016, Superior Court Judge Donald Stephens approved the terms of a Consent Judgment obtained by the Board against Defendants. Under the terms of the Consent Judgment, Defendants acknowledged that they engaged in the unauthorized practice of funeral service in North Carolina. Defendants were ordered to cease any unauthorized practice of funeral service in North Carolina unless and until they shall become properly licensed by the Board. Defendants were further ordered to refrain from advertising or otherwise holding themselves out to the public as being able to provide funeral services in North Carolina while unlicensed by the Board. Should the Board be made aware of any future evidence that Defendants violated the terms of the Consent Judgment, the Board would be authorized to initiate contempt proceedings against Defendants.

Licensees with any questions about unauthorized practice are encouraged to contact their regional inspectors as follows: Brett Lisenbee – blisenbee@ncbfs.org; (919) 218-8083 (West);

Darrell Cagle – dcagle@ncbfs.org; (919) 604-4828 (Central); Inez Green – igreen@ncbfs.org; (919) 215-8851 (Northeast); David Hall – dhall@ncbfs.org; (919) 219-8701 (Southeast).

ANNOUNCEMENTS FROM THE INSPECTORS

A special reminder to licensees: Board staff cannot provide licensees with legal advice. Questions about whether or not your actions would be compliant with the Board’s laws and rules is not a legal question and should not be directed to our legal department. Rather, it is a compliance question and should be directed to our compliance/inspection department. For your convenience, compliance questions may be answered in any one of the following methods:

- 1. By emailing the Board’s Compliance opinion email:
complianceopinion@ncbfs.org**
- 2. By contacting the Board’s Compliance Liaison / Lead Inspector:
Brett Lisenbee: 919-218-8083; blisenbee@ncbfs.org**
- 3. By contacting your own inspector:
Inez Green, Northeast: 919-215-8851; igreen@ncbfs.org**
- 4. David Hall, Southeast: 919-219-8701; dhall@ncbfs.org**
- 5. Darrell Cagle, Central: 919-219-8701; dcagle@ncbfs.org**

TRAINEE ANNOUNCEMENTS

Pursuant to 21 NCAC 34B .0110, each trainee’s monthly work reports must be received by Board staff on or before the 10th calendar day of the month that immediately follows the completion of each one month period of his or her resident traineeship.

Because these monthly reports have to be notarized, Board staff must receive the original hard copy in the Board office. However, for purposes of meeting the deadline referenced herein, trainees may submit a copy of their monthly report by facsimile to the attention of Marty Mills at (919) 733-8271 or by e-mail to mmills@ncbfs.org. Please note that if a trainee submits his or her monthly report by facsimile or e-mail for the purposes of complying with the submission deadline, the trainee will still need to submit the original, notarized monthly report in person or by mail to the Board’s office at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605. Trainees incurring two missed or late reports in one year will be suspended and required to come before the Traineeship Committee.

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 questions with answers:

Q: We have a deceased whose wife initially contacted our funeral home to arrange for cremation. After making the arrangements she refused to sign the statement of goods and services and cremation authorization form due to the cost of our services. Since that time we have been unable to reach her as she refuses to return our phone calls. We have also relayed our message through other family members with no success. It has been 5 days since the date of death. The deceased has one living daughter from a previous marriage who is willing to handle the arrangements for her father. Can the daughter sign the cremation authorization form?

A:

Yes. In the situation described above G.S. 130A-420(b1) would apply.

“A person who does not exercise his or right to dispose of a decedent's body...within 5 days of notification or 10 days from the date of death, whichever is earlier, shall be deemed to have waived his or right to authorize disposition of the decedent's body or contest disposition in accordance with this section.”

Q: What “reasonable efforts” should a licensee take in locating a decedent's next of kin for the purposes of cremation?

A:

“Reasonable efforts” include:

- 1. Placing small death notices in a local newspaper or paper where the next of kin or other legal authorizing agent was last believed to have lived,*
- 2. Internet searches, including social media, and*
- 3. White pages and / or other telephone directories.*

Note: It is extremely important that you make and retain a record of each attempt made to contact the legal next of kin.

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(s): C14-032; M15-037; M16-034; C16-044; C16-056; C16-057.

Licensees: Martin's Funeral Home (FE # 378, PE # 105); Alton Calvin Hunnicutt, Jr. (FSL # 2628).

Summary: Respondents were on probation as a result of two prior disciplinary actions, a Consent Order resolving Board Case No. C14-032 executed in October 2014 and a Final Agency Decision resolving Board Case No. M15-037 issued by the Board in April 2016. On June 8, 2016, the Board ordered that Respondent Martin's funeral establishment permit be summarily suspended as a result of Respondents losing the right to occupy the premises for the funeral establishment.

Specifically, Respondents had been evicted from the premises. As part of its investigation into the three consumer complaints received on or around the time of the summary suspension, Board staff conducted an audit of Respondents' active preneed contracts and discovered strong evidence that Respondents had misappropriated preneed funeral funds from multiple consumers. A hearing to show cause was held on August 10, 2016, and Respondents failed to appear.

Board Action: Following a hearing to show cause on August 10, 2016, the Board issued a Final Agency Decision in which (1) Respondent Martin's Funeral Home at-need and preneed establishment permits were revoked; (2) Respondent Hunnicutt's funeral service license and preneed sales license were revoked; (3) Respondents were ordered to reimburse the Board \$2,500.00, which represents the maximum amount of reimbursable costs authorized by statute for prosecution of a hearing to show cause; (4) Board staff was directed to refer this matter to the Gaston County District Attorney for investigation and potential criminal prosecution; and (5) an injunction shall be sought against Respondents if they fail to cease practicing funeral service.

Effective Date: August 31, 2016.

Case File Number(s): C15-112.

Licensee: Joseph B. Paul, Jr. (FD # 3147).

Summary: Complainant alleges misappropriation of preneed funeral funds, including being asked to write checks made payable to "Cash." Funeral Establishment responded, stating that there were some extenuating circumstances with certain business partners that contributed to what occurred. Individual licensee reimbursed the consumer for the funds that were misappropriated.

Board Action: The Board adopted a Consent Order, whereby Respondent admitted to violating the Board's laws and rules; pays a civil penalty not to exceed \$1,000.00; and is placed on a probationary period for at least two (2) years.

Effective Date: September 14, 2016.

Case File Number(s): M16-017.

Applicant for Traineeship: Keisha LaDale Caldwell.

Summary: Respondent, an applicant for a resident traineeship with the Board, failed to disclose all criminal convictions on her application. Respondent's application was preliminarily denied by the Board, after which Respondent appealed the decision and requested a hearing. Respondent provided additional information in support of her application, including a detailed statement surrounding the charges she has been convicted of, namely shoplifting and larceny.

Board Action: The Board adopted a Consent Order, whereby Respondent admitted to the violations, will be placed on probation throughout the course of her traineeship, has agreed not

to commit any infractions of the Board's laws and rules or criminal laws, and has agreed that the Board will review her case again prior to licensure – including potentially requiring a hearing for her to establish good moral character.

Effective Date: September 14, 2016.

Case File Number(s): C15-063.

Licensees: Cremation Society of the Carolinas (FE # 677); Henry Davis (FSL # 2186).

Summary: Complainants visited Respondents' funeral establishment to make arrangements for their deceased mother. Complainants elected to have a private viewing, followed by a cremation of the decedent. Respondents mistakenly cremated the decedent prior to the scheduled private viewing. Through the course of the consumer complaint investigation, Board staff realized that two required FTC disclosures were not conspicuously displayed on Respondents' Statement of Funeral Goods and Services Selected.

Board Action: The Board adopted a Consent Order, whereby (1) the funeral establishment permit of Respondent Cremation Society of the Carolinas was placed on probation for a period of one (1) year; (2) Respondent Cremation Society of the Carolinas was ordered to pay a compromise penalty in the amount of \$500.00 to the Civil Penalty and Forfeiture Fund; (3) Respondent Henry Davis was ordered to pay a compromise penalty in the amount of \$500.00 to the Civil Penalty and Forfeiture fund; and (4) Respondent Henry Davis was ordered to take at least three (3) hours of Board-sponsored continuing education as it pertains to the Federal Trade Commission's Funeral Rule.

Effective Date: September 14, 2016.

Case File Number(s): V11-059; C14-061.

Licensees: Allen's Home of Funerals (FE # 8); Paula C. Jones (FD # 3821).

Summary: The complainant in Board case V11-059 alleged that a Veteran's grave marker that Respondent Funeral Establishment had been paid to install had still not been, despite nearly 20 years having passed. Respondent Licensee replied that she was not employed by Respondent Funeral Establishment at the time, but that she took some steps towards trying to resolve the issue. Respondent Licensee has since provided photo evidence that the grave marker has in fact now been installed. The complainant in Board case C14-061 alleged that two death certificates for individuals who passed away in the late 1990s had still not been provided to the family by Respondent Funeral Establishment. Respondent Licensee failed to timely respond to said complaint. Board staff has since obtained documentation that this particular issue has been resolved as between the consumer complainant and Respondents.

Board Action: The Board adopted a Consent Order, in which Respondent admitted to the violations, will be placed on a probationary period of six months, and will pay a \$250.00 civil penalty.

Effective Date: September 14, 2016.

Case File Number(s): M16-035.

Licensee: Ephraim J. Irvin, II (FSL # 2715).

Summary: Board staff received thirty-three (33) preneed contracts sold by Respondent Ephraim Irvin that were not timely filed with the Board. However, there was no evidence of consumer harm or misappropriation of preneed funeral funds.

Board Action: The Board adopted a Consent Order, whereby (1) Respondent Ephraim Irvin agreed to be placed on probation for a period of one (1) year; (2) Respondent Ephraim Irvin agreed to a stayed suspension of his preneed sales license on the following terms: he shall pay a compromise penalty in the amount of \$500.00 to the Civil Penalty and Forfeiture Fund; he shall take a minimum of two (2) preneed continuing education hours; and (3) any and all ancillary preneed sales licenses obtained by him shall be placed on probation for a period of eighteen (18) months.

Effective Date: September 14, 2016.

NEW LICENSEES, TRAINEES, AND ESTABLISHMENTS

NEW TRAINEES – for September

Christopher Scott Bracy – Massey Funeral Home
Keshia Nanett Leach – Harrisburg Funeral & Cremation
Stephanie Pardee – T H Robinson Funeral & Cremation Service
Alaina Nicole Pryor – forest Lawn West Funeral and Cremation Service
Adrian Danielle Roseboro – Donald I Roseboro Funeral & Cremation Service
Walter Aaron Rummage – Shuler Funeral Home
Carla Denise Smith – Joyner’s Funeral Home, Inc.
Heather Nicole Tallent – J B Tallent Funeral Service, Inc.

FUNERAL HOMES THAT OPENED IN SEPTEMBER

Strickland & Jones Memorial Funeral Service, LLC – Roxboro, NC
Chappell’s Funeral & Cremation Service – Garner (changed ownership)
Joyce-Brady Chapel – Bennett (changed ownership)
Dignity Funeral Service, Inc. DBA Willington Funeral & Cremation – Hampstead (changed ownership)
Davie Burial & Cremation Service of Lexington – Lexington

CREMATORY

Cool Springs Crematory, Inc. – Forest City

FUNERAL SERVICE LICENSEE

Brandon Steele – Wake Forest
Howard Wiseman Terry, III – Eden, NC
Claude Harvey Anthony – converted from funeral directing to funeral service)
Laura Ann Gallimore – Asheboro, NC
Mooya Ollie Assasepa – Washington, BC
Rumeal M. Ferguson – Henderson, NC
Laura Faye Phipps – Hickory, NC
Alicia Carol Clark – Lexington, NC
Ernest Randolph Shives, III – Columbia, SC
Jessica Renee Hawk – Fayetteville, NC

FUNERAL DIRECTOR LICENSEE

Walton Kenneth Herring, III – Fayetteville
Michael Steven Elmore – Dunn,
Amy Bumgartner – Pageland, SC
Matthew Gibbs Mason – Swan Quarter

SYMPATHY IS EXTENDED TO THE FAMILY OF:

Katrina M. Hunter, cousin of Board staff member Tanya Pearson, who died on September 15, 2016

RECENTLY APPROVED CONTINUING EDUCATION COURSES

The Board’s list of approved Continuing Education courses is updated regularly and can be found on the Board’s website at the following link: <http://www.ncbfs.org/list.html>.

Date(s):	September 28, 2016
Sponsor:	Regulatory Support Services, Inc.
Title:	The Cost of Compliance: OSHA Building a workplace safety program
Location(s):	Stanly Funeral Home-213 N. Second St.-Albemarle, NC 28002
Time:	9:00am – 11:00 am
Hours:	2 hours
Contact:	Twila Dickerson 804-784-7347
Registration Fee:	\$150.00

Date(s):	October 10, 2016
Sponsor:	Epsilon Nu Delta Mortuary Fraternity (Xi Chapter)
Title:	9:00am-10:00am – Personal Protective Equipment & the Application of Universal Precautions 10:00am -11:00am – Making your prep work stand out 11:00am-12:30pm – The Trade Embalmer’s Tool Kit
Location(s):	North Raleigh Hilton-3415 Wake Forest Road – Raleigh, North Carolina
Time:	See above
Hours:	3.5 Hours
Contact:	Anthony F. Worley 910-592-8175
Registration Fee:	\$35.00

Date(s):	October 11, 2016
Sponsor:	North Carolina Funeral Director Assoc. –District 6
Title:	Trauma Scene/ Bio-Hazard Clean-up
Location(s):	The cutting Board Restaurant-2699 Ramada Rd- Burlington, NC 27215
Time:	7:00pm – 9:00 pm
Hours:	2 Hours
Contact:	Kerry Scott Rhodes
Registration Fee:	\$60.00 members; \$70.00 non-members

Date(s):	November 4, 2016
Sponsor:	Regulatory support Services, Inc.
Title:	3 Hr.-The cost of compliance-FTC-Funeral Ethics and Protecting Privacy
Location(s):	Moody Funeral Services, Inc.
Time:	10:30 am – 1:30 pm
Hours:	3 Hours
Contact:	Twila Dickerson 804-784-7347
Registration Fee:	\$150.00

Date(s):	November 10, 2016
Sponsor:	Batesville Casket Company
Title:	Answering the Phone Properly & Dealing with Price shoppers
Location(s):	Andrews Mortuary-4108 South college Rd.-Wilmington, NC 28412
Time:	5 pm – 8 pm
Hours:	3 Hours
Contact:	Steven Hughes 336-214-2207
Registration Fee:	\$0

Date(s):	December 7, 2016
Sponsor:	Coastal Carolina Community College
Title:	Managing Stress & Preventing Burnout for Funeral Directors
Location(s):	Coastal Carolina Community College-444 Western Blvd.-Jacksonville, NC 28546
Time:	12:30pm – 5:30 pm
Hours:	5 Hours
Contact:	Diana Reyes. Anne Shaw 910-938-6322
Registration Fee:	\$66.00

Date(s):	December 7, 2016
Sponsor:	National Funeral Directors Association
Title:	NFDA Arranger Training
Location(s):	Crone Plaza Seattle Airport-17388 International Blvd.-Seattle, WA
Time:	8:00 am – 4:30 pm
Hours:	8 Hours
Contact:	Shari Foucalt/ Jacklyn Lindberg 262-789-1880
Registration Fee:	\$160.00 - \$655.00

Date(s):	See below
Sponsor:	Vision Insurance Programs, Inc.
Title:	Strategies of Ethical Preneed and Aftercare Programs
Location(s):	<p>01/18/17 – 9 am – 3:20 Golden Corral-1-85 & Huffman Mill Rd. Ext 141-Burlington, NC 27217</p> <p>03/13/17- 9am – 3:20pm Golden Corral- 4928 Khan Dr- Lumberton, NC 28358</p> <p>04/04/17 – 9 am – 3:20 pm Sunset Restaurant – 498 Harrison Ave – Franklin, NC 28734</p> <p>04/05/17 – 9am-3:20pm Golden Corral-I-85 & Huffman Mill Rd. Ext 141-Burlington, NC 27217</p> <p>07/25/17 – 9am-3:20pm Golden corral – 2300 E. Franklin Blvd.-Gastonia, NC 28054</p> <p>07/26/17-9am-3:20pm Golden Corral-I-85 & Huffman mill Rd Ext 141- Burlington, NC 27217</p> <p>10/04/17 – 9am-3:20pm Golden Corral- I-85 & Huffman mill Rd Ext 141-Burlington, NC 27217</p> <p>12/06/17 – 9am-3:20pm Golden Corral-I-85 & Huffman mill Rd Ext 141-Burlington, NC 27217</p> <p>12/11/17 – 9am-3:20pm Golden Corral-2300 E. Franklin Blvd.-Gastonia, NC 28054</p> <p>12/15/17 – 9am-3:20pm Golden Corral –I-40 & Lenoir-Rhyne Blvd.-Hickory, NC 28601</p>
Time:	See above
Hours:	6 hours each
Contact:	Michael Wilson 828-434-5985
Registration Fee:	\$65.00

Date(s):	February 6-8, 2017
Sponsor:	The Dodge Institute for Advanced Mortuary Studies
Title:	2017 Dodge Technical Seminar - Hawaii
Location(s):	John A Burns School of Medicine-University of Hawaii-Honolulu, Hawaii
Time:	Various
Hours:	Poss. 12 Hours
Contact:	Debbie Dodge/ Kristin Doucet 978-600-2099
Registration Fee:	Sliding scale