

North Carolina Board of Funeral Service

1033 Wade Avenue, Suite 108, Raleigh, NC 27605

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

www.ncbfs.org

E-NEWSLETTER May 2017: Volume 13, Issue 5

The Board's next scheduled meeting is at 9 a.m. on **Tuesday, July 11, and Wednesday, July 12, 2017** at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

BOARD MEETING CALENDAR

Please be reminded that the Board voted to cancel its regularly scheduled June Board meeting.

Please also note that, at its May 2017 meeting, the Board decided to reschedule its July meeting to Tuesday, July 11, and Wednesday, July 12, 2017.

JOB OPPORTUNITIES

The Board will be accepting applications for an Executive Director through June 30, 2017. For a more detailed job description and posting, please visit:

http://www.ncbfs.org/EXECUTIVE_DIRECTOR_May_2017.pdf

TRAINEESHIP ANNOUNCEMENTS

Due to staffing changes over the past several months, the administration of the Traineeship Program has been shifted to the Board staff's Legal Department. All questions and issues concerning traineeship should be directed, **in writing**, as follows:

- By email, to trainee@ncbfs.org
- By fax, to 919.733.8271, **Attn: Trainee Administrator**
- By regular mail, to 1033 Wade Ave., Ste. 108, Raleigh NC 27605-1155, **Attn: Trainee Administrator**

As a reminder, trainee work reports are due by close of business on the 10th of the month following that which is being reported, e.g., May reports are due by June 10. Reports may be emailed or faxed in order to meet the deadline, but the original must still be mailed to the Board's offices. For reports being emailed, Portable Data File (PDF) document format is strongly preferred over photo formats such as JPEG/JPG, PNG, et cetera. Please ensure the trainee number is shown on the work report.

LICENSEE COMPLIANCE ANNOUNCEMENTS

It has come to the attention of Board staff that preneed salespersons are preselecting the irrevocable option on preneed contracts by circling the space designated “irrevocable,” instead of allowing preneed contract purchasers to select and initial either irrevocable or revocable. Please be reminded that, pursuant to N.C.G.S. 90-210.62(a) and 21 NCAC 34D .0101, the preneed contract purchaser alone has the authority to choose whether the preneed contract at issue shall be revocable or irrevocable.

Board staff has posted a model cremation authorization form on the Board’s website. This form is an example of a cremation authorization form that would be compliant with the minimum information required pursuant to N.C.G.S. 90-210.125(a). Please note, however, that although the model cremation authorization is recommended for use by the Board’s licensees, it is not a Board-mandated form at this time.

RULEMAKING REMINDER

The Board is continuing to accept public comments on the adoption of the below two proposed permanent rules until June 2, 2017. A public hearing was held on May 10, 2017, but no public comments were received. Comments may be submitted until June 2, 2017 through either of the following mediums:

- E-mail: ccress@ncbfs.org
- Mail: Attn: Christina D. Cress, NC Board of Funeral Service, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605

21 NCAC 34B .0617 is proposed for adoption as follows:

21 NCAC 34B .0617 PRACTICING DURING DISASTERS

(a) Upon the declaration of a state of emergency, as provided in G.S. 166A-19.20, the Board may waive, for a period not to exceed 120 days following the rescission of the declaration of a state of emergency, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. Only those funeral establishments impacted by and located in a county in which the state of emergency has been declared shall be eligible for a waiver.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.

21 NCAC 34B .0618 is proposed for adoption as follows:

21 NCAC 34B .0618 PRACTICING DURING EMERGENCIES

(a) When a funeral establishment experiences an emergency occurrence or imminent threat of damage, injury, or loss of property resulting from a natural or man-made incident, the Board may waive, for a period not to exceed 120 days, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. The funeral establishment may continue to operate if it has provided evidence that the emergency does not pose an immediate threat to human life, an immediate threat of serious physical injury, or an immediate threat of serious adverse health effects.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days must provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.

NEW LICENSEES, TRAINEES, AND ESTABLISHMENTS

CHAPELS

Tribute Cremation Society – passed inspection 03/09/2017
Lancaster’s Franklinton chapel – passed inspection 05/01/2017

CREMATORIES

Burke Mortuary and Crematory of Newton – passed inspection 02/24/2017
Beam Funeral Service & Crematory – passed inspection 04/06/2017
Brooks Crematory (changed ownership) – passed inspection 04/18/2017
First Cremation Society (changed ownership) – passed inspection 05/01/2017

TRANSPORTERS

Presley Wayne Melvin – active 02/28/2017
Gerald Jermaine Wallace – active 04/19/2017
Dewey Justin McNeill – active 05/01/2017

FUNERAL ESTABLISHMENTS

Family Funeral Home & Cremation Service, LLC – passed inspection 02/22/2017
Horton & Sanderlin Funeral & Cremation Services, Inc. – passed inspection 04/25/2017
Brooks Funeral Home & Crematory (changed ownership) – passed inspection 04/18/2017
Lancaster Funeral & Cremation Service (changed ownership) – passed inspection 05/01/2017
Harrelson Funeral Service (changed ownership) – passed inspection 04/26/2017
Blakely’s Funeral & Cremation Service, LLC – passed inspection 05/03/2017

FUNERAL SERVICE LICENSEES

Jeffrey Thomas Fisher – licensed 02/22/2017
Jarrod Damien Carpin – licensed 02/28/2017
Kim Kl Lester – licensed 03/22/2017
James Phillip Warren, II – licensed 04/06/2017
Terri Lynn Merz – licensed 04/06/2017
Charles D. Parr, Jr. – licensed 04/10/2017
Krista Paige Sands – licensed 04/17/2017
Al Bobby Hicks – licensed 04/19/2017
Denielle Nicole Lawter – licensed 04/24/2017
Anna Mackenzie Wrenn – licensed 04/24/2017
James Adam Smith – licensed 04/27/2017
Nichol F. Fisher – licensed 05/01/2017

FUNERAL DIRECTOR LICENSEES

Frederick R. Jordan, IV – licensed 02/20/2017
James Leroy Spangler, III Licensed 02/28/2017
Michael L. Kilpatrick – licensed 02/28/2017
Joshua Hopkins Bagajski – licensed 02/28/2017
Donald Steven Copley – licensed 03/06/2017
Garrett Dwain Holland – licensed 03/14/2017
Mark Andrew Green – Licensed 03/16/2017
Keyna N. Chiles – Licensed 04/17/2017
Bradford L. Bailey – Licensed 04/18/2017
Donnica August Boston – licensed 04/26/2017

TRAINEES

Crystal Maria Branch – Lady’s Funeral Home and Crematory, Inc., Kannapolis, NC
Julianne Denise Byrd – Gordon Funeral Service, Monroe, NC
Mohammed Elammari – Richard Harris Funeral Home and Cremation Service, Zebulon, NC
Autumn Snow Elledge – Badger Funeral Home, West Jefferson, NC
Donny Allen Jernigan – Inman Ward Funeral Home of Tabor City, Tabor City, NC
Michael Scott Johnson – Hayworth-Miller Funeral Home, Winston-Salem, NC
Janet McQueen Lowe – Long & Son Mortuary, Charlotte, NC
Lillie Pope – HD Pope Funeral Home, Rocky Mount, NC
Veronica Nicole Watson – Worley Funeral Home, Inc., Clinton, NC

DISCIPLINARY MATTERS

Board Case Number: M12-008.

Respondent: William J. Kahlert (FSL # 1410).

Summary: Licensee has requested reinstatement of his funeral service license, which was previously refused by the Board on the grounds that Respondent was convicted of a felonious crime involving fraud or moral turpitude. Earlier this year, the Superior Court of New Jersey ordered that Respondent’s criminal conviction referenced herein be expunged, and specifically that “any arrest or other proceedings related to the charges covered by this Order be deemed not to have occurred.” Board staff is not aware of any other basis upon which Respondent’s request for reinstatement could be denied.

Board Action: The Board adopted a Consent Order, whereby the Board agreed to reinstate Respondent’s funeral service licensee on the condition that Respondent shall have first satisfied the requirements to reinstate a lapsed license.

Effective Date: May 10, 2017.

Board Case Number: M15-002.

Respondent: Reginald E. Moody, Jr. (FSL # 1489).

Summary: Respondent previously entered into a Consent Order with the Board in February 2015 whereby Respondent's funeral service license was suspended as a result of Respondent being convicted of misdemeanor and felony charges involving crimes of fraud and moral turpitude. Beginning on May 10, 2017, Respondent is eligible to request that the Board reinstate his funeral service license, pursuant to the terms of the original Consent Order previously executed.

Board Action: The Board adopted a Consent Order, whereby the Board agreed to reinstate Respondent's funeral service license, contingent upon the following terms: 1) Respondent will be subject to a two year probationary period beginning from the date of licensure reinstatement; 2) Respondent must pay back licensing fees totaling \$200.00; 3) Respondent must pay a \$50.00 reinstatement fee to the Board; 4) Respondent must submit to and successfully pass a new criminal background check; 5) Respondent must submit to the Board a notarized Affidavit attesting that he has not practiced funeral directing, funeral service or embalming while his license was suspended; and 6) Respondent must submit proof to the Board that he has completed and satisfied the terms of his criminal probation.

Effective Date: May 10, 2017.

Board Case Number: M15-005.

Respondent: Bradley R. Mulkey (FD # 3949).

Summary: Respondent, acting as a preneed sales licensee, improperly withdrew \$1,500.00 from two different preneed consumers. Respondent also applied for insurance applications on behalf of numerous consumers, naming the former funeral establishment as the purported "insured," and then subsequently allowing the policies to lapse.

Board Action: The Board adopted a Consent Order, whereby Respondent agreed to voluntarily surrender any and all preneed sales licenses issued to him and furthermore agreed to never again apply for a preneed sales license. Additionally, Respondent agreed that the Board should refuse to issue or reinstate his funeral directing license unless and until the following conditions are satisfied: 1) reimbursement to the two consumers affected by the improper cash withdrawals from their respective preneed accounts; and 2) Respondent shall have shown good moral character, in addition to meeting all the requirements to reinstate a lapsed license.

Effective Date: May 10, 2017.

Board Case Number: M15-050.

Respondent: Samuel L. Booker, Jr. (FSL # 2888).

Summary: Respondent, acting as the former licensed manager of a funeral establishment in which Respondent did not have an ownership interest, embezzled funds paid by consumers for funeral services provided on behalf the owner of the funeral establishment. Respondent also used funds belonging to the business to pay various personal bills owed by Respondent.

Board Action: The Board adopted a Consent Order, whereby Respondent agreed to voluntarily surrender his funeral service license; and, that in the event Respondent ever seeks reinstatement of his funeral service license in the future, he will be required to appear at an administrative hearing before the Board.

Effective Date: May 10, 2017.

Board Case Number: M16-050.

Respondent: Garcia F. Johnson (FSL # 1075).

Summary: Respondent shot someone on the premises of the funeral establishment formerly managed by Respondent. As a result of an unrelated offense, Respondent was also charged with multiple crimes of fraud or moral turpitude. Earlier this year, Respondent agreed to plead guilty to the following felony charges: 1) assault with deadly weapon with intent to inflict serious injury; 2) common law forgery; and 3) felony notary fraud.

Board Action: The Board adopted a Consent Order, whereby the Respondent agreed to voluntarily surrender his funeral service license and his preneed sales license. Respondent further agreed to never again apply for a preneed sales license. Finally, Respondent agreed that the Board shall refuse to issue or reinstate Respondent's funeral service license in the future unless and until all of the following conditions have been satisfied: 1) Respondent complies with the terms of the Consent Order; 2) Respondent is no longer incarcerated or serving probation; 3) Respondent has met the requirements for a lapsed license; 4) Respondent demonstrates that he is of good moral character; and 5) Respondent shall appear at an administrative hearing before the Board.

Effective Date: May 10, 2017.

Board Case Number: M17-006.

Respondent: Edward F. Kimball, Jr. (FSL # 1205).

Summary: Respondent failed to renew his funeral service license prior to close of business on February 1, 2017.

Board Action: The Board adopted a Consent Order, whereby the Board agreed to reinstate Respondent's funeral service license retroactively upon satisfaction of the following terms: 1) payment of a \$250.00 compromise penalty; 2) payment of a \$30.00 inactive license renewal; 3) payment of a \$50.00 reinstatement fee; and 4) submission of a completed license renewal application.

Effective Date: May 10, 2017.

Board Case Number: C16-094.

Respondents: Douthit Funeral Services (FE # 736); Thomie Douthit (FD # 2492).

Summary: Respondents, who are not licensed to sell preneed funeral contracts, admitted that the funeral establishment agreed to, and did in fact, become the owner of two life insurance policies issued to a consumer for the purpose of helping the consumer qualify for government benefits.

Board Action: The Board adopted a Consent Order, whereby Respondent Douthit was ordered to provide proof within 30 days that he has fully divested himself of any and all ownership interests in any insurance policy insuring the life of the consumer at issue. Respondent Douthit must also pay a \$1,000.00 compromise penalty within 30 days of the date the Consent Order is executed. Finally, a Letter of Caution shall be placed in Respondent Douthit's licensure file warning him not to engage in preneed funeral planning of any kind, without first obtaining a preneed establishment permit and ancillary preneed sales license from the Board.

Effective Date: May 10, 2017.

Board Case Numbers: C16-098 / C17-030.

Respondent: Craig R. Mills (FSL # 1837).

Summary: Respondent, a preneed sales licensee, failed to timely file several preneed funeral contracts with the Board, and failed to timely deposit into a trust account or insurance policy funds paid towards several preneed funeral contracts. Respondent also failed to timely respond to a complaint filed with the Board against him.

Board Action: The Board adopted a Consent Order, whereby Respondent admits to the violations; the preneed sales license of Respondent is revoked, and Respondent agrees that he

shall not be issued a preneed sales license for at least 3 years from the date the Consent Order takes effect and only after he successfully completes a preneed continuing education course taught by Board staff. Respondent further agrees to pay restitution to the consumer affected in the amount of \$500.00, in addition to a \$2,500.00 compromise penalty. Finally, Respondent agrees that his funeral service license shall be placed on probation for a period of 3 years.

Effective Date: May 10, 2017.

Board Case Number: C17-014.

Respondents: Cremation Services, Inc. (Crematory # 28); Susanne Blair (FSL # 2386).

Summary: Respondent Licensee allowed a crematory employee to remove numerous sets of cremated remains from the crematory premises to the employee's personal residence for the purported purpose of disposing of unclaimed cremated remains. Some of the cremated remains were placed into a trash can on the employee's residence. Additionally, a Board Staff Inspector reviewed the cremation records for the unclaimed cremated remains removed to the employee's residence, and found numerous deficiencies in the same. For one decedent in particular, the records were shown to instruct that the cremated remains be mailed to a family member instead of being disposed along with the rest of the unclaimed cremated remains.

Board Action: The Board adopted a Consent Order, whereby Respondents admitted to the violations and agreed to the following terms: 1) the crematory permit of Respondent Crematory was actively suspended beginning April 3, 2017, and ending on the date the Consent Order is fully executed; 2) the funeral service license of Respondent Licensee is placed on probation for a period of 3 years; 3) the crematory permit of Respondent Crematory is placed on probation for a period of 3 years; 4) Respondents must pay a \$3,500.00 compromise penalty; 5) Respondents must provide proof that they have issued a written letter of apology to the family of the decedent whose cremated remains were improperly disposed of; 6) Respondents agreed to terminate the crematory employee who caused certain cremated remains to be placed in a trash can; and 7) each and every employee of Respondent Crematory shall undergo mandatory cremation recordkeeping continuing education taught by Board staff.

Effective Date: May 10, 2017.

Board Case Number: M17-001.

Respondent: William Henry Mitchell, Jr. (Traineeship Applicant).

Summary: Respondent is an applicant for a resident traineeship in funeral directing with the Board. The Board preliminarily denied Respondent's application due to his criminal history.

Board Action: Following an administrative hearing on April 12, 2017, the Board issued a Final Agency Decision granting a resident traineeship to Respondent.

Effective Date: May 12, 2017.

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>.
