

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 October 2017: Volume 13, Issue 9

The Board's next scheduled meeting is at 9:00 a.m. on **Wednesday, November 8, 2017** at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

BOARD STAFF ANNOUNCEMENTS

Renewal season is here! Applications for renewal of all license types now are available as fillable PDFs on the Board's website [here](#). This year, licensees have the option to submit their completed applications electronically via renewals@ncbfs.org or via facsimile at (919) 733-8271, as well as by US Mail. Licensees choosing to submit applications electronically or by facsimile may submit their renewal fee online through the Board's online payment portal [here](#). For more information, please visit the Board's website [here](#).

Please remember that licensees required to complete continuing education ("CE") courses as a prerequisite for annual license renewal must complete five (5) hours of approved CE on or before February 1, 2018. The Board's list of approved Continuing Education courses is updated regularly and can be found on the Board's website [here](#).

The Board is conducting an election of nominated candidates for one (1) position on the North Carolina Crematory Authority. This position is for a three-year term, beginning in January 2018. All actively licensed crematories have been mailed ballots, which must be returned to the Board office no later than 4:30 PM on October 31, 2017. Actively licensed crematories who have not yet received their ballots should contact the Board office for assistance. The ballots will be counted by the Board at its November 8 meeting, and the election results will be published in the Board's November 2017 E-Newsletter.

TRAINEESHIP ANNOUNCEMENTS

As a reminder, trainees who choose to submit their work reports to the Board via email at trainee@ncbfs.org or via facsimile (919) 733-8271 no longer are required to submit original copies of their work reports via US Mail. **Trainees should not send more than one copy of their work report to the Board each month.**

If Trainees wish to receive updates regarding the Traineeship Program via email, they are encouraged to submit their preferred email address to the Board staff at trainee@ncbfs.org.

MUTUAL BURIAL ASSOCIATION ANNOUNCEMENTS

Certain mutual burial associations in North Carolina are now defunct for a variety of reasons (e.g. the sponsoring funeral establishment is now closed and/or the Secretary-Treasurer is deceased or otherwise incapacitated.) Active mutual burial associations in good standing with the Board that are interested in receiving the transferred assets of these defunct mutual burial associations are encouraged to contact the Board office. If you are the Secretary-Treasurer of a mutual burial association that would be willing to consider receiving the membership and assets of one or more defunct mutual burial associations, please contact Brett Lisenbee at (919) 218-8083.

N.C. Gen. Stat. § 90-210.95 requires the Secretary or Secretary-Treasurer of each mutual burial association to execute a bond payable to the Board as trustee for the burial association through a Board-approved bonding company licensed to do business in this State. Please ensure that current copies of such bonding has been submitted to the Board.

As a reminder, N.C. Gen. Stat. § 90-210.81 requires that each mutual burial association annually publish in its newspaper of general circulation in the county in which such association has its principal place of business, or mail to each member in good standing, a statement showing total income collected, expenses paid, and burial benefits provided for by such association during the preceding year.

LICENSEE COMPLIANCE ANNOUNCEMENTS

At its October meeting, the Board rendered the following compliance opinion: for situations only in which a death has occurred out of state and no signed death certificates can be obtained quickly enough to allow for timely disposition, a licensee would be in compliance with the Board's governing statutes and rules if he or she cremated the decedent when both of the following conditions apply: 1) the decedent was legally removed from the jurisdiction in which the death occurred; and 2) the licensee has obtained all necessary paperwork which would have allowed the body to be cremated in the jurisdiction in which the death occurred.

The North Carolina Department of Insurance has published a lost life insurance policy locator service [here](#), which will help consumers locate benefits from life insurance policies or annuity contracts purchased in North Carolina.

Have a compliance question? Remember to use the Board's 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 also may send a facsimile to (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 in which they are received, inspectors 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.

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

- **By emailing the Board's Compliance opinion email:** complianceopinion@ncbfs.org
- By contacting the Board's Compliance Liaison, Brett Lisenbee, or your individual inspector at the contact information provided on the Board's website [here](#).

PRENEED COMPLIANCE ANNOUNCEMENTS

21 NCAC 34D .0105 requires any person selling a preneed contract to send a copy of the contract to the Board within 10 days following the sale of the contract, along with the \$20.00 fee required by N.C. Gen. Stat. § 90-210.67(d). As such, preneed funeral establishments bear the responsibility for submitting the preneed contract filing fee with the preneed contract to the Board, and should not direct third parties, such as nursing homes, to do so on behalf of the consumer.

Questions regarding how to amend a preneed contract that previously has been filed with the Board? Please review the Board's guidelines on best practices, which are available on the Board's website [here](#).

For information regarding the limited circumstances under which an irrevocable preneed contract may be revoked, please review the reference guide that is available on the Board's website [here](#).

DECLARATORY RULING

Robert M. Hardy, Executive Vice President and General Counsel of Investors Heritage Life Insurance Company, requested from the Board a declaratory ruling to answer the following question: If the beneficiary of an irrevocable preneed funeral contract and/or the owner of an insurance policy used to fund an irrevocable preneed funeral contract voluntarily surrenders, for the cash value thereof, an insurance policy used to fund an irrevocable preneed funeral contract such that the insurance policy no longer provides any funding for the irrevocable preneed funeral contract, would this constitute an "otherwise cancelled" insurance policy pursuant to N.C. Gen. Stat. § 90-210.65(e)(2)? The Board voted at its meeting on October 11, 2017 to grant Mr. Hardy's request for declaratory ruling, and to issue a ruling on the merits in which it answered the above question in the affirmative. Such a scenario as described herein would constitute an "otherwise cancelled"

insurance policy such that an irrevocable insurance-funded preneed funeral contract would become revocable. Accordingly, the Board would not deem it a violation of N.C. Gen. Stat. § 90-210.65(e) if a preneed funeral establishment and/or preneed sales licensee revokes or refunds proceeds of an irrevocable insurance-funded preneed funeral contract when the *consumer* voluntarily surrenders the value of the insurance policy used to fund the contract.

A copy of the entire declaratory ruling can be found on the Board's website [here](#).

DISCIPLINARY MATTERS

Board Case Number: C17-041

Respondents: Knotts & Son Funeral Home (FE # 317, PE # 614); William Harvey Knotts, Jr. (FSL # 1142)

Summary: Complainant alleged that Respondent did not timely deposit into Complainant's preneed trust account payments toward a preneed contract. Respondent admits to the allegations, but has provided proof that Complainant was reimbursed for the preneed funds not timely deposited by Respondent. Board staff subsequently conducted an inspection and audit of Respondent Funeral Establishment, and noted several deficiencies, including but not limited to the following violations: failure to timely file preneed contract with the Board and missing active preneed contract file documentation.

Board Action: The Board adopted a Consent Order, whereby Respondents agreed to the following discipline: the funeral service license of Respondent Knotts will be placed on probation for a period of three (3) years; the funeral establishment permit, preneed funeral establishment permit, and all ancillary preneed sales licenses of Respondent Knotts & Son Funeral Home are hereby revoked, except that said revocation is stayed upon the following terms and conditions: 1) Respondent Funeral Home shall obtain a surety bond in an amount not less than Fifty Thousand Dollars (\$50,000.00) and shall maintain said bond for at least five (5) years following the date this Consent Order is executed. Respondent Funeral Home shall provide proof to Board staff that it has obtained said surety bond within thirty (30) days from the date this Consent Order is executed. The surety bond obtained shall in all ways comply with 21 NCAC 34D.0203, in addition to any and all other applicable laws and rules; 2) The funeral establishment permit, the preneed establishment permit, and all ancillary preneed sales licenses of Respondent Funeral Home are hereby placed on a probationary period of three (3) years, to begin from the date this Consent Order takes effect; 3) Within thirty (30) days from the date this Consent Order is executed, Respondents shall have paid a compromise penalty in the amount of Two Thousand Dollars (\$2,000.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; 4) Within six (6) months from the date this Consent Order is executed, Respondents shall have corrected each and every deficiency contained within the Preneed Examination Report dated June 28, 2017, and which was previously transmitted to Respondents for review; 5) Within thirty (30) days from the date this Consent Order is executed, Respondents shall have notified all preneed consumers transferred from a former funeral establishment that their preneed contracts have been transferred, and what the appropriate next steps are if the consumers choose to keep their

preneed funeral contracts with Respondent Funeral Home; 6) All preneed sales licensees employed by Respondent Funeral Home shall take a preneed continuing education course in the amount of three (3) credit hours sponsored and taught by Board staff not later than December 31, 2018; and 7) If Respondent Funeral Home fails to fully comply with any of the above-referenced conditions to the satisfaction of the Board and Board staff, the stay of revocation on the funeral establishment permit, the preneed establishment permit and all ancillary preneed sales licenses, shall be immediately and automatically lifted without further Board action.

Effective Date: October 11, 2017.

Board Case Number: M17-015

Respondents: C. C. Hodges Funeral Services (FE # 252, PE # 482); Charles C. Hodges, Jr. (FSL # 969)

Summary: Board staff conducted a routine inspection and preneed examination of Respondent Funeral Establishment. Board staff found that the ventilation system in Respondent Funeral Establishment's preparation room to be deficient. Board staff provided a compliance deadline by which Respondent Funeral Establishment was to have provided proof that the ventilation unit was either repaired or replaced. Respondents failed to timely comply with the request to fix the ventilation unit but have since done so. Additionally, Respondents failed to timely submit their 2016 Preneed Annual Report. Respondents have since submitted said report and late fee.

Board Action: The Board adopted a Consent Order, whereby the parties agreed that the staff-generated complaint against Respondents should be dismissed upon Board staff's receipt of proof that Respondents have rectified all at-need and preneed recordkeeping deficiencies found during its recent funeral establishment inspection and preneed examination.

Effective Date: October 11, 2017.

Board Case Number: M17-015

Office of Administrative Hearings File Number: 17 BMS 02004

Respondents: Cody T. McCain (FD # 4071); Henry M. Colvin, Jr. (FSL # 1031); Colvin Funeral Home & Crematory (FE # 111, PE # 172)

Summary: Board staff conducted a routine inspection and preneed examination of Respondent Colvin Funeral Home & Crematory. During the examination, Board staff found numerous preneed recordkeeping violations. In addition, for the past three consecutive years, Respondent Colvin Funeral Home & Crematory's Preneed Annual Reports were delinquent and contained deficiencies that Board staff brought to Respondents' attention on several occasions, without response from Respondents.

Board Action: The Board adopted a Consent Order, whereby Respondents agreed to the following discipline: the preneed funeral establishment, and all ancillary preneed sales licenses, of Colvin Funeral Home & Crematory are placed on probation for a period of two (2) years; the funeral service license of Respondent Henry M. Colvin, Jr. is placed on probation for a period of (2) years; the funeral directing license of Respondent Cody T. McCain is placed on probation for a period of one (1) year; within 90 days from the date of the Consent Order, the following conditions must be satisfied: 1) Respondents must correct, to the reasonable satisfaction of the Board and Board staff, all deficiencies identified in the 2017 Examination and Preneed Annual Report correspondences; 2) Respondents must pay any and all fees assessed as a result of the late filing of each and every Certificate of Performance; 3) Respondents Henry M. Colvin, Jr. and Colvin Funeral Home & Crematory must pay a compromise penalty of \$1,500.00; and 4) at the conclusion of the 90 day period, Respondent Colvin Funeral Home & Crematory must pass, without substantial deficiency, a reinspection and reexamination of its preneed contracts. In addition, on or before December 31, 2018, each and every preneed sales licensee employed by Respondent Colvin Funeral Home & Crematory shall attend three (3) hours of Board-sponsored preneed continuing education.

Effective Date: October 12, 2017.

NEW LICENSEES, TRAINEES, AND ESTABLISHMENTS BETWEEN SEPTEMBER 16, 2017 AND OCTOBER 26, 2017

CHAPELS

None

CREMATORIES

None

TRANSPORTERS

Ashley Renee Santoyo Pineda – 09/19/2017

Marvin James Johnson – Knightdale – 09/19/2017

UNAFFILIATED LICENSEES

None

FUNERAL ESTABLISHMENTS

Matthews Family Mortuary, LLC – 10/13/2017

FUNERAL SERVICE LICENSEES

Megan Gibbs Smith – Columbus – 09/21/2017
Michael McEwen – Clarkton – 09/22/2017
Bonnie Lee Morrison – Morehead City – 10/09/2017
Jason Ray Price – Hamptonville – 10/9/2017
Lakeshia Deloris Simmons – Roseboro - 10/13/2017
Donna Price – Newport News – 10/17/2017
Caroline King – Clifton Park, NY – 10/20/2017
Jason Edward Bradley – Concord – 10/26/2017

FUNERAL DIRECTOR LICENSEES

Haley Sink Truitt – Thomasville – 09/20/2017
Jenna Rose Gaskin – Monroe – 09/22/2017
Keshia Nanett Leach – Midland - 10/12/2017
Atravis Sanier Powell – Fayetteville – 10/20/2017

TRAINEES

Sonja K. Black – Boles Funeral Home & Crematory – 10/01/2017
Gregory Thomas Casper – Biggs Funeral Home – 10/01/2017
Chad Christian Cotton – O’Quinn-Peebles-Phillips Funeral Home – 10/01/2017
Silas Jon Denlinger – Seymour Funeral Home & Cremation Services, Inc. – 10/01/2017
Timothy Darin Dixon – Harrington Funeral Home and Crematory – 10/01/2017
Christopher Charles Fisher – Fisher Memorial Funeral Parlor – 10/01/2017
Daniel R. Goins – Moody Funeral Services – 10/1/2017
Megan Elizabeth Romanick – Forrest Lawn West – 10/01/2017
Josslyn Yvette Ruiz-Turcios – Davie Burial & Cremation of Lexington – 10/01/2017
Timothy Reid Sink – Davie Burial & Cremation of Lexington – 10/01/2017
Patrick Nelson Sprinkle – Jenkins Funeral Home – 10/01/2017
LaDonae Rayvon Wooten – Wayne Russell Funeral Service – 10/01/2017

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 this [link](#).