

North Carolina Board of Funeral Service

1033 Wade Avenue, Suite 108, Raleigh, NC 27605

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www.ncbfs.org

E-NEWSLETTER April 2018: Volume 14, Issue 4

The Board's next scheduled meeting is at 9:00 a.m. on **Wednesday, May 9, 2018** at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

BOARD STAFF ANNOUNCEMENTS

Please note that, at its April meeting, the Board voted to cancel its regularly scheduled meeting for July.

The Board is pleased to announce that it will sponsor the following Continuing Education courses in July at the Board office located at 1003 Wade Avenue, Suite 108, Raleigh, NC. Following are the dates, times and course subjects:

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|-------------------------|---------------------|---------------|
| Pre Need Review | 9:00 am – 12:00 pm | July 11, 2018 |
| FTC Funeral Rule Review | 1:00 pm - 3:00 pm | July 11, 2018 |
| Cremation Review | 10:00 am – 12:00 pm | July 12, 2018 |

To register, please contact Marty Mills, Administrative Services Coordinator, at mmills@ncbfs.org. The cost is \$25/per person per course taken. Space is limited, so please register early.

The NC Funeral Directors Association will hold its Annual Educational Conference and Exposition at the Carolina Hotel in Pinehurst, NC, from May 21-22, 2018. You will find additional information at the Association's website at <http://ncfda.org/convention/>.

The Funeral Directors and Morticians Association of North Carolina [FDMANC] will hold its 91st Annual Convention from June 18 – 21 at the Pinehurst Resort in Pinehurst, NC. Please visit the FDMANC website at www.fdmanc.org for additional details.

REGULATORY ANNOUNCEMENTS

It has been reported to the Board that the US Postal Service [USPS] recently has increased its rate for the shipment of cremated remains. The USPS offers to the public the following guide on how to package and ship cremated remains: <https://about.usps.com/publications/pub139.pdf>. For more information, please contact your local USPS office.

LICENSEE COMPLIANCE ANNOUNCEMENTS

Licensees are reminded that under N.C. Gen. Stat. § 90-210.130(b), “[t]he authorizing agent is responsible for the disposition of cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may release the cremated remains to another family member upon written notification to the authorizing agent delivered by certified mail or dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.”

As such, it is Board Staff opinion that a crematory licensee “or the person in possession of the cremated remains” would have two (2) options available to dispose of the cremated remains. Each would be equally in compliance N.C. Gen. Stat. § 90-210.130(b), as follows:

1. Release to “another family member” upon providing written notification of the intent thereof, by certified mail, to the last known address of authorizing agent and either: (i) confirming that the notification has been delivered; or (ii) receiving written verification that the notification was undeliverable to the authorizing agent’s last known address; or
2. Dispose of the cremated remains in any other manner permitted by N.C. Gen. Stat. § 90-210.130(c) through (f).

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_90/Article_13F.pdf

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, the Board’s Compliance Liaison 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 opinions. 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](#).

**Please note that, on occasion, calls to individual inspectors will be routed to the “on-call” inspector of the day so that compliance calls can be answered as quickly as possible.

MUTUAL BURIAL ASSOCIATION COMPLIANCE ANNOUNCEMENTS

Any MBA that has not complied with Board staff requests to provide documentation necessary to provide satisfactory evidence that it has fully complied with the provisions of N.C. Gen. Stat. § 90-210.95 is encouraged to do so immediately. Failure of any MBA to comply may result in disciplinary action by the Board, including but not limited to, revocation of its license under the provisions of N.C. Gen. Stat. § 90-210.85.

At its April meeting the Board voted to order the transfer of the assets and membership of Jackson MBA and Stokes MBA to Reich-Hayes-Boren MBA in Elkin, NC. Any member of Jackson or Stokes MBA who was, at the time of the order, a member in good standing, will continue to be a member of Reich-Hayes-Boren MBA upon payment of any assessment fees due. Any legitimate death claims will be paid in accordance with N.C. Gen. Stat. § 90-210.81.

Currently there four (4) MBAs in North Carolina which 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 MBAs that are interested in receiving the transferred assets of these defunct MBAs are encouraged to contact the Board office.

PRENEED COMPLIANCE ANNOUNCEMENTS

In cases where an insurance policy that funds a preneed contract has been cancelled or cash surrendered, please remember to send the Board office a copy of the cancellation notice from the insurance company. The cancellation notice is necessary for Board staff to document the cancellation and close the policy in our records.

DISCIPLINARY MATTERS

Board Case Number: M16-057/C18-024

Respondents: Lawrence Jackson Funeral Home, Inc.; Lawrence Jackson, III; Lawrence Jackson III Chapel; and Jackson Mutual Burial Association

Summary: In 2017, Respondent MBA failed to pay its annual assessment to the Board. In 2018, a Board Inspector attempted to conduct an examination of Respondent Funeral Home's trust and insurance-funded preneed contracts. Respondent Funeral Home failed to make said contracts available and was non-responsive to Board Inspector's attempts to obtain them. Since 2017, as a result of prior disciplinary action, Respondent Funeral Home's preneed establishment permit and ancillary preneed sales licenses have been on a stayed suspension, subject to passing the Board Inspector's preneed contract examination without substantial deficiencies. In 2018, a Board Inspector also conducted an inspection of Respondent Funeral Home's at-need establishment and found numerous violations, including (i) a failure to properly display permits; (ii) a failure to maintain compliant flooring; (iii) A failure to keep the establishment in a sanitary condition; (iv) a failure to maintain proper identification tags; (v) failure to maintain price cards on merchandise; (vi) a failure to maintain a compliant General Price List; (vii) a failure to maintain a compliant Casket Price List; (viii) a failure to maintain a compliant Outer Burial Container Price List; (ix) a failure to maintain compliant cremation documentation; and (x) use of a misleading name. On March 14, 2018, the Board summarily suspended Respondent Funeral Home's at-need establishment permit and chapel permits and lifted the stay of the suspension of Respondent Funeral Home's preneed establishment permit and all ancillary sales licenses.

Board Action: The Board adopted a Consent Order, whereby Respondents agreed to the following discipline:

1. The Preneed Establishment Permit of Respondent Funeral Home and all ancillary preneed sales licenses of Respondent Funeral Home was revoked. Respondents agreed not to re-apply for a Preneed Establishment Permit or ancillary preneed sales licenses in the future;
2. The Summary Suspensions of the Funeral Establishment Permit and Chapel Permits of Respondent Funeral Home was lifted;
3. The Funeral Establishment Permit of Respondent Funeral Home was suspended for 3 years, but said suspension is stayed provided that: (a) Respondent Funeral Home remain on probation during the period of stayed suspension; (b) Respondent Funeral Home submit to, and pass, an inspection and audit conducted by a Board Inspector before any probation period is lifted; (c) Respondent Funeral Home not violate any law or rule of the Board during the period of suspension; and (d) Within 30 days from the date this Consent Order takes effect, Respondent Funeral Home pay a compromise penalty of \$2,000.00 Dollars to the Civil Penalty and Forfeiture Fund.
4. Funeral Service license of Respondent Licensed Manager was suspended for three (3) year, but said suspension is stayed upon the following conditions: (a) Respondent Licensed Manager's license shall be placed on probation for 3 year; (b) Respondent Licensed Manager shall not violate any law or rule of the Board during the period of probation; and (c) Within 30 days from the date this Consent Order takes effect, Respondent Licensed Manager shall pay a compromise penalty of \$500.00 dollars to the Civil Penalty and Forfeiture Fund.
5. The license of Respondent Mutual Burial Association is revoked. The records, assets of every kind and description, and agreements for members' benefits of Respondent Mutual Burial Association shall be transferred to a successor Mutual Burial Association.

Effective Date: April 11, 2018.

Board Case Number: M15-027

Respondents: Lewis-Bowen Funeral Home and Jeffery W. Lewis

Summary: As part of an executed Consent Order resolving Board Case No. M15-027 in November 16, 2016, Respondents were placed on a period of active and stayed suspension, with an indefinite probationary period unless and until such time as Respondents passed a subsequent reinspection and reexamination; and all preneed recordkeeping, files, and accounts are brought into full compliance with the Board's laws and rules. Board staff conducted said reinspection and reexamination, and found numerous violations – many of which were repeat offenses for which Respondents were previously disciplined.

Board Action: Following a hearing to show cause on February 14, 2018, the Board issued a Final Agency Decision to revoke the preneed establishment permit and all ancillary preneed sales licenses of Respondent Funeral Home; to actively suspend the establishment permit of Respondent Funeral Home for 5 years, provided that the period of active suspension could be reduced to 3 years upon the payment of a \$5,000 Compromise Penalty; and to actively suspend the funeral directing license of Respondent Lewis for 5 years, provided that the period of active suspension could be reduced to 3 years upon the payment of a \$5,000 Compromise Penalty. Respondents also were ordered to reimburse the Board \$1,087.40 for costs associated with prosecuting the show cause hearing and to pay the Board \$150 for the non-payment of late fees for the 2016 Preneed Annual Report filing.

Effective Date: March 14, 2018.

Board Case Number: R18-035

Respondent: Hood Funeral Service (FE 256)

Summary: Respondent failed to deliver an application for renewal of its funeral establishment permit with payment of applicable renewal fee to the Board by close of business on February 1, 2018, thereby failing to renew said permit. Since January 1, 2018, Respondent has engaged in the practice of funeral service.

Board Action: The Board adopted a Consent Order, whereby the Board agreed to retroactively renew Respondent's 2018 funeral establishment permit, upon Respondent's compliance with the following terms: (1) completion of a 2018 renewal application for a funeral establishment permit; (2) payment of a \$200.00 renewal fee; (3) payment of a \$100.00 late renewal fee; and (4) payment of a \$500.00 compromise penalty which shall be paid to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the NC General Statutes.

Effective Date: April 11, 2018.

Board Case Number: M15-043

Respondents: Faiger Megrea Blackwell

Summary: Between approximately January 2010 and June 6, 2016, Respondent Individual served as the licensed manager and president of Respondent Funeral Home. On or about March 30, 2007, Respondent Individual caused the Respondent Funeral Home to file a Chapter 11 bankruptcy petition with the U.S. Bankruptcy Court for the Middle District of North Carolina. Respondent Individual subsequently created a new limited liability company on behalf of the Respondent Funeral Home and opened new bank accounts under the different corporate entity name. On October 28, 2015, Respondent Individual entered into a plea agreement to resolve certain criminal charges, in part resulting from Respondent Individual's actions on behalf of Respondent Funeral Home. In said plea agreement, Respondent Individual agreed to plead guilty to corrupt endeavor to obstruct or impede the due administration of the internal revenue laws, in violation of 25 U.S.C. § 7212(a), and concealment of assets of a bankruptcy estate in violation of 18 U.S.C. § 152(1).

Board Action: The Board adopted a Consent Order, whereby Respondents agreed to the following discipline:

1. Respondent may apply to reinstate his lapsed funeral directing license, subject to the provisions of N.C. Gen. Stat. § 90-210.25(a)(5)b. and upon payment of the \$150.00 renewal fee for 2017 and 2018; \$50.00 reinstatement fee; and a Compromise Penalty of \$500.00.
2. The funeral director license of Respondent Individual is actively suspended for a period of 4 months, beginning upon the conclusion of Respondent Individual's active sentence of incarceration with the federal Bureau of Prisons (said active sentence of incarceration concluded on March 6, 2018). During the period of active suspension, Respondent Individual shall not practice funeral directing nor make any representations of practicing funeral directing in any capacity. Upon the expiration of the active suspension, Respondent Individual's funeral director license shall be placed on a stayed suspension for a period of thirty-six (36) months. Respondent Individual shall not be involved with receiving or disbursing monies to consumers or with the financial management of preneed contracts of any funeral establishment; provided, however, that Respondent Individual may continue to handle financial matters as they relate to bankruptcy proceedings and/or loans of Respondent Funeral Home.
3. For at least a period of 2 years, beginning upon the conclusion of Respondent Individual's active sentence of incarceration with the federal Bureau of Prisons, the Board shall refuse to license Respondent Individual for preneed sales in the event that Respondent Individual applies for said licensure, and subject to whether the Funeral Home holds a preneed sales license at the time of said application.

Effective Date: April 11, 2018.

****Correction:** In the March newsletter, the Board incorrectly reported that Barnes Funeral Home in Clayton (FE 19) was the Respondent in Case No. R18-026. The Respondent in Case No. R18-026 actually was Barnes Funeral Home in Wilson (FE 260).

NEW LICENSEES, TRAINEES, AND ESTABLISHMENTS BETWEEN MARCH 15, 2018 AND APRIL 15, 2018

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| Chapels | None |
| Crematories | Brooks and White Crematory – Roxboro, NC |
| Transporters | None |
| Unaffiliated Licensees | Eric Thomas Funeral Service Licensee – Sparta, NC |
| Funeral Establishments | J.V. Wheeler Funeral Service, LLC – Burlington, NC |
| Funeral Service Licensees | None |
| Funeral Directors | Barbara Somer Addison – Youngsville, NC Sean Calvin Clark – Fayetteville, NC |
| Trainees (Starting April 2018) | Meredith Parker Spring - Ray Funeral and Cremation Service Barbara L. Barcomb – Greer-McElveen Funeral Home Matthew K. Blanks – Boles Funeral Home Joshua K. Craver – Eaton Funeral Service, Inc. Robert S. Davis – Harris Funeral Home Michael D. Grice – Davis Funeral Home Stanley C. Jones, Jr. – Boyd’s Funeral Service Josephus W. Lewis – Cunningham and Sons Mortuary, Inc. William H. Lloyd – Flowers Funeral Home Laura J. Luther – Wilkinson Funeral Home John H. McLendon – Forbis and Dick Funeral Service Velveeta Reid-Hairston – Rouse Funeral Home Lola N. Rountree – Community of Hope Funeral Service |

RECENTLY APPROVED CONTINUING EDUCATION COURSES

Please note that recent improvements have been made to the Board's list of approved Continuing Education courses, based on user feedback, so that courses are now searchable by date.

When submitting requests for Continuing Education approval, please ensure that all appropriate documentation is submitted in a timely fashion. Instructions for submitting requests are [here](#).

The Board's list of approved Continuing Education courses is updated regularly and can be found on the Board's website at this [link](#).