

# North Carolina Board of Funeral Service Newsletter

Volume 14, Issue 12

December 2018

## *NCBFS Closes 2018 With Significant Accomplishments*

As 2018 draws to a close, the NC Board of Funeral Service recalls a number of achievements and actions throughout the year that represent significant change for the organization.

In early March, the Board appointed an Executive Director, Stephen Davis, who brought extensive managerial experience to the role from more than 30 years of public service as a Human Resources administrator in NC state government including the consolidated university system.

He also brings hands-on funeral service experience through his work as a Funeral Assistant at Brown-Wynne Funeral Home and Bryan-Lee Funeral Home, both in Raleigh, NC, and as a funeral officiant. The Board approved its first Assistant Director, Amy Mauldin, shortly after Davis' appointment. Ms. Mauldin, who holds an undergraduate degree from

Campbell University, worked as a Legal Assistant for the Board prior to her role as Assistant Director and has had extensive administrative and managerial experience in the private sector.

Two major accomplishments as a result of Board action included the implementation of an on-line Licensing Management System known familiarly as iGov and major revisions to the Funeral Practice Act through the ratification of HB529 in June. The new licensing management system prompted a number of positive changes in licensure of individuals and establishments; tracking status changes; online renewals; and procedural management of preneed contracts and Certificates of Performance. The iGov system has introduced both efficiency and economy in the way that the Board manages individual licensure as well as permitting for establishments. The Compliance Inspections staff are now more directly involved in documenting status changes for establishments as well as enabling funeral homes to print permits on-site.

The legislative changes resulting from the General Assembly's ratification of amendments to NCGS 90-210 [Funeral Practice Act] had extensive impact on both licensees and establishments and introduced alkaline hydrolysis as a means of disposition in North Carolina. The Board collaborated with Rep. Jamie Boles, House District 52, on passage of this milestone legislation along with other Primary Sponsors of the bill Rep. Kelly Alexander, Rep. Howard J. Hunter, III, and Rep. Brenden Jones.



*2018 NC Board of Funeral Service l.to r. first row: Charles Graves, Vice-President; Matt Staton, President; Steve Herndon, Secretary. Top row from l. Valdus Lockhart; Chris Watson; Craig Olive; Don Brown; Mark Blake; Mike Stone.*

In 2018, other Board actions included a comprehensive review of the Continuing Education program with more revisions to CE procedures planned for early 2019; the development of an all-inclusive NCBFS Compliance Manual that included revisions to Board-approved forms; and the introduction of a new website and a new format for the NCBFS newsletter. In 2019, the Board plans to continue these efforts for streamlining and identifying opportunities for assuring that Board procedures and requirements are as efficient, economical and effective as possible.

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## NCBFS Staff News . . . . .

### ▣ *Rebecca Williams Joins Staff As Preneed Program Specialist*



The NCBFS has appointed Ms. Rebecca A. Williams to the Preneed Program with primary responsibility for management and administration of preneed files including contracts and Certificates of Performance. Ms. Williams will assure timely, accurate filing and disposition of preneed contracts and COP's in accordance with applicable statues and administrative rules as well as the Board's records retention schedule. In her new role, Rebecca will also provide ongoing technical and administrative support to the Preneed Program Manager. A Raleigh native, Ms. Williams is a 1992 graduate of W. G. Enloe High School in Raleigh. She attended Essex University in Newark, NJ.

### ▣ *Alice Knowles Named Director of Continuing Education Program*

In response to the Board's review and study of the Continuing Education program, Alice Knowles, formerly the paralegal in the NCBFS legal department, was tapped to lead the CE program by reviewing and approving requests for courses, instructors and accredited sponsors. Ms. Knowles assesses curriculum materials including course descriptions and syllabi to determine whether or not proposed instruction meets NCBFS standards and requirements. Ms. Knowles holds an MA in English from NC State University and is a former Lecturer in the NCSU Department of English.

### ▣ *Glenda Ryan Assumes Responsibility for Monthly Cremation Reports*

In addition to her information technology responsibilities, Glenda Ryan is now responsible for the intake and processing of monthly cremation reports and fees. Ms. Ryan has worked with the NCBFS as an IT specialist, webmaster, and format designer for the NCBFS newsletter. Glenda is responsible for maintaining the Board's Continuing Education course listings on the NCBFS website. A native of Houston, Indiana, Ms. Ryan holds a master's degree in Marketing with a focus on online marketing. Prior to joining the NCBFS, Glenda worked in various information technology roles with Goodmark Foods, Inc. in Garner, NC. She and her extraordinary cat, Oscar, are Wake County residents.

### **Important Dates To Remember**

January 9 and 10, 2019	NC Board of Funeral Service Meeting 1033 Wade Ave., Suite 108, Raleigh, NC
January 21, 2019	Martin Luther King, Jr. Birthday
January 31, 2019	Last Day for 2019 License Renewal!

## *Licensees Cautioned On Use Of Trust Funds*

Licensees are strongly encouraged to review the provisions of NCGS 90-210.61 which stipulate and outline the conditions and requirements for the deposit or application of preneed funds. Under current law, there is no circumstance in which it would be permissible for a licensee to withdraw funds from an existing trust account and then apply those funds for the purchase of a life insurance product. Licensees and their life insurance representatives may not advise purchasers of irrevocable trust-funded preneed funeral contracts

to request such changes unless under a court order. Subsection (d) of the statute strictly prohibits funds deposited into an irrevocable trust from being withdrawn and used by the licensee to purchase an insurance product. Failure to comply with these provisions regarding trust funds could lead to appropriate disciplinary action by the Board based upon recommendations from the Disciplinary Committee.

Revised in October 2018; Must Be Used Starting January 1<sup>st</sup>

## *Board Requires Use Of Revised Forms For Licensees*

Beginning January 1, 2019, each of the revised forms listed below is mandated for use by licensees. These forms are currently available on the Board's website.

- ❖ Form BFS 55A                      Waiver of Waiting Period for Cremation
- ❖ Form BFS 56A1                    Receipt of Human Remains By Crematory Licensee
- ❖ Form BFS 56B1                    Record of Cremation by Crematory Licensee
- ❖ Form BFS 56C1                    Delivery of Cremated Remains from Crematory Licensee
- ❖ Form BFS 56G1                    Consolidated BFS 56A1, BFS 56B1, BFS 56C1
- ❖ Form BFS 56D1                    Delivery of Cremated Remains from Funeral Provider
- ❖ Form BFS 56E1                    Authorization for Cremation of Amputated Body Parts
- ❖ Form BFS 56F1                    Confirmation of Fetal Death for Cremation
- ❖

The Board also approved a revised Form BFS 59, or Standard Cremation Authorization Form, at its August meeting. While this model form is not required for use, any cremation authorized form used or accepted by a crematory licensee must meet the requirements of G.S. § 90-210.125. If you have any questions regarding the authorization form used by your firm, please contact your inspector. He or she will assist you with reviewing for compliance.

### **REMINDER FOR TRAINEES!**

21 NCAC 34B .0110 requires that all resident trainees submit a report to the Board by the 10<sup>th</sup> of the month following completion of the work in the preceding month. Trainees may submit monthly work reports to the Board office via FAX transmission or by e-mail. If sending by FAX, trainees should retain a copy of the FAX confirmation to document the date and time it was sent. Board staff do not recommend sending monthly reports by U.S. Mail given the uncertainty of delivery dates and times. The preferred method for sending monthly reports is by email. Trainees may send their monthly reports by email to [rwilliams@ncbfs.org](mailto:rwilliams@ncbfs.org) or [trainee@ncbfs.org](mailto:trainee@ncbfs.org). Failure to send monthly work reports when due could result in suspension of the resident traineeship.

## COMPLIANCE OPINIONS

The Board's Compliance Officer periodically issues Compliance Opinions in response to questions and issues that licensees raise regarding the Board's administrative rules and/or statutes.

Board staff does not provide legal advice to licensees. Should you have questions concerning your legal rights particularly pertaining to potential liability to any third party or otherwise, you should speak to an attorney of your choice.

The purpose of the Compliance Opinion is to provide you with staff's opinion regarding whether or not your proposed conduct as a licensee and crematory manager, respectively, would be in compliance with the Board's governing statutes and rules based solely upon the facts provided to staff.

### **Question: Does the NC Board of Funeral Service require a licensed funeral establishment to retain a copy of the Cremation Authorization Form in its files?**

When conducting funeral establishment inspections, Board Inspectors review any cremation documents that may be available for the purposes of gauging overall compliance with the North Carolina Crematory Act or, Chapter 90, Article 13F of the General Statutes. Accordingly, the Board's funeral establishment inspection form does include certain questions pertaining to cremation documentation including, but not limited to, the cremation authorization form. However, the absence of any document not specifically required by statute or rule would not be cited as a violation on the part of the funeral establishment subject to inspection.

N.C. Gen. Stat. § 90-210.127 provides the statutory authority governing the retention of cremation forms and records. While subsection (f) of the statute states that "all records that are required to be maintained under this Article shall be subject to inspection by the Board or its agents upon request," each of its preceding subsections solely reference "the crematory" or "the crematory licensee" as being responsible for retaining those forms and records. Further, 21 NCAC 34C .0303 specifically provides for the creation of Forms BFS 56-A through D and G. Of those, only Form BFS 56-D is required to be retained by the funeral establishment.

It is Board Staff opinion that a funeral establishment would not be in violation of any Board-regulated law or rule in the event it failed to retain one or more cremation authorization forms and, therefore, did not have it or them on-site during its funeral establishment inspection.



## DISCIPLINARY ACTIONS

Complete copies of the Disciplinary Actions taken by the Board are available on the Board's website here: <https://ncbfs.org/disciplinary-actions.php>

Board Case Number: C17-084

Respondent: Butler Funeral Home

Summary: Respondent Funeral Home aided and abetted an unlicensed person, Mr. Terrell McMillian, to engage in the practice of funeral service and allowed Mr. McMillian to engage in fraud or misrepresentation in the practice of funeral service. Mr. McMillian, while an employee or agent of Respondent Funeral Home, entered into a preneed contract with a consumer on behalf of Respondent Funeral Home and accepted preneed funds directly from the consumer.

Board Action: The Board issued a Final Agency Decision, as follows:

1. The At-Need Establishment Permit of Respondent Funeral Home was placed on a one (1) year stayed suspension, provided that:
  - a. Respondent Funeral Home shall not violate any law, regulation or rule regulated by the Board during the probationary period
  - b. On or before January 1, 2019, Respondent Funeral Home shall pay a compromise penalty of Two Hundred Fifty (\$250.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
2. At no point in the future shall Respondent Funeral Home employ Mr. Terrell McMillian in any capacity.

Effective Date: November 19, 2018

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Board Case Number: M17-025

Respondent: Cremation Society of Charlotte, Inc., Boston's Mortuary, Clarence J. Boston, Donnica A. Boston, and Shelesceyah C. McConnell

Summary: Respondents performed multiple cremations following contact with Crown Memorial Park, which is not licensed to provide funeral services in North Carolina. As such, the Respondents aided and abetted an unlicensed person to perform funeral services and cremation services. However, said violations did not have the tendency to cause consumer harm, as Respondents did not hold themselves out as representatives of Crown while engaging in funeral services.

Board Action: The Board issued a Final Agency Decision, holding that Respondent Crematory, Respondent Mortuary, Respondent C. Boston and Respondent D. Boston shall be issued a non-disciplinary letter of

caution, whereby they are reminded to ensure that they do not aid and abet unlicensed individuals in the practice of funeral service. Furthermore, the Board adopted a Consent Order with Respondent McConnell, holding that Respondent McConnell shall be issued a non-disciplinary letter of caution, whereby she is reminded to ensure that she does not aid and abet unlicensed practice of funeral service, particularly when serving as the licensed manager of an establishment.

Effective Date: November 14, 2018

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Board Case Number: M17-026, C18-0008

Respondent: Tribute Cremation Society, LLC, Brian Michael Van Heck, and Gregory Parker Leonard

Summary: Respondent Funeral Home and Respondent Leonard aided and abetted the unlicensed practice of funeral service by entering into contracts to provide funeral service with Crown Memorial Park, during which time Crown Memorial Park was not licensed to provide funeral services in North Carolina. Additionally, Respondent Funeral Home and Respondent Leonard allowed a non-licensed representative of Respondent Funeral Home to hold himself out as practicing in the profession of funeral directing; failed to ensure that cremation authorization forms were properly completed to contain the time and date of the death of the decedents, the address of the authorizing agent, and the signature of a licensed funeral director or funeral service licensee; and failed to provide the person making funeral arrangements a written statement duly signed by a licensee of Respondent Funeral Home showing the price of the service as selected and what services were included therein.

Board Action: The Board issued a Final Agency Decision regarding Respondent Funeral Home and Respondent Leonard, as follows:

1. The Funeral Directing license of Respondent Leonard is suspended for a period of two (2) years, but said suspension shall be stayed on the following conditions:
  - a. Respondent Leonard shall be placed on probation for two (2) years, during which time he shall not violate any law, regulation or rule regulated the Board;
  - b. Within six (6) months from the date of this Order, Respondent Leonard shall pay a compromise penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; and
  - c. Respondent Leonard shall attend five (5) hours of Board-sponsored continuing education on the topic of the rules, regulations, and laws enforced by the Board on or before December 31, 2019.
2. The Funeral Establishment License of Respondent Funeral Home is suspended for a period of five (5) years, but said suspension shall be stayed upon the following conditions:
  - a. Respondent Funeral Home shall be placed on probation for five (5) years, during which time it shall not violate any law, regulation, or rule regulated by the Board; and

- b. Within thirty (30) days from the date of this Order, Respondent Funeral Home shall pay a compromise penalty of Five Thousand Dollars (\$5,000.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.

Additionally, the Board entered into a Consent Order with Respondent Van Heck, in which Respondent Van Heck was issued a non-disciplinary letter of caution whereby he was reminded to ensure that he does not aid and abet unlicensed individuals in the practice of funeral service, particularly when serving as the licensed manager of an establishment.

Effective Date: November 15, 2018

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Board Case Number: M17-043, C18-035

Respondent: CE Willie Funeral & Cremation Services and Claude E. Willie

Summary: A Board inspector conducted an examination of Respondent Funeral Home's Trust-Funded and Insurance-Funded Preneed Contracts and found violations of the Board's statutes and rules, as follows: (i) Respondents did not timely submit their 2015, 2016 or 2017 Preneed Annual Report; (ii) Respondents failed to timely file a preneed contract with the Board; (iii) Respondents did not maintain copies of instruments of assignment in all insurance-funded preneed contract files; (iv) Respondents did not timely file certificates of performance with the Board or retain copies of the certificates of performance in all closed preneed files; and (v) Respondents did not properly calculate credits owned for inflation-proof preneed contracts owed to consumers. Moreover, Respondents took payment from a consumer for the purchase of a headstone approximately three years ago and, as of October 10, 2018, had failed to place the headstone at the gravesite.

Board Action: The Board issued a Final Agency Decision, as follows:

1. The Preneed Establishment Permit and all ancillary preneed sale licenses of Respondent Funeral Home is suspended for a period of two (2) years, but said suspension shall be stayed upon the following conditions:
  - a. Respondent Funeral Home shall be placed on probation for two (2) years, during which time it shall not violate any law, regulation, or rule regulated by the Board;
  - b. On or before January 1, 2019, the Preneed Establishment Permit of Respondent Funeral Home shall pay a compromise penalty of Five Hundred Dollars (\$500.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes; and
  - c. Within fifteen (15) days from the date on which this Final Agency Decision is served on Respondent Funeral Home, Respondent Funeral Home shall file with the Board its 2017 Preneed Annual Report.

2. On or before January 1, 2019, the At-Need Establishment of Respondent Funeral Home shall pay a compromise penalty of Five Hundred Dollars (\$500.00) to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
3. The Preneed Sales License of Respondent Willie is suspended for a period of two (2) years, but said suspension shall be stayed upon the following conditions:
  - a. Respondent Willie shall be placed on probation for two (2) years, during which time he shall not violate any law, regulation or rule regulated the Board; and
  - b. Respondent Willie shall attend a Board-sponsored continuing education course on the topic of the preneed laws enforced by the Board on or before June 30, 2019.

Effective Date: November 19, 2018

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Board Case Number: M18-065

Respondent: Fulton Mutual Burial Association, Inc.

Summary: A Board staff inspector conducted a routine mutual burial association audit and found violations of the statutes and rules governing the management of mutual burial associations, in that Respondent MBA failed to maintain the requisite bond coverage; failed to maintain an accurate and faithful roll of the membership; the MBA's legitimate operating expenses exceeded the 30% of assessments collected and investment income earned for the examination period; and failed to properly publish and/or mail the annual notices required under GS 90-210.81.

Board Action: The Board adopted a Consent Order, whereby the Board revoked the burial association license of Respondent Burial Association, but said the revocation on the following conditions:

1. Respondent Burial Association admit to the Findings of Fact and Conclusions of Law herein;
2. Respondent Burial Association shall voluntarily dissolve on February 28, 2019; provided, however, that:
  - a. Prior to the dissolution, the cash shortage of Seven Hundred Seventy-Two Dollars and 64/100 (\$772.64) shall be paid back to Respondent Burial Association;
  - b. Prior to January 15, 2019, Respondent Burial Association shall mail, via US Mail, to each of its last known members in good standing, a notice indicating the date, time and location of a special meeting to be held for the purpose of voting on the proposed dissolution and on a date no later than February 15, 2019; and
  - c. Prior to January 15, 2019, Respondent Burial Association shall publish, in a newspaper of general circulation in the county in which Respondent Burial Association has its place of business, a notice that: (1) advertises the date, time and location of a special meeting to be



held for the purpose of voting on the proposed dissolution and on a date no later than February 15, 2019; and (2) advises all members impacted by the proposed dissolution to remit all current and pass assessment fees due and to provide Respondent Burial Association with a current mailing address and phone number for the head of household prior to February 28, 2019.

Effective Date: December 19, 2018

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## NEW LICENSEES

### Funeral Service Licensees

Keisha L. Caldwell	Charlotte, NC
Robert H. Long, III	Angier, NC

### Funeral Director Licensee

Kasi Lee Mitchell	Statesville, NC
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### Funeral Establishments

Davis Funeral Home	Bolivia, NC
Coastal Cremations and Funeral Care	Jacksonville, NC

### Preneed Establishments

Life and Legacy Funerals and Cremations	Indian Trail, NC
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## NEW TRAINEES

April M. DiMartino	Coats Funeral Home Coats, NC
Bridgette M. Epps	Genesis Funeral Services and Chapel Shelby, NC
Felecher B. White	Hemby-Willoughby Mortuary Tarboro, NC
Trenton T. Hales	Tyndall Funeral Home Mt. Olive, NC



### NC BOARD OF FUNERAL SERVICE

J. Stephen Herndon	President
P. Mark Blake	Vice-President
Don Brown	Secretary

Matt P. Staton	Rockwell, NC
Charles J. Graves	Asheville, NC
Valdus T. Lockhart	Fayetteville, NC
Craig Olive	Smithfield, NC
Michael C. Stone	Sanford, NC
Chris Watson	Selma, NC

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#### NCBFS Administrative Staff

Stephen E. Davis	Executive Director
Amy Mauldin	Assistant Director
Catherine Lee	General Counsel
*Brett Lisenbee	Compliance Officer

Vacant	Administrative Officer
Alice Knowles	Director, Continuing Educ
Glenda Ryan	IT Specialist
Lisa Daye	Receptionist

Vacant	Preneed Program Manager
Lyn Cochrane	Preneed/MBA Program Asst
Valencia Brown	Preneed Data Coordinator
Rebecca A. Williams	Preneed Prog Specialist

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#### NCBFS Field Inspections Team

Darrell Cagle	Region 2
Karen Davis-Brunson	Region 3
Chris Stoessner	Region 4
Terri Robinson-McLean	Region 5

\*Inspector for Region 1