



# North Carolina Board of Funeral Service Newsletter

Volume 14, Issue 6

June 2018

## *NC General Assembly Amends Funeral Practice Act* HB529 Sent To Governor Roy Cooper

On Friday, June 15, 2018, the NC Senate voted unanimously to adopt an amended version of HB529. The bill was returned to the House for concurrence and was then sent to Governor Cooper for his decision. The bill was subsequently ratified and enrolled as Session Law 2018-78 on June 25, 2018.

The bill was introduced in March 2017. A primary sponsor, Representative Jamie Boles, was joined by colleagues Brenden Jones, Kelly Alexander, and Howard Hunter in supporting this legislation. It was initially referred to the House Committee on Regulatory Reform then referred to House Finance. It was adopted by the House on a floor vote on Monday, June 11, 2018.

While the bill contains a number of significant changes affecting the practice of funeral service in North Carolina, one of its key provisions allows for the cremation of multiple fetuses or persons up to one year of age in the same cremation chamber if from the same birth and the same mother.

This particular provision was in response to a Triangle family who sought the simultaneous cremation of their stillborn twins. Extensive media coverage focused on the current

statutory provision that prohibits multiple cremations in the same cremation chamber. The ratified legislation now permits families facing similar situations to proceed with the cremation of multiple fetuses or children up to 1 year of age as noted above.

Other provisions in the legislation pertain to licensing and educational requirements, preneed contracts and services, alkaline hydrolysis, and the disposition of unclaimed and abandoned bodies.

The Board's legal department has prepared a summary of changes highlighting key provisions that will have impact on licensees and establishments. The July edition of the Board newsletter will be dedicated to a review of these changes which become effective October 1, 2018 and December 1, 2018.

### *Reminder . . . .*

The NC Board of Funeral Service **will not meet** in July. It will reconvene on August 15 and 16 at 1033 Wade Avenue, Suite 108, Raleigh, NC.

# Continuing Education Classes Offered in July

The Board will sponsor a series of CE classes in July as noted below:

July 11	Preneed Review	9:00 am – 12:00 pm	Raleigh, NC
	FTC Funeral Rule Review	1:00 pm – 3:00 pm	Raleigh, NC
July 12	Cremation Review	10:00 am – 12:00 pm	Raleigh, NC



Location for these courses is: 4700 Homewood Court, Raleigh, NC 27609. The training room is located on the first floor. Ample parking is available in the rear of the building. Please see map for directions at <https://goo.gl/maps/boEQsKrFy92>.

July 23	Preneed Review	4:00 pm – 7:00 pm	Forest Lawn Funeral Home 538 Tracy Grove Road, Hendersonville, NC
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Registration is currently closed for the **Preneed Review** course on July 11. Licensees may still register for the **FTC Funeral Rule Review** and **Cremation Review** courses scheduled for Raleigh. To register for the Raleigh courses, please contact Marty Mills, At-Need Services Manager, at (919) 733-9380.

Space is still available for the **Preneed Review** course scheduled for July 23 in Hendersonville, NC.

To register, please contact Brett Lisenbee, Compliance Chief/Senior Inspector, at [blisenbee@ncbfs.org](mailto:blisenbee@ncbfs.org).

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## *Criminal Background Check Required for Applicants*

Resident Traineeship, Reciprocal License and Licensure Reinstatement

Applicants for resident traineeship, reciprocal license, and reinstatement of licensure are required to undergo a criminal background check through the NC State Bureau of Investigation prior to licensure. The non-refundable fee for a criminal background check must be paid by *money order or*

*certified check* in the amount of \$38.00 made payable to the State Bureau of Investigation. Applications for licensure will not be processed unless the fee is paid. Applications must be completed within thirty (30) days of submission to the Board; otherwise, applications will be denied.

### ***Heads Up!!***

Pursuant to NC General Statute 105-41, licensed funeral directors, embalmers, and funeral service licensees must pay a \$50.00 privilege license tax to the NC Department of Revenue on or before July 1, 2018. Please contact the NC DOR for more information.

### ***Our Apologies . . . .***

In the April 2018 newsletter, we announced that Ms. Velveeta Reid-Hairston began her traineeship with Rouse Funeral Home in Greenville, NC, on April 1.

Ms. Reid-Hairston is a resident Funeral Director trainee with Hairston Funeral Home in Salisbury, NC.

We regret our error and any confusion!

# *NC Crematory Authority Set To Meet in July*

## NCBFS To Solicit Nominations To Fill Vacant Seat on the Authority

As a Committee of the NC Board of Funeral Service, the NC Crematory Authority meets annually to suggest rules to the Board for carrying out and enforcing the provisions of the NC Crematory Act. The seven-member Authority will meet by conference call on Wednesday, July 25, 2018, at 9:00 a.m. at the office suite for the NC Board of Funeral Service at 1033 Wade Avenue, Raleigh, NC. The Authority anticipates a vacant

seat opening on January 1, 2019. The NC Board of Funeral Service will seek to fill the vacant seat which has a three-year term beginning January 2019. The Board will accept nominations from July 1, 2018, through August 1, 2018. Please contact the NCBFS Assistant Director, Amy Mauldin, at [amauldin@ncbfs.org](mailto:amauldin@ncbfs.org) or at 919-733-9380 for further information.

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## *Executive Director Davis and Staff Attend Funeral Association Meetings*

### NCFDA and FDMANC Hold Annual Conferences in Pinehurst, NC

The NC Funeral Directors Association held its annual Educational Conference & Exposition at The Carolina Hotel in Pinehurst, NC, on May 21-22, 2018. Stephen Davis, NCBFS Executive Director, and Darrell Cagle, Inspector, attended the Conference and manned a table in the exhibition hall to meet licensees from across the state. Davis and Cagle made available current copies of the pertinent NC General Statutes and Administrative Rules and information regarding the FTC Funeral Rule to attendees. Board members Mark Blake and Steve Herndon were also in attendance as representatives of the Board. Mr. Blake addressed the Conference on Tuesday, May 22<sup>nd</sup>, during the business session by presenting the annual Report from the NCBFS highlighting the Board's current initiatives as well as major activities and accomplishments. The Conference concluded with a Memorial Service honoring those associated with North Carolina's funeral service community who passed away during the past year followed by a luncheon for Association members and guests.

Executive Director Davis and Inspector Cagle returned to The Carolina Hotel in Pinehurst on June 18<sup>th</sup> through 21<sup>st</sup> for the 91<sup>st</sup> Annual Convention of the Funeral Directors and Morticians Association of North Carolina. They were joined by At Need Services



*Marty Mills, At Need  
Services Manager*

Manager, Marty Mills, and Inspector Terri McLean, who presented a Preneed Review CE Course. Convention exhibitors representing a range of funeral services and products filled the exhibit hall and included the latest funeral coach models, caskets and vaults. Attendees also saw a



replica of a vintage horse-drawn hearse available for hire at funeral services. Board member Valdus Lockhart, President of the Cape Fear District for the FDMANC and Convention Chair, was constantly attentive to convention details and arrangements. Mr. Don Brown, also an NCBFS member and Founder of Don Brown Funeral Home in Ayden, NC, was in attendance as well and presented the Board Report to members. Mr. Davis addressed the General Session on Tuesday morning prior to the Association's business meeting. A luncheon in the exhibit hall concluded the meeting.

# Model Cremation Authorization Forms Revised

## More Space, Clarifying Language Added

At its June meeting, the Board voted to approve revised versions of the Model Cremation Authorization Forms [BFS 59] which are currently available on the NCBFS website. Both the long and short versions of the form have been revised to provide more space for entering required text and to insert new clarifying language. The revised forms will . . .

- Clarify that the right to specify any religious practices that conflict with the Board's practice act under NC General Statute 90-210.125(13) is reserved for an authorizing agent who is also exercising his or her right to arrange for his or her own cremation.
- Provide a designated section for the two (2) witness signatures required by NC General Statute 90-210.126.126(a) for those cremation authorization forms executed on a preneed basis.
- Provide a designated section to be signed by a funeral director or funeral service licensee from the funeral establishment obtaining the cremation authorization form, if applicable.
- Provide a designated section to be signed by a representative of the crematory obtaining the cremation authorization form when no funeral establishment is involved.

## MBA Assessments Due August 1, Lisenbee and Stoessner Responsible for MBA Examinations

The Preneed Services department will mail financial assessments to each Mutual Burial Association [MBA] in accordance with NC General Statute 90-210.83 by July 1st. Assessments are due to the Board office by August 1, 2018, to avoid the imposition of late fees. Lyn Cochrane, Preneed Services Specialist, will be glad to answer questions concerning the annual assessments. Please contact her at [lcochrane@ncbfs.org](mailto:lcochrane@ncbfs.org) or at 919-733-9380.

As a reminder, Board inspectors Brett Lisenbee and Chris Stoessner now conduct examinations of Mutual Burial Associations and those funeral establishments which sponsor them. If you have questions concerning who will be responsible for these examinations in your county, please contact Brett Lisenbee at 919-733-9380.

## Congratulations & Happy Birthday!

On June 19<sup>th</sup>, Mrs. Ruth Ford Penland, who with her husband founded Penland & Sons Funeral Home in Asheville, celebrated her 100<sup>th</sup> birthday and more than 58 years of service to North Carolina's community of funeral service professionals. NCBFS President Matt Staton wrote in a congratulatory letter, *"Reaching such a notable milestone is both significant and remarkable because you have been accorded a truly extraordinary opportunity to have touched so many lives through our many years of dedicated service. We are indeed grateful for your service and sincerely honored to recognize your contributions to the high professional standards that define funeral service in North Carolina."*



## *Preneed Compliance Information*

### Preneed Contract Refund Payments Increase To \$1,000

The recent ratification of HB529 included a key provision with impact on the threshold amount at which refunded preneed funeral funds must be made to the Office of the Clerk of Superior Court. These refund payments must be made in the county in which probate proceedings could be filed for the decedent rather than to the beneficiaries of the estate, when no estate has been established. The current threshold amount is \$100; the ratified legislation increases that threshold to \$1000 effective October 1, 2018. This increase will benefit decedents' families since they will not have to file for probate unless the refunded amount is at least \$1000. The statutory provision regarding refund of excess preneed funeral funds is at NC General Statute 90-210.64(d).

### Preneed Inflation-Proof Contracts Permit Licensees To Retain Funds

In response to recent questions, the Board reminds licensees that an inflation-proof contract establishes an agreement between the preneed licensee and the purchaser for funeral services and merchandise without regard to future price increases. Inflation-proof contracts permit the preneed licensee to retain all of the funds in excess of the retail cost of goods and services provided upon written disclosure to the purchaser. Following is the disclosure necessary for retaining funds in excess of the retail costs whether contracts are insurance-funded or trust-funded:

- If a percentage of the purchase price was paid for Non-Guaranteed Cash Advance Items and the NC Sales & Use Tax listed on the inflation-proof Preneed Statement of Funeral Goods and Services Selected, the funeral home shall apply up to an equal percentage of the total funds it receives to pay for Non-Guaranteed Cash Advance items and the NC Sales & Use Tax provided in the performance of the contract.

To assist licensees in calculating these percentages, the Board's website homepage provides a preneed calculator at [www.ncbfs.org](http://www.ncbfs.org) under **Frequently Accessed Resources**.

## Have A Compliance Question?

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 be directed to the Board's Compliance Department. Please alert the receptionist if you call the Board office that you have a compliance question. Compliance questions may be answered in any one of the following methods:

Send a FAX to (919) 733-8271 – ATTN: Compliance Opinion

Send an e-mail to the Board's Compliance Opinion site at [complianceopinion@ncbfs.org](mailto:complianceopinion@ncbfs.org)

Contact the Chief Compliance Officer, Brett Lisenbee, at (919) 733-9380

Contact the Inspector responsible for the county in which you practice

Your correspondence must include: Your name, licensee affiliation or status, and all pertinent facts and documentation.

## *Fayetteville Tech Offering Board Exam Study Sessions*

The Mortuary Science Department at Fayetteville Technical Community College is now offering pre-exam review sessions to candidates planning to sit for their state or national Board examinations. These sessions are designed to review course material and to apply practical knowledges when taking exams. Sessions will also focus on exam preparation. For more information, please contact Shawna Rodabaugh at 919-678-7373 or [rodabaus@faytechcc.edu](mailto:rodabaus@faytechcc.edu).

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## *Recently Approved Continuing Education Courses Listing*

In response to user feedback, we have implemented a number of improvements to the Board's listing of approved Continuing Education courses. All CE courses are now searchable by course date. Course listings are updated regularly and can be found on the Board's website at [www.ncbfs.org](http://www.ncbfs.org).

When submitting requests for Continuing Education course approval, please ensure that all appropriate documentation is submitted in a timely fashion and that your application is complete. Instructions for submitting requests are posted on the Board website.

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### The NC Board of Funeral Service Issued Action In The Following Disciplinary Matters In June 2018

**Board Case Number:** M18-004

**Respondents:** W.H. Whitley & Sons, Inc. d/b/a Whitley's Funeral Home and David E. Whitley

**Summary:** A Board staff inspector conducted a routine crematory inspection and preneed examination of Respondent. The Board staff inspector found violations of laws and rules governing the practice of preneed funeral planning, including: a failure to have previous examination reports available; a failure to retain financial statements for insurance policies not sold by Respondent; a failure to maintain instruments of assignment in all preneed contract files; a failure to properly calculate credits owned to consumers for inflation-proof contracts; a failure to maintain an at-need statement of funeral goods and services selected signed by a licensee or records of disposition in closed preneed contract files; the revocation of an irrevocable inflation-proof preneed contract; and a failure to timely file with the Board certificates of performance for a closed preneed contract. The Board staff inspector also found that Respondent had not maintained a Delivery of Cremated Remains (BFS Form 56D) for all cremation files.

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

1. The Board suspends the preneed establishment permit and any and all ancillary preneed sales licenses of Respondent Funeral Home for three (3) years, but stays the suspension on the following conditions:
  - a. Respondents admit to the violations;
  - b. Respondent Funeral Home shall be placed on probation for the period of said suspension period. Respondent Funeral Home must submit to, and pass, an inspection and audit conducted by a Board staff inspector before any probation period shall be lifted;
  - c. Respondent Funeral Home shall not violate any law or rule of the Board during the period of suspension;
  - d. Respondent Funeral Home shall timely respond to any and all Board and/or Board staff correspondence;
  - e. Respondent Funeral Home shall comply with all terms of this Consent Order; and
  - f. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral Home shall pay a compromise penalty of Two Thousand (\$2,000.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
  
2. The Board hereby suspends the Funeral Director license of Respondent Individual for three (3) year, but the Board stays the suspension on the following conditions:
  - a. Respondent Individual admits to the violations;
  - b. Respondent Individual shall be placed on probation for three (3) year, beginning from the date this Consent Order takes effect;
  - c. Respondent Individual shall not violate any law or rule of the Board during the period of probation;
  - d. Respondent Individual shall timely respond to any and all Board and/or Board staff correspondence; and
  - e. Respondent Individual shall comply with all terms of this Consent Order.

**Effective Date:** June 13, 2018.

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**Board Case Number:** C17-070/M17-038

**Respondents:** Hart Funeral Service, Inc. and Darryl J. Hart

**Summary:** Complainant, who is a funeral service licensee, alleges that the secretary of Respondent Establishment forged his signature on cremation forms and death certificates. Board inspectors conducted an investigation and determined that evidence tended to substantiate the allegations. Respondent responded by explaining that the secretary's employment had been terminated. Additionally, a Board inspector conducted a routine preneed examination of the Respondent Establishment and found violations of laws and rules governing the practice of preneed funeral planning, including: a failure to retain financial statements for insurance policies not sold by Respondent; a failure to maintain instruments of assignment in all preneed contract files; a failure to properly calculate credits owned to consumers for inflation-proof contracts; a failure to maintain an at-need statement of funeral goods and services selected signed by a licensee or records of disposition in all active and closed preneed contract files; a failure to maintain certificates of performance, preneed contracts, and records of disposition in closed preneed contract files; a failure to properly calculate credits owned to consumers for inflation-proof contracts; and a failure to timely file a preneed contract with the Board.

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

1. The Preneed Establishment Permit and the Funeral Establishment Permit of Respondent Funeral Home is suspended for three (3) years, but said suspension is stayed on the following conditions:
  - a. Respondent Funeral Home admits to the violations herein;
  - b. Respondent Funeral Home shall be placed on probation during the period of stayed suspension. Respondent Funeral Home must submit to, and pass, an inspection and audit conducted by a Board staff inspector before any probation period shall be lifted;
  - c. Within thirty (30) days from the date this Consent Order take effect, Respondent Funeral Home shall send to the Board evidence showing that the proper refund has been issued to the Estate of the Decedent referenced in the preneed examination;
  - d. Respondent Funeral Home shall not violate any law or rule of the Board during the period of suspension;
  - e. Respondent Funeral Home shall timely respond to any and all Board and/or Board staff correspondence;



- f. Respondent Funeral Home shall comply with all terms of this Consent Order; and
  - g. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral Home shall pay a compromise penalty of Two Thousand (\$2,000.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
2. The Board hereby suspends the Funeral Service license of Respondent Individual for three (3) years, but the Board stays the suspension on the following conditions:
- a. Respondent Individual admits to the violations herein;
  - b. Respondent Individual shall be placed on probation for three (3) year, beginning from the date this Consent Order takes effect;
  - c. Respondent Individual shall not violate any law or rule of the Board during the period of probation;
  - d. Respondent Individual shall timely respond to any and all Board and/or Board staff correspondence;
  - e. Respondent Individual shall comply with all terms of this Consent Order; and
  - f. Within thirty (30) days from the date this Consent Order takes effect, Respondent Individual shall pay a compromise penalty of Five Hundred (\$500.00) Dollars to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.
3. Within thirty (30) days from the date this Consent Order takes effect, Respondent Funeral shall replace Respondent Individual with another licensed manager, and must inform the Board in writing as to the name and contact information of the replacement licensed manager. Respondent Individual agrees not to serve as a licensed manager of any establishment in the future.

**Effective Date: June 13, 2018.**

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As of January 1, 2018, all disciplinary decisions rendered by the Board are available on the Board's website at [www.ncbfs.org](http://www.ncbfs.org).

NEW LICENSEES, TRAINEES AND ESTABLISHMENTS BETWEEN MAY 15 AND JUNE 15, 2018

<b>Chapels</b>	None
<b>Crematories</b>	None
<b>Transporters</b>	None
<b>Unaffiliated Licensees</b>	None
<b>Funeral Establishments</b>	None
<b>Funeral Service Licensees</b>	Christopher Scott Halsey (Conversion) – Lake Wylie, SC Ryan P Watt – Sunbury, OH
<b>Funeral Directors</b>	Keenan Travor Walsh – Myrtle Beach, SC Kendall Shane Taylor – Kinston, NC Melissa Lenore Rachels – Fuquay-Varina, NC
<b>Trainees (Starting April 2018)</b>	Aneis R. Brown – Mills Funeral Home, Kinston, NC Johnny R. Bryant – Thomas-Yelverton Funeral Service, Wilson, NC Andrew J. Franklin – Andrews Mortuary, Wilmington, NC Michael A. Gochnauer – Forest Lawn West, Charlotte, NC Gregory D. Nelson – Cotton Funeral Home & Crematory, New Bern, NC Jacob E. Perkins – Heritage Funeral Home, Matthews, NC James A. Pierce – Nicholson Funeral Home, Statesville, NC Morgan E. Randall – Carpenter-Porter Funeral & Cremation Svcs., Cherryville, NC Kim Rocha – Renaissance Funeral Home, Raleigh, NC

2018  
NORTH CAROLINA BOARD OF FUNERAL SERVICE

Mr. Matt P. Staton, President  
Rockwell, North Carolina

Chair, Crematory Authority/MBA Committee  
Chair, Examinations Committee

Mr. Charles J. Graves, Vice President  
Swannanoa, North Carolina

Chair, Laws, Rules & Legislation Committee  
Chair, Continuing Education Committee

Mr. J. Stephen Herndon, Secretary  
Forest City, North Carolina

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Mr. Valdus T. Lockhart  
Fayetteville, North Carolina

Chair, Disciplinary Committee  
Chair, Technology Committee

Mr. Mark Blake  
Raleigh, North Carolina

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Chair, Traineeship Committee

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Smithfield, North Carolina

Mr. Don Brown  
Ayden, North Carolina

Mr. Mike Stone  
Sanford, North Carolina

Mr. Chris Watson  
Selma, North Carolina

# STAFF LISTING

## **Administration**

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## **Compliance & Inspector Services**

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Terri McLean	Inspector, Region 5	<a href="mailto:tmclean@ncbfs.org">tmclean@ncbfs.org</a>

## **Preneed Services**

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## **At-Need Services/Licensure**

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## **Web & Network Services**

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Scott Sill	Telecommunications & Networks	

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Mutual Burial Associations	Lyn Cochrane
Resident Traineeship Program	Amy Mauldin
Continuing Education	Marty Mills
Legislative Liaisons	Stephen Davis & Darrell Cagle