

# North Carolina Board of Funeral Service

1033 Wade Avenue, Suite 108, Raleigh, NC 27605

(919)-733-9380 or 1-800-862-0636

[www.ncbfs.org](http://www.ncbfs.org)

*E-NEWSLETTER* March 2016: Volume 12, Issue 3

The Board will next meet at 9 a.m. on Wednesday, April 13, 2016, at 1033 Wade Avenue, Ste. 108, Raleigh, NC. The agenda will be posted on the Board's website by April 8.

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## BOARD STAFF INSPECTORS – CONTACT INFORMATION

If you have a general compliance question, your regional Board Staff Inspector will be happy to help. If your inspector cannot answer your question, he or she will promptly refer you to someone else on staff that can. Each inspector's contact information is listed below:

Darrell Cagle, Central Region Inspector: (919) 604-4828; [dcagle@ncbfs.org](mailto:dcagle@ncbfs.org)  
Inez Green, Northeast Region Inspector: (919) 215-8851; [igreen@ncbfs.org](mailto:igreen@ncbfs.org)  
David Hall, Southeast Region Inspector: (919) 219-8701; [dhall@ncbfs.org](mailto:dhall@ncbfs.org)  
Brett Lisenbee, Western Region Inspector: (919) 218-8083; [blisenbee@ncbfs.org](mailto:blisenbee@ncbfs.org)

## REMINDERS CONCERNING PRENEED ANNUAL REPORTS

- Preneed Annual Reports are due in the Board's office by 4:30 p.m. on Thursday, March 31, 2016. Reports received after 4:30 p.m. on March 31 will be subject to a late fee, in addition to a potential referral to the Board's Disciplinary Committee.
- If you did not already submit an opt-out request in writing for online submission of your Preneed Annual Report, you must submit your report online.
- Please remember to print, notarize, and mail to the Board's office your Summary Sheets, along with any supporting documents (Certificates of Performance or policies not referenced on the Board's report, for example). Failure to mail in your Summary Sheets with a postmarked date of March 31, 2016 may also result in a late fee or disciplinary action.
- Please do not report any 2016 deaths or close outs on your Preneed Annual Reports.
- If you accidentally submit your Preneed Annual Report online before you are finished, please e-mail Lyn Cochrane at [lcochrane@ncbfs.org](mailto:lcochrane@ncbfs.org) to have your account reset.
- If you have any other questions pertaining to Preneed Annual Reports, please contact Lyn Cochrane by phone at (919) 733-9380, ext. 106, or by e-mail at [lcochrane@ncbfs.org](mailto:lcochrane@ncbfs.org).

## STAFF

Mr. Peter M. Burke, CFSP, resigned from his position as Executive Director of the NC Board of Funeral Service, effective as of the close of business on Thursday, March 10, 2016. The Board and Board Staff wish Mr. Burke the best in his future endeavors.

## SALES TAX on SERVICES

REMINDER – as reported in February’s E-Newsletter, the NC Department of Revenue issued Directive SD-16-1, which requires a sales and use tax to be charged for services involving “tangible personal property.” For example, sales tax is required on funeral services such as set up and installation fees for vaults and grave markers. Board Staff has been advised by the NC Department of Revenue that your basic services fee is NOT subject to this sales and use tax, as long as it is charged separately from all other line item charges and includes no tangible personal property (as already required by the FTC’s Funeral Rule). The actual directive can be accessed by clicking the link below:

<http://www.dorncc.com/practitioner/sales/directives/SD-16-1.pdf>

## SCAM ALERT

We have been made aware of a fax scam. Please read your fax invoices carefully! This particular scam is set up to look like it’s from the Yellow Pages, and is claiming the recipient is late on payment for a year’s advertising. BE WARY!

## PRENEED RECOVERY FUND

If you become aware that a consumer may have had his or her preneed funeral funds misappropriated, please contact Dara Warner, Board Staff paralegal, at [dlwarner@ncbfs.org](mailto:dlwarner@ncbfs.org).

As a reminder, N.C. Gen. Stat. § 90-210.66 states, in part, as follows: “...[t]he Board shall have complete discretion to determine the order and manner of payment of approved [Preneed Recovery Fund] applications. All payments shall be a matter or privilege and not of right, and no person shall have any right in the Fund as a third-party beneficiary or otherwise...”

## NEW STATE-MANDATED REPORT

All occupational licensing agencies will now be required to submit a new state-mandated report to the Department of Revenue by July 1, 2016. This report will include: licensee names, license numbers, tax identification numbers, business addresses, and any additional information requested by the State for all licensees for calendar years 2013-2015. Board Staff has been informed that the purpose behind this new reporting requirement is to increase tax compliance and decrease the occurrence of tax fraud.

## COMPLIANCE OPINIONS

Have a compliance question? Remember to use our 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](mailto:complianceopinion@ncbfs.org). You may also send a facsimile to the legal department at (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 they are received, the Board Staff 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.

This month's sample question with the answer:

*Q: We have had a request for cremation. The deceased has two children, a daughter who has signed the cremation authorization and a son who is currently incarcerated in another state. The correctional facility is apparently stating that he is not permitted to sign any documentation during his sentence. The son's wife has POA while he is serving his sentence. I have attached a copy of her signature on the cremation authorization as well as a copy of her POA documentation. Is this acceptable to proceed with cremation? Thank you in advance.*

*A: Assuming there are no written directives pertaining to the decedent's disposition, it is Board Staff's opinion that you would not be in violation of the Board's laws and rules if you performed a cremation based on having the daughter and the daughter-in-law, as Power of Attorney for the incarcerated son, sign the cremation authorization for the decedent.*

Please note – Compliance Opinions are not reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. If one disagrees with Board Staff's position on a matter, they may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the North Carolina General Statutes.

## DISCIPLINARY MATTERS

Case File Number: M16-007

Licensees: Christian Brothers Funeral Home & Cremation (FE # 63)

Summary: Board Staff conducted an investigation regarding concerns of unlicensed practice of funeral directing, and found evidence supporting the same.

Board Action: Upon a finding that the public's health, safety, and welfare is threatened by Respondent Christian Brothers Funeral Home & Cremation's continued possession of

an active funeral establishment permit, the Board summarily suspended Respondent's funeral establishment permit and has scheduled this matter for hearing on Wednesday, April 13, 2016.

Effective Date: February 19, 2016

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Case File Number: M15-023

Licensees: McKinney-Landreth & Carroll Funeral and Cremation Service (FE # 361), Stephen Carroll (FSL # 2143)

Summary: On August 12, 2015, the Board summarily suspended all of the individual and establishment licenses associated with McKinney-Landreth & Carroll Funeral and Cremation Service and Stephen Carroll as a result of the findings of Inspector Brett Lisenbee's inspection and preneed audit examination. Inspector Lisenbee found that Respondents failed to file with the Board or retain copies of preneed contracts for twenty-seven consumers. Inspector Lisenbee also found that Respondents failed to deposit preneed funeral funds within five days of receipt for many of those consumers involved.

Board Action: The Board adopted a Consent Order, in which the Respondents admitted to various preneed violations and agreed to voluntarily surrender all individual and establishment licenses. In addition, Respondents were ordered to provide restitution in the total aggregate amount of \$270,049.79, representing payment to 48 consumers impacted by Respondents' actions.

Effective Date: March 10, 2016

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Case File Numbers: M16-006

Licensee: Prominence Funeral Services (FE # 835; PE #977)

Summary: On February 12, 2016, the Board summarily suspended the establishment licenses associated with Respondents as a result of the findings of Inspector Inez Greens' investigation into unlicensed practice concerns.

Board Action: The Board adopted a Consent Order, in which the Respondent admitted that a former employee engaged in the unlicensed practice of funeral directing. As part of the terms of the Consent Order, Respondent Prominence Funeral Services agreed to be placed on probation for a period of eighteen months, to pay a compromise penalty of \$1,250.00, and to terminate any and all employment or ownership interests of the unlicensed individual that unlawfully acted as a funeral director.

Effective Date: March 10, 2016

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Case File Numbers: M16-009; C14-025

Licensee: Regional Memorial Cremations (Crematory #111)

Summary: On February 2, 2016, the Board summarily suspended the crematory permit associated with Respondent as a result of the findings of Inspector Brett Lisenbee's routine crematory inspection. Inspector Lisenbee found that the cremation unit housed at the facility and utilized by the crematory licensee appeared unfit for the disposition of human remains. Additionally, a consumer complaint was received involving allegations of unlicensed practice committed by Respondent Regional Memorial Cremations' crematory manager.

Board Action: The Board adopted a Consent Order, in which the Respondent admitted to the allegations against it. As part of the terms of the Consent Order, Respondent voluntarily surrendered its crematory establishment permit. Respondent repaired and/or replaced the defective parts of its cremation housing unit, and was only reissued a Crematory Establishment permit after it passed a crematory re-inspection, agreed to pay a compromise penalty of \$1,250.00, severed any and all relationships with the funeral service licensee who may have aided and abetted the unlicensed practice, and agreed to be placed on probation for a period of two (2) years.

Effective Date: March 10, 2016

#### NEW LICENSEES

The Board congratulates the following individuals licensed in March:

FS: Alea Armstrong, Pollock-Best Funerals & Cremations  
Carole Logan  
FD: Andrea Lefko, Powles Staton Funeral Home

#### NEW TRAINEES

New Trainees registered with the Board in February:

Carl Ramsey, Withers-Whisenant Funeral Home  
Robby Jones, Strickland Funeral Home  
Robert Curtis, Baker Funeral Home  
Boyd Cook, Lambeth-Troxler Funeral & Cremation

#### NEW FUNERAL ESTABLISHMENTS

Johnson Funeral Home & Cremation Services, Rocky Mount  
Hortons Funeral Home & Cremation, Hertford  
Eggers Funeral Home of Cliffside, Cliffside

Davis Funeral Home, Wilmington

### CONTINUING EDUCATION

If you are a sponsor submitting an application for course approval, remember that you must submit your application and all supporting materials at least thirty (30) days in advance of the scheduled Continuing Education course. Unfortunately, there were a handful of course applications that were denied for failure to comply with this deadline.

Board Staff is encouraging licensees to complete their Continuing Education hours early this year! Please consider attending some of the approved Continuing Education courses that can be found on the Board's website at the following link: <http://www.ncbfs.org/list.html>.