



# North Carolina Board of Funeral Service NEWSLETTER

North Carolina Board of Funeral Service  
1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605

Volume 2, Issue 2, Winter 2005

## WINTER CONTINUING EDUCATION CLINIC

The North Carolina Board of Funeral Service is proud to welcome Rev. Doug Manning as the keynote presenter for the Board's winter 2005 clinic to be held on Tuesday, December 13, 2005 at the McKimmon Center on the campus of NC State University.

Rev. Manning is one of the premier speakers for funeral professionals and others responsible for the care of the bereaved. Attendees will be treated to a very powerful presentation.

He will speak on the "Power of Presence" from 9 a.m. to 1 p.m. Following the return from a lunch break, the clinic will resume for an FTC compliance review from 2:30 until 3:30 p.m.

(See Map On Last Page)

## A NOTE ON RENEWALS-

- Licenses expire on December 31, 2005 and must be renewed on or before February 1 2006 to avoid disciplinary action.
- All 2006 renewal applications will be mailed by December 1, 2005. If you don't receive your renewal application shortly after that date, call the Board office immediately. **Do not wait until the end of January to request another!**
- You should receive your pocket card within ten days following submission of your renewal application. If you don't, please contact the board.
- Pursuant to NCGS § 90-210.23(d) make certain you inform the board of any change in mailing address. In the interest of security, the notice should be in a signed, written format.

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## Holiday Schedule-

The Board offices will be closed in order to observe the following holiday schedule for the months of November and December:

**Veteran's Day**  
*Friday, November 11*

**Thanksgiving**  
*Thursday, November 24 & Friday, November 25*

**Christmas**  
*Friday, December 23 & Monday, December 26*



## NEW POLICY MATTERS

- To coincide with the July 1, 2005 effective date of the changes to NC Administrative Code (21 NCAC 34B .0400), the Board adopted new guidelines and forms for use in administration of continuing education approval. All current forms, policies and guidelines can be found on the "applications" page of the Board's website, [www.ncbfs.org](http://www.ncbfs.org)
- As part of disciplinary matters related to pre-need violations, the Board will now consider the inclusion of a requirement that licensees pass an examination on pre-need laws, rules and regulations as part of final agency decisions or under the terms of a consent order.

## LEGISLATIVE ISSUES

- Session Law 2005-315 (House Bill 967), amended NCGS § 32A-19 and 32A-20, governing the appointment of a health care power of attorney. The effective date was October 1, 2005 and will apply to those health care poa's created prior and after that date. This act relates to the authority of a health care agent who may be authorized to make decisions on the disposition of the remains. The new law allows that authority to survive the death of the person appointing the health care agent and defines "disposition of remains" as the decisions to bury or cremate as defined in 90-210.121(17). *\*Licensees should be cautious when an individual claims authority to make funeral arrangements or direct disposition of remains under provisions of a will or health care power of attorney. There could be issues related to which document was executed most recently or with other parties claiming equal/superior authority for those decisions. Licensees should consider consultation with their own legal counsel or advise the parties to obtain a court order to resolve disputes. The Board is happy to answer any questions, if possible, regarding these issues and potential disciplinary action but cannot guarantee the licensee would not be held liable in a civil action.*
  - **Repeal of taxation on services.** The budget approved by the General Assembly included a repeal of the \$ 1500.00 exemption on funeral expenses. By repealing this exemption, the merchandise/goods portion automatically becomes taxable at the prevailing sales tax rate and the services portion falls under the exemption for services pursuant to NC tax laws. The effective date for this is January 1, 2006.
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## PRE NEED

Some insurance companies use provisions of the Gramm-Leach-Bliley Act to validate the practice of withholding policy information from pre-need licensees who are not registered agents with the insurance company. This situation may occur when a consumer transfers an insurance funded pre-need contract from the original pre-need establishment that is a registered agent of the insurance company to another pre-need establishment that is not; or the consumer presents an existing life insurance policy to fund a pre-need contract to pre-need establishment that is not an agent of the issuing insurance company. By NC law, the Board must receive this information on request and therefore it is available to pre-need licensees in order to assist with completion of the pre-need annual reports. Licensees may avoid this problem by having the policy owner execute a document directing the insurance company to provide any and all policy information to the pre-need licensee in order to facilitate the initial transfer and/or completion of a pre-need contract and for any ongoing statutory recordkeeping requirements.

- **Pursuant to NC law it is the responsibility of pre-need licensees:**
  1. To deposit all funds (less any retained amounts) in an insured account with a financial institution for pre-need trust contracts or to apply all funds received for pre-need insurance contracts to purchase a pre-arrangement insurance policy within 5 business days (NCGS § 90-210.61)
  2. To file pre-need contracts within 10 days of the sale (NCGS § 90-210.67(d)).
  3. To file a certificate of performance within 10 days of payment (NCGS § 90-120.64(a))

These statutes apply with each pre-need contract notwithstanding any services offered by a financial institution as a convenience for their customers or designed to centralize pre-need business operations.

Licensees must complete all relevant information on pre-need contracts. The Board receives a number of contracts which lack an entry for the contract amount or amounts purchaser paid if the purchaser makes checks payable directly to a financial institution or insurance company. This information is required in order for the contract to be properly registered with the Board.

In addition, licensees should make certain purchasers of pre-need funeral contracts understand the type of contracts they have executed. Thorough explanations of the terms and conditions of inflation-proof and standard contracts and how revocable and irrevocable are defined may reduce the chances for future disputes. The percentage of cash advances computed on inflation proof contracts must be applied at fulfillment.

**Example:** An inflation-proof pre-need contract totals \$ 5000.00 and the cash advances are \$ 650.00. The percentage of cash advances is computed as follows: 650.00 is divided by 5000.00 which results in 13%. The pre-need contract beneficiary dies five years later. Over the course of five years the growth on the funding method (trust or insurance) makes the pre-need contract worth \$ 5750.00. This amount 5750.00 is now multiplied by 13% (.13) which results in \$757.50 of the funds available that must be applied to the cash advances. If this does not cover the cash advances at the time of death, the licensee may bill the family for the difference. In the event the amount exceeds the cash advances, the difference should be refunded pursuant to NC law.

## EXAMINATIONS

- A Scantron© grading machine has been purchased for use in grading results for the Laws & Rules and pathology examinations.
- The Board has voted to transition to computer based testing format for the arts section of the State Funeral Director examination. The effective date of this will be January 1, 2006. It should be noted this change **will not** affect the paper/pencil format of the Laws & Rules and pathology examinations. Individuals will continue to file an application and appropriate fee with the Board. Applicants will then conduct the transaction for the computer based Conference examination, including payment and scheduling, directly with the International Conference. The Conference will confirm information with the Board prior to publishing a confirmation and schedule to the applicant. The Conference currently offers the computer based examination through a partnership with H.R. Block. This change will allow applicants to receive results more quickly (the Board will still require certified results prior to issuing licenses) and allow applicants the opportunity to sit for the Conference examination more often than is currently offered with the Board's schedule.

### EXAM DATES 2005

November 15, 2005 and December 13, 2005

### EXAM DATES 2006

January 17, 2006  
April 18, 2006  
July 18, 2006  
October 17, 2006

February 21, 2006  
May 16, 2006  
August 15, 2006  
November 14, 2006

March 21, 2006  
June 20, 2006  
September 19, 2006  
December 19, 2006

## CREMATORY AUTHORITY

Mr. Philip Douglas Young, Manager of Sharon Memorial Crematory, Charlotte was declared elected to the NC Crematory Authority for a three year term to begin January 1, 2006.

Mr. Young will succeed Mr. Larry Parker of Raleigh whose term ends December 31, 2005. Mr. Parker has served the citizens of North Carolina on the Crematory Authority from its inception.

## CREMATION

The Board has issued a ruling on the matter of an individual who executes their own cremation authorization as part of pre-planning and may name survivors to make changes to those arrangements. When more than one survivor is named and an equal number of those named agree and disagree, the wishes of the decedent will stand. In all other cases the majority of those named will determine the decision.

The Board staff has compiled a list of North Carolina Crematories that have cremation units capable of handling oversized remains (800 - 1000 lbs.) This list is available on request from licensees. This list is a resource only and not intended to endorse the crematories listed on it or

## TRAINEESHIP

Individuals may apply for part time or full time traineeship. The difference in the designation involves the number of hours worked weekly in trainee duties. If the individual has other employment or is registered as a student 11 hours or more in a classroom each week, then the part-time traineeship may be the only option. In a related matter, the Board has adopted a policy that allows a trainee to convert the status of their traineeship once between initial registration and the renewal or between renewals.

In other trainee news, the Board is exploring development of a trainee supervisor certification program.

## DISCIPLINARY ACTIONS

*Since the last newsletter the Board has taken the following actions:*

CASE FILE NUMBER: M05-004.

LICENSEES: Ellis D. Jones & Sons, Davis & Mangum Mortuary.

VIOLATION: N.C.G.S. §§ 90-210.68(a), 21 NCAC 34D .0302.

BOARD ACTION: The Board and each licensee entered into a Consent Order whereby its preneed establishment license was placed on two or three years probation and fined up to \$1,000.00 depending on the facts of each case.

EFFECTIVE DATE: June 30, 2005.

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CASE FILE NUMBER: M05-004.

LICENSEES: Joyner's Mutual Burial Association.

VIOLATION: N.C.G.S. §§ 90-210.68(a), 21 NCAC 34D .0302.

BOARD ACTION: The Board and Joyner's Mutual Burial Association entered into a Consent Order whereby the mutual burial association license was placed on three years probation.

EFFECTIVE DATE: June 30, 2005.

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CASE FILE NUMBER: M04-024; M05-004

LICENSEES: Jerry Gilmore III (EM #1631); Monica Gilmore Lassiter (FDL #3639); Gilmore Funeral Home (FE #195, PN #515).

VIOLATIONS: N.C.G.S. §§ 90-210.25(d)(1)b., 90-210.25(d)(4), 90-210.25(e)(1)j., 90-210.69(c)(1). In addition, the terms of a prior consent order of September 8, 2004 were violated.

BOARD ACTION: The Board entered a final agency decision revoking the licenses of Jerry Gilmore and Gilmore Funeral Home. The Board suspend the preneed sales license of Monica Gilmore Lassiter for one year but the suspension was stayed pending payment of a \$500 civil penalty and completion of continuing education. The Board ordered the preneed funeral contracts of Gilmore Funeral Home transferred to another funeral establishment.

EFFECTIVE DATE: July 20, 2005.

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CASE FILE NUMBER: V02-029, V03-031, V04-014, V04-022, V04-055, V04-061; V04-082, V05-004.

LICENSEE: Donald R. Spicer, Jr. (FS# 2177).

VIOLATIONS: N.C.G.S. §§ 90-210.25(e), 90-210.25(e)(1)a., 90-210.25(e)(1)b., 90-210.61(a), 90-210.61(b), 90-210.61(e), 90-210.62(b), 90-210.67(d), 90-210.69(c)(4), 90-210.70(a); 16 C.F.R. §§ 453.2(b)(4)(i)(A), 453.2(b)(5)(i).

BOARD ACTION: The Board revoked Donald Spicer's licenses. The Board awarded Recovery Fund claims to the consumers involved and referred this case to the appropriate district attorney.

EFFECTIVE DATE: September 21, 2005.

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CASE FILE NUMBER: M05-015

LICENSEES: Unity Memorial Funeral Service (FE #445); Clifton Quick, Jr. (FSL #2302).

VIOLATIONS: N.C.G.S. §§ 90-210.25(e); 90-210.25(e)(1)c.; 90-210.25(e)(1)h.; 90-210.25(f); 90-210.27A(a)(6); 90-210.27A(e); 21 NCAC 34B .0704.

BOARD ACTION: The Board and Licensees agreed to a Consent Order whereby the funeral establishment permit of Unity Memorial Funeral Service and funeral service license of Clifton Quick would be placed on probation for one year, would pay a compromise penalty of \$1,000.00 and reinspection fee of \$100.00, and would have certain advertising approved by the Board prior to use.

EFFECTIVE DATE: October 12, 2005.

**Congratulations to these funeral professionals who have been licensed since the Spring newsletter.**

**New Funeral Director Licensee's**

Bryan Keith Aldridge	Bryson City
Daniel Paul Armstrong	West End
Tiffany Kristen Armstrong	West End
Michael Davies Barnhart, Sr.	Wilmington
Danny Beeson	Oak Ridge
Keosha Lazette Bland	Sanford
William Lutz Burton	Shelby
Jodie D. Dupree	Clayton
J. Wayne Fairless	Ahoskie
Myron T. Funderburk	China Grove
Greg William Gentry	Yadkinville
Constance Drain Greene	Wilmington
Kenneth Walker Hagan	Raleigh
Heather Faircloth Howell	Goldsboro
Daly Carlton Lane	Warsaw
Robert Thomas Murphy	Monroe
Christie Denise Noe	Jacksonville
Tina Wiggins Rountree	Greenville
Amanda G. Sykes	Bladenboro
William Lawson Thigpen	Beulaville
Christina Cox Wagoner	Jacksonville
Lisa Wiseman Williams	Raleigh

**New Funeral Service Licensee's**

Sammy Allison, Jr.	Lexington
Abby Gail Auman	Seagrove
Cordell Austin	Granite Falls
Robin L. Barron-McGrath	Matthews
David Richard Brawley	Conover
Larry Thomas Brevard	Hendersonville
Terri Scott Combs	Stuart, VA
Rodger Brent Cook	Greenville
Douglas Lee Coward	Greenville
Teresa M. DeAraujo	Lowell
Patricia Helms Ginocchio	Monroe
Vanessa L. Harris	Suffolk, VA
Jack A. Hawes	Wilmington
Bobby Bruce Head	Bostic
Monroe Hughes	Portsmouth, VA
Celeste Claire Hunt	Creedmoor
Jennifer G. Jacobson	Waynesville
Ryan Jacobson	Waynesville
Kurt Lilja	White Plains, NY
Sherry L. Maiden	Raleigh
Christopher J. McDermott	Raleigh
Alvero Jose Quesada	Lincolnton
Nicholas Edward Page	Kannapolis
Jason W. Penland	Asheville
Amber Harwood Puckett	Swannanoa
Henry Randall	Alexandria, VA
Linwood Rhodes, Jr.	Highland Falls, NY
Michele K. Stocks	Tarboro
Jennette Duncan Sullivan	Lenoir
Todd M. Sullivan	Fayetteville
John M. Waller	Greensboro
Douglas J. Walton	Charlotte
Christopher L. Ward	Loris, SC
Jerrold Victor Wheeler	Greensboro

**LICENSED OR CHANGED**

*The following list represents establishments that have been licensed since the Spring newsletter:*

Allen & Associates Mortuary, Inc.	Greensboro
Barnes Funeral Home, LLC	Wilson
Beasley's Funeral & Cremation Service	Brown Summit
Butler Funeral Home, Inc.	Stedman
Evans Funeral Service, Inc.	Lenoir
McIntyre Funeral Home Ministries & Florist	Mt. Olive
Morgan Funeral Home, Inc.	Jacksonville
Nixon-Lewis Funeral Home & Cremation Service	Burgaw
Woodard Funeral Home	High Point

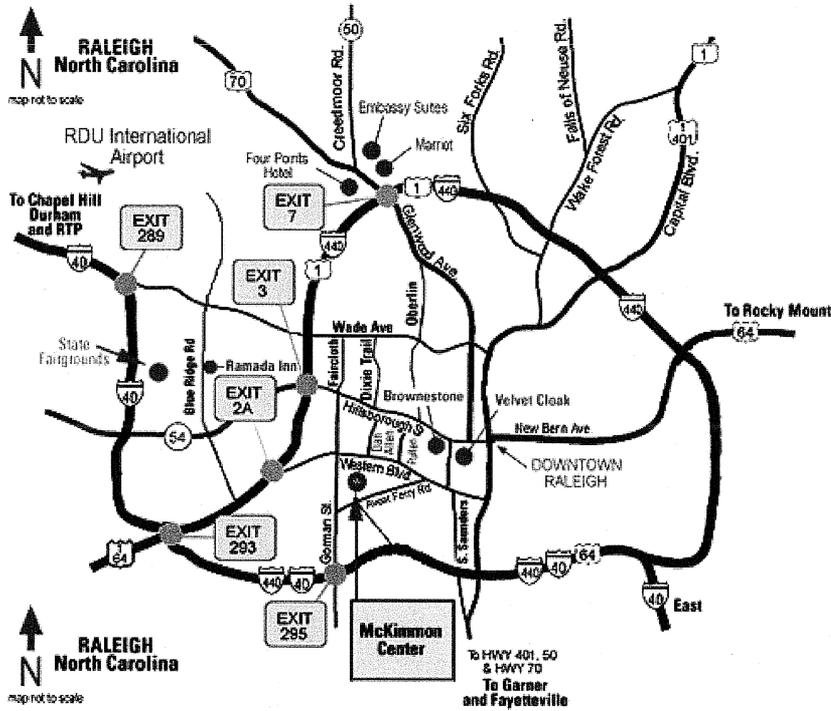
*The following list represents establishments that have registered ownership changes since the Spring newsletter:*

Ashelawn Memorial Chapel & Gardens and Jefferson Badger Funeral Home	West Jefferson
Bass-Smith Granite Funeral Service	Granite Falls
C & C Hart Funeral Home, Inc.	Rocky Mount
The New House of Best Mortuary	Kinston
John H. Shaw's Sons	Wilmington
Cleveland Funeral Services, Inc.	Shelby

*The following crematories have been licensed since the Spring newsletter:*

Austin Barnes Funeral Home and Crematory	Boone
McLaurin at Pinecrest Funeral Home and Crematory	Clayton

# Directions to the McKimmon Center



Return Service Requested  
 1033 Wade Ave, Suite 108  
 Raleigh, NC 27605  
 Board of Funeral Service  
 North Carolina

