

North Carolina Board of Mortuary Science NEWSLETTER

VOLUME 1

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BOARD MEMBER ELECTION RESULTS

The following candidates were elected to the Board. Their terms begin in January.

Category I:

Harvey H. Leavitt, III
Wadesboro

Category II:

Jack D. Briggs
Denton

On November 7, 2001 the Board elected Bill Groce to replace Michael McGhee, who recently resigned. Mr. Groce's term expires December 31, 2002.

Board Elects 2002 Officers

At its Board meeting on December 12, 2001, the Board elected the following officers for 2002.

President : W. Paul Harris
Vice-President: Harvey Leavitt
Secretary: Alex Lee

Right to Dispose of Remains Caution Required When Family Disagrees

The statute clearly sets out who has the right to authorize disposition of a body. Usually, complying with the statute is easy. Unfortunately, there are two situations where compliance can be difficult. The first situation arises when the deceased has not authorized disposition of his or her remains and the surviving family members are either not in agreement or are not honest with the licensee. The second situation arises when the deceased has authorized disposition of his or her remains, but the surviving family members want to dispose of the body in a different manner. When these situations arise, licensees must be extremely careful to protect themselves.

According to North Carolina law, each person in North Carolina has the right to determine how his or her remains will be disposed of at death. This election can be made in any of the following ways:

1. By a written will (This is not used very often because the will often is not even read until after disposition of the body. Nonetheless, because it remains an option, the licensee should be careful to ask whether there is a will and whether the will makes any mention about the disposition of the body.);
2. Pursuant to a health care power of attorney;
3. Pursuant to a preneed funeral contract;
4. Pursuant to a cremation authorization form; or
5. In a written statement signed by the individual and witnessed by two persons who are at least 18 years old.

If the decedent has chosen to dispose of his or her remains by any of the above methods, the body must be disposed in that manner. Again, so long as the family either agrees with the decedent's choice or at least agrees to honor his or her choice, this is not a problem. Unfortunately, if the family members strongly object to the decedent's choice of disposition, licensees can be placed in the middle of the family feud. These family members should be advised that you are required by law to comply with the deceased's request. Family members would need a court order to overturn the deceased's election. In most cases they will not be able to obtain one. Courts will be unlikely to overturn the decedent's clearly expressed wishes without good cause. If the decedent has not made his or her wishes known by any of the above methods, then the following competent persons in the order listed may authorize the type,

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**NORTH CAROLINA
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BOARD MEMBERS

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W. Paul Harris Durham
Vice President
Harvey Leavitt, III Wadesboro
Secretary

Stuart Cozort Newton
Elliott R. Futrell Goldsboro
Bill Groce Asheville
Darryl Hart Asheville
Julia Jordan Burlington
P. Alex Lee Garner

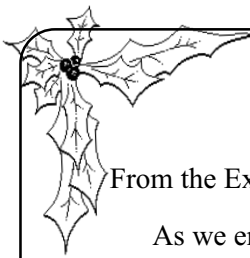
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Barry Bloch General Counsel
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Examiner
Virginia W. Harris Burial Assoc.
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(East)
Corrine J. Culbreth Field Representative
(Central)
Carolyn Jones-Connor Field Representative
(West)



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From the Executive Director:

As we enter the holiday season, I hope each of you are getting at least some opportunity to spend time with family and friends. As I look back at 2001, I can see that this has been a year of change both for me and the Board. Hopefully, we can remain focused and work to move forward on a variety of issues during 2002.

The Board and Crematory Authority will be working to try to complete the Cremation statute. Several other minor statutory changes may also be submitted along with this legislation. The Board and the Crematory Authority want your input into these matters. As the year progresses, the proposed statute changes will be posted on our web site and sent to interested parties. Please take the time to review them and provide your input. The time to suggest changes is early in the process to allow a full review of those suggestions.

The Board will also be working to revise the preneed forms. The goal is to ensure that the forms are uniform – they currently are not. Also, the Board has identified several areas where the forms need to be clarified so that the licensee can fully comply with statutory requirements. For example, the statute only allows you to withhold 10% of a trust contract when it is transferred if you have obtained the consumer’s written consent. Unfortunately, the current form does not have a space specifically set aside for that purpose.

The Board will be reviewing its rules and policies with the goal of having the rules revised. The purpose of this process is to clarify the Board’s policies and rules. If changes are being made to the Board’s statutes, this process may be delayed until the statutory changes are passed by the legislature in 2003. Unfortunately, this delay is necessary because changes to the statute can cause changes to the rules.

The Board will continue to work hard to decrease the number of unresolved complaints while ensuring that a fair process is maintained.

Finally, the Board will continue to communicate through its web site. I encourage you to visit the web site and provide any comments or criticism you may have. Your comments help make the web site better! Our web site is at www.ncbms.org.

In closing, I hope all of you have a safe and happy holiday season! I look forward to the challenges facing us next year.





The Board wishes to congratulate the following people who passed the exam and were licensed in 2001.

Tracey Williamson	Alston	Larry Stephen	Lisenbee
Jeffrey Todd	Aydelotte	Bruce D.	MacDonald
Ronald D.	Bailey	Walker Dale	McCollum
Robert Andrew	Barham	James C.	McCormick
Gregory Keith	Bennett	Brandy Danyell	Pegg
Christopher John	Besoiu	Matilda Arnelia	Penn
Daniel L.	Blanchard	Deborah	Peterson-Cunningham
Billy Earl	Britt	Ronald A.	Phillips
Patricia Godwin	Brown	William Anderson	Powell, III
Rina B.	Burkhalter	Kristen Anne	Przybylski
Linda F.	Carrawa	Rommie Tillman	Ray
Kelly	Clements	Juddie A.	Revels, III
Mozelle R.	Clyburn	Dennis Howard	Robertson
Adis Glen	Crawford, III	Wesley	Saunders
Danny A.	Creech	Jimmy D.	Sawyer
Chae Trantham	Davis	Amy J.	Seaver
James J.	Edwards	James P.	Shackelford, Jr.
Gary Stephen	Evans, Jr.	Jeffrey	Shappee
Kimberly A.	Freeman	Elmer Jantry	Shupe, Jr.
Michael B.	Ganey	Carlton Le'Ve	Stevens
Kevin Peter	Hagen	Peggy N.	Summerville
Gloria Henderson	Hamilton	C. David	Thomas, Jr.
Lester Trey	Hocutt	William T.	Turner
Norris Wayne	Howell	Bennie L.	Turner, III
Sharon Donevan	Hutchinson	Joseph R.	Tysinger
Richard Len	Jerkins	Doris Campbell	Wallace
Regina E.	Jones	Robert S.	Welch
Paul Hamilton	Jones	Bryan K.	Whitson
Dennis Wade	Jones	Richard T.	Wilhide
Terry L.	Jones, Sr.	Patricia Burrus	Williams
Kisha R.	Jordan	Linda Ingram	Williams
Theodore Peter	Kahlert	Alfred Haywood	Wilson
Deborah Johnson	Kidd	Edward F.	Yankowski
Beverly Starr	Kinlaw	Nathaniel G.	Yarbrough
Noah Delbert	Lauten, Jr.	Scottie James	Yates
Barbara Simmons	Lawson		



The Board has learned that the following licensees have retired. The Board thanks them for their service to families, communities and the funeral profession and wishes them well.

Clyde Carpenter
Crafton Hudson
Osborne Owens



The Board has learned of the deaths of the following licensees. The Board wishes to express its condolences to their families and friends. The Board is grateful for their service to families, communities and the funeral profession.

George H. Briley
Clark Samuel Brown, Sr.
James "Jimmy" V. Faulk
Edward Hines "Ham" Joyner
William Earl Johnson
Victor "Vic" Kirkman, Sr.
William E. "Bill" Miller
Leon Rhodes Randolph, Jr.
Marvin Culberth Strickland, Jr.

EXAM DATES FOR 2002

The **North Carolina Laws and Rules Exam** will be given on the following dates:

January 29	March 12	May 7	July 9	September 10	November 5
February 12	April 16	June 11	August 13	October 1	December 10

The **Funeral Service / Funeral Director Exam** will be given on the following dates:

January 29 • June 11 • September 10

**REMINDER FOR BOTH EXAMS YOUR APPLICATION MUST BE IN 30 DAYS
PRIOR TO THE EXAM YOU WISH TO TAKE**

DISCIPLINARY ACTIONS

RECENT DISCIPLINARY ACTIONS TAKEN BY THE BOARD

LICENSEES

CASE FILE NUMBER: V00-014

LICENSEE: Carrie Mae Hester
Carrie Mae Hester Funeral Home (FE464)
Chesson Cloninger
Argyll Crematorium
Beachum McDougald

VIOLATION: Respondents failed to properly obtain authorization for cremation, violating NCGS section 90-210.46, for failure to obtain the authorized person’s signature, failure to follow the statutory order of authority for disposition of a body (NCGS 130A-420), and apparent lack of knowledge of the laws and rules of the funeral industry (NCGS 90-210.43(f)).

BOARD ACTION: Board offered all licensees a Consent Order, which all accepted. Licensees McDougald and Argyll Crematorium received letters of reprimand. Licensee Cloninger received a letter of reprimand. Licensee Carrie Mae Hester received a letter of reprimand.

EFFECTIVE DATE: 8/15/01.

CASE FILE NUMBER: V99-024, -028, -035, -053; & -067

LICENSEES: Beasley’s Funeral Home (FE25)
Odell Beasley
Crystal Beasley

VIOLATIONS: Violation of NCGS Section 90-210.25(e)(1):
1) failure to file a death certificate in a timely fashion;
2) failure to return a body to the responsible party on demand;
3) sale of pre-need goods and services without a license; and
4) failure to provide a general, casket or vault price list.

BOARD ACTION: Heard before an administrative law judge. ALJ recommended revocation of the individuals’ and funeral home’s licenses; Heard before the full Board on review of the ALJ’s proposed findings on 10/3/01. The Board affirmed and adopted the ALJ’s recommendation, revoking Odell Beasley’s funeral director’s license and the funeral establishment license, and suspending Crystal Beasley’s funeral director’s license for six months, with all but one month’s suspension stayed upon acceptance of probation. The Board entered into a Consent Order with the Funeral Home’s new owner on 11/8/01, issuing a funeral establishment license to LSC of North Carolina, Inc., listing Cardell Beasley as manager.

EFFECTIVE DATE: 11/9/01

CASE FILE NUMBER: V00-064

LICENSEE: Johnson Funeral Home (FE384)
William Johnson

VIOLATION: Licensee permitted a full-time unlicensed employee to perform several funeral directing activities while refusing to sign and submit said employee’s application for resident trainee status, violating NCGS §§ 90-210.25(e)(1)(h) and 90-210.25(d)(5).

BOARD ACTION: Board offered Licensee a Consent Order. Licensee accepted the Consent Order and agreed to serve three years probation and to pay a total of \$2,000 in compromise civil penalties, payable to the Board's Education Fund for the Department of Public Instruction.

EFFECTIVE DATE: 9/5/01

CASE FILE NUMBER: V01-018

LICENSEE: Scarborough & Hargett Funeral Home (FE230)

VIOLATION: The licensee reported to the Board that it had uncovered evidence that its deceased manager, Leonidas Jeffers, had embezzled trust funds. A Board audit revealed violations of: NCGS § 90-210.61(a)(1), failure to deposit pre-need account funds; NCGS § 90-210.67(d), failure to file pre-need accounts with the Board; § 90-210.25(d)(4), failure to supervise its manager; and § 90-210.64(a), failure to file certificate of performance.

BOARD ACTION: The Board offered the licensee a Consent Order, which it approved and returned. Licensee was placed on probation for five years, and required to remediate the violations discovered in the audit.

EFFECTIVE DATE: 6/13/01.

CASE FILE NUMBER: M01-008

LICENSEE: David Reese (FD3550)

VIOLATION: Licensee's pre-need agreement filings lacked appropriate statements of goods and services, and were not filed on a completed form in a timely fashion, in violation of NCGS § 90-210.67(d).

BOARD ACTION: Board and licensee approved a Consent Order imposing three years probation, and a compromise civil penalty of \$1,000, payable to the Board's Education Fund for the Department of Public Instruction.

EFFECTIVE DATE: 6/13/01.

CASE FILE NUMBER: M01-032

LICENSEE: Trice Funeral Home (FE590)
Carl Trice

VIOLATION: License holder pled guilty to failure to pay state and local sales taxes, in violation of NCGS § 105-236(7), a Class H felony. Felony convictions constitute grounds for disciplinary action under § 90-210.25(e).

BOARD ACTION: Board offered licensee a Consent Order, which was accepted. Licensee's licenses are revoked, with the revocation stayed for three years, concurrent with three years probation.

EFFECTIVE DATE: 11/7/01.

CASE FILE NUMBER: M01-033

LICENSEE: Harrells Funeral Home (FE225)
Phyllis S. Harrell

VIOLATION: Licensee's owner pled guilty two counts of failure to pay state sales taxes, NCGS § 105-236(7), a Class H felony. Felony convictions constitute grounds for disciplinary action under § 90-210.

BOARD ACTION: Board offered licensees a Consent Order, which was accepted. Licensee's and its establishment's licenses are revoked, with the revocation stayed for three years, concurrent with three years probation.

EFFECTIVE DATE: 11/7/01.

method, place and disposition of the decedent's body.

1. The surviving spouse.
2. A majority of the surviving children.
3. The surviving parents.
4. A majority of the surviving siblings.
5. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate.
6. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the disposition.

In most situations the above is easy to apply and follow. It is very clear whose wishes control when there is a surviving spouse because he or she can decide alone. In all the other categories, the decision may require a majority vote of the members in that class. Of course in those cases, situations often arise where family conflicts exist. Again, licensees should be extremely careful.

Licensees can take several precautions to protect themselves. Licensees should ask a lot of questions. For example, do not just ask the parents whether there are any "adult" children or whether the children are minors. Ask the parents whether there are any children and ask the ages of the children. Also, when you are relying on the representations of one class, ensure you get the information you are relying on in writing. For example, if the surviving parents are signing the authorization to dispose of the remains because they assert that there are no children or the children are under the age of eighteen, have them sign a statement to that effect. Finally, licensees should always ensure they obtain a majority of the required signatures prior to proceeding with disposing of the body. For example, if there are five adult children, licensees should ensure they have at least three signatures. Of course, it is best to have all five signatures because it makes it difficult for one of the children to later complain when that child has also signed the authorization form.

Again, the key in these situations is to exercise extreme caution. Be alert to possible conflicts within the family. The complaints received by the Board are in situations where there is family conflict and one or more of the family members is dissatisfied with how the matter was handled.



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