



# North Carolina Board of Mortuary Science **NEWSLETTER**

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## **NEW PRENEED FUNERAL CONTRACT FORMS**

The Board is considering adopting new preneed funeral contract forms. If adopted, licensees will be required to use the new forms beginning January 1, 2003. Drafts of the proposed new forms are currently posted on the Board's web site. Licensees are encouraged to review the forms and provide any comments they may have to the Board.

The Board is proposing changing the forms to better ensure that the consumer is fully notified of a licensee's right to withhold up to ten percent of the trust funds should the consumer transfer a trust-funded preneed funeral contract to another funeral establishment. Another reason for change is to ensure that consumers are aware that they should contact the Board if they do not receive confirmation that the Board has received a copy of the contract. Both of these changes will better protect the consumer.

Another reason for change is to make the forms easier to complete. For example, the drafts have all the funeral establishment and preneed sales information on the same side of the contract. Also, some changes are being made to more accurately state the law with regard to the form of the transaction. For example, the consumer is purchasing the insurance – not the funeral establishment.

A final goal is to get all the insurance forms so they are the same. This will eliminate the need for the Board to return many of the contracts that it currently has to return because some of the preneed insurance funeral contract forms have provisions on the back that are different.

Please take some time to visit the Board's web site at [www.ncbms.org](http://www.ncbms.org) and provide any input you may have concerning these forms.

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### ***Attorney General Letter Determines Board Position on Withholding 10%***

The Board has recently received a letter from the Attorney General's office regarding the withholding of up to 10% of trust funds when a consumer transfers an irrevocable trust-funded preneed funeral contract to another funeral establishment. The letter indicates that should a consumer transfer an irrevocable trust-funded preneed funeral contract to another funeral establishment, licensees are entitled to withhold up to ten percent of the trust funds provided that the licensee has disclosed this right to the consumer.

Since the issue of whether or not the licensee adequately disclosed the right to withhold up to ten percent of the trust fund on a transfer is a question of fact, the issue is best resolved by a court of law should a dispute arise. Thus based on the Attorney General letter, the Board generally will not find a licensee to be in violation of the statute when the licensee withholds up to ten percent of the trust funds from a consumer under such circumstances; however, this does not mean that the consumer cannot pursue this matter in small claims court.

The full text of the Attorney General's letter is posted on the Board's web site.

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*From the Executive Director:*

*I am certain that every licensee in North Carolina as well as the country is appalled by the events that occurred in Nobles, Georgia. I believe all of us are shocked that such a lack of respect for the dead and their family members could have occurred. As an individual who is generally opposed to government regulation, I believe these events demonstrate the need for regulation in this area.*

*As you may be aware, North Carolina had its own cremation fiasco about 14 years ago. Police discovered six bodies and children discovered body parts and animal remains on property owned and operated by a licensee in the Raleigh area. As a result of these events, North Carolina enacted cremation legislation in 1990. To this day our legislation remains one of the best cremation laws in the country.*

*Nonetheless, there is always room for improvement. The Crematory Authority has been working on new legislation since the fall of 2000. As I write this note, it is unclear whether this legislation will be introduced this year or next. In order to be introduced this year, the bill would have to be attached to another piece of legislation as it does not qualify under legislative rules for introduction as a separate bill this year. The bill is available for review on the Board's web site at [www.ncbms.org](http://www.ncbms.org).*

*I would like to thank the North Carolina Funeral Directors Association and the Funeral Directors and Morticians Association of North Carolina, Inc. for their review of and comments on this bill. Both organizations provided valuable input that improved the original drafts of the bill.*

*I also want to thank the numerous individuals who took the time to provide their comments on the bill. All of your comments have been reviewed and many of them have been incorporated into the legislation. Again, this input improved the legislation.*

*Please take the opportunity to review the legislation yourself. I hope you will find that it significantly improves the laws regulating cremation, funeral service and preneed in North Carolina. I remain available to receive your input and will ensure that the Board also receives your input.*

**EXAM DATES FOR 2002**

June 11	September 10	December 10
July 9	October 1	
August 13	November 5	

**THE FOLLOWING PEOPLE HAVE RECENTLY PASSED THE EXAM AND/OR BEEN LICENSED IN THE FIRST QUARTER OF 2002:**

RONALD BAILEY	HICKORY
PATRICIA M. BORDERS	BOILING SPRINGS
BRIAN R. BYRD	JONESVILLE
MARVIN KELLY BYRD	NORWOOD
DARRELL R. CAGLE	STALEY
KAREN L. CAMPBELL	FAYETTEVILLE
TIMOTHY S. CAPPS	MARS HILL
KEVIN CLANCY-DUNN	WASHINGTON
JAMES R. COOK	HICKORY
JOHN PETE CRAFT	CHERRYVILLE
L. LYNETTE DOWNING	HICKORY
BARBARA H. DUBOSE	ROCKY MOUNT
MARY KATHERINE EDWARDS	MOUNT AIRY
CHARLOTTE L. GRANT	HAYESVILLE
MARY MARSHALL GREENE	GREENVILLE
LYNWOOD M. GRICE, JR.	GREENVILLE
JOHN B. HALLORAN	COLUMBIA, SC
BETH ANN HARRINGTON	GREENSBORO
CARRIE ANN HARTLEBEN	ASHEVILLE
ROBBIE D. HEDGEPEETH	NASHVILLE
ARTHUR T. HICKS, JR.	CASTLE HAYNE
WILLIAM MCCOY HILL	WINDSOR, VA
DELTRICIA ANITA HILLIARD	ENFIELD
GARY W. JENNINGS	TAYLORSVILLE
JENNIFER A. JOHNSON	GARNER
MOLLI JO JOHNSON-ADAMS	ELKIN
ALMA L. THOMAS LEA	RALEIGH
JOHN D. POND	CALABASH
RICHARD F. RATZLAFF	WINDSOR
GREGORY R. ROBERTSON	STEELE, AL
KING A. SANDERS, JR.	NEW BERN
KATHRYN BASS SCHEIDE	HICKORY
THOMAS SOUTHERN	STATESVILLE
ARCHIE POE STEVENS	WEST END
JON MATTHEW STURGILL	CLEMMONS
SARA PRESTON VANSTEENIS	GASTONIA
ANTHONY JACK WHEELER	DURHAM
KATHERINE A. WILLIAMS	MARS HILL

**ELECTION 2002**

The election for the Board will be conducted somewhat differently than in prior years. This year the election will only be among Category I candidates – licensees who are funeral service licensees or licensed as funeral directors and embalmers.

The basics of the election will remain the same. Licensees will need to fill two vacancies on the Board. Mr. Darryl Hart has finished his second term and is not eligible to seek reelection. Mr. Bill Groce will complete the unexpired term he agreed to serve. Nominations for election may be made to the Board beginning May 1, 2002 and must be received by the Board no later than midnight August 1, 2002. All petitions for nomination must be signed by 20 embalmers, funeral directors, or funeral service licensees.

The election will differ from prior years. First, each candidate must either be funeral service licensee or possess both a funeral director's license and an embalmer's license. Second, since both candidates will be from the same category, there will only be one ballot. Licensees will vote for two candidates on this ballot as there are two vacancies on the Board to fill. You cannot vote for the same candidate twice. You must vote for two different candidates.

The Board will use the following procedure to determine whether both or either candidate has received a majority of the votes. The Board will take the number of total votes cast and divide it by two. The Board will then divide that number by two. A candidate must receive more than that number to win the election. For example, if 100 licensees vote, they would cast 200 votes because each licensee will vote for two candidates. Thus, you divide 200 by two and obtain a result of 100 and then divide 100 by two to obtain a result of 50. Therefore, in order to obtain a majority in this example, a candidate would need to obtain more than 50 votes.

If no candidate obtains a majority, the two candidates receiving the most votes will be declared elected unless the candidate with the next highest vote total requests a runoff within ten days of having been notified of the vote total by the Board. If a runoff is requested, the Board would hold a runoff election between the top three candidates.

If only one candidate receives a majority of the votes, the candidate finishing with the second highest number of votes will be declared elected unless the candidate with the third highest vote total requests a runoff within ten days. If a runoff is requested, the number two and number three candidates would be on the ballot.

While there are some administrative complexities, licensees need only make sure they vote for two candidates. Licensees should also ensure they fully comply with the instructions contained with the ballot. Unfortunately, the Board often has to disqualify some votes for such failures. Always be sure to sign the ballot envelope. This is the most frequent cause for ballots being disallowed. Also, ensure that your ballot is returned on time.

The Board of Elections will determine when the ballots will be mailed and when they will be due. The current calendar indicates that the election will be held at the Board's October meeting. This will allow the Board to conduct any necessary runoff at its November meeting.

# DISCIPLINARY ACTIONS

## CORRECTION

Case number V01-018, which involved Mr. Leonidas Jeffers and Scarborough & Hargett Funeral Home, was published in the Board's Winter 2001 Newsletter. After reviewing the file and the Newsletter, it appears that the Board's summary of the case could be misinterpreted. To clarify, the Board's inspector found no evidence that Mr. Jeffers embezzled any money. In fact, the Board's inspector was able to account for all the preneed money. The Board apologizes for any misunderstanding.

## RECENT DISCIPLINARY ACTIONS TAKEN BY THE BOARD

### LICENCEES

Individual Licensees who agreed to Consent Orders to resolve failure to file license renewals on time:

Wayne K. Blair  
Robert G. Capps  
Clyde A. Collins  
James S. Congleton, Jr.  
Tott D. Griffin  
Robert E. Guthrie, Jr.  
Nathaniel E. Hargett, Jr.  
Wilhelmina H. Hargett  
Danny L. Jefferson  
Eric B. Johnson  
Ruthledge E. Shuler  
Jeffray E. Waters  
Michael A. Wingo

Funeral Establishments who agreed to Consent Orders to resolve failure to file license renewals on time:

Alexander Funeral Home, Inc.  
Briley Funeral Home  
Congleton Funeral Home, Inc.  
Garrett Funeral Home  
Gates County Community Funeral Home, Inc. (Good News Funeral Home)  
Genesis Funeral Service  
Hunters Funeral Home, Inc.

Funeral Establishments who agreed to Consent Orders to resolve failure to file preneed establishment license renewals on time:

McFarland Funeral Chapel, Inc.  
Rogers-Pickard Funeral Home, Inc.  
Sossoman Funeral Home

The above-named establishments and individuals stipulated to have practiced funeral service without a license or maintained an unlicensed funeral establishment. They further agreed to file a license renewal application, to pay the required filing and late filing fees and to pay a civil compromise penalty of \$500.00.

*(Continued on Page 4)*

CASE FILE NUMBER: M01-026

LICENSEE: G. Wayne Gaskin

VIOLATION: Respondent maintained an unlicensed funeral establishment in violation of NCGS 90-210.25(d)(1) and 90-210.25(e)(1)j. Respondent engaged in false or misleading advertising in violation of NCGS 90-210.25(e)(1)c.

BOARD ACTION: Board offered licensee a Consent Order, which he accepted. Pursuant to the Consent Order, the Board revoked Respondent's funeral service license. This revocation is stayed conditioned upon Respondent's lawful conduct during a 12-month period of probation. Respondent also agreed to change the name of his business from Gaskin Funeral Service to one using the terms, "funeral director," "Gaskin Services," or "funeral service licensee." Respondent agreed not to maintain a place of business that was not a licensed funeral establishment. Respondent paid to the Board a civil money penalty of \$500.00.

EFFECTIVE DATE: 2/18/02

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CASE FILE NUMBER: V99-041

LICENSEE: Milton D. Almond

VIOLATION: Respondent aided and abetted unauthorized person's provision of funeral services in violation of NCGS 90-210.25(e)(1)h.

BOARD ACTION: Board offered licensee a Consent Order, which he accepted. Pursuant to the Consent Order, the Board revoked Respondent's funeral service license. This revocation is stayed conditioned upon Respondent's lawful conduct during a 36-month period of probation.

EFFECTIVE DATE: 2/18/02

THE BOARD CURRENTLY LICENSES THE FOLLOWING  
TRANSPORTATION/REMOVAL SERVICES:

ATKINSON REMOVAL SERVICE	PRINCETO
CAROLINA MORTUARY TRANSPORTATION	CHARLOTTE
CRA TRANSPORT SERVICE	MORGANTON
CULLER MORTUARY SERVICE	ELKIN
EDWARDS TRANSPORT SERVICE, INC.	LAUREL SPRINGS
FLEMING MORTUARY TRANSPORT SERVICE	CHARLOTTE
FREIGHTLINER	CLEVELAND
GARY KLOSS REMOVAL & TRANSPORTATION SERVICE	HIGH POINT
HALES ENTERPRISES CORP.	MIDDLESEX
JOHN THOMAS CARDEN	DURHAM
KING TRANSPORTATION INC.	GASTONIA
MID-STATE REMOVAL SERVICE	GREENSBORO
MILLER REMOVAL SERVICE	WINSTON-SALEM
MILLER'S MORTUARY TRANSPORT SERVICE	SOUTHPORT
PIEDMONT MORTUARY SERVICE	BELMONT
RICKY COOPER REMOVAL	AHOSKIE
UNIFORE TRANSPORT INC.	VALDESE
WESTERN CAROLINA REMOVAL SERVICE, INC.	ASHEVILLE
WILMINGTON MORTUARY SERVICE	WILMINGTON

CONDOLENCES

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.

Johnnie Robert Austin  
Ernest L. Badgett  
Thomas E. Brewington, Sr.  
Sen. Luther Jordan  
Flora VonNeal Hill Floyd  
George Wilkerson



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