



# 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 1, Spring 2005

## SPRING CONTINUING EDUCATION CLINIC

**The Spring CE clinic on May 10, 2005 will be held at the Radisson Hotel, 135 South Main Street, High Point. There is a \$ 35.00 fee for admission. This program is approved for 5 hours of CE credit.**

### Room 1-

9 am - 12 noon: **Doug Howard- US Army Mortuary Affairs**  
"Tsunami operations and Operations in Iraq"

2 pm - 4 pm: **Paul Harris- NC Board of Funeral Service**  
"Proper Pre-need Procedures"

### Room 2-

9 a.m. - 4 p.m. **Dr. John Chew**

"Primary embalming strategies related to sanitation and procedures for bodies exposed to radiation / radioactive material as part of medical treatment.  
"Techniques for treatment and reconstruction of tissue donors"

*The break for lunch will be from 12 noon until 2 p.m.*

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## BOARD OFFICERS FOR 2005

During the meeting on January 12, 2005 the Board elected:

Jack D. Briggs as President,  
Rudy N. Lea as Vice President,  
and Jody C. Tyson as Secretary

## MEMBERS OF THE NEW BOARD

- **Larry R. Andrews-** 2 year term  
Brunswick Funeral Service, Shallotte, NC.
- **Mark Blake-** 2 year term  
Brown-Wynne Funeral Home, Raleigh, NC
- **Jack D. Briggs-** 3 year term (**President**)  
Briggs Funeral Homes, Denton and Candor
- **Windell Daniels-** 1 year term  
Public member, Wilmington, NC
- **Rudy N. Lea-** 3 year term (**Vice President**)  
Lea Funeral Home, Raleigh, NC
- **William H. Manson, Jr.-** 2 year term  
Manson Mortuary, Inc. - Williamston, NC
- **George Parrott-** 1 year term  
Public member, Raleigh, NC
- **Jody C. Tyson-** 1 year term (**Secretary**)  
Taylor-Tyson Funeral Home, Snow Hill, NC
- **T. E. White, Sr.-** 3 year term  
Kelsey Funeral Home of Albemarle, Inc.,

**NORTH CAROLINA BOARD OF FUNERAL SERVICE**

1033 Wade Avenue, Suite 108  
 Raleigh, NC 27605  
 1-919-733-9380.  
 1-800-862-0636  
 Fax 1-919-733-8271

**BOARD MEMBERS**

Jack D. Briggs.....Denton  
**President**

Rudy N. Lea.....Raleigh  
**Vice President**

Jody C. Tyson.....Snow Hill  
**Secretary**

Larry R. Andrews.....Shallotte

Mark Blake.....Raleigh

Windell Daniels.....Wilmington

William H. Manson, Jr.....Williamston

George S. Parrott.....Raleigh

T. E. White, Sr. ....Albemarle

**ADMINISTRATIVE**

Paul Harris.....Executive Director

Stephen N. Dirksen.....General Counsel

Lyn Cochrane.....Executive Assistant

Elizabeth R. Stegall.....Administrative Services  
 Supervisor

Marty Mills.....Administrative Assistant

Ruth Britt.....Senior Program Assistant

Jimmy Featherston.....Program Assistant

Courtney T. Biedell.....Program Assistant

Carolyn J. Connor.....Inspector-West

Susan Cox.....Inspector-Central

Corrine J. Culbreth.....Inspector-East

Lloyd H. Davis.....Auditor Burial Association

Virginia W. Harris.....Burial Association



The North Carolina Board of Funeral Service  
 Newsletter is published bi-annually. Any questions  
 or comments should be directed to the office at  
 919-733-9380 or 1-800-862-0636

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**TEMPORARY RULE CHANGE**

The Board has approved the submission of a temporary rule (21 NCAC 34C .0101) to govern elections to the NC Crematory Authority for 2005. A copy of the proposed temporary rule has been mailed to interested parties. The period to receive public comment will expire on May 6, 2005. Written comment may be mailed to the Board office, emailed to [wpharris@ncbfs.org](mailto:wpharris@ncbfs.org) or faxed to 919-733-8271. The Board will hold a meeting at 1 p.m. Tuesday, May 10 at the Radisson Hotel, 135 South Main Street, High Point, NC to consider final approval of the temporary rule.

**OUR SYMPATHY IS  
 EXTENDED TO THE FAMILIES  
 OF**

- Fenton Clifton Berrell of Hockaday Funeral Home, Roanoke Rapids, who died October 2004
- Bert M. Brooks, Jr. of Brooks Funeral Home and Crematory Morehead City, who died November 2004
- Charles C. Penry, retired examiner with the North Carolina Burial Association Commission, who died November 2004
- Robert C. Citty, Citty Funeral Home of Reidsville, who died December 2004.
- Betty W. McEwen, former president and treasurer of McEwen Funeral Service, Charlotte, who died December 2004
- W. Earl Williams, Williams Funeral Service, Asheville who died December 2004
- Willie L. Shaw, Jr., John H. Shaw's Sons Funeral Home, Wilmington, who died January 2005
- Francis L. Yost, of the former Gay-Yost Funeral Home, Rocky Mount, who died January 2005
- John D. Yelton, Wilkenson Funeral Home, Concord, who died February 2005
- Allen H. Walker, Jr., Walker Funeral Homes, Chapel Hill, Hillsborough, and Mebane, who died March 2005.
- Ron T. Guy, Padgett and King Mortuary, Forest City, who died March 2005
- Eli Joyner, former owner of Farmville Funeral Home, Farmville, who died April 2005

## **BOARD POLICY ACTIONS**

1. Adopted a policy regarding preneed contracts requiring transfer as a result of the Board's action against the license of a preneed establishment. Contracts that have not been transferred by the consumer after 30 days following written notification from the Board will be transferred under the Board's statute authority. The contracts will be transferred to a preneed licensed establishment in good standing that is located nearest as measured geographically and will agree to accept the transfers. Consideration with sensitivity to racial preferences will be part of the process.
2. Renewed the policy of paying an interest rate of 1% annually on claims paid from the recovery fund. This will be reviewed in 2006.
3. Adopted a policy to begin publication of final actions taken by the Board regarding disciplinary issues. A press release will be prepared and submitted to all print media publications which publish on a daily or weekly basis and are located within the community where the licensee practices and conducts business. This will be done retroactively for actions taken since January 1, 2005.
4. Approved a resolution on how and when examination scores will be released to applicants for licensing as well as how that information will be conveyed to the applicants.
5. Adopted a policy on approval of continuing education courses which modified an earlier change that placed approval of all courses with the CE committee. The modification was to allow the Board staff to approve course submissions which meet the statute requirements and Board guidelines and to forward submissions that there is uncertainty on to the CE committee.
6. Approved the recommendation by the Crematory Authority to request an opinion from the Attorney General regarding the right to dispose of a body that may be conveyed under a health care power of attorney appointment.

## **LEGISLATIVE ISSUES**

### **North Carolina**

1. House Bill 397 is an act that includes a tax credit provision for employers who participate in the NC Department of Labor apprenticeship program.
2. Legislative Fiscal Research continues to examine the issue of sales tax on funeral professional services.
3. House Bill 967 is an act that would amend N.C.G.S. § 32A-19, 20 & 25 to allow the right to dispose of the body that may be conveyed under a health care power of attorney to survive the death of the person making the appointment. The bill has been referred to the House Judiciary I Committee.

### **United States**

1. A proposed change to the US tax code would eliminate the limits on total contributions (currently \$ 8,200.00) placed on pre-need trusts that are designated as "non-grantor trusts". The election of this designation by the trustee allows for income taxes to be paid directly from the trust rather than reported as taxable income to the consumer as occurs with a "grantor trust" designation. Licensees should consult their tax advisors for details and should inform preneed consumers to contact a tax professional as part of consideration when preneed planning.

## PRE NEED

Fiduciary responsibilities: Licensees should be aware of the scope of fiduciary responsibility when accepting funds for pre-need contracts. These responsibilities include making certain the investment vehicle provides a reasonable return and making certain that the principle of a pre-need trust is not eroded by bank fees such as charges for "dormant accounts". You should take the time to educate your financial institution on the unique aspects of pre-need trusts such as the potential for "dormancy".

Additionally it is the responsibility of the pre-need licensee to file required documents with the Board. A bank employee may mail documents as a convenience; however, if there is an issue with those documents such as late filing, the Board will look to the licensee for resolution.

Licensees should also remember to copy the reverse side of pre-need contracts when sending the copies to the Board. The pre-need contract registration fee should NOT be paid in cash but rather in the form of a check or money order.

## A REMINDER OF THE SOLICITATION DEFINITION

All licensees are reminded of the definition of solicitation as provided in 21 NCAC 34A BOARD FUNCTIONS .0124 DEFINITIONS as follows:

Solicitation, as the term used in G.S. 90-210.25(e)(1)d, shall be interpreted to mean an uninvited, intentional contact with an individual, in person or by telephone, for the purpose of procuring the right to provide funeral services or merchandise, either immediately or at a future date. All licensees of the Board must comply with the following in order to avoid committing solicitation as prohibited by G.S. 90-210.25(e)(1)d:

(1) A licensee of the Board shall not by in-person, live telephone or real-time electronic contact solicit professional employment from a prospective customer when a significant motive for the licensee's doing so is the licensee's pecuniary gain, unless the person contacted:

- (a) a licensee; or
- (b) has a family, close personal, or prior professional relationship with the licensee.

(2) A licensee shall not solicit professional employment from a prospective customer by written, recorded or electronic communication or by in-person, telephone or real-time

electronic contact even when not otherwise prohibited by items (1)(a) or (1)(b) of this rule if:

(a) the prospective customer has made known to the licensee a desire not to be solicited by the licensee; or

(b) the solicitation involves coercion, duress, harassment, compulsion, intimidation, or threats.

(3) Every written, recorded or electronic communication from a licensee soliciting professional employment from a prospective client known to be in need of funeral services in a particular matter shall include the words "This is an advertisement for funeral services" on the outside envelope, if a written communication sent by mail, and at the beginning of the body of a written or electronic communication in print as large or larger than the licensee's or licensee's business name, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in items (1)(a). or (1)(b) of this rule.

## TRAINEES AND TRAINEE SUPERVISORS

When submitting monthly embalming reports, indicate when your work on an embalming case may carryover to the following day. For example, if you wait until the following to do cavity work, indicate the cavity work applies to the same case from the previous day. Otherwise you may not receive proper credit for the case.

## EXAM DATES 2005

May 10, 2005  
 June 14, 2005  
 July 18, 2005 (State Exam)  
 August 9, 2005  
 September 13, 2005  
 October 10, 2005 (Tentative for State Exam)  
 November 15, 2005  
 December 13, 2005

## 2005 CREMATORY AUTHORITY MEMBERS

### Larry Andrews

Brunswick Funeral Service  
 Shallotte, NC

### Peter M. Burke

Cary, NC

Keith M. Green, Chairman  
 Hayworth-Miller Funeral Home  
 Winston-Salem, NC

J. Trent Lloyd, Secretary  
 Revels Funeral Service  
 Lumberton, NC

Larry Parker, Vice Chairman  
 Cremation Society of the Carolinas  
 Dba Capital Funeral Care  
 Raleigh, NC

### Jay R. Roberts

Lowes Funeral Home, Inc.  
 Burlington, NC

### T.E. White, SR

Kesley Funeral Home of Albemarle, Inc.  
 Albemarle, NC

## BOARD MEETING DATES FOR THE REMAINDER OF 2005

The Board normally meets during the second week of the month. Unless otherwise indicated all Board meetings will be held at the Board offices, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. Meeting dates are subject to change. Please call the Board at 1-800-862-0636 or consult the website, [www.ncbfs.org](http://www.ncbfs.org) to confirm meeting dates.

April 27- 9 a.m. disciplinary hearing  
 April 28- 9 a.m. Board meeting. If necessary the disciplinary hearing from April 27 will be continued at 1 p.m.

May 10- 1 p.m. Radisson Hotel, 135 South Main Street, High Point, NC to consider final agency approval to proposed temporary rule 21 NCAC 34 governing elections to the NC Crematory Authority.

June - no meeting

July 12-13

August - no meeting

September 13-14

October 11-12

November 8-9

December 13-14 The Winter CE clinic will be held on December 13

## DISCIPLINARY ACTIONS

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

CASE FILE NUMBER: V03-053

LICENSEES: Tucker & Sons Funeral Home, Fayetteville (FE #669; PNE #743); Nathaniel Tucker, Jr. (FS #855)

VIOLATION: N.C.G.S. §§ 90-210.62(b); 90-210.67(d); 90-210.68(a); 21 NCAC 34D .0301, .0302.

BOARD ACTION: The Board and licensees entered into a Consent Order whereby the preneed establishment license of Tucker & Sons Funeral Home and the preneed sales license of Nathaniel Tucker were placed on probation for three (3) years and required to pay a \$1,000.00 compromise penalty.

EFFECTIVE DATE: October 8, 2004.

\*\*\*\*\*

CASE FILE NUMBER: M04-017

LICENSEES: Stokes Mortuary, Rocky Mount (FE # 569); Stokes Mutual Burial Association

VIOLATION: N.C.G.S. § 90-210.81; 90-210.95; 90-210.25(e)(1)b.

BOARD ACTION: The Board and licensees entered into a Consent Order whereby Stokes Mutual Burial Association would be required to make restitution, be placed on five (5) years probation, and have its accounts frozen indefinitely. Stokes Mortuary was placed on one year probation.

EFFECTIVE DATE: October 8, 2004.

\*\*\*\*\*

CASE FILE NUMBER: M04-011

LICENSEES: Elmer Bass, Jr., Mt. Olive

VIOLATION: Violation of probation terms in V01-002 Consent Order.

BOARD ACTION: The Board and licensee entered into a new Consent Order whereby the funeral director license of Elmer Bass was placed on probation for an additional 12 months.

EFFECTIVE DATE: December 15, 2004.

\*\*\*\*\*

CASE FILE NUMBER: M04-015

LICENSEES: Betty Gibson Butler, Laurinburg

VIOLATION: Violation of probation terms in M03-006 Consent Order.

BOARD ACTION: Betty Butler voluntarily surrendered her license to practice funeral directing.

EFFECTIVE DATE: December 15, 2004.

\*\*\*\*\*

CASE FILE NUMBER: M04-019.

LICENSEES: Robinson Funeral Home, Clinton (FE #509; PN #651).

VIOLATION: N.C.G.S. §§ 90-210.62(b); 90-210.64(b); 90-210.64(e)(2); 90-210.64(e)(3); 90-210.61(a); 90-210.67(d); 90-210.69(c)(4); 90-210.70(a); and 21 NCAC 34D .0301.

BOARD ACTION: Robinson Funeral Home and the Board entered into a Consent Order whereby its preneed license was placed on two years probation. Robinson Funeral Home was also ordered to make restitution and to have all preneed sales licensees attend a preneed laws and recordkeeping class.

EFFECTIVE DATE: February 9, 2005.

\*\*\*\*\*

CASE FILE NUMBER: M05-005.

LICENSEE: Gordon Funeral Home, Rich Square (FE #201; PN #553).

VIOLATIONS: N.C.G.S. §§ 90-210.24(d)(2); 90-210.27A(a)(2); 90-210.27A(h).

BOARD ACTION: The Board voted to deny the renewal of Gordon Funeral Home's license for failure to meet statutory criteria. By operation of law, its preneed license was revoked for failure to maintain funeral establishment license.

EFFECTIVE DATE: February 9, 2005.

\*\*\*\*\*

CASE FILE NUMBER: M03-023.

LICENSEES: Michael Ganey, formerly of Beaufort (FS #2411).

VIOLATION: N.C.G.S. §§ 90-210.61(a), 90-210.61(d), 90-210.65(e), 90-210.67(d), 90-210.68(d1).

BOARD ACTION: Michael Ganey entered agreed to voluntarily surrender his license rather than pursue further action in this case. He also agreed to make restitution in any future preneed contracts.

EFFECTIVE DATE: March 15, 2005.

\*\*\*\*\*

CASE FILE NUMBERS: V04-070, V04-080

LICENSEE: Joe Penland, Sr. (FD# 2496); Asheville Mortuary Service (FE #14, Crematory # 27).

VIOLATIONS: N.C.G.S. §§ 90-210.23(d), 90-210.25(e)(1)b., 90-210.25(e)(1)m., 90-210.125(g)(2), 16 C.F.R. § 453.2(a).

BOARD ACTION: The licensees and the Board entered into a Consent Order whereby Joe Penland was placed on three years probation and fined \$2,000.00. Asheville Mortuary Service's licenses were placed on probation for one year. The licensees were ordered to make restitution.

EFFECTIVE DATE: March 15, 2005.

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

**New Funeral Director Licensee's**

Charles E. Barnes	Wilson
Linda Diane Blant	Wallace
Margaret Hammie Davis	Chadbourn
Kelvin L. Freeman	Riegelwood
Dionne Denise Gilmore	Salisbury
Sallianne Cunningham Harris	Lincolnton
Jeanette Carol Hart-Morgan	Rocky Mount
Bruce E. W. Helmsing	Rocky Mount
Richard D. Hincer	North Wilkesboro
Eric M. Matthews	Fayetteville
Nicholas Powell Miller	Mocksville
Theresa Gail Nichols	Murphy
Robert D. Plemmons	Black Mountain
Donald I. Roseboro	Shelby

**New Funeral Service Licensee's**

Monica Dawn Adkins	Burnsville
Daniel L. Blanchard	Wilson
Zackary D. Boan	Concord
Justin Ray Boone	Raleigh
Demetrice Eugene Brewington	Princeton
Brian Michael Brown	Clayton
Amanda Elizabeth Bryant	Greensboro
John Pete Craft	Cherryville
Juleon Howard Dove (Converted to FS)	New Bern
Dana N. Goodwin	Rockingham
Teresa G. Gore-Bennett	Sanford
Nathaniel J. Holman	North Wilkesboro
Jessica Lee Hoover	Winston-Salem
Alton C. Hunnicutt, Jr.	Charlotte
Jennings Jacobs	Red Sprints
James Hubbard Jones	Durham
Eric M. Legrand	Greensboro
Regina McDonald	Stone Mountain, GA
Stephen Glynn McQueen	Statesville
Deborah A. Moore-Marshall	Kinston
Brian R. Mays	Greensboro
Justin Lee Powell	Four Oaks
Kimberly Summers Propst	Casar
Gregory B. Rinehart	Kernersville
Stephanie Albin Rinehart	Kernersville
Richard Allen Roberts	Benson
Justin Russell Smith	Greenville
Ellen L. Spruill	Greensboro
Christopher Todd Tripp	Grimsland
Marcellus Turner, Sr.	Chapel Hill
Gladys G. Withers	Reidsville

**LICENSED OR CHANGED**

*The following list represents establishments that have been licensed or changed ownership since the Fall newsletter:*

- Bladen Funeral & Crematory Service  
Elizabethtown
- Floyd Mortuary & Crematory  
Lumberton
- Funerales Mission  
Sanford
- Hornes Funeral Home  
Farmville
- McPhatter Funeral Home  
Laurel Hill
- Moore Funeral Home  
Brevard
- Mount Keel Funeral Home  
Rocky Mount
- Pierce-Jefferson Funeral Service  
Kernersville
- Sandhills Funeral Home & Cremation  
Rockingham
- Sensible Alternatives  
Greensboro
- Shackleford Funerals & Cremations  
Freemont
- Smith & Austin Funeral Home  
Columbia
- Unity Memorial Funeral Services, LLC  
Greensboro
- Walker & Austin Funeral Home  
Plymouth

# North Carolina Board of Funeral Service

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Return Service Requested

Board of Funeral Service  
1033 Wade Ave, Suite 108  
Raleigh, NC 27605

North Carolina

