

North Carolina Board of Funeral Service

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**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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Exam Dates

April 17, 2007

May 15, 2007

June 26, 2007

July 24, 2007

August 21, 2007

September 25, 2007

October 23, 2007

November 27, 2007

December 11, 2007

Office of the Chief Medical Examiner

Board staff has contacted the Office of the Chief Medical Examiner to discuss concerns over the manner in which viscera is being returned pursuant to the OCME policy that went into effect August 1, 2006. OCME staff will begin new procedures to minimize any problems.

Licensees should notify the Board offices
or Kevin Gerity

Office of the Chief Medical Examiner,
Campus Box 7580, Chapel Hill, NC 27599
800-672-7024 or kgerity@ocme.unc.edu

Board *matters*

- **Board officers for 2007 are:**
T. E. White, Sr. - President
Mark Blake - Vice President
Larry Andrews - Secretary

Mr. Jody Tyson informed the Governor's office that he did not wish to seek re-appointment. The Board recognized Mr. Tyson with a Resolution of Service.

Mr. Frank G. McCree, Sr. of Community Funeral Home in Fairmont has been appointed by the Governor to the Board for a three year term.

- The Board has adopted procedures for policy considerations. These would follow procedures similar to that of rule making in which the recommendation would be presented to the Board at a meeting but no action would be taken until the next Board meeting. The recommendation would be published to a list of interested parties (see note below) and in the time period between Board meetings parties could submit written comments or appear to give public comment at the next meeting of the Board.

- The use of a private investigation firm to assist the Board with some investigations is being considered.
- The interest rate on pre-need recovery fund claims paid in 2007 will be 2.3% .

Board meetings will be held the second Wednesday of each month unless otherwise noted. Notices of meetings are filed with the office of the NC Secretary of State. Licensees may also find meeting information online at the Board's website, www.ncbfs.org/current_events.htm or by calling the Board offices at 800-862-0636.

Interested Parties List

Those who wish to be added to the Board's interested parties list in order to receive publication of proposed policy recommendations as described in the previous section, may contact Paul Harris by telephone at NC toll free 800-862-0636 or 919-733-9380; mail at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605; or email at wparris@ncbfs.org Included should be the full name of the individual, organization or company, mailing address, valid email address, telephone and fax number.

Website and Interactive Forms

The interactive forms on the Board's website have been modified to remove the grey tint to the interactive fields. The forms were updated to in an effort to improve the quality of faxed or copied forms.

Legislative *update*

- **On December 1, 2006 session law 2006-169 became effective which amended NCGS 14-288.4. This law addresses protests at any funeral service. Section (8) reads:**

Engages in conduct with the intent to impede, disrupt, disturb, or interfere with the orderly administration of any funeral, memorial service, or family processional to the funeral or memorial service, including a military funeral, service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. Any of the following conduct that occurs within one hour preceding, during, or within one hour after a funeral or memorial service shall constitute disorderly conduct under this subdivision:

- a. Displaying, within 300 feet of the ceremonial site, location being used for the funeral or memorial, or the family's processional route to the funeral or memorial service, any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route.*
- b. Uttering, within 300 feet of the ceremonial site, location being used for the funeral or memorial service, or the family's processional route to the funeral or memorial service, loud, threatening, or abusive language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route.*
- c. Attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.*

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

The full text can be found at the NC General Assembly website.

- On December 1, 2006, the North Carolina State's sales tax rate will be reduced from 4.5% to 4.25%, and on July 1, 2007, will be reduced from 4.25% to 4.0%. This is of course the State's portion of the sales tax. This is combined with local sales taxes for the total sales tax rate.
- The NC House Health subcommittee on Safety, Quality and Accountability has finished a report in which they drafted a change to the Board's Laws 90-210.25e(1) to read: "No funeral establishment shall permit the recovery of human tissue from a dead human body in its custody and control except in accordance with Article 8A of Chapter 131 E." This was introduced in the House as HB 116.

The Board is considering law and rule changes. The rule changes will be handled through normal rule making procedures which require publication in the North Carolina Register and separate public hearings. When the Board formally directs the staff to proceed with the rule changes, that information will be posted on the Board's website, in this newsletter, and notices will be sent to the interested parties list.

The proposed law changes have been submitted to the North Carolina General Assembly. You may request a copy of those by contacting the Board office at 800-862-0636 or wpharris@ncbfs.org.

Pandemic *flu*

The Board reminds licensees to seek information regarding a potential pandemic flu event.

www.ncpublichealth.com or www.epi.state.nc.us/epi/gcdc/pandemic.html

Some related links:

- The National Strategy for Pandemic Influenza http://www.whitehouse.gov/homeland/nspi_implementation.pdf
- The NC Pandemic Influenza Plan <http://www.epi.state.nc.us/epi/gcdc/pandemic.html>
- The North Carolina Pandemic Influenza Response Plan can be found at the North Carolina Division of Public Health website.
- Guidelines for the Management of Mass Fatalities during an Influenza Pandemic have been developed by the Public Health Agency of Canada. The PDF version of these guidelines can be accessed at the link below. www.phac-aspc.gc.ca/cpip-pclcpi/pdf-cpip-03/cpip-appendix-i.pdf
- The National Mass Fatalities Institute website offers a very broad range of information on a variety of topics that may be useful to funeral professionals www.nmfi.org/resources.htm

F Y I

When applying for a new establishment permit, please make certain that all statutory requirements are met prior to scheduling the new establishment inspection. This includes I.D. Tags, all documents required by the FTC and NC law as well as the facility requirements. In addition, when an existing establishment moves to a new facility, an application must be filed with the Board and an inspection is required prior to opening the facility for use.

When opening a new crematory an inspector for the Board must be present for the first cremation. Applicants should advise the manufacturer of the cremation unit of this requirement when scheduling training.

NC Dept. of Revenue Opinion On Pre-need Sales Tax Collections

The NC Department of Revenue has provided the Board with a written opinion regarding funds collected for sales taxes on pre-need funeral contracts. That opinion is consistent with the verbal opinions given to the Board staff by the Department of Revenue on previous occasions. The Department of Revenue states sales taxes are due in the month in which the funeral goods are delivered, therefore any funds collected for sales taxes on pre-need contracts are estimates or allowances. In instances of inflation-proof contracts the sales taxes would be included in the total of non-guaranteed items. The shortage of funds or funds in excess of what is needed for non-guaranteed items at the death of the contract beneficiary would be handled pursuant to NC pre-need law.

Sympathies Extended . . .

Mr. Allan Demaree – The Board was recently informed of Mr. Demaree's passing earlier in 2006. Board Member and Mrs. William J. Manson, Manson Mortuary, Williamston on the death of their daughter, **Jacquelin D. Manson** on November 1.

Mr. Bayard "Tex" Edgerton formerly of the Duke Hospital Pathology Dept., who died November 4.

Mr. Lewis Reginald "Reggie" Feggins, Garnes Funeral Home, Henderson and Feggins-Feggins Funeral Service of Wake Forest, N.C. who died November 5.

Mr. John R. Shepherd, Jr. who died November 16.

Mr. Joe J. Jenkins who died November 18.

Mr. John L. Alsobrooks former chair of the Funeral Service program of Vincennes University, Vincennes, IN. who died November 29.

Mr. Bert M. Brooks, Sr. founder and co-owner of Brooks Funeral Home & Crematory, Morehead City, who died December 1.

Mrs. Julie R. Bowling, co-owner of Bowling Funeral Home and Crematory, Rocky Mount, who died December 8.

Mr. Mariman Charles Long, formerly of Neill Funeral Home, who died December 29, 2006.

Mr. Robert O. Floyd, Floyd Funeral Services, Fairmont who died August 2006.

Mr. Norwood Odom, formerly of Tyndall Funeral Home, Mt. Olive, who died January 6.

Mrs. Willene K. Lyerly, co-founder of Lyerly Funeral Home, Salisbury, who died January 8.

Mr. Glenn W. Westmoreland, Bunch-Johnson Funeral Home, Statesville, who died January 25.

Ms. Dorothy "Dot" Frix Bumgarner Sparks, Briggs-Candor Funeral Home who died December 14, 2006.

Mr. Robert W. "Bobby" Breece, Sr., owner and operator of Rogers and Breece Funeral Home Fayetteville, who died December 21, 2006.

Mr. Dennis W. Moody former president of Moody Funeral Services, Inc. of Mount Airy, and Dobson, NC, who died February 19, 2007.

Mr. Bobby G. Lammonds, co-founder of Sandhills Funeral Home & Cremation Center, Rockingham, who died February 26, 2007.

Elder Everette R. Williams, Nelson Funeral Home, Rockingham, NC who died on February 24, 2007.

(If a reader is aware of the death of a licensee that has not been acknowledged in this section, please inform the Board staff.)

Assistance with obtaining physician's signatures on death certificates

When licensees experience unusual delays or difficulty with physicians signing death certificates in a timely manner, they should report those instances to the Board of Funeral Service staff who will then forward to the NC Medical Board.

Pre-need

Licensees should use the most current form of certificate of performance when reporting closed pre-need contracts. To access an interactive Adobe® PDF version, please access the Board's website at www.ncbfs.org and click on the "applications" button.

Crematory Authority

James Larry Boles, Jr. and Vickie Downing were elected to the NC Crematory Authority for three year terms beginning January 1, 2007. Mr. Boles and Ms. Downing join the other Authority members: Jay Roberts, Chair; Pete Burke, Vice Chair; Philip Young Secretary, and Board representatives T. E. White, Sr. and Larry Andrews.

Wanted: Historical Artifacts Related to the Board and Funeral Service

The Board staff has started a small display of items related to history of the Board and funeral service. If you have old license certificates, photographs, other documents or funeral related items from the early 1900s to 1960 that might be used in this display, please contact Paul Harris. Paper documents will be reproduced and the originals will be returned to the owner.

Disciplinary matters

Case File Number: M06-023

Licensees: Joe Gordon, Jr. (FDL # 3205).

Summary: The Board refused to renew Licensee's funeral director license in 2005 for failing to disclose two minor misdemeanor convictions. Licensee wishes to apply for reinstatement by entering into a consent order placing his license on probation for three years. Licensee states that he did not understand the question when completing the application.

Violations: N.C.G.S. §§ 90-210.25(a)(1); 210.25(e)(1)a., 90-210.25(e)(1)b.

Board Action: The Board refused to renew a license to Mr. Gordon in 2005. The Board and Mr. Gordon entered into a consent order reinstating his funeral director license subject to three years probation.

EFFECTIVE DATE: October 11, 2006.

Case File Number: M06-016

Licensees: Hertford County Undertakers Union (FE # 245).

Summary: During a recent inspection, the Board's inspector found several violations of the Funeral Rule that were not corrected from prior inspections.

Violations: N.C.G.S. §§ 90-210.25(e); 16 C.F.R. § 453.2(b) (2) and (3).

Board Action: The Board and the licensee entered into a consent order placing the funeral establishment permit on probation for a period of one year.

EFFECTIVE DATE: September 26, 2006

Case File Numbers: M06-001; M06-017

Licensees: Ronald Vaughan (FD #2303; EM #1213); Williams Funeral Home (FE # 631).

Summary: Licensee did not make a timely license renewal of his funeral establishment permit and failed to disclose a misdemeanor conviction to the Board on his application.

Violations: N.C.G.S. §§ 90-210.25(a)(1); 210.25(e)(1)a., 90-210.25(e)(1)b.

Board Action: The Board and the licensees entered into a consent order agreeing to pay a \$250 penalty and refusing to renew the funeral director license of Ronald Vaughan pending reapplication in six months.

EFFECTIVE DATE: September 26, 2006.

Case File Numbers: V05-039; V06-016.

Licensee: Elmer Bass, Jr. (FD #3354).

Summary: Licensee had his license lapse in 2005.

In V05-039, Licensee entered into a consent order admitting that he did not provide death certificates. In V06-016, Licensee misapplied preneed funds while his funeral director license was on probation and sold preneed when he did not have a preneed sales license. Licensee entered into a consent order refusing to issue him any license indefinitely until the Board finds he is fit to practice and agreeing to make restitution.

Violations: N.C. Gen. Stat. §§ 90-210.25(e)(1)b., 90-210.25(e)(1)g., 90-210.61(a)(1), 90-210.62(b), 90-210.69(c)(1), 90-210.69(c)(4), 90-210.70(a).

Board Action: The Board and Respondent entered into a consent order agreeing to the following: The Board shall refuse to issue a license to Respondent indefinitely and Respondent will make restitution to the preneed consumers involved.

EFFECTIVE DATE: November 15, 2006.

Case File Number: M06-015

Licensees: Gilliam Funeral Home (FE #194).

Summary: During an inspection, the Board's inspector found violations of the Funeral Rule that were not corrected from prior inspections.

Violations: N.C. Gen. Stat. § 90-210.25(c)(1), 90-210.25(e); 16 C.F.R. §§ 453.2(b)(3)(i), 453.2(b)(4)(i)(C)(3), 453.2(b)(4)(iii)(A), 453.2(b)(4)(iii)(B), 453.2(b)(5)(i); 453.3(c)(1)(ii), 453.3(c)(2);

Board Action: The Board and Respondent entered into a consent order placing the funeral home license on probation for one year and paying a \$250.00 compromise penalty. Respondent's licensed personnel attended a class in Funeral Rule Compliance.

EFFECTIVE DATE: November 15, 2006.

Case File Number: V04-017.

Licensees: Thomie Douthit (FD # 2492).

Summary: Licensee sold a preneed contract without filing the contract within ten days of sale. Licensee's employer deposited the check into its operating account and did not open a trust account. That employer was subject to an earlier separate disciplinary action.

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*Disciplinary matters cont. from page 9***(V04-017, cont.)**

Violations: N.C. Gen. Stat. §§ 90-210.61(a) (1); 90-210.61(e); 90-210.62(b); 90-210.67(d).

Board Action: The Board entered into a consent order placing Mr. Douthit's license on probation for 3 years. Mr. Douthit paid a \$1,000.00 civil penalty and make restitution.

EFFECTIVE DATE: January 10, 2007.

Case File Number: M06-019.

Licenses: Melton-Riddle Funeral Home (FE #396; PNE #492); Ronnie Riddle (FD # 3065).

Summary: Licensee entered into a consent order for preneed recordkeeping violations and had not submitted several items on its annual report despite several requests. Under a prior consent order, Licensee agreed to file all paperwork for preneed within ten (10) days of notice.

Violations: N.C. Gen. Stat. §§ 90-210.23(d); 90-210.64(a); 90-210.64(e); 90-210.67(d); 90-210.68(a); consent order violation.

Board Action: The Board adopted a Final Agency Decision revoking Mr. Riddle's funeral director and preneed sales license and the preneed establishment license for Melton-Riddle Funeral Home. The funeral establishment permit had its probation extended for three years from the effective date of the Final Agency Decision. Mr. Riddle has filed an appeal of the Board's decision.

EFFECTIVE DATE: December 14, 2006.

Case File Number: V05-049.

Licenses: Johnson's Funerals and Cremations (FE #643, PNE #010).

Summary: Complainant purchased a preneed contract from Funeral Establishment. At the time of the funeral, Funeral Establishment no longer carried the casket the Complainant selected for the pre-need contract in stock. Complainant alleges Licensee told her that the casket was no longer manufactured and was required to select from the caskets available in the floor stock at that time. However, the original casket could have been provided by the manufacturer and was less expensive than the casket in stock.

Funeral Establishment states that the caskets were comparable and made a refund to the Complainant voluntarily, which was refused. Funeral

(V05-049, cont.)

Establishment denies that it instructed its employee to make the misrepresentation to Complainant.

Violations: N.C. Gen. Stat. § 90-210.25(e) (1)b.

Board Action: Funeral Establishment entered into a Consent Order paying a \$2,000.00 compromise penalty to resolve the matter on its behalf.

EFFECTIVE DATE: January 10, 2007.

Case File Number: M05-013

Licenses: Thomas-Yelverton at Evergreen Memorial Park, Funerals and Cremations (FE #580, PNE #024); Johnson's Funerals and Cremations (FE #643, PN#010); Gregory Bradner (FS #1394); Randy Wetzel (FS #2572).

Summary: An unlicensed insurance agent worked at two funeral establishment locations under common ownership. The insurance agent executed multiple insurance assignments to the funeral establishment in conjunction with a preneed Statement of Goods and Services Selected without having a preneed sales licensee complete a contract. Several of the preneed Statements of Goods and Services Selected were signed by two preneed sales licensees. The preneed sales licensees also did not file several contracts in a timely manner.

Violations: N.C. Gen. Stat. §§ 90-210.27A(e); 90-210.67(d); 90-210.68(a); 21 NCAC 34D .0302.

Board Action: The parties, two funeral establishments and two preneed sales licensees, entered into a Consent Order. The consent order assessed \$6,000.00 in compromise penalties against the funeral establishments and \$1,000.00 against the preneed sales licensees. The funeral establishments had their funeral establishment permits suspended for three months with the suspension stayed for a period of one year probation. Their pre-need establishment licenses were suspended for a period of one year, with the suspension stayed for a period of three years probation. The Board will not issue a pre-need sales license to the licensees before January 10, 2008. The licensees are required to complete a preneed competency examination administered by the Board. The parties have also completed preneed continuing education except for one preneed sales licensee, who must complete the class prior to being reissued a license.

EFFECTIVE DATE: January 10, 2007.

Congratulations

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

New Funeral Director Licensee's

Kema Mainor Boney, Willard
Joseph Thomas Clay, North Wilkesboro
Robert Lawrence Cole, Sanford
George Jerome Durham, Jr., Greensboro
Mercedes Fornay, Williamston
Ernie Haskins, Goldsboro
Crystal Monique Matthews, Tarboro
J. Vernon Peterson, Raleigh
Russell D. Roakes, Salisbury
Karen A. Reardon, Stallings
Jerry Edison Smith, Linwood
Gretchen M. Thigpen, Beulaville
Derrick L. Wilkins, Aulander
P. Hasten Wall, Fayetteville

New Funeral Service Licensee's

Ricky C. Adams, Leicester
Erin L. Amelung, Matthews
Daniel Paul Armstrong, Aberdeen (Converted)
Tiffany Kristen Armstrong, Aberdeen (Converted)
Carl L. Barnekow, Raleigh
Robert Holland Bittle, Hendersonville
Edward K. Boling, Charlotte
Brenda Kay Bryson, Connelly Springs
Tracey M. Cartwright, Jamaica, NY (Converted)
Travis Blake Clements, Durham
Robert B. Citty, III, Reidsville
Kelvin O. Cooper, Dillon, SC
Kelli Diane Dellinger, Lincolnton (Converted)
Amanda M. DellaSavia, Waynesville
Paul Arthur Drewitt, Raleigh
Matthew B. Dugger, Sneads Ferry
William A. Fisk, Hendersonville
Brian R. Gargis, Miami Lakes, FL
Margaret M. Hall, Franklin Square, NY

J. Dewayne Helleson, Charlotte
Ryan Badger Houck, Fleetwood
Mohammed Asghar Hussain, Raleigh
Chad Stewart Jones, Pinehurst
William J. Keatley, Charlotte
Alan F. King, Charlotte
Daniel Tyson Kuhn, Provo, Utah
James Sheridan Lee, Raleigh
Betty M. Lorde, Greensboro
Ulysses David Miller, Bronx, NY
Geren C. Moegerle, Summerfield
Marvin Murray, Belmont
Dustin Steven Nowatka, Hickory
Robert Edward Pastorius, North Port, FL
Kimberly Susan Powell, Morganton
Gregory Alan Rice, Tryon
Tiffany Danielle Ridenhour, Sanford
Merinda Lucille Ruffin, Sanford
Rodrigo A. Salazar, Burlington
Shawna Jacobs Sanders, Tabor City (Converted)
Amanda L. Sanford, Raleigh
Dennis L. Sparks, Jacksonville
Matt Preston Staton, Rockwell
Monty Renn Thornburg, Kings Mountain
David E. Tompkins, Sr., Charlotte
Carl L. Wilson, II, Ocean Isle Beach

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

Crumpler Funeral Home & Cremation Services - Aberdeen
Wilmington Burial & Cremation Service - Wilmington
Herring Funeral Care & Cremations - Fayetteville
Tally Watson Funeral Service - Rockingham
Cornerstone Funeral Home & Cremation Service - Nashville

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Congratulations cont. from page 10

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

Walson Funeral Home, Inc. - Elizabeth City
Coley Funeral Home, Inc. - Kenly
Jackson Funeral Service, Inc. - Hendersonville
Woodbridge Funeral Home - Havelock
Boone-Reynolds Funeral Service, Inc. - Eden
Floyd Funeral Services, Inc. - Fairmont
Garnes & Toney's Home Services - Henderson

The following crematories have been licensed since the last newsletter:

Forest Lawn West Funeral & Cremation Service - Charlotte
The Cremation Center - Edenton

FTC

The Federal Trade Commission funeral rule requires accurate price information to be given over the telephone, it does not require a funeral provider to mail a General Price List to someone inquiring by telephone.



Photographs
will be featured
in the next issue!



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Volume 3, Issue 2, Spring 2007

Return Service Requested

North Carolina Board
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1033 Wade Ave., Suite 108
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