

North Carolina Board of Funeral Service

1033 Wade Avenue, Suite 108, Raleigh, NC 27605

(919)-733-9380 or 1-800-862-0636

www.ncbfs.org

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The next meeting of the Board will be held at 9 a.m. Wednesday, August 12, 2009 at the Board offices, 1033 Wade Avenue, Ste. 108, Raleigh, NC 27605. The agenda for the meeting can be viewed by [following this link](#). The Board has also scheduled hearings for 9 a.m. Thursday August 13, 2009 at the Board offices.

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BOARD ACTIONS-

Actions and Results from the July 15 Board meeting:

- A. Approved a proposal from Thomson West Publishers to publish the new law books
- B. Gave final approval to proposed rule making for 21 NCAC 34B, 34C & 34D

TRANSPORTATION SECURITY ADMINISTRATION REGULATIONS:

Effective August 1, the TSA began enforcing an existing policy that requires all human remains shipments originating in the U.S. or its territories, to be tendered by a "known shipper." This policy requires funeral homes to register as a "known shipper" for each airline they use to ship bodies, and might require both a facility inspection and payment of a fee. Licensees should contact the airlines to obtain more information on this matter.

TSA website: <http://www.tsa.gov/index.shtm>

TSA regulations for traveling with cremated remains:

http://www.tsa.gov/travelers/airtravel/specialneeds/editorial_1296.shtm

FTC EXTENDS "RED FLAG" COMPLIANCE DEADLINE TO NOVEMBER 1

The Federal Trade Commission (FTC) extended the compliance deadline for its "Red Flag" regulations to November 1, 2009. This was to give those required to comply more time to review the regulations and develop written identity theft prevention programs. Licensee should consult business or legal advisors as to whether compliance with this regulation is required for their funeral home.

Link to FTC Red Flag guidelines: <http://www.ftc.gov/redflagrule>

LEGISLATIVE MATTERS:

Session Law 2009-288 updates the funeral expense allowance by increasing the second priority funeral expenses for an insolvent estate from \$2500.00 to \$3500.00. This legislation also moves burial places and gravestones from the second priority and creates a new third priority category of up to \$1,500 for costs associated with gravestones and the purchase of a suitable burial place. Please follow this link <http://www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S159v5.pdf> to the full text of the enacted legislation.

OUR SYMPATHIES ARE EXTENDED THE FAMILIES OF:

- **Doris Petteway Johnson**, cofounder of Johnson Funeral Home in Richlands and Jacksonville, who died July 17, 2009.
- **Dwight Erskine Lowder, Sr.**, 83, formerly of Lefler Funeral Home in Albemarle who died July 27, 2009.
- **Jon Stephan Hickman**, 50, of Courtwood Lane, Hendersonville, NC died Tuesday, July 28, 2009 in Pardee Hospital in Hendersonville, NC.
- **William H. Mitchell**, owner of Mitchell's Funeral Home in Greenville, who died August 7, 2009.

NEW REPORTS OF ATTEMPTED FRAUD !!! Beware of attempted fraud using the relay operator for the hearing impaired. So far these have been a variation of previously reported instances involving deaths outside the United States. The recent reports include these common factors:

- A. Use of the relay operator for the hearing impaired by a person claiming to be a "family member" of the deceased.
- B. The "family member" is out of state or the country and cannot be reached except through the relay operator.
- C. The deceased is out of state and a funeral home in the other state has custody of the remains. In at least one case, the "family member" provided the name of a real funeral home. In the other reports, the local funeral home could not confirm the existence of the out of state funeral home.
- D. The telephone number for the out of state funeral home is provided by the "family member". (This did not match the published number in the case of the real funeral home cited in item C above.) Reports are consistent that a male with a heavy foreign accent answered when the local funeral homes called to confirm the details.
- E. The "family member" requests the local funeral home to arrange for a grave space at a local cemetery.
- F. The "family member" provides a credit card number for the local and out of state expenses and then directs the local funeral home to arrange a wire transfer of money for the charges from the out of state funeral home.

DISCIPLINARY ACTIONS

CORRECTION CASE FILE NUMBER: M09-005 Previously reported actions involving Hawkins Funeral Home that is in **Warrenton** not Henderson. The editor apologizes for this mistake.

CASE FILE NUMBER: V07-043.

LICENSEES: William Graham (FSL #1234); LaGrange Funeral Services, LaGrange (FE #673).

SUMMARY: The Board received a complaint alleging that Mr. Graham had aided and abetted unlicensed practice by allowing him to conduct a funeral, embalm several bodies, sheltering remains, and obtain death benefits.

BOARD ACTION: The Board issued a Final Agency Decision suspending the licenses of Mr. Graham and the funeral home for 90 days. The suspension will be followed by two years probation.

EFFECTIVE DATE: June 17, 2009.

DISCIPLINARY ACTIONS, (cont.)

CASE FILE NUMBERS: M05-021; V06-041; V07-054; V07-067.

LICENSEES: Asheville Mortuary Service (FEP #14); Asheville Crematory (CR #27); Penland Funeral Home, Swannanoa (FEP #458; PNE #559); Joe Penland, Sr. (FDL #2496).

SUMMARY: A V.A. investigation uncovered multiple counts of billing fraud by Mr. Penland for funeral home and crematory charges. Mr. Penland also failed to timely deposit preneed funeral funds into a trust account in a timely manner. An investigation of the crematory records discovered that it was not keeping records on the exact forms prescribed by the Board. Crematory also failed to keep some of the required information over a multi-year period.

BOARD ACTION: The Board adopted a consent order accepting the surrender of Mr. Penland's funeral director and preneed sales licenses. Mr. Penland agreed to dissociate himself from all funeral home and crematory operations. The funeral establishment permit and preneed establishment license of Penland Funeral Home was placed on two years probation, and the funeral establishment permit of Asheville Mortuary Service was placed on two years probation. The crematory was placed on five years probation and required to have all technicians take continuing education in recordkeeping. The parties also paid a \$3,500.00 civil penalty.

EFFECTIVE DATE: July 15, 2009.

CASE FILE NUMBER: V08-011.

LICENSEES: Nicholson Funeral Home, Statesville (FEP #420; PNE #209); Joe Troutman (FSL #643); William Troutman (FDL #3936); Steven Cook (FDL #2737).

SUMMARY: Upon receiving a complaint alleging that an unlicensed person was selling preneed funeral contracts, a Board investigator confirmed the allegations and was sold a preneed contract by the unlicensed person. Several other contracts were completed by the unlicensed person but signed by a preneed licensee.

BOARD ACTION: The Board adopted a consent order placing the funeral establishment permit and preneed sales licenses on probation for three years. The manager, Joe Troutman, Sr. had his funeral service and preneed sales licenses placed on probation for three years and had his preneed sales license concurrently suspended for one year. The other individuals had their preneed sales licenses placed on probation for one year. All preneed sales licensees would take continuing education, and the manager would take a competency test before reinstatement. The parties also paid a \$7,000.00 civil penalty.

EFFECTIVE DATE: July 15, 2009.

CASE FILE NUMBER: V08-057.

LICENSEES: McKinnie Memorial and Bailey Funerals and Cremations, Selma (PNE #932).

SUMMARY: The Board received a complaint alleging Preneed Establishment failed to remit funds under a preneed funeral contract in a timely manner, failed to timely file the preneed contract, and omitted the contract on the its 2007 preneed annual report.

BOARD ACTION: The Board adopted a consent order accepting the voluntary surrender of the firm's preneed establishment and preneed sales licenses. The firm also paid a \$1,000.00 civil penalty.

EFFECTIVE DATE: July 15, 2009.