



## 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**

3,800 copies of this document were printed  
 at a cost of \$0.382 per copy.



Seated (L-R) J. T. Willoughby, III, Larry R. Andrews, George Parrott  
 Standing (L-R) Frank G. McCree, Sr., Rudy N. Lea, Tryphina Wiseman,  
 P. Mark Blake, Jack D. Briggs, Elizabeth S. Webber

### New Law Books—Finally!

New law books will be completed and sent to  
 licensees by early December.

### A Note of Thanks from Ruth Britt

Ms. Britt wishes to extend her deep  
 appreciation for the cards and letters she  
 received following the death of her sister,  
 Rita Driver Edwards, September 26, 2009.

# Inspection *and compliance*

Inspectors continue to find violations of the Federal Trade Commission Funeral Rule. Funeral Providers must comply with the provisions of the rule. You may download a copy of the FTC publication "Complying with the Funeral Rule" at the Board's website [www.ncbfs.org](http://www.ncbfs.org). Simply access the "Rules & Laws". A link to the publication can be found near the bottom

of the page. This resource includes clear directions on compliance and samples of General Price Lists, Casket Price lists and Outer Burial; Container price lists. Inspectors are also finding improper computation of the non-guaranteed portion of inflation proof pre-need contracts continues to be a hot button issue.

## *Swine Flu:*

Reports indicate the number of cases at levels usually expected later in the flu season. Licensees are encouraged to get vaccines from their health care providers. As part of the Board's planning for other potential events a list of suggestions for reducing the risk of exposure has been developed. **Please follow this link to access the list.** Additional information can be found at the following links:

[www.ncpublichealth.com](http://www.ncpublichealth.com)

[www.cdc.gov/swineflu](http://www.cdc.gov/swineflu)

[www.cdc.gov/h1n1flu/post\\_mortem.htm](http://www.cdc.gov/h1n1flu/post_mortem.htm)

[www.nfda.org/index.php/additional-tools-disaster/1686-h1n1-swine-influenza-flu-outbreak-information-and-resources](http://www.nfda.org/index.php/additional-tools-disaster/1686-h1n1-swine-influenza-flu-outbreak-information-and-resources)

## *New Rules in Effect*

Several new rules are in effect since the last newsletter. These are

- |                   |   |
|-------------------|---|
| 21 NCAC 34B .0413 | <b>Accreditation of Prerecorded Programs and Live Programs Broadcast to Remote Locations by Telephone, Satellite, or Video Conferencing Equipment</b> |
| 21 NCAC 34B .0616 | <b>Body Identification Tags</b>   |
| 21 NCAC 34B .0706 | <b>Registration of Embalming Facility Located Outside of a Funeral Establishment</b>  |
| 21 NCAC 34C .0303 | <b>Records of Cremation and Delivery</b>  |
| 21 NCAC 34D .0302 | <b>Annual Report</b>  |

To view the entire rule text, please visit Rules and Laws page on the Board's website at [www.ncbfs.org](http://www.ncbfs.org).

# Disciplinary *matters*

**Case File Number:** V06-066.

**Licenses:** Hilliard Funeral Home (FE #250), Whitakers; Gloria Richardson (FDL #3191).

**Summary:** The funeral home was alleged to have given an outdated price list to the consumer but used its regular price list to figure the bill. The firm's General Price List also had several minor errors.

**Board Action:** The Board approved a consent order placing the funeral establishment permit on probation for one (1) year, paying a \$500.00 civil penalty, making a refund to the consumer, and ordering continuing education in the Funeral Rule.

**EFFECTIVE DATE:** April 8, 2009.

**Case File Number:** M08-020.

**Licenses:** Tri-County Funeral Service Professionals (FE #45; PNE #933), Ayden Linda Williams (FDL #3758).

**Summary:** A Board investigator found that an unlicensed owner, who was also a former trainee, was practicing without a license. On the date of the investigation, the firm's manager, told the owner to reschedule the appointment because she attending a continuing education program that day. The owner disobeyed Licensee and conducted the arrangements conference. The owner also violated several provisions of the Funeral Rule during the arrangements conference.

**Board Action:** The Board adopted a consent order. Ms. Williams received a letter of caution. The funeral establishment permit and preneed establishment license were placed on probation for five (5) years each and agreed to a \$2,500.00 compromise penalty. The funeral home was also ordered to create a written operations plan governing supervision of the unlicensed owner.

**Effective Date:** April 8, 2009.

**Case File Number:** M09-005.

**LICENSEES:** Hawkins Funeral Home, Warrenton (closed); Lafayette Turner (FSL #925).

**Summary:** During a recent inspection, the Board inspector found that Hawkins Funeral Home did not comply with building standards and did not have electricity or water at the facility. The inspector also discovered that the unlicensed owner had engaged in activities requiring a license. Finally, the firm had several minor violations on its casket and outer burial

container price lists.

**Board Action:** The Board adopted consent order accepting the surrender of the funeral establishment permit until it has been reinspected and approved for occupancy. After reinspection, the funeral establishment permit would be on probation for three (3) years if issued to the unlicensed owner. Mr. Turner was placed probation for 18 months and had a concurrent 6 month suspension of his funeral service license.

**Effective Date:** May 20, 2009.

**Case File Number:** V08-003

**Licenses:** David Reese, Winston-Salem (FDL #3550).

**Summary:** Prior to the funeral home's closure, Mr. Reese failed to file a preneed contract within ten (10) days of sale and failed to deposit preneed funeral funds into a trust account within five (5) days.

**Board Action:** The Board adopted a consent order surrendering Mr. Reese's funeral director license to the Board. Mr. Reese may reapply in a minimum of two (2) years. Restitution was also ordered.

**Effective Date:** June 17, 2009.

**Case File Number:** V08-014; M08-007.

**Licenses:** Hodges Funeral Home, Elkin (FEP #694; PNE #787); Timothy Hodges (FSL #1816); Keith Greene (FDL #3613).

**Summary:** The Board discovered that over \$100,000.00 was mishandled by Mr. Hodges in connection with multiple preneed funeral contracts he sold. The contracts were not filed with the Board or reported on the preneed annual report. Mr. Greene was the manager of the firm at the time and failed to file several preneed contracts he sold.

**Board Action:** The Board adopted a consent order surrendering Mr. Hodges' license. Mr. Hodges may reapply for an embalmer license in a minimum of three (3) years. Mr. Greene's funeral director and preneed sales licenses were placed on one year probation, and Mr. Greene was required to undergo preneed continuing education and testing. The funeral home and preneed establishment licenses were revoked but can be reinstated upon certain conditions, including Mr. Hodges's separation from the firm. Mr. Hodges made restitution promptly upon request.

**Effective Date:** June 17, 2009.

*cont. on page 5*

*Disciplinary matters cont. from page 4*

**Case File Number:** M09-007.

**Licensees:** Lutz-Austell Funeral Home, Shelby (FEP #340; PNE #265); William Burton (FDL #3771).

**Summary:** Funeral Establishment failed to disclose a stock transfer requiring the issuance of new licenses to the Board over one or two renewal cycles. Funeral Establishment wishes to enter into a consent order paying a \$1,000.00 civil penalty.

**Board Action:** The Board adopted a consent order assessing a \$1,000.00 civil penalty.

**Effective Date:** June 17, 2009.

**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 an unlicensed person to 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.

**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. 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.

**Case File Number:** V07-009; V08-033.

**Licensees:** Don Dion Brown (FSL #2060); Don Brown Funeral Home, Ayden (FE #703; PNE #781).

**Summary:** In V07-009, Establishment sold a preneed contract with two family members present for an incompetent person. Establishment states that it

*cont. on page 6*

*Disciplinary matters cont. from page 5*

obtained permission to sign the name of the insured from the person who did not purchase the contract. Establishment also made a refund directly to the preneed contract purchaser instead of sending it to the Clerk of Court.

In V08-033, three children had the right to make arrangements. Only one lived in North Carolina, and another child lives in a nursing home. When the North Carolina child came to Funeral Establishment to make arrangements, Funeral Establishment called Complainant to inquire about the policies. Although Complainant and Funeral Establishment disagree on whether Complainant gave the North Carolina child consent to sign her name to the form, Funeral Establishment assisted the North Carolina child with obtaining a notarized assignment of Complainant's name on the insurance claim form.

**Board Action:** The Board adopted a consent order placing all licenses of Don Brown Funeral Home and Don Brown on probation for one year. Restitution and a \$3,500.00 civil penalty were assessed.

**Effective Date:** August 12, 2009.

**Case File Number:** M09-001.

**Licensees:** Woodard Funeral Home, Greensboro (PNE #797).

**Summary:** The funeral establishment failed to file its preneed annual report and did not respond in a timely manner to Board correspondence concerning its preneed contracts.

**Board Action:** The Board entered into a consent order extending the probation of the preneed establishment by one year and assessing a civil penalty of \$1,000.00. Continuing education was also ordered.

**Effective Date:** August 12, 2009.

## Crematory *authority and cremation*

Congratulations to J. Barry Bowman and James D. Weatherspoon who were declared elected to the NC Crematory Authority for three-year terms beginning January 1, 2010.

The Board approved the new BFS-56G form which combines information on current forms BFS 56A, B, & C for tracking delivery, custody and cremation of remains. Use of this form is voluntary and is authorized under the recent amendment to the Board's rules (21 NCAC 34C .0303) that was effective September 1, 2009. Crematories may begin using the form immediately.

The Division of Air Quality of the NC Department of Natural Resources recently imposed new requirements on crematories performing 533 or more cremations annually. Crematories performing more than 533 cremations per year will have to obtain a permit from Division of Air Quality or limit the number cremations to less than 533 per year. Crematories at or above the threshold will receive a letter from Division of Air Quality with instructions on obtaining the permit.

## *Our Sympathies are extended to the families of:*

### **Henry S. Rowan**

*Former Board Inspector, Henry Smith Rowan, died July 7 in Whiteville. Mr. Rowan retired from the Board in 2003.*

**David M. Campbell**, of Cape Fear Crematory, Stedman, who died June 18.

**Douglas L. Howard**, US Army (ret.) who died June 26. Mr. Howard served in the U.S. Army Mortuary Affairs for most of his active military career and held a North Carolina Funeral Service License.

**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.

**J. B. Rhodes, Sr.**, founder of Rhodes Funeral Homes in Goldsboro and Warsaw, who died January 2009.

**Joseph D. Jefferies**, of Townson-Rose Funeral Home, Murphy, who died August 13, 2009.

**Allen H. Brown**, of Wheeler & Woodlief Funeral Services, Rocky Mount, who died October 3, 2009.

**Larry T. Brevard**, of Thos. Shepherd and Son Funeral Directors, Hendersonville, who died October 9, 2009.

**J. Michael Johnson**, of Massey Funeral Home, Enfield, who died October 27, 2009.

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

## *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:** [www.tsa.gov/index.shtm](http://www.tsa.gov/index.shtm)

**TSA regulations for traveling with cremated remains:**  
[www.tsa.gov/travelers/airtravel/specialneeds/editorial\\_1296.shtm](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:** [www.ftc.gov/redflagrule](http://www.ftc.gov/redflagrule)

Return Service Requested

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



# 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. This was effective October 1, 2009.

**Session Law 2009-566** included changes to insurance laws that provide funeral directors procedures to request certain information from life insurance companies. Life insurance companies are required to confirm existence of a policy, beneficiary and proceeds information to authorized persons once the individual complies with the provisions of the law. The effective date of the sections related to this disclosure is October 1, 2010.

## *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.

# Establishment *changes*

## **New Funeral Homes:**

*Unity Funeral Service, Fayetteville*  
*Cumbo Funeral Home, Havelock*  
*LHorton Community Funeral Home, Sanford*  
*Long House Funeral Home, Cherokee*  
*W.H. Bryant, A.E. Grier & Sons, Mooresville*  
*Lindsay Memorial Funeral Home, Farmville*  
*Whitehead Memorial Funerals & Cremations,*  
*Rocky Mount*  
*Roberts Funeral Service, Lexington*  
*Appalachian Funeral Services and Crematory, Sylva*  
*Wesley Heights Mortuary Service, Charlotte*  
*Affordable Cremations of Winston-Salem*  
*Walker Memorial Funeral Home, Lillington*  
*Serenity Funeral Home, Inc., Beulaville*  
*Atlantic Cremation Service, Wilmington*  
*Ulysses D. Miller Funeral Services, LLC, Spindale*

## **Change of ownership:**

*Rivers-Morgan Funeral Home, New Bern*  
*Mackie-High Funeral Home, Granite Falls*  
*Elkin Funeral Service (formerly Hodges), Elkin*  
*Moody-Connolly Funeral Home, Brevard*  
*Paye Funeral Home and Memorial Chapel,*  
*Fayetteville*  
*Strickland Funeral Home, Wendell*

## **New Chapels:**

*Hester-Whitted-Daye Chapel, Hillsborough*  
*Union Chapel, Elizabethtown*

## **New Crematories:**

*Evans Cremation Center, Lenoir*  
*Hall-Wynne Funeral Service, Durham*

## **New Funeral Service Licensees:**

*Samuel Lamar Booker, Jr., Wadesboro*  
*Michael Thomas Braswell, Charlotte*  
*Joseph Ty Chapman, Charlotte*  
*David Michael Cooper, Albemarle*  
*Jerry Darian Cranford, Thomasville*  
*M. Brian Hall, III, Clover, SC*  
*Jodene L. Hughes, Spruce Pine*  
*John Norman Patterson, Milbank, SD*  
*Charles P. Richard, Jr., Roanoke, VA*  
*Ethienne Rodriguez, Fayetteville*  
*Kevin Andre Sanderlin, Norfolk, VA*  
*James Michael Swanger, Mebane*  
*Kenneth W. Taylor, Sr., Richmond, VA*  
*Joseph M. Trippodo, III, Greensboro*  
*Adam B. Williamson, Hendersonville*

## **New Funeral Director Licensees:**

*Charles Eugene Coote, Jr., Greensboro*  
*Catherine Kern Davis, Jackson Springs*  
*Michael D. Murray, Ettrick, VA*  
*J.B. Rhodes, III, Goldsboro*  
*Florie Johnson Russell, Kannnapolis*  
*Tony McKinley Silver, Old Fort*  
*Wesley Paul Sluder, Granite Falls*  
*James Marvin Stepp, Jr., Southern Pines*  
*Dana Wilson Stratton, Hickory*  
*Sarah A. Tessnair, Hendersonville*  
*Norman Antonio Whitted, Knightdale*  
*Thomas Allen Williford, Fuquay-Varina*

## **Converted to Funeral Service:**

*William Lum-Sandlin, Durham*  
*Hedrick Jones, Red Springs*

## **New Embalmer Licensee:**

*Joann Marotta, Raleigh*