

North Carolina Board of Funeral Service newsletter

North Carolina Funeral Board Service

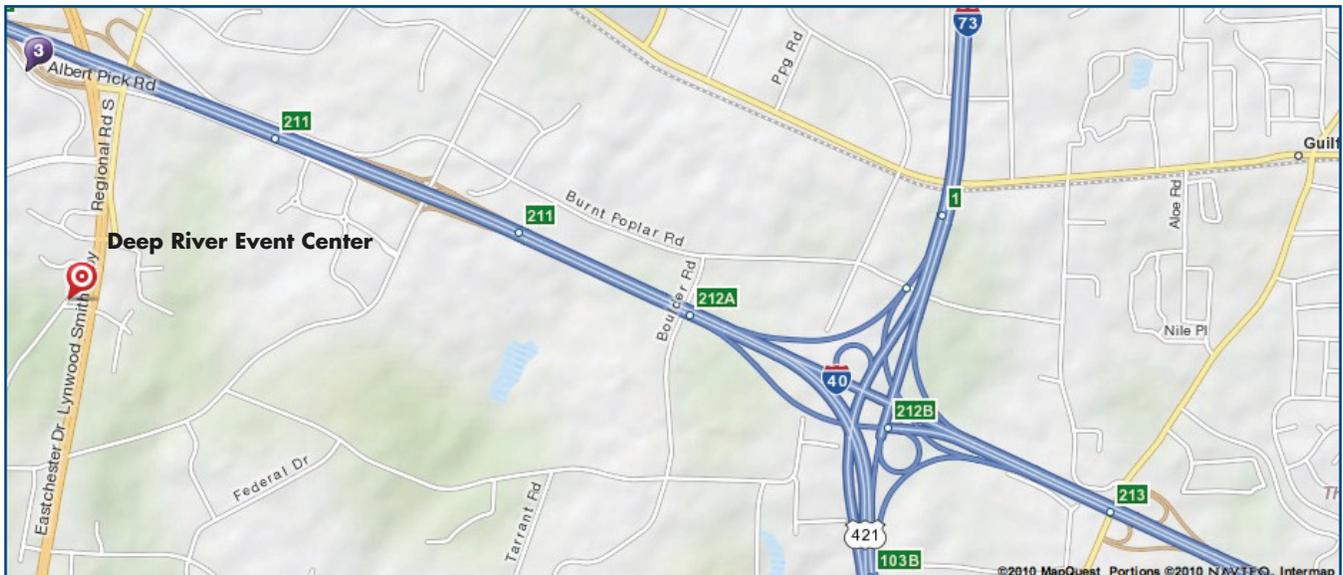
Volume 4, Issue 2 Fall 2010

2010 Board CE Clinic

The 2010 CE clinic will be held on Tuesday, October 19, at the Deep River Event Center 606 Millwood School Road in Greensboro. 5-hour programs will be available for embalmers and funeral directors. Featured speakers will be Mr. Vernie Fountain, representatives from the Mexican Consulate, representatives from the NC National Guard Honor Guard and representatives from Fort Bragg Casualty Affairs and Assistance office. The cost to attend is \$35.00. Those interested in attending should pre-register by completing the form (bottom of page 6) and submitting it with the \$ 35.00 fee payable to NCBFS. Parking at the center is limited so pre-registration and car-pooling are strongly encouraged by those wishing to attend. Deadline for pre-registration is October 12.

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North Carolina Board of Funeral Service

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

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Any questions or comments
 should be directed to the office at
 919-733-9380 or 1-800-862-0636

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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

Congratulations #1

After 18 years, Ruth Britt, Pre Need Services Administrator, announced her retirement effective September 1, 2010. Ms. Britt began her career with the Board in 1992 when authority for preneed regulation was moved from the NC Commissioner of Banks to the Board. The Board issued a Resolution of Appreciation to Ms. Britt at the September 8 meeting.

Congratulations #2

Staff member Tanya Pearson has moved into the position of Preneed Services Administrator. Ms. Pearson has worked for the Board since May 2007 in the preneed area.

New Rulemaking

The Board proposed new rules designated as 21 NCAC 34A .0203; 21 NCAC 34B .0311; and 21NCAC 34D .0203; and proposed permanent repeal of all Mutual Burial Association rules except 04 NCAC 04 .0301 which will be repealed and moved under 21 NCAC 34.

The NC Rules Review Commission approved the proposed rule making related to the MBA rules. The Commission also approved proposed new rule 21 NCAC 34A .0203:

21 NCAC 34A .0203 REPORT TO GENERAL ASSEMBLY

(a) No later than October 31 of each calendar year, the Board shall file the reports required by G.S. 93B-2. If the Board fails to timely file a report, all funds received after October 31 shall be deposited into an escrow account with a financial institution, as such term is defined

in G.S. 90-210.60(2), until the report has been filed. The Board may resume the expenditure of funds in accordance with G.S 93B-2 immediately upon depositing the report into the custody of the U.S. Postal Service as certified mail return receipt requested.

(b) Any period of suspension under G.S. 93B-2(d) shall have no effect upon the right of a license or permit applicant to the issue or renewal of any license or permit upon meeting all legal requirements; provided, however, that this Rule shall not impose any duty upon the Board to issue any license or permit outside its normal operating procedures.

History Note: Authority G.S. 90-210.23(a); 93B-2(d); Eff. September 1, 2010.

Commission approval of proposed rules 21 NCAC 34D .0203 and 34B .0311 is expected shortly.

Declaratory Ruling

The Board issued a Declaratory Ruling as requested by the North Carolina Funeral Directors Association. The Board held that it had the authority to prescribe a contract with both standard and inflation-proof elements and to prescribe contract terms consistent with the parties' agreement not to guarantee part of the contract. This includes the formula used to distribute interest earned. The Ruling read in part:

"The Board's long-standing practice, as demonstrated by past and present contract forms, has been to allow commingling of all funds received into one account but to prescribe terms on the contract for handling and disposition. These prescribed contract terms include a formula that distributes interest proportionally to their original allocation on the preneed contract and only applies when the parties complete the standard section of the

inflation-proof contract form. The formula provides the same economic benefit for the preneed licensee as if the licensee had created two accounts or executed two contracts. The Board finds the use of a formula to be the better policy alternative over requiring separate trust accounts or separate insurance policies for inflation-proof and standard contract elements. As noted above, the inflation-proof contract form provides the framework for the parties to negotiate, and the preneed licensee is charged with making an informed business decision about guaranteeing cash advance items against excessive inflation when selling a contract. A preneed licensee has the right to structure its transactions to avoid using the prescribed formula by leaving the standard sections of the inflation-proof contract blank, by deferring the sale of cash advances until death, or by completing two contracts."

Establishment *changes*

New Establishments

Barefoot Cremations, Morehead City
Groce Funeral Home on Tunnel Road, Asheville
Hardee Mortuary Service, Wilmington
Heritage Funeral Service, Inc., Greensboro
Westmoreland Funeral Service & Cremations,
Old Fort

Ownership Changes:

Apex Funeral Directors, Apex
Evans Funerals & Cremations of Edenton, LLC,
Edenton
Hankins & Whittington Funeral Service, Charlotte
Lambeth-Troxler Funeral & Cremation Service,
Greensboro
Patterson Memorial Funeral Home, Fayetteville

New Crematories:

Cremation Services of Western North Carolina-East,
Asheville
Cremation Society of Charlotte, Charlotte
Gordon Funeral & Cremation Service, Monroe

New Chapels:

Carlton L. Gray Chapel, Rolesville
Wilder's Chapel Scotland Neck, Scotland Neck

New Unaffiliated Licensees:

Mercedes O'Neal Fornay Funeral Director Licensee
Joann Marotta Funeral Service Licensee

New Removal/Transport Licensees:

Reginald Tracy Long, Charlotte

New Funeral Service Licensees:

Bradley Ray Burke, Maiden
Robert Allen Edwards, Jr., North Wilkesboro
Jonathan Daniel Keener, Pittsboro

Robert Scott Kuvin, Jacksonville
Nicholas Powell Miller, Mocksville
James Lee Moffatt, Portage, IN
Kevin Patrick Mukosiej, Fletcher
Dustin Gregory Osborne, Martinsville, VA
Andy James Ray, Mars Hill
Brandon Craig Roberts, Shady Valley, TN
Lynwood Earl Tucker, Wilson
Justin Taylor Whitfield, Mount Olive
Derrick Lee Wilkins, Aulander
Jason Thomas Wyatt, Gold Hill

Converted to Funeral Service:

Kenneth Walker Hagan, Raleigh
John Joe Hernandez, Archdale
Joseph R. Smolenski, III, Raleigh

New Funeral Director Licensees:

Leigh Hunnicutt Armentrout, Greensboro
Dustin Byers, Hayesville
Richard Wallace Griffin, Lexington
April D. Miller, Brevard
Susan Lane Miller-Thigpen, Beulaville
Mitzy J. Parker-Sanders, Charlotte
David Joseph Ridge, Kernersville
Pamela Howard Smith, Pink Hill
Duane J. Thomas, Enka
Steven Shane Wilkes, Laurel Hill
William Tracy Wilson, Weaverville

New Removal/Transport Licensees:

Timothy Campbell, Monroe
Erin Brooke Clements, Durham
Elizabeth Maynard, Charlotte
Mark Reeves Oglesby, Greensboro
Carlos Letrez Riddick, Plymouth
Michael Taylor, Nashville

NC Crematory Authority

During its July meeting the North Carolina Crematory Authority discussed statutory changes, notification to all crematories related to the minimum temperature required for NC crematories as prescribed by Division of Air Quality regulations, and developing a newsletter for NC crematories. The Authority elected Cecil Burton as Chair, James Weatherspoon as Vice-Chair and Barry Bowman as Secretary.

The Board adopted the recommendation from the Crematory Authority to notify all crematories and equipment manufacturers about the minimum temperature required under NC Air Quality regulations. Also adopted recommendation to amend crematory application, both new and renewal, to include acknowledgement of the requirements by applicants.

Pursuant to the provisions of 21 NCAC 34C .0101(6)(E) the Board declared Raymond "Russ" Hackett of Cotten Funeral Home & Crematory, New Bern and Philip Lynn Sawyer of Hayworth-Miller Crematory, Winston Salem elected to the Crematory Authority for three year terms beginning January 1, 2011.

FTC Extends "Red Flag" Enforcement Deadline to December 31

The Federal Trade Commission (FTC) extended the enforcement deadline for "Red Flag" regulations from June 1, 2010 to December 31, 2010. This was to accommodate a request from several members of Congress. More information can be found on the FTC website: www.ftc.gov/opa/2010/05/redflags.shtm.

TSA Certified Cargo Screening Requirements

Effective August 1, 2010 every shipment of cargo carried on passenger aircraft will require screening at piece level, prior to being transported on any passenger aircraft. Skids and pallets will have to be taken apart, screened and reconfigured. The 9/11 Act specifically identifies the types of screening allowed ranging from physical inspection to various technologies. If airlines are forced to screen cargo, similar to how passenger baggage is screened, there is a potential for delays and damage to shipments. The screening process affects **all cargo** including human remains. More information can be found on the TSA website: www.tsa.gov/what_we_do/layers/aircargo/certified_screening.shtm.

*Our Sympathies are extended
to the families of:*

Mrs. Grace Narvell Becton Dove co-founder and owner of Oscar's Mortuary, Inc., New Bern, who died June 14.

Mr. David B. McCugan, of Crumpler Funeral Home & Cremation Service, Red Springs, who died June 15.

Mrs. Anita Jo Burroughs Mabe, of Burroughs Funeral Home, Walnut City who died June 22.

Mr. Bradley E. "Brad" Marsteller, of Bryan-Lee Funeral Homes, who died July 3.

Mr. Albert S. Lineberry Sr., of Hanes Lineberry Funeral Services, Greensboro, who died July 11.

Mr. Daniel C. "Danny" Carroll co-owner of Lady's Funeral Home, Kannapolis, who died July 14 in a plane crash along with his wife Raychel and his granddaughter Mallory Fields.

Mrs. Sadie B. Cutchins, retired owner/operator of Cutchins Funeral Home, Franklinton, who died July 24.

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

2010 Clinic Registration Form

Deadline October 12, 2010

NAME & LICENSE # _____

ADDRESS _____

TELEPHONE # _____

EMAIL CONTACT _____

May be copied

Disciplinary *matters*

CASE FILE NUMBER: M08-021.

LICENSEES: S&L Funeral Home and Cremation Service (2 locations: FEP #18, PNE #712 and FE #532); Dennis Cromartie (FDL #3512).

SUMMARY: The Board found that an unlicensed person practiced without a license and violated the Funeral Rule. Mr. Cromartie was the manager of the Maxton location where the unlicensed practice occurred and was found not to have actively managed that location. The unlicensed person also published advertising using his photograph which covered both locations.

BOARD ACTION: The Board revoked all licenses for the Maxton location and issued a letter of caution to the Fair Bluff location. The Board also suspended Mr. Cromartie's funeral director license for one year. Mr. Cromartie and S&L Funeral Home have appealed the Board's decision, and all revocations and suspensions have been stayed during judicial review.

EFFECTIVE DATE: April 14, 2010.

CASE FILE NUMBER: V06-013; M09-030.

LICENSEES: Morrison-Studevent Funeral Home, Lexington (FEP #412); Naomi Morrison (FDL # 1855).
SUMMARY: The Board found the funeral home failed to comply with a previous final agency decision and that an unlicensed employee engaged in activities requiring a funeral director license.

BOARD ACTION: The Board issued a final agency decision that revoked the funeral establishment permit of Morrison-Studevent Funeral Home and the funeral director license of Naomi Morrison.

EFFECTIVE DATE: June 9, 2010.

CASE FILE NUMBERS: V09-031; M09-001.

LICENSEES: Larry Russell, (FDL #3000); Russell Marks Funeral Home and Cremation Service, Rockingham (FEP #377; PNE #323).

SUMMARY: The Board found the parties violated the terms of a previous consent order, failed to file its 2008 preneed annual report, and failed to provide all information requested by the Board.

BOARD ACTION: The Board entered into a consent order that extended the probation on Mr. Russell's funeral director license for one year and placed the funeral establishment license for Russell-Marks Funeral Home for one year. The Board revoked all preneed licenses of Russell-Marks Funeral Home.

EFFECTIVE DATE: June 9, 2010.

CASE FILE NUMBER: M10-007.

LICENSEES: G. Lane Memorial Funeral Home, Kinston (FEP #78); Deborah Moore-Marshall (FSL #2631).

SUMMARY: During an inspection, the funeral establishment could not produce copies of all price lists and did not have a privacy placard for its preparation room. After being cited for violations in its price lists during the previous inspection and submitting corrections to the Board, the inspector found that the firm had changed back its price lists to the way they were before the first inspection.

BOARD ACTION: The Board entered into a consent order placing Ms. Moore-Marshall on probation for 1 year. The Board placed the funeral establishment permit on probation for 3 years and ordered a \$1,000.00 penalty. Corrections and continuing education were ordered.

EFFECTIVE DATE: July 21, 2010.

CASE FILE NUMBER: M06-023; V09-049; V09-054.

LICENSEES: New Beginnings Funeral Service, Rich Square (FEP #549); Joseph Gordon, Jr. (FDL #3205).

SUMMARY: An unlicensed person made arrangements on a preneed basis on two separate occasions. The firm's manager was on probation at the time the unlicensed practice occurred.

BOARD ACTION: The Board entered into a consent order placing the funeral establishment on probation for five years and extended Mr. Gordon's probation for 5 years. The parties paid a \$2,500.00 fine and submitted a plan to govern the activities of the unlicensed person.

EFFECTIVE DATE: July 21, 2010.

CASE FILE NUMBER: V09-038; M09-006.

LICENSEES: Evans Funerals and Cremations, Edenton (FEP #632, PNE #320); James Sawyer (FD #3472).

SUMMARY: In V09-038, the Board found that the parties failed to remit funds for a cash advance to a funeral home in another state and made a false statement on the firms' 2010 renewal application. In M09-006, the Board found that the firm failed to comply with preneed recordkeeping standards and failed to timely file preneed contracts and certificates of performance.

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Disciplinary matters cont. from page 7

BOARD ACTION: The Board entered into a consent order revoking the preneed establishment license of Evans Funerals and Cremations and the preneed sales license of Mr. Sawyer. The Board also agreed to reinstate the preneed establishment license upon meeting certain conditions. The Board placed Mr. Sawyer’s funeral director license on probation for three years and ordered him to pay a \$1,000.00 civil penalty. Continuing education was ordered.

EFFECTIVE DATE: July 21, 2010.

CASE FILE NUMBER: V09-028.

LICENSEES: Clifton Quick (FS #2302), Greensboro.

SUMMARY: After the firm had closed where Mr. Quick was the manager, the Board inspector found that Mr. Quick did not make reasonable efforts to transfer a deceased located inside a building to another funeral establishment.

BOARD ACTION: The Board entered into a consent order placing Mr. Quick on probation for one (1) year and assessing a \$250.00 fine.

EFFECTIVE DATE: August 11, 2010.

Law Changes

DISPOSITION: During the last session of the General Assembly, legislation was passed amending the disposition statutes, G.S. 90-210.124 and G. S. 130A-420. These statutes can be found on pp. 127-129 and pp. 181-183 respectively of the 2010 law books. A notice with copies of the session law and “Record of Emergency Data” (DD Form 93) was mailed to all funeral providers in August.

G. S. 130A-420(a) was amended to match the order of written documents as they appeared in the former 90-210.124(a) and to add recognition of authority for a person designated by a service member’s. In the event you are engaged to provide arrangements for a service person that dies while on active duty, the casualty assistance officer should have a copy of the service member’s DD Form 93.

RELEASE OF INSURANCE INFORMATION:

Session Law 2009-566 (House Bill 1166) made changes to insurance laws that provide procedures for funeral directors 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 this legislation is October 1, 2010. The section of the law dealing with this matter is included below:

“§ 58-58-97. Provision of life insurance information upon notification of insured’s death.

- (a) Any person licensed to practice funeral directing or any employee of a funeral establishment licensed under the provisions of Article 13A of Chapter 90 of the General Statutes providing funeral service, as that term is defined in G.S. 90-210.20, for a deceased person insured or believed to be insured under a contract of life insurance may request information regarding the deceased person’s life insurance contracts by providing an insurer with (i) a copy of a notification of death filed pursuant to G.S. 130A-112 and (ii) written authorization from the person or persons with legal authority to direct disposition of the deceased’s body as prescribed under G.S. 90-210.124 or G.S. 130A-420. As soon as possible after receipt of the request, the life insurance company shall inform the person authorized by this section to make an inquiry of the following:
 - (1) The existence of any contract insuring the life of the deceased person.
 - (2) Any beneficiaries on record under any life insurance contract insuring the life of the deceased person.
 - (3) The amount of any liens or loans outstanding on the policy.
 - (4) The amount of benefits payable to the beneficiaries.
 - (5) Whether the policy has been reinstated within the last 24 months.

The insurer shall provide a claim form to any person or assignee making the request.

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Law Changes cont. from page 8

- (b) If any person making a written request under subsection (a) of this section who has provided all the information required by subsection (a) of this section does not receive a timely response from the insurer, then the person may refer the request to the Consumer Services Division of the Department, which shall treat the referral as a consumer complaint. The referral shall include all the information provided to the insurer under subsection (a) of this section as well as copies of all communications and information received from the insurer regarding the request for information.
- (c) If the beneficiary of record under the life insurance contract is not the estate of the deceased, then any person authorized to request information under subsection (a) of this section shall make reasonable efforts to locate the beneficiaries within 100 hours of receiving information from the insurance carrier regarding any life insurance contracts and shall provide to all beneficiaries all documents and information obtained from the insurance carrier. The person obtaining the information also shall inform all beneficiaries in writing in bold print that "THE BENEFICIARY OF A LIFE INSURANCE POLICY HAS NO LEGAL DUTY OR OBLIGATION TO SPEND ANY OF THAT MONEY ON THE FUNERAL, DEBTS, OR OBLIGATIONS OF THE DECEASED" and shall do so before discussing with the beneficiaries financial arrangements for burial of the deceased.

- (d) Any licensee or employee of a funeral establishment licensed under Article 13A of Chapter 90 of the General Statutes who makes a false request for information under this section or fails to do that required by subsection (c) of this section shall be deemed guilty of fraud or misrepresentation in the practice of funeral service as defined in G.S. 90-210.25(e)(1)b. and unfit to practice funeral service."

SECTION 24. G.S. 58-39-75 is amended by adding a new subdivision to read:

"(4a) To a person making an inquiry under G.S. 58-58-97 when providing funeral service to a deceased insured; or".

SECTION 25. The Department shall report to the Chairs of the House Insurance Committee and the Senate Commerce Committee by March 1, 2011, the number of insurance policy beneficiary information inquiries referred to it under G.S. 58-58-97, as enacted by this act; the identity of the insurers whose refusal or delay resulted in the referrals; the reasons the insurers were unable to respond to the inquiries; and any recommendations for administrative, legislative, or regulatory changes needed to enhance the ability of individuals arranging for funeral services to obtain timely access to information about life insurance policies held by a deceased person.

Fraud alert

Board staff received reports from several funeral homes regarding attempted fraud. In these instances, contact was made via faxed request to the firms concerning the death of Smith Cole in England. The body is purportedly held at the West Norwood

Mortuary. The fax contains the name Catlin Smith as the family contact and asks about accepting credit cards for payment. This is similar to those fraudulent attempts regarding deaths in Nigeria.

Licensee & Trainee Address Update

If your mailing address needs to be updated, please use this simple form to update the Board's information. Once you have completed the address correction form, please place it in a stamped envelope and mail it to:

**1033 Wade Ave., Suite 108
Raleigh, NC 27605**

LICENSEE/TRAINEE NAME _____ LIC. NUMBER _____

CORRECT MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____ CODE _____

SIGNATURE _____

Address Update Form can be found on the last page of this issue!

Return Service Requested

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

