# North Carolina Board of Funeral Service

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Next meeting of the Board is 9 a.m. Wednesday, March 9, 2016 at the Board office, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. The agenda will be posted by March 4 and can be viewed by following this link.

## **CLICK HERE FOR CONTINUING EDUCATION PROGRAMS**

#### **IMPORTANT ANNOUNCEMENTS:**

Public member J. Broadus Combs of Aberdeen resigned from the Board on February 1, 2016. The Board and staff thank Mr. Combs for his four years of service to the people of North Carolina.

## **SALES TAX on SERVICES**

You may have heard – the Department of Revenue has issued Directive SD-16-1 in regard to N.C. Gen. Stat. § 105-164.3(34a) which deals with sales and use tax. The directive broadens the basis for sales tax on services. Board Staff has contacted the Department of Revenue for clarification. We have been advised that your basic services fee is NOT subject to sales and use tax, so long as it is charged for separately from all other charges and includes no tangible personal property (which is required by The Funeral Rule). The actual directive can be read here: <a href="http://www.dornc.com/practitioner/sales/directives/SD-16-1.pdf">http://www.dornc.com/practitioner/sales/directives/SD-16-1.pdf</a>
The directive does require sales tax on services related to "tangible personal property." That said, sales tax is required on such things as set up and installation service fees on vaults and markers, for example. The directive becomes effective MARCH 1, 2016.

## PRENEED ANNUAL REPORTS

Preneed Annual Reports are due in the Board office by close of business (4:30 PM) on Thursday, March 31, 2016. All hard-copies have been distributed to those who specifically requested them by the deadline. The majority of establishments are processing online...be sure to have your four-page summary sheet in (early) on time!

## **STAFF**

The NC Board of Funeral Service is pleased to welcome Darrell Cagle to the staff as an Inspector. Mr. Cagle will be responsible for the north-central portion of the state. Please welcome him when he visits your establishment!

## **ONLINE RENEWALS**

Individual licenses were able to be renewed online for the first time for 2016. There were 595 licensees who took advantage of the new process, or 23.96%. Those who did reported the process to be quick and easy. This is a great way to save an envelope, a stamp and *time* – try it next year!

## CREMATORY REPORTS

Recall the item in the January newsletter referring to late monthly crematory reports. We are thrilled to report that the year has started off very well – there were no late reports in January. This is the first time in a very long time that all crematories have reported on time. This is exciting news and a great way to kick off 2016!

## **NEW STATE-MANDATED REPORT**

§105-251.2(a) now includes changes to information reporting requirements which are designed to increase tax compliance and help the Department of Revenue combat tax fraud. All occupational licensing boards will be required to provide the name, license number, tax ID and business address for all licensees, along with "any other information pertaining to the licensee in possession of the board that the Secretary deems necessary to determine the licensee's compliance with this Chapter." The due date for the report is July 1, 2016, and will include information for calendar years 2013-2015.



#### **COMPLIANCE OPINIONS:**

Have a legal question? Remember to use our question-and-answer feature, Compliance Opinion. If the question relates to your own *prospective* conduct, you may send an electronic correspondence to complianceopinion@ncbfs.org. You may also send a facsimile to the legal department at (919) 733-8271, attention "Compliance Opinion." Your correspondence must include: (1) your name; (2) your licensee affiliation/status; (3) all facts necessary for an opinion to be rendered; and (4) any supporting, pertinent documentation. In the order they are received, the Board Staff will provide responses to these inquiries, to the extent they pertain to future actions and matters within the purview of the Board's Laws and Rules *only*. If your question relates to past conduct (your own or that of another licensee), the Board Staff may decline to answer.

This month's sample question with the answer:

Q: We have a contract with a local hospital to handle the cremations for their stillborn babies. They called us in reference to assist them in getting the cremation authorization signed by the mother & father of a stillborn baby that is to be cremated. After the mother came in and signed the form we found out that she is 15-years old. Does her guardian need to sign the authorization as well or will the baby's mother's signature suffice? Thank you for helping us with the question.

A: North Carolina General Statute Section § 90-210.124 governs the determination of authorizing agents for decedents. Pursuant to the N.C.G.S. § 90-210.124(2), the legal next-of-kin must be a "competent" person in order to serve as an authorizing agent. It is Board Staff's opinion that a fifteen year old minor is not a "competent" person for purposes of serving as an authorizing agent to a Cremation Authorization. As such, the signatures of the mother and father alone in this situation would be insufficient to cremate, but you would be in compliance with the Board's laws and rules if

both the father and the mother's legal guardian(s) signed the Cremation Authorization.

Note – Compliance Opinions are not reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. If one disagrees with Board Staff's position on a matter, they may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the North Carolina General Statutes.

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## **DISCIPLINARY MATTERS**

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Did you know...the Board's Disciplinary Committee reviewed 21 cases / complaints at its February meeting?

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Case File Number: M15-001; M14-001

Licensees: Puckett-Purkett Funeral Service (FE # 521; PE # 776); George Puckett, Jr. (FSL # 1855); Dianne Alston (FD # 3817)

Summary: Respondents failed to comply with previously executed Consent Order addressing certain administrative deficiencies and non-compliance, particularly the establishment's suspended status with the North Carolina Secretary of State.

Board Action: The Board adopted a Consent Order, placing Respondent George Puckett, Jr. on probation for a period of one (1) year. Pursuant to the terms of the Consent Order, Respondents had to reimburse the Board for costs associated with a show cause prosecution. Additionally, Respondents were collectively fined a civil penalty of \$1,250.00 in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes.

Effective Date: February 10, 2016.

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Case File Number: M16-009

Licensee: Regional Memorial Cremations, (Crematory #111)

Summary: Board Staff conducted a routine crematory inspection, and found that the cremation unit housed at the facility and utilized by the licensee appeared unfit for use for the disposition of human remains. Board Staff found identifiable bone fragments in the retort from a cremation conducted the previous day. Board Staff also could not determine whether the safety switch on the cremation unit was properly functioning. Additionally, Board Staff found that the individual licensee failed to maintain a sanitary work space for the processing of cremated remains and failed to properly label cardboard containers containing human remains awaiting cremation.

Board Action: Upon a finding that public health, safety, and welfare is threated by Respondent's continued possession of an active crematory license, the Board summarily suspended Respondent's crematory license and has issued a Notice of Hearing for March 9, 2016.

Effective Date: February 2, 2016.

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Case File Number: M15-032

Licensee: Earl M. Wheby, Jr.

Summary: Former licensee requested reinstatement of lapsed funeral directing license. Board found that Respondent misrepresented himself as a licensed embalmer on both an application for professional licensure and an employment application. Board also found that Respondent failed to meet the various statutory requirements for reinstatement of a lapsed license.

Board Action: Final Agency Decision denying request for reinstatement of funeral directing license.

Effective Date: January 19, 2016.

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Case File Number: M16-005

Licensee: Genesis Funeral Home of Salisbury (FE # 830)

Summary: Board Staff conducted an investigation regarding concerns of the unlicensed practice of funeral directing, and found evidence supporting the same.

Board Action: Upon a finding that the public's health, safety, and welfare is threatened by Respondent's continued possession of an active funeral establishment permit, the Board summarily suspended Respondent's funeral establishment permit and has scheduled this matter for hearing on March 9, 2016.

Effective Date: February 12, 2016.

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Case File: M16-006

Licensee: Prominence Funeral Services (FE # 835; PE # 977)

Summary: Board Staff conducted an investigation regarding concerns of the unlicensed practice of funeral directing, and found evidence supporting the same.

Board Action: Upon a finding that the public's health, safety, and welfare is threatened by Respondent's continued possession of an active funeral establishment permit, the Board summarily suspended Respondent's funeral establishment permit and has scheduled this matter for hearing on March 10, 2016.

Effective Date: February 11, 2016.

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## **NEW LICENSEES**

The Board congratulates those individuals licensed in January:

FS: Carol Bailey, Danny Gilliam, Michael J. Jean, Jasmine Arista Raven

Lingle, Quintin McGinnis

FD: Darius J. Horton, Teshuna Worrells Dubose

EM: Kimberly Renee Williams

## **NEW TRAINEES**

New Trainees registered with the Board in January: Lewis William Strickland, Coastal Cremations, Carolina Shores

#### **NEW TRANSPORT PERMITS**

Transport permits were issued in January to the following: Mohammed Elammari, Raleigh Chad Lee Wagoner, North Wilkesboro

## **NEW FUNERAL ESTABLISHMENTS**

Boles-Biggs Funeral Home, Lumberton Gilmore Memorial Funeral Service, Winston-Salem

## **NEW UNAFFILIATED PRACTICE:**

Chad Lee Beam FS Licensee, Nebo

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# SYMPATHY IS EXTENDED TO THE FAMILIES OF:

**Bobie N. Moss**, president of Faison Funeral Home, Seaboard, who died on December 17, 2015.

**JoAnne Phifer**, funeral director at Clyburn and Bigham Mortuary, Mooresville, who died on January 6, 2016.

**Charles M. Harrell, Sr.,** president of Harrell's Funeral Home & Cremation Service, Burgaw, who died on January 9, 2016.

**Pattie B. Lee**, mother of P. Alex Lee of Bryan-Lee Funeral Homes in Raleigh, Garner & Angier, who died on January 23, 2016.

# **CONTINUING EDUCATION**

REMINDER! If you are considering an online course, you MUST submit form BFS CE6 at least ten days prior to taking the course. Unfortunately, there were a handful of licensees who did not receive credit in 2015 for failure to comply. Please be sure to submit the form *first!* 

Do your CE early this year...plenty of opportunities on the website already! Visit the current CE list here: http://www.ncbfs.org/list.html

