

**Report Summarizing the Licensing Activities
of the
North Carolina Board of Funeral Service**

Section 93B-2 of the General Statutes requires an annual financial report and a report of licensing activities be filed with the Secretary of State, the Attorney General and the Joint Legislative Administrative Procedure Oversight Committee. This report covers the Board's calendar/ fiscal period of January 1, 2016 to December 31, 2016.

1. The North Carolina Board of Funeral Service is located at 1033 Wade Avenue, Suite 108, Raleigh, NC 27605. The current members and officers are:

Charles J. Graves
(December 31, 2019)
President

Valdus T. Lockhart
(December 31, 2017)

Matt P. Staton
(December 31, 2018)
Vice President

Don Brown
(December 31, 2019)

Craig Olive (Senate)
(December 31, 2017)
Secretary

Mark Blake
(December 31, 2019)

Joseph 'Steve' Herndon
(December 31, 2017)

Michael C. Stone
(December 31, 2017)

Marvin Kelly Byrd
(December 31, 2017)

Note: Names of public members are in bold type. (Date) indicates term expiration.

- 1a. There are 2415 individuals licensed by the Board including 1582 funeral service licensees, 810 funeral director licensees, 16 funeral director and embalmer licensees, and 7 embalmer licensees. There are a 119 transporter permits.
2. In 2016, eighty-eight (88) individuals applied to the Board for examinations.
3. There were zero (0) candidates who were refused examination.
4. Ninety-five (95) candidates took the examination.
5. Forty-one (41) initial licenses were issued to candidates who passed the examination and completed all other statutory requirements for licensure.
- 5a. Fourteen (14) candidates failed the examination.
6. Twenty-four (24) candidates were provided applications for licensure by reciprocity or comity.
7. Seventeen (17) candidates were granted licenses by reciprocity or comity.
- 7a During Fiscal Year ending December 31, 2016, the Board received one hundred and sixty-four (164) complaints, one hundred and six (106) of which were consumer complaints and fifty-eight (58) of which were staff-generated.

7b: During Fiscal Year ending December 31, 2016, ninety-three (93) disciplinary actions were taken by the Board. These actions involved multiple types of licenses and permits (individual, preneed establishment, at-need establishment, transport, etc.). The Board obtained six (6) judgments providing injunctive relief in the general courts following findings of unlicensed practice.

8: As allowed under the provisions of N.C. General Statutes §§ 90-210.25(e), 90-210.69(c), and 90-210.134, the Board may impose a variety of sanctions when it finds violations of Articles 13A, 13D, and/or 13F of the North Carolina General Statutes. In addition to license revocation or suspension, other allowable disciplinary actions include probation, civil penalties, or a combination of these. Generally, cases in which the Board imposes terms of probation included stayed license revocations or suspensions. During Fiscal Year ending December 31, 2016, seventeen (17) individual licenses or establishment permits were revoked; one (1) transporter permit was revoked; one (1) crematory permit was revoked; three (3) preliminary application denials were upheld; three (3) traineeship applications were conditionally approved pursuant to a probationary period; thirteen (13) individual licenses or establishment permits were suspended, but said suspensions were stayed pursuant to probationary periods ranging from eleven (11) months to five (5) years; thirty-five (35) individual licenses or establishment permits were placed on probationary periods ranging from six (6) months to three (3) years; eighteen (18) individual licensees were ordered to take continuing education pertaining to preneed funeral planning, death certificate filing, and/or the Federal Trade Commission Funeral Rule; four (4) licensees were referred to the local district attorney for potential criminal investigation and/or prosecution; eight (8) licensees were ordered to pay reimbursable costs associated with prosecuting show cause hearings; and three (3) individual licensees were ordered to pay restitution for misappropriation of preneed funeral funds in the total aggregate amount of \$282,064.73. Forty-four (44) civil penalties in amounts ranging from \$250.00 to \$5,000.00 were imposed.

9: Twenty-four (24) individual licensees were terminated in 2016 due to the death of the licensee.

10: On February 9, 2017, the Board endorsed proposed draft legislation. House Bill 529, entitled Amend Funeral Laws as well as, Senate Bill 479 entitled Amend Funeral Laws were filed on March 29, 2017. These bills are identical in content relating to amending the laws pertaining to the practice of funeral service. The Bills have technical and substantive adjustments from the Board's original endorsed version.

11: On February 8, 2017, the Board submitted its initial G.S. 150B-21.3A Report for a periodic review of its rules, located in Chapter 34 of the North Carolina Administrative Code. The Board will vote to make a final determination of its rules following the conclusion of the public comment period, and the Rules Review Commission will review the Board's final rule designations at the RRC's June 2017 Commission meeting.

On March 13, 2017, the Board filed a Notice of Text with the Codifier of Rules, Office of Administrative Hearings, indicating its intent to proceed with adopting the following two rules:

21 NCAC 34B .0617 PRACTICING DURING DISASTERS

(a) Upon the declaration of a state of emergency, as provided in G.S. 166A-19.20, the Board may waive, for a period not to exceed 120 days following the rescission of the declaration of a state of emergency, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. Only those funeral establishments impacted by and located in a county in which the state of emergency has been declared shall be eligible for a waiver.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.

21 NCAC 34B .0618 PRACTICING DURING EMERGENCIES

(a) When a funeral establishment experiences an emergency occurrence or imminent threat of damage, injury, or loss of property resulting from a natural or man-made incident, the Board may waive, for a period not to exceed 120 days, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. The funeral establishment may continue to operate if it has provided evidence that the emergency does not pose an immediate threat to human life, an immediate threat of serious physical injury, or an immediate threat of serious adverse health effects.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days must provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.

Part B: Receipts and Disbursements

The Board operates on a calendar fiscal year. On March 6, 2017, Bernard Robinson & Company, LLP sent copies, via electronic correspondence of the Board's audited financial report that provides the information on receipts and disbursements as required by NCGS § 93B-2(b) to the following persons:


Katie Gleason - N.C. Office of the State Auditor
Denise Jones - State Publications Clearinghouse Liaison
Donald Crooke, NC Office of State Budget & Management
Harrison Moore, NC State Legislature
Karen Cochrane-Brown – NC State Legislature
Lauren Lemons – NC Office of State Controller
Melissa Lovell, NC Department of Justice
Publications, NC Secretary of State

Bound copies of the Board's audited 2016 financial report was also sent to:

Katie Gleason
N.C. Office of the State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0600

Denise Jones
State Publications Clearinghouse Liaison
Government & Heritage Library
State Library of North Carolina
4643 Mail Service Center
Raleigh, NC 27699-4643

Respectfully submitted:


Charles Graves
Board President

3/30/17
Date


David Shehdan
Executive Director

3/30/2017
Date