

## Advisory Opinion – September 14, 2011

In a letter dated July 23, 2011, Mr. David Twiford, a North Carolina funeral director who owns and operates funeral homes and a crematory in North Carolina, requested the Board to issue an opinion to clarify jurisdictional issues for cremating the body of a person who died outside of North Carolina. Specifically, Mr. Twiford asked if he must comply with cremation laws and regulations of Virginia or those of North Carolina when cremating the body of a person who died in Virginia but has been moved to North Carolina for cremation. The Board staff receives occasional telephone inquiries from other licensees for similar issues with Virginia, South Carolina, and Tennessee, and other North Carolina licensees are receiving communication from representatives of the jurisdictions attempting to enforce the cremation laws and regulations of the jurisdictions on the North Carolina licensees.

These neighboring jurisdictions require separate and specific authorization from a government agent or agency to cremate a body. In Virginia a medical examiner must authorize the cremation of a body, in South Carolina the coroner for the county where death occurred must authorize cremation and in Tennessee a medical examiner must be informed of every cremation and a vital records registrar must issue a cremation permit. In contrast, North Carolina does not require a medical examiner's authorization for every cremation but requires authorization in specific circumstances.

All of these neighboring jurisdictions specifically define final disposition to include removal from the state. This clearly shows each jurisdiction considers removal from the state as a final disposition method, thereby ending its authority in the matter. As long as the legal requirements for removing a body from another jurisdiction are met and that jurisdiction has given its permission for a body to be removed in the form of a burial-transit permit or similar document, that jurisdiction cannot enforce its cremation requirements.

When a North Carolina licensee performs a cremation in North Carolina for a death occurring in another state, all North Carolina laws and regulations must be followed. Of particular importance is obtaining and keeping permanent file copies of the burial-transit permit from the other jurisdiction. N.C. Gen. Stat. § 130A-113(d).

Although compliance with other states' cremation laws for cremations performed in North Carolina is voluntary, there may be practical reasons for North Carolina licensees to obtain permission from the jurisdiction where death occurs. It may be in the best interest of the NC licensee to obtain permission from the other jurisdiction in order to avoid delays in cremation. When a death occurs out of state under circumstances not subject to an exception granted under the provisions of Chapter 130A of the North Carolina General Statutes and Title 10 of the Administrative Code for medical examiner jurisdiction, the North Carolina licensee must obtain M.E. authorization for cremation through completion of form DHHS 1181 "Authorization for Cremation". One of the exceptions applies to cases when a person dies in another state and that state gives written authorization for cremation. Obtaining that permission may prevent delays in performing the cremation in North Carolina.