

The Buckeye Director

A publication of the Ohio Funeral Directors Association

Fall 2016

Called to Funeral Service

See Page 17

Q&A on New White Collar Exemption Rule

See Page 12

20th Annual OFDA Mortuary Response Team Golf Outing

See Page 8

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The Buckeye Director

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The Ohio Funeral Directors Association

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OFDA Mission Statement

To represent and support our membership by promoting professional standards and excellence in funeral service.



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Features

20th Annual OFDA Mortuary Response Team Golf Outing	8
Can You Deduct and Pay for Medicare Part B, D and Medicare Supplement?	11
Q&A on New White Collar Exemption Rule	12
Called to Funeral Service	17

Extras

OSHA Penalty Amounts Are Increasing!	16
Committee Listings	18

Departments

President's Message	5
Executive Director's Message	7
Calendar of Events	7
In Memoriam	19

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Did You Know?

OFDA accepts articles written by our membership for possible publication in *The Buckeye Director*.

The deadline for future issues is as follows:

- October 7 for December issue

Please contact Lindsay Titus with content.

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For the Good of a Great Profession and Association



Ben R. Easterling Jr.

At this time of year at OFDA, we are already into the fall season. It's one of my favorites — a time of fall colors, college football and reunions. We are also at a time when association staff and officers are well into meeting the membership at our annual district meetings. Much like what Executive Director Melissa Sullivan has tried to do with her roundtables the past two years, the district meetings offer opportunities for all the membership to meet and greet both staff and current OFDA officers. It also offers a time for giving feedback in the form of questions and suggestions concerning the direction of OFDA. The personal touch of these meetings can be constructive for both members and the association alike.

I mentioned previously that a strong emphasis for this year would be directed at nurturing the growth and involvement of not only our young licensees but also the current apprentices and mortuary science students. They are not only the future of funeral service, but that future is NOW! I felt we got off to an excellent start with the Tuesday morning session at our past convention, an event led by our Young Funeral Directors and offered as an introduction to the opportunities available to the mortuary science students and current apprentices. It also gave the students and apprentices a chance to hear from real practitioners as to what challenges and expectations they will face in the early part of their careers. My thanks to CCMS, PIMS and especially to the Young Funeral Directors of Ohio, who all took ownership of this program and made it the success it was at our convention. Also, thank you to the vendors who supported this program with their finances, time and conversation with the students and apprentices. It is a program that should have a future.

The Education Committee, under the leadership of one of our young funeral directors, Michael T. Smith, is initiating a program directed toward, but not exclusively for, the young funeral directors. This two-day seminar will feature both contemporary programming and opportunities for social interaction and offer up to nine CE hours. The seminar starts Friday, September 30, and will conclude on Saturday, October 1. Information should already have been received by our membership, and I encourage our senior members to offer their junior licensees this opportunity to mature professionally and socially.

The Vision 2020 Committee instituted under Immediate Past President Terry Palmer's direction, and co-chaired by Bill Wappner and Terry Reardon, continues to work and explore ways to create a new look for OFDA through streamlined governance practices and more responsiveness to our members' needs. Also, many of our other committees have been at work maintaining

vigilance over legislative needs, health department requirements and board compliance. It is a busy time of year for OFDA but one in which more volunteers are always needed for the work. As always, if you want to be more proactive within the association, let us know what committee or in what capacity you would be most interested in serving.

Since my first article, surveys and feedback from the 136th OFDA Convention have been received, and first discussions have begun as to how the state convention experience can be improved for both vendors and members alike. This is an ongoing process, and there is no perfect solution. The OFDA staff, convention and executive committees all continue to explore the many options for improving the programming and providing the best venue available. Only with the honest feedback from both vendors and attendees can a quality event be planned and executed. We are here to serve our membership and our suppliers, both of whom have fully supported our efforts in the past. Keep that input coming into the office or to any officer.

Finally, at this time of year, the PAC has its annual Clay Shoot fundraiser. This important event is a major source of revenue for our PAC. If you can't participate in this event, I still encourage every member to consider a personal donation to the OFDA PAC. This fund assists our lobbyist, John McGough, in making the necessary contacts and maintaining a strong presence for OFDA at the Statehouse.

I look forward to meeting with our members and learning what we can do for you and, more importantly, the good of a great profession and association. Until next time, best wishes!

Respectfully yours,

Ben R. Easterling, Jr., President

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When Others Become Furious, You Should Become Curious



Melissa S. Sullivan

Mary Byers, CAE, author and consultant, encourages questions to build rapport, resolve conflict and redirect focus. She says, "Great leaders stop thinking about what they have to say and start thinking about what they have to ask."

In many situations, you may know the family sitting across the table in an arrangement conference, but building or furthering a rapport is crucial to the end success of the family's experience. Asking for the family's opinion shows you value the people. "How does the situation look from your perspective?" Or "What is your advice?"

When faced with conflict, whether it is a family's infighting, their displeasure with you or another funeral home staff member or a personal encounter, asking questions can clarify and diffuse the situation. "Do I understand your position correctly?" Or "How do you think we should proceed?"

Questions often help get a discussion back on track and aid in regaining focus. "What can I do to help you?" Or "Are we approaching this from the right standpoint?"

Mary shared a personal experience of a statement her utterly honest and forthright mother delivered to her one day. Completely taken aback by the unfiltered and hurtful comment, Mary replied with, "How would you like me to respond to that?" When you are at a loss for words, buy yourself some time, and give the other person

an opportunity to rethink his or her remarks. "Would you please repeat that?" "How do you think I should feel after hearing that?"

Consider using these questions when you feel the relationship or conversation is in trouble and you want to build bridges and get unstuck:

- "What can we do to solve this problem?"
- "What do you suggest to make this situation better for both of us?"
- "Where do we go from here?"
- "What is a possible next step?"
- "What can we agree on?"

In handling difficult conversations, remember to initially give empathy, and do not inundate the other with more information, even if that information is key. "My assessment is this is how you are feeling. Am I close?" states Hank Fortner, founder of Adopt Together (a great podcast from Leadercast.com). Once the person realizes he or she can trust you, information/facts can be dealt with.

Questions give you control, but more importantly, they make others feel important, garner their attention — people don't listen to what you tell them, they listen to what you ask them — and indicate you are interested and care.

Ask, listen, repeat...



Calendar of Events

September

- 5 OFDA Office closed
- 7 Apprentice Seminar
- 13 Master Trust Seminar 1:30-3:30 p.m.
- 14 District 1 Meeting, Kissner's Restaurant, Defiance
- 14 OSHA Training, Sheraton Suites, Cuyahoga Falls
- 15 Master's Training, Sheraton Suites Cuyahoga Falls
- 19 District 6 Meeting, Georgio's, Toledo
- 21 District 9, Presidential Banquet Center, Kettering
- 27 District 11 Meeting, Heritage Hall, Goshen
- 28 District 14 Meeting, Der Dutchman
- 29 District 7 Meeting, Kirkpatrick Behnke FH, Findlay
- 30-Oct. 1 Business Solutions & Technology Conference @ CCMS

October

- 4 District 19, Laurello Winery, Geneva
- 5 PAC Sporting Clay Event, Bellefontaine
- 6 District 10 Meeting, First Church of the Nazarene, Jackson
- 12 Board of Directors Meeting
- 18 OSHA Training, Columbus
- 19 OSHA Training, Presidential Banquet Center, Kettering
- 23-26 NFDA Convention, Philadelphia

November

- 1 Insurance Seminar
- 3 District 12 Meeting, Borkoski Funeral Home, Cadiz
- 9 District 2 Meeting, Life Celebration Center, Mansfield (location to be determined)
- 10 District 15 Meeting (location to be determined)
- 16 District 4 Meeting, Woodside Cemetery Community Room, Middletown

- 17 District 8 & 16 Meeting, LaPizzaria, Canton
- 24-25 OFDA Office closed

December

- 6 District 5 Meeting, (location to be determined)
- 23 & 26 OFDA Office Closed

2017

February

- 7-13(15) Annual Educational Conference, Panama

May

- 15-18 OFDA Convention (Monday, May 15 – Pre-Convention Education Day)

October

- 29-1 NFDA Convention, Boston



20th Annual OFDA Mortuary Response Team Golf Outing

5th Place Team

OFDA's Mortuary Response Team held its 20th Annual Golf Outing on June 16 at Oakhaven Golf Club in Delaware. The weather was great (thank goodness the storms blew through the day before), and the outing was a success.

Thank you to all of the golfers and generous sponsors. The outing would not be the success it is without all of you! The proceeds from the outing are used to provide training and equipment for the team.

In honor of the 20th year, and as a thank-you to the golfers who participated, prize money was given out not only to the first-place team but also to the fifth, 10th, 15th and "most honest" team. The first-place team included Jay Weyer, Andy Stoner, Craig Robinson and Zach Harvey. The fifth-place team included Jeff Allen, Greg Gompf, Brian Batton and Dayton Shepard. The 10th-place team included Jay Amburgey, John Turner, Dale Morris and Dave Koble. And the 15th place team included Duane Hedrick, Kevin Schoedinger and Becky and Mike Krill. The "Most Honest" team was Sarah Berner, Tim Schmidt, and Kim and David Morris.

A big THANK YOU to all who participated!

Thank you to our sponsors:

Breakfast – Matthews Aurora Funeral Solutions
 Lunch – Funeral Directors Life Insurance Company
 Refreshments – Baxter Burial Vault Service, Inc.; Bell Vault & Monument, Inc.; Crummitt & Son Vault Corp.; Fithian-Wilbert Burial Vault Co.; Hupp-Stiverson Co.; Longstreth, Inc.; Ohio Vault Works, Inc.; The Akron Vault Co.; Tri-State Wilbert Vault Co.; Turner Vault Co.; Turner Vault Lima
 Dinner – State Auto Insurance Companies

Thank you to the winning teams' sponsors:

Matthews Aurora Funeral Solutions, Ben Kyle – Stewart-Kyle Funeral Home, Kyle Monuments, Jan Kyle – Western Reserve Leasing, Tim Schmidt (OMORT), Neidhard-Minges Funeral Home, OFDA District 5 and Ohio Embalmers Association

Thank you to our hole contest sponsors (hole contest winners in green):

Hole #1 – Ladies Long Drive – Stacie Whetstone
 Sponsored by Mike Gedert, OMORT
 Hole #5 – Straightest Drive Beyond 150 Yards – Jon Palmer
 Sponsored by David Hicks, Pierce Chemical Co.



Most Honest Team

Hole #6 – Men’s Longest Drive –
Sean Hartwell

Sponsored by Don Bloom, PennCare

Hole #8 – Longest Putt – **Craig Robinson**
Sponsored by Becky Bayliff, Bayliff & Son
Funeral Home

Hole #9 – Closest to Pin – **Don Temple**
Sponsored by Todd Lehmann,
Precious Memories

Hole #10 – Shortest Drive in Fairway –
Larry Ballinger

Sponsored by Jim Dempsey, OMORT

Hole #11 – Ladies Closest to Pin –
Stacie Whetstone

Sponsored by Ed Babcock, OMORT

Hole #12 – Closest to Pin, Second Shot –
Jon Palmer

Sponsored by Duane Hedrick & Shawn
Gallagher, Dodge Chemical Co.

Hole #18 – Long Putt – **Jay Mazzarella**
Sponsored by Ruth Downing, OMORT

Thank you to our hole sponsors:

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10th Place Team

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We have been asked by our members if Medicare premiums can be paid for by the employer and if the payment is a tax-deductible expense to the employer. As you can imagine, when it comes to Medicare, changes in the Affordable Care Act and how it works with our group health plans, the rules become muddled! There is no simple answer.

We have inserted a legal opinion from our compliance attorney, and there are many variables that must be reviewed in order to properly answer this question. We certainly recommend you consult with your attorney and tax adviser. We also recommend you contact our office so that we can review and consult with you regarding your own situation and review the options.

We recommend you contact us if you have fewer than 20 employees and employees on Medicare. The employer may be able to deduct the Medicare part B and Medigap premiums.

For example: If you wish to reimburse Medicare premiums, there must be a document in place to create an employer payment plan. In addition, the Affordable Care Act requires you also offer a group plan that meets the minimum requirements. The employee does not have to take the group plan offered, but the employer must offer it.

If you already have a group plan you offer to your under-65 employees, you most likely will be in compliance with the law.

If you have more than 20 employees, the plan is subject to different rules known as the Medicare secondary provisions. This means the group health plan is primary and pays first. Employers must offer employees 65 and older the same plan as employees under 65.

We would want to review your group coverage to make sure it is in compliance.

If you only have two active employees who are on Medicare, you may be able to set up a reimbursement plan to pay the Medicare premiums without offering a group plan.

If an employer offers to reimburse Medicare premiums for its active employees, it creates an employer payment plan because Medicare is not considered employer group

coverage. An employer payment plan that pays for or reimburses Medicare Part B or Part D premiums is integrated with another group health plan offered by the employer for purposes of the annual dollar limit prohibition and the preventive services requirements if:

- (a) the employer offers a group health plan (other than the employer payment plan) to the employee that does not consist solely of excepted benefits and offers coverage providing minimum value
- (b) the employee participating in the employer payment plan is actually enrolled in Medicare Parts A and B
- (c) the employer payment plan is available only to employees who are enrolled in Medicare Part A and Part B or Part D
- (d) the employer payment plan is limited to reimbursement of Medicare Part B or Part D premiums and excepted benefits, including Medigap premiums

Note that to the extent such an arrangement is available to active employees, it may be subject to restrictions under other laws such as the Medicare secondary-payer provisions. An employer payment plan that has fewer than two participants who are current employees (for example, a retiree-only plan) on the first day of the plan year is not subject to the market reforms, and therefore, integration is not necessary to satisfy the market reforms.





by T. Scott Gilligan,
OFDA General Counsel



Q&A on New White Collar **Exemption Rule**

On May 18, 2016, the U.S. Department of Labor (DOL) issued its Final Rule that updated the salary level test for employees who qualify for the white-collar exemptions. Because the Final Rule will impact many Ohio Funeral Homes, OFDA has prepared this Q&A piece explaining the new changes and options that are available to funeral homes.

1. What are the white-collar exemptions?

The wage and hour laws exempt employees who meet the white-collar exemption criteria from overtime provisions. This allows employers to pay employees a set salary no matter how many hours they work. The three most important white-collar exemptions are the Executive, Professional and High Level Administrator exemptions.

In order for an employee to qualify under the white-collar exemption, the employee has to meet three criteria: the duties test, the salary basis test and the salary level test. As far as the duties test, in 2004, the DOL ruled funeral directors and embalmers who work in a state that requires at least

four years of post-secondary education to be licensed are regarded as professionals under the duties test. Therefore, since Ohio requires four years of post-secondary education to be licensed, all Ohio funeral directors and embalmers are regarded as professionals for wage and hour purposes.

The salary basis test requires an exempt employee be paid a set amount for the workweek, of which the amount may not be reduced because of variations in the quality or quantity of the work performed. If the employee performs any work in a workweek, he or she must be paid the full weekly salary. Therefore, regardless of whether the employee works one hour or 60 hours in a

given week, the employee would receive the same set salary for that workweek.

The third criteria for qualifying for the white-collar exemption is the salary level test. Since 2004, the salary level test has been set at \$23,660. In order to qualify for the White Collar exemption, an employee had to be paid at least \$23,660 a year or \$455 a week.

2. What changes are being made to the white-collar exemption by the DOL?

Of the three tests that apply to the white-collar exemptions, only the salary level test is being changed by the DOL's new rule. However, the change is significant. Starting on December 1, 2016, the salary level test

increases from an annual salary of \$23,660 to \$47,476 (\$913 a week). Therefore, starting December 1, 2016, in order to be exempt from overtime, a licensed Ohio funeral director or embalmer must be paid at least \$913 a week.

3. What does this mean for Ohio funeral homes?

If an Ohio funeral home wishes to continue to pay its licensed funeral directors and embalmers as professionals who are exempt from overtime compensation requirements, the annual salary for the employee must be at least \$47,476 a year. This works out to a weekly salary of \$913 a week.

4. Our funeral home provides a rent-free apartment at the funeral home to our licensed funeral director. May we include the value of the apartment as part of his compensation when calculating the salary level test?

No. Only actual pay received by the employee is counted when calculating if the employee is paid the \$913 minimum required salary under the salary level test. Perks such as free rent, use of a company car, a clothing allowance or other employee benefits are not part of the salary level test. However, as noted below, a portion of the salary can be paid in the form of non-discretionary bonuses and commissions.

5. We pay our licensed embalmer a \$100 bonus for any late night removals and embalmings on top of his normal salary. Does the bonus count toward the salary level test?

Yes, but only to the maximum of 10 percent of his salary. There are several important points to keep in mind on using bonuses and commissions to meet this salary level test. First, they must be non-discretionary. This means the employer has a contractual obligation to pay them. In this case, where the employer has contracted to pay the employee a bonus for nighttime removals and embalmings, the bonus would qualify as non-discretionary. Bonuses such as those paid at Christmas are discretionary and do not count toward the salary level test.

Secondly, as noted above, the bonuses and commission payments will count toward the salary level test but cannot be more than 10 percent of the salary. In addition, the bonuses must be paid on at least a quarterly basis. In other words, in order to count toward the salary level test, the bonus must

The salary basis test requires an exempt employee be paid a set amount for the workweek, of which the amount may not be reduced because of variations in the quality or quantity of the work performed.

be paid at least quarterly. The quarters do not have to be regular calendar quarters, but can be any three-month period selected by the employer.

6. If in any particular quarter the funeral home does not pay enough bonus compensation to an employee to meet the salary level threshold, is there a way to pay an extra bonus in the next quarter to make up for the shortfall in the previous quarter?

Yes. The DOL does allow a “catch-up” payment. However, the catch-up bonus payment must be made in the first pay period following the end of the quarter. For example, let’s assume during the first quarter of the year ending March 31, 2017, an employee’s bonus paid during that quarter leaves the employee \$200 short of that needed to meet the minimum weekly salary of \$913 a week throughout the quarter. If during the first pay period of the second quarter, the employee is paid that \$200 shortfall, he or she will still be regarded as an exempt employee. However, that \$200 payment would be counted as compensation paid in the first quarter, and it could not be used to meet the salary level test in the second quarter.

7. Will the salary level of \$47,476 change in the future?

Yes. The Final Rule provides that the salary level test will be adjusted every three years. The first such adjustment will take effect on January 1, 2020. The DOL will determine the salary level at the 40th percentile of all full-time salaried workers in the lowest-wage census region (currently, the South) as of September 1, 2019. The DOL will then announce what the salary level will be and the adjusted salary level test will become effective on January 1, 2020.

8. If the funeral home will not be able to pay a licensee \$47,476 a year, may the funeral home still pay the employee a salary?

Yes, as long as it also pays overtime. If the licensee will not make at least \$47,476 a year, the licensee is entitled to overtime compensation. Therefore, although being paid a salary, the employee would still need to receive extra overtime compensation in any workweek where the employee worked in excess of 40 hours. For example, assume a licensed funeral director is paid \$800 a week salary or \$41,600 annually. In a particular workweek, the licensee works 45 hours. The funeral home would pay the licensee the set \$800 salary, plus five hours of overtime. Since the employee is being paid \$800 for a 40-hour workweek, the regular hourly rate paid to the employee would be \$20. Because overtime is compensated at time and one-half of the regular hourly rate (\$20 x 150%), the five hours of overtime at \$30 an hour would add an additional \$150 of extra compensation. So for the particular workweek, the employee would be entitled to a salary of \$950.

If an employee is non-exempt, it is important to track his or her work hours. This does not have to be done by punching a time clock but can be done with a simple notation of the hours worked each day during the workweek. When an employee is on-call, the time on-call is not considered hours worked as long as the employee enjoys personal freedom to be at home or within a certain mileage radius of the funeral home.

9. What are the available options for an Ohio funeral home on paying its licensed employees after December 1, 2016?

Ohio funeral homes have several options including the following:

- Establish the salary of a licensed employee at a minimum of \$47,476 a year



SAMPLE FLUCTUATING WORKWEEK ARRANGEMENT INFORMATION MEMORANDUM

(This example is based on a guaranteed weekly base salary of \$800. Be sure to calculate the amounts below using the actual guaranteed weekly salary being paid to the employee)

EMPLOYER: _____

EMPLOYEE: _____

POSITION: _____

GUARANTEED WEEKLY SALARY: \$800.00

1. **PURPOSE.** The purpose of this Fluctuating Workweek Arrangement Information Memorandum is to provide an explanation of the compensation that Employee shall receive. Employee will be paid in accordance with the regulations set forth in 29 CFR 778.114 governing fluctuating workweek arrangements.
2. **GUARANTEED WEEKLY SALARY.** In any week in which Employee works, Employee shall receive at least the Guaranteed Weekly Salary set forth above. The Guaranteed Weekly Salary will be paid even if Employee works less than forty (40) hours in a particular workweek.
3. **COMPENSATION CALCULATION.** For each workweek, the Employee's regular rate of pay is determined by dividing the number of total hours worked into the Guaranteed Weekly Salary. In any workweek in which the Employee works in excess of forty (40) hours, the overtime premium to be paid to the Employee is fifty (50%) percent of the regular rate of pay multiplied by the number of hours of overtime work. The examples below show the compensation an Employee would receive for working forty-eight (48) hours in the first week and sixty (60) hours in the second week.

First Week

- Regular rate of pay. ($\$800/48 \text{ hr} = \$16.67/\text{hr}$)
- Overtime premium. ($50\% \times 8 \text{ hr} \times \$16.67/\text{hr} = \$66.68$)
- Total pay ($\$800.00 + \$66.68 = \$866.68$)

Second Week

- Regular rate of pay. ($\$800/60 \text{ hr} = \$13.34/\text{hr}$)
- Overtime premium. ($50\% \times 20 \text{ hr} \times \$13.34/\text{hr} = \$133.40$)
- Total pay ($\$800 + \$133.40 = \$933.40$)

4. **ACKNOWLEDGEMENT BY EMPLOYEE.** Employee acknowledges that the Employee has reviewed this memorandum and understands the compensation Employee will receive under the Fluctuating Workweek Arrangement.

Signature: _____

Date: _____

to maintain the white-collar exemption. An exempt employee does not have to be compensated for overtime.

- If the licensee will not make \$47,476 a year, pay the overtime compensation of time and one-half for any overtime hours worked in excess of the 40 hour workweek.
- Establish a schedule whereby licensees do not work in excess of 40 hours per week. This may be accomplished by hiring part-time work or by requiring exempt employees to work a greater number of hours so that non-exempt employees stay under the 40-hour-per-workweek level.
- Reduce the amount of compensation allocated to a licensee's base salary in order to have sufficient funds to account for overtime hours worked in excess of 40 hours a workweek. In this way, the funeral home maintains the current salary of the employee even though he or she will now be non-exempt. Caution: make sure that the base hourly wage equals or exceeds the current minimum wage in Ohio, which is \$8.10 per hour.
- Adopt the fluctuating workweek arrangement method of compensation for licensees.

10. What is the fluctuating workweek arrangement, and what are the advantages and disadvantages of using it?

The DOL allows an employer the option of using a pay method entitled the Fluctuating Workweek Arrangement (FWA), also known as the Variable Workweek Arrangement. In essence, it is a compensation method that allows an employer to pay "half-time" for overtime instead of time and one-half. However, in exchange, the employer must agree to pay the employee a guaranteed weekly salary even in those weeks when the employee works less than 40 hours.

There are four basic requirements for using the FWA compensation method. They are as follows:

- The number of hours the employee works must truly fluctuate from week to week. For example, if a funeral home puts an employee on a schedule for the employee to work 42 hours one week and 46 hours the next, the funeral home could use an FWA compensation method because the employee has fluctuating workweeks.
- The FWA system must be explained to the employee. It is not required that the employee agree to the payment

system but only that the funeral home has explained to the employee how this system works. OFDA provides a sample Fluctuating Workweek Arrangement Information Memorandum in its online legal forms library, which will help a funeral home explain the compensation method to a licensee and document that the licensee received the information. A copy of the Memorandum is also found on page 14.

- The funeral home must provide a guaranteed weekly salary to the employee that will not be reduced even in those workweeks where the employee works less than 40 hours. Moreover, the guaranteed weekly salary must be sufficient to provide compensation each week at a regular rate that is at least equal to the minimum wage (\$8.10 per hour in Ohio). This is the trade-off for the employee receiving half-time instead of time and one-half for overtime.
- The FWA compensation system should not be used if the employee is being paid bonuses and/or commissions, like the night-time removal and embalming bonus discussed in Question 5.

11. How is an employee paid under the FWA compensation system?

As stated above, the employee is provided a guaranteed weekly salary, which must be paid even if the employee works less than 40 hours for the particular workweek. When the employee does work in excess of 40 hours in a workweek, he or she is entitled to half-time for each overtime hour rather than time and one-half. The employer must determine the employee's regular rate of pay by dividing the



guaranteed weekly salary by the number of hours worked in that particular workweek. Using that regular hourly rate, the employee would then be paid one-half of the regular hourly rate for each hour of overtime.

The example that OFDA used in the Fluctuating Workweek Arrangement Information Memorandum shows how the compensation calculation is made. Assume a licensed funeral director has a guaranteed weekly salary of \$800. The example shows the compensation the employee would receive when he works 48 hours in the first workweek and 60 hours in the second workweek.

First Week

- Regular rate of pay. ($\$800/48 \text{ hr} = \$16.67/\text{hr}$)
- Overtime premium. ($50\% \times 8 \text{ hr} \times \$16.67/\text{hr} = \$66.68$)
- Total pay ($\$800.00 + \$66.68 = \$866.68$)

Second Week

- Regular rate of pay. ($\$800/60 \text{ hr} = \$13.34/\text{hr}$)

- Overtime premium. ($50\% \times 20 \text{ hr} \times \$13.34/\text{hr} = \$133.40$)
- Total pay ($\$800 = \$133.40 = \$933.40$)

12. Our funeral home is hiring a new funeral director and will pay her \$42,000 a year. She will work 42 hours one week and 48 hours the next. How do we set up a fluctuating workweek arrangement for her?

Do the math. In this case, if the funeral director is given a guaranteed weekly salary of \$767, she will receive \$42,021 a year using the FWA compensation system and working a schedule of 42 hours one week and 48 hours the next. As long as the funeral home explains the FWA compensation system to the employee, it is free to use this method. Moreover, if there are weeks where the employee works in excess of 42 hours or 48 hours, the overtime to be paid to the employee would be one-half of the regular hourly rate versus 150 percent of the regular hourly rate.

OFDA members with questions regarding the new DOL Final Rule or the Fluctuating Workweek Arrangement may contact General Counsel Scott Gilligan at (513) 871-6332.



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OSHA Penalty Amounts Are *Increasing!*

by Barb Garrison, MS, CHMM, PCP

Thanks to the Inflation Adjustment Act passed by Congress in 2015, companies that violate OSHA regulations can expect to pay more in penalties — a lot more!

According to a U.S. Department of Labor (DOL) Fact Sheet, OSHA monetary penalties have not been raised since 1990, and thus have not been adjusted to reflect for inflation. To correct this, the DOL passed an interim final rule to increase OSHA's penalties by 78 percent, broken down below by violation type.

Keep in mind the amounts listed are for the maximum amounts that can be levied per infraction: many penalties are less than \$1,000, and OSHA can adjust penalties downward based on the employer's good faith, history of previous violations and size of business.

A question I am often asked is how frequently are funeral homes and other establishments similarly classified inspected by OSHA in Ohio? Based on information published on OSHA's website, not very often. In 2008, it appears that a cemetery in Ohio was fined \$788 for violations related to trenches and forklift operations, and in 2009, a funeral home was fined \$2,100 for violations of OSHA's fall protection regulations. But don't let your guard down — a disgruntled employee or an employee worried about a perceived workplace hazard that his or her employer has not addressed can easily pick up the phone and call OSHA. I'm sure you don't want the name of your funeral home to show up in OSHA's citation database! As always, please contact me if you have any health or safety-related questions: (614) 404-3384 or barb_garrison@sbcglobal.net.

Violation	Old Maximum Penalty	New Maximum Penalty
Serious: A violation where there is a substantial probability that death or serious physical harm could result.	\$7,000	\$12,471
Other Than Serious: A violation that has a direct relationship to job safety and health but probably would not cause death or serious physical harm.	\$7,000	\$12,471
Willfull or Repeat: A violation that the employer intentionally and knowingly commits.	\$70,000	\$124,709
Failure to Abate: Failure to correct a prior violation.	\$7,000	\$12,471



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Called to Funeral Service

by Michael T. Smith

I am proud to be a second-generation funeral director. I was raised in Iowa and started going on removals and learning all about funeral service from my dad at a very early age. He instilled in me the great honor and responsibility that we have of serving those who have experienced loss and the compassion and empathy required to walk with them step by step to honor, remember and celebrate the one who died by giving the grieving the gift of an exceptional funeral. He showed me time and again the value of what we are called upon to do. It is not without sacrifice, but the reward is immeasurable. By my dad's example, I learned the importance of serving our community and our profession through giving back, paying it forward and leading with integrity.

I moved to Ohio 16 years ago to attend mortuary school in Cincinnati. I quickly grew to love the city and the Buckeye State (while remaining a loyal Hawkeye). Growing up, I was blessed to travel frequently with my parents to our state convention, national conventions and many Advocacy Summits in Washington, D.C. There was one particular summit where everything changed for me. Members in attendance from the Ohio Funeral Directors Association graciously took me in and treated this young, newly licensed funeral director with such kindness and inclusion that I realized how special the members of OFDA were. It was at a dinner one evening with the Ohio delegation that Tom Fleming asked if I would like to serve on a committee. I excitedly said "Yes," as I had wanted to get involved. Feeling like I was just a young kid, I was surprised when he invited me to join not just one but two committees: Legislative and Education. I was honored and thrilled to be asked, not to mention a little overwhelmed and slightly intimidated.

That next year became my official start serving as an OFDA committee member.

The members of both committees welcomed me, and I felt proud to serve. The following year, I was surprised again by a phone call from my friend Tom. He asked if I would like to chair the Education Committee. I felt undeserving and a little nervous, but I thought if Tom and OFDA did not think I could do the job, they would not have asked. I gladly accepted, and I am glad that I did. I will always be thankful that he reached out to me as a young funeral director and gave me this chance to get involved.

I feel humbled to be serving OFDA now for over a decade. I currently serve on four committees and am so grateful to do so. I have learned so much and continue to have so many opportunities to give back to an association that has given so much to me. With the work of an incredibly diligent home office team and outstanding colleagues, amazing things continue to happen. OFDA has given me the opportunity to make life-long friendships. It is a place where we can bounce ideas off of one another, give and receive advice, support one another in difficult times and rejoice in each others' successes. This

association provides a network that becomes a family. A place that looks out for one another and offers opportunities to grow, learn and equip its members with the resources needed to daily meet the needs of the grieving families we are honored to serve. People often ask us as funeral directors, how do you do it? The answer is simple: it is what we have been called to do; it is what we were made for. This association supports our mission.

I want to encourage you — if you are not yet involved, now is the time. I can tell you that there is a place for those who want to give back, and there is a place for those who love what they do and want to have a voice in the leadership of our great calling. There is a place for those who desire to be mentored and encouraged. I am proud to be a funeral director and embalmer, and I cannot think of any greater calling for myself than to serve the grieving by honoring those who have died. What we do matters, and the support offered by our association is invaluable. Come join us "to represent and support our membership by promoting professional standards and excellence in funeral service."

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Martha Elizabeth “Betty” Behm – The Behm Family Funeral Homes, Inc.

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