

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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1

HOUSE BILL 440

Short Title: Embalmers and Funeral Directors-AB.

(Public)

Sponsors: Representatives Weiss and Baddour.

Referred to: Finance.

March 1, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE EMBALMERS AND FUNERAL DIRECTORS LAW OF
2 NORTH CAROLINA.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 90-210.18(b) reads as rewritten:

6 "(b) The North Carolina Board of Mortuary Science is created as a continuation of
7 the North Carolina Board of Embalmers and Funeral Directors. The Board is the agency
8 for regulation of the practice of funeral service in this State. The Board shall have nine
9 members as follows:

- 10 (1) Four funeral service licensees or persons holding both funeral
11 director's license and an embalmer's license,
12 (2) Two persons holding a funeral director's license or a funeral service
13 license, and
14 (3) Three public members.

15 A member's term shall be three years and shall expire on December 31 or when his
16 successor has been duly elected or appointed. No member may serve more than two
17 complete consecutive terms.

18 The six seats on the Board for licensees shall be filled in an election in which every
19 person licensed to practice embalming, funeral directing, or funeral service in this State
20 may vote. No licensee may be nominated, elected, or serve unless he holds a North
21 Carolina license in the class designated for the seat and unless he is engaged in full-time
22 employment in this State in a practice authorized by his license. Any vacancy occurring
23 in an elective seat on the Board shall be filled for the unexpired term by majority vote of
24 the remaining Board members.

25 The public members of the Board shall have full voting authority. They shall be
26 appointed by the Governor and may neither be licensed under this Article nor employed
27 by a person who is. A vacancy occurring in a public member's seat shall be filled for the
28 unexpired term by the Governor. One public member with a term expiring December

1 31, 2001, shall have such term extended until December 31, 2002, in order to stagger
2 the expiration of all three public member terms."

3 **SECTION 2.** G.S. 90-210.20 reads as rewritten:

4 **"§ 90-210.20. Definitions.**

5 (a) "Advertisement" means the publication, dissemination, circulation or placing
6 before the public, or causing directly or indirectly to be made, published, disseminated
7 or placed before the public, any announcement or statement in a newspaper, magazine,
8 or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill,
9 poster, bill, sign, placard, card, label or tag, or over any ~~radio or~~ radio, television station-
10 station, or electronic medium.

11 (b) "Board" means the North Carolina ~~State~~ Board of Mortuary Science.

12 (c) "Burial" includes interment in any form, cremation and the transportation of
13 the dead human body as necessary therefor.

14 (c1) "Dead human bodies", as used in this Article includes fetuses beyond the
15 second trimester and the ashes from cremated bodies.

16 (d) "Embalmer" means any person engaged in the practice of "embalming" as
17 defined below.

18 (e) "Embalming" means the preservation and disinfection or attempted
19 preservation and disinfection of the dead human bodies by application of chemicals
20 externally or internally or both and the practice of restorative art including the
21 restoration or attempted restoration of the appearance of the dead human body.

22 (e1) "Funeral chapel" means a chapel or other facility separate from the funeral
23 establishment premises for the reposing of dead human bodies, visitation or funeral
24 ceremony, which is owned, operated, or maintained by a funeral establishment or other
25 licensee under this Article, and which does not use the word "funeral" in its name, on a
26 sign, in a directory, in advertising or in any other manner; in which or on the premises
27 of which there is not displayed or offered for sale any caskets or other funeral
28 merchandise; in which or on the premises of which there is not located any funeral
29 business office or a preparation room; in which or on the premises of which no funeral
30 sales, financing, or arrangements are made; and which no owner, operator, employee, or
31 agent thereof represents the chapel to be a funeral establishment.

32 (f) "Funeral directing" means engaging in the practice of funeral service except
33 embalming as hereinbefore defined.

34 (g) "Funeral director" means any person engaged in the practice of "funeral
35 directing" as defined above.

36 (h) "Funeral establishment" means every place or premises devoted to or used in
37 the care, arrangement and preparation for the funeral and final disposition of dead
38 human bodies and maintained for the convenience of the public in connection with dead
39 human bodies or as the place for carrying on the profession of funeral service. A funeral
40 establishment shall comply with any applicable public health laws and rules and shall
41 meet all of the standards established by the rules adopted by the Board.

42 (i) "Funeral service licensee" means a person who is duly licensed and engaged
43 in the "practice of funeral service" as below defined.

1 (j) "Funeral ~~service-profession~~ service" means the aggregate of all funeral
2 service licensees and their duties and responsibilities in connection with the funeral as
3 an organized, purposeful, time-limited, flexible, group-centered response to death.

4 (k) "Practice of funeral service" means engaging in the care or disposition of
5 dead human bodies or in the practice of disinfecting and preparing by embalming or
6 otherwise dead human bodies for the funeral service, transportation, burial or cremation,
7 or in the practice of funeral directing or embalming as presently known, whether under
8 these titles or designations or otherwise. It also means engaging in making arrangements
9 for funeral service, selling funeral supplies to the public or making financial
10 arrangements for the rendering of such services or the sale of such supplies.

11 (l) "Resident trainee" means a person who is engaged in preparing to become
12 licensed for the practice of funeral directing, embalming or funeral service under the
13 personal supervision and instruction of a person duly licensed for the practice of funeral
14 directing, embalming or funeral service in the State of North Carolina under the
15 provisions of this Chapter, and who is duly registered as such with the Board."

16 **SECTION 3.** G.S. 90-210.25 reads as rewritten:

17 **"§ 90-210.25. Licensing.**

18 (a) Qualifications, Examinations, Resident Traineeship and Licensure. –

19 (1) To be licensed for the practice of funeral directing under this Article, a
20 person must:

- 21 a. Be at least 18 years of age.
- 22 b. Be of good moral character.
- 23 c. Have completed a minimum of 32 semester hours or 48 quarter
24 hours of instruction in a course of study study, as prescribed by
25 an accredited school of mortuary science, including the subjects
26 set out in item e.1. of this subsection in a mortuary science
27 college approved by the Board, or be a graduate of a mortuary
28 science college approved by the Board.
- 29 d. Have completed 12 months of resident traineeship as funeral
30 director, pursuant to the procedures and conditions set out in
31 G.S. 90-210.25(a)(4), either before or after satisfying the
32 educational requirement under item c. of this subsection.
- 33 e. Have passed an oral or written funeral director examination on
34 the following subjects:
 - 35 1. Psychology, sociology, funeral directing, business law,
36 funeral law, funeral management, and accounting.
 - 37 2. Repealed by 1997-399, s. 5.
 - 38 3. Laws of North Carolina and rules of the Board of
39 Mortuary Science and other agencies dealing with the
40 care, transportation and disposition of dead human
41 bodies.

42 (2) To be licensed for the practice of embalming under this Article, a
43 person must:

- 44 a. Be at least 18 years of age.

- 1 b. Be of good moral character.
- 2 c. Be a graduate of a mortuary science college approved by the
- 3 Board.
- 4 d. Have completed 12 months of resident traineeship as an
- 5 embalmer pursuant to the procedures and conditions set out in
- 6 G.S. 90-210.25(a)(4), either before or after satisfying the
- 7 educational requirement under item c. of this subsection.
- 8 e. Have passed an oral or written embalmer examination on the
- 9 following subjects:
- 10 1. Embalming, restorative arts, chemistry, pathology,
- 11 microbiology, and anatomy.
- 12 2. Repealed by 1997-399, s. 6.
- 13 3. Laws of North Carolina and rules of the Board of
- 14 Mortuary Science and other agencies dealing with the
- 15 care, transportation and disposition of dead human
- 16 bodies.
- 17 (3) To be licensed for the practice of funeral service under this Article, a
- 18 person must:
- 19 a. Be at least 18 years of age.
- 20 b. Be of good moral character.
- 21 c. Be a graduate of a mortuary science college approved by the
- 22 Board.
- 23 d. Have completed 12 months of resident traineeship as a funeral
- 24 service licensee, pursuant to the procedures and conditions set
- 25 out in G.S. 90-210.25(a)(4), either before or after satisfying the
- 26 educational requirement under item c. of this subsection.
- 27 e. Have passed an oral or written funeral service examination on
- 28 the following subjects:
- 29 1. Psychology, sociology, funeral directing, business law,
- 30 funeral law, funeral management, and accounting.
- 31 2. Embalming, restorative arts, chemistry, pathology,
- 32 microbiology, and anatomy.
- 33 3. Repealed by 1997-399, s. 7.
- 34 4. Laws of North Carolina and rules of the Board of
- 35 Mortuary Science and other agencies dealing with the
- 36 care, transportation and disposition of dead human
- 37 bodies.
- 38 (4) a. A person desiring to become a resident trainee shall apply to the
- 39 Board on a form provided by the Board. The application shall
- 40 state that the applicant is not less than 18 years of age, of good
- 41 moral character, and is the graduate of a high school or the
- 42 equivalent thereof, and shall indicate the licensee under whom
- 43 the applicant expects to train. A person training to become an
- 44 embalmer may serve under either a licensed embalmer or a

1 funeral service licensee. A person training to become a funeral
2 director may serve under either a licensed funeral director or a
3 funeral service licensee. A person training to become a funeral
4 service licensee shall serve under a funeral service licensee. The
5 application must be sustained by oath of the applicant and be
6 accompanied by the appropriate fee. When the Board is
7 satisfied as to the qualifications of an applicant it shall instruct
8 the secretary to issue a certificate of resident traineeship.

9 b. When a resident trainee leaves the proctorship of the licensee
10 under whom the trainee has worked, the licensee shall file with
11 the Board an affidavit showing the length of time served with
12 the licensee by the trainee, and the affidavit shall be made a
13 matter of record in the Board's office. The licensee shall deliver
14 a copy of the affidavit to the trainee.

15 c. A person who has not completed the traineeship and wishes to
16 do so under a licensee other than the one whose name appears
17 on the original certificate may reapply to the Board for
18 approval, without payment of an additional fee.

19 d. A certificate of resident traineeship shall be signed by the
20 resident trainee and upon payment of the renewal fee shall be
21 renewable one year after the date of original registration; but
22 the certificate may not be renewed more than one time. The
23 Board shall mail to each registered trainee at his last known
24 address a notice that the renewal fee is due and that, if not paid
25 within 30 days of the notice, the certificate will be canceled. A
26 penalty, in addition to the renewal fee, shall be charged for a
27 late renewal, but the renewal of the registration of any resident
28 trainee who is engaged in the active military service of the
29 United States at the time renewal is due may, at the discretion
30 of the Board, be held in abeyance for the duration of that
31 service without penalties. No credit shall be allowed for the
32 12-month period of resident traineeship that shall have been
33 completed more than three years preceding the examination for
34 a license.

35 e. All registered resident trainees shall report to the Board at least
36 once every ~~three months~~ month during traineeship upon forms
37 provided by the Board listing the work which has been
38 completed during the preceding ~~three months~~ month of resident
39 traineeship. The data contained in the reports shall be certified
40 as correct by the licensee under whom the trainee has served
41 during the period and by the licensed person who is managing
42 the funeral service establishment. Each report shall list the
43 following:

- 1 1. For funeral director trainees, the conduct of any funerals
- 2 during the relevant time period,
- 3 2. For embalming trainees, the embalming of any bodies
- 4 during the relevant time period,
- 5 3. For funeral service trainees, both of the activities named
- 6 in 1 and 2 of this subsection, engaged in during the
- 7 relevant time period.
- 8 f. To meet the resident traineeship requirements of G.S. 90-
- 9 210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the
- 10 following must be shown by the affidavit(s) of the licensee(s)
- 11 under whom the trainee worked:
- 12 1. That the funeral director trainee has, under supervision,
- 13 assisted in directing at least 25 funerals during the
- 14 resident traineeship,
- 15 2. That the embalmer trainee has, under supervision,
- 16 assisted in embalming at least 25 bodies during the
- 17 resident traineeship,
- 18 3. That the funeral service trainee has, under supervision
- 19 assisted in directing at least 25 funerals and, under
- 20 supervision, assisted in embalming at least 25 bodies
- 21 during the resident traineeship.
- 22 g. The Board may suspend or revoke a certificate of resident
- 23 traineeship for violation of any provision of this Article.
- 24 h. Each sponsor for a registered resident trainee must during the
- 25 period of sponsorship be actively employed with a funeral
- 26 establishment. The traineeship shall be a primary vocation of
- 27 the trainee.
- 28 i. Only one resident trainee may register and serve at any one time
- 29 under any one person licensed under this Article.
- 30 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 31 l. The Board shall register no more than one resident trainee at a
- 32 funeral establishment that conducted 100 or fewer ~~funerals~~
- 33 families served during the 12 months immediately preceding
- 34 the date of the application, and shall register no more than one
- 35 resident trainee for each additional 100 ~~funerals conducted~~
- 36 families served at the funeral establishment during the 12
- 37 months immediately preceding the date of the application.
- 38 (5) The Board by regulation may recognize other examinations that the
- 39 Board deems equivalent to its own.

40 All licenses shall be signed by the president and secretary of the
41 Board and the seal of the Board affixed thereto. All licenses shall be
42 issued, renewed or duplicated for a period not exceeding one year
43 upon payment of the renewal fee, and all licenses, renewals or
44 duplicates thereof shall expire and terminate the thirty-first day of

1 December following the date of their issue unless sooner revoked and
2 canceled; provided, that the date of expiration may be changed by
3 unanimous consent of the Board and upon 90 days' written notice of
4 such change to all persons licensed for the practice of funeral
5 directing, embalming and funeral service in this State.

6 The holder of any license issued by the Board who shall fail to
7 renew the same on or before January 31 of the calendar year for which
8 the license is to be renewed shall have forfeited and surrendered the
9 license as of that date. No license forfeited or surrendered pursuant to
10 the preceding sentence shall be reinstated by the Board unless it is
11 shown to the Board that the applicant has, throughout the period of
12 forfeiture, engaged full time in another state of the United States or the
13 District of Columbia in the practice to which his North Carolina
14 license applies and has completed for each such year continuing
15 education substantially equivalent in the opinion of the Board to that
16 required of North Carolina licensees; or has completed in North
17 Carolina a total number of hours of accredited continuing education
18 computed by multiplying five times the number of years of forfeiture;
19 or has passed the North Carolina examination for the forfeited license.
20 No additional resident traineeship shall be required. The applicant
21 shall be required to pay all delinquent annual renewal fees and a
22 reinstatement fee. The Board may waive the provisions of this section
23 for an applicant for a forfeiture which occurred during his service in
24 the armed forces of the United States provided he applies within six
25 months following severance therefrom.

26 All licensees now or hereafter licensed in North Carolina shall take
27 courses of study in subjects relating to the practice of the profession
28 for which they are licensed, to the end that new techniques, scientific
29 and clinical advances, the achievements of research and the benefits of
30 learning and reviewing skills will be utilized and applied to assure
31 proper service to the public.

32 As a prerequisite to the annual renewal of a license, the licensee
33 must complete, during the year immediately preceding renewal, at
34 least five hours of continuing education courses, approved by the
35 Board prior to enrollment. A licensee who completes more than five
36 hours in a year may carry over a maximum of five hours as a credit to
37 the following year's requirement. A licensee who is issued an initial
38 license on or after July 1 does not have to satisfy the continuing
39 education requirement for that year.

40 The Board shall not renew a license unless fulfillment of the
41 continuing education requirement has been certified to it on a form
42 provided by the Board, but the Board may waive this requirement for
43 renewal in cases of certified illness or undue hardship or where the
44 licensee lives outside of North Carolina and does not practice in North

1 Carolina, and the Board shall waive the requirement for all licensees
2 who have been licensed in North Carolina for a continuous period of
3 25 years or more, and for all licensees who are, at the time of renewal,
4 members of the General Assembly. ~~The waiver for 25-year licensees~~
5 ~~shall apply only to those licensees who, before January 1, 1998, are~~
6 ~~licensed, begin a course of study in a mortuary science college or a~~
7 ~~trainee program, or make an application for a license.~~

8 The Board shall cause to be established and offered to the
9 licensees, each calendar year, at least five hours of continuing
10 education courses in subjects encompassing the license categories of
11 embalming, funeral directing and funeral service. The Board may
12 charge licensees attending these courses a reasonable registration fee
13 in order to meet the expenses thereof and may also meet those
14 expenses from other funds received under the provisions of this
15 Article.

16 Any person who having been previously licensed by the Board as a
17 funeral director or embalmer prior to July 1, 1975, shall not be
18 required to satisfy the requirements herein for licensure as a funeral
19 service licensee, but shall be entitled to have such license renewed
20 upon making proper application therefor and upon payment of the
21 renewal fee provided by the provisions of this Article. Persons
22 previously licensed by the Board as a funeral director may engage in
23 funeral directing, and persons previously licensed by the Board as an
24 embalmer may engage in embalming. Any person having been
25 previously licensed by the Board as both a funeral director and an
26 embalmer may upon application therefor receive a license as a funeral
27 service licensee.

28 (a1) Inactive Licenses. – Any person holding a license issued by the Board for
29 funeral directing, for embalming, or for the practice of funeral service may apply for an
30 inactive license in the same category as the active license held. The inactive license is
31 renewable annually. Continuing education is not required for the renewal of an inactive
32 license. The only activity that a holder of an inactive license may engage in is to vote
33 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
34 active license in the same category, and the Board shall issue an active license if the
35 applicant has completed in North Carolina a total number of hours of accredited
36 continuing education equal to five times the number of years the applicant held the
37 inactive license. No application fee is required for the reinstatement of an active license
38 pursuant to this subsection. The holder of an inactive license who returns to active status
39 shall surrender the inactive license to the Board.

40 (b) Persons Licensed under the Laws of Other Jurisdictions. –

41 (1) The Board shall grant licenses to funeral directors, embalmers and
42 funeral service licensees, licensed in other states, territories, the
43 District of Columbia, and foreign countries, when it is shown that the
44 applicant holds a valid license as a funeral director, embalmer or

1 funeral service licensee issued by the other jurisdiction, has
2 demonstrated knowledge of the laws and regulations governing the
3 profession in North Carolina and has submitted proof of his good
4 moral character; and either that the applicant has continuously
5 practiced the profession in the other jurisdiction for at least three years
6 immediately preceding his application, or the Board has determined
7 that the licensing requirements for the other jurisdiction are
8 substantially similar to those of North Carolina.

9 (2) The Board shall periodically review the mortuary science licensing
10 requirements of other jurisdictions and shall determine which licensing
11 requirements are substantially similar to the requirements of North
12 Carolina.

13 (3) The Board may issue special permits, to be known as courtesy cards,
14 permitting nonresident funeral directors, embalmers and funeral
15 service licensees to remove bodies from and to arrange and direct
16 funerals and embalm bodies in this State, but these privileges shall not
17 include the right to establish a place of business in or engage generally
18 in the business of funeral directing and embalming in this State.
19 Except for special permits issued by the Board for teaching continuing
20 education programs and for work in connection with disasters, no
21 special permits may be issued to nonresident funeral directors,
22 embalmers, and funeral service licensees from states that do not issue
23 similar courtesy cards to persons licensed in North Carolina pursuant
24 to this Article.

25 (c) Registration, Filing and Transportation. –

26 (1) The holder of any license granted by this State for those within the
27 funeral service profession or renewal thereof provided for in this
28 Article shall cause registration to be filed in the office of the board of
29 health of the county or city in which he practices his profession, or if
30 there be no board of health in such county or city, at the office of the
31 clerk of the superior court of such county. All such licenses,
32 certificates, duplicates and renewals thereof shall be displayed in a
33 conspicuous place in the funeral establishment where the holder
34 renders service.

35 (2) It shall be unlawful for any railway agent, express agency, baggage
36 master, conductor or other person acting as such, to receive the dead
37 body of any person for shipment or transportation by railway or other
38 public conveyance, to a point outside of this State, unless said body be
39 accompanied by a ~~removal or shipping~~ burial-transit permit.

40 (3) The “transportation or removal of a dead human body” shall mean the
41 removal of a dead human body from the approximate location of the
42 place of death or discovery of death or the transportation of such body
43 to or from a medical facility, funeral establishment or facility,
44 crematory or related holding facility, place of final disposition, or

1 place designated by the Medical Examiner for examination or autopsy
2 of the dead human body, for a fee.

3 (4) Any individual, not otherwise exempt as provided herein, shall apply
4 for and receive a permit from the Board before engaging in the
5 transportation or removal of a dead human body in this State. No
6 corporation or other business entity shall engage in the transportation
7 or removal of a dead human body unless it has in its employ at least
8 one individual who holds a permit issued pursuant to this section. No
9 individual permit holder shall engage in the transportation or removal
10 of a dead human body for more than one person, firm, or corporation
11 without first providing the Board with written notification of the name
12 and physical address of each such employer; nothing herein prevents
13 an individual permit holder from engaging in the transportation or
14 removal of a dead human body for more than one person, firm, or
15 corporation as an independent contractor. A permit issued pursuant to
16 this section shall not authorize the holder thereof to engage in the
17 practice of funeral service, and the holder of such permit shall only
18 engage in the limited services which are necessarily incidental to the
19 transportation or removal of a dead human body.

20 (5) Licensees under this Article and their employees, employees of
21 common carriers, employees of the State and its agencies, employees
22 of local governments and their agencies, and funeral directors licensed
23 in another state and their employees shall be exempt from the permit
24 requirements of this section but shall otherwise be subject to
25 subdivision (8) of this subsection and any rules promulgated hereunder
26 relating to the proper handling, care, removal, or transportation of a
27 dead human body. Emergency medical technicians, rescue squad
28 workers, volunteer and paid firemen, and law enforcement officers
29 shall not be subject to any provision of this section. Employees of
30 public or private hospitals, nursing homes, or long-term care facilities,
31 while handling a dead human body within such facility or while acting
32 within the scope of their employment, shall not be subject to any
33 provision of this section. The transportation of cremated remains shall
34 not be subject to any provision of this section. Any individual
35 transporting or removing a dead human body of their immediate
36 family or next of kin shall not be subject to any provision of this
37 section.

38 (6) To be eligible to receive a permit pursuant to this section, an individual
39 shall:

40 (a) Be at least 18 years of age;

41 (b) Possess and maintain a valid drivers license issued by this State
42 and provide proof of all liability insurance required for the
43 registration of any vehicle in which such person intends to

- 1 engage in the business of the removal or transportation of a
2 dead human body;
- 3 (c) Affirmatively state under oath that he has read and understands
4 the statutes and rules relating to the removal and transportation
5 of dead human bodies and any guidelines as may be adopted by
6 the Board;
- 7 (d) Provide three written character references on a form prescribed
8 by the Board, one of which must be from a licensed funeral
9 director; and
- 10 (e) Be of good moral character.
- 11 (7) The permit issued pursuant to this section shall expire on December 31
12 of each year. The application fee for the individual permit shall not
13 exceed one hundred twenty-five dollars (\$125.00). A fine penalty, not
14 to exceed one hundred dollars (\$100.00), in addition to the renewal fee
15 not to exceed seventy-five dollars (\$75.00), shall be charged for any
16 application for renewal received by the Board after February 1 of each
17 year.
- 18 (8) No person shall transport a dead human body in the open cargo area or
19 passenger area of a vehicle or in any vehicle in which the body may be
20 viewed by the public. Any person removing or transporting a dead
21 human body shall either cover the body, place it upon a stretcher
22 designed for the purpose of transporting humans or dead human bodies
23 in a vehicle, and secure such stretcher in the vehicle to be used for
24 transportation, or shall enclose the body in a casket, cremation
25 container, or container designed for common carrier transportation,
26 and secure such container in the vehicle used for transportation. No
27 person shall use profanity, indecent or obscene language in the
28 presence of a dead human body or during the removal or transportation
29 process.
- 30 (9) The Board may adopt rules pursuant to this section including
31 application procedures and the proper procedures for the removal,
32 handling and transportation of dead human bodies. The Board shall
33 consult with the Office of the Chief Medical Examiner before
34 initiating rule-making pursuant to this section and before adopting any
35 rules pursuant to this section. Nothing in this section prohibits the
36 Office of the Chief Medical Examiner from adopting policies and
37 procedures regarding the removal, transportation, or handling of a dead
38 human body under the jurisdiction of that office which are more
39 stringent than the laws in this section or any rules promulgated
40 hereunder. Any violation of this section or rules promulgated
41 hereunder may be punished by the Board by a suspension or
42 revocation of the permit or by a term of probation. Hearings of
43 violations shall be conducted pursuant to the procedures set out in
44 Chapter 150B of the General Statutes. The Board may, in lieu of any

1 disciplinary measure, accept a compromise penalty not to exceed five
2 thousand dollars (\$5,000) per violation.

3 (10) Each applicant for a permit shall provide the Board with the applicant's
4 home address, name and address of any corporation or business entity
5 employing such individual for the removal or transportation of dead
6 human bodies, and the make, year, model, and license plate number of
7 any vehicle in which a dead human body is transported. A permittee
8 shall provide written notification to the Board of any change, for
9 whatever reason, in the information required to be provided to the
10 Board by this section or by the application for a permit within 30 days
11 after such change takes place.

12 (11) If any person shall engage in or hold himself out as engaging in the
13 business of transportation or removal of a dead human body without
14 first having received a permit pursuant to this section, he shall be
15 guilty of a Class 2 misdemeanor.

16 (12) The Board shall have the authority to inspect any place or premises in
17 which the business of removing or transporting a dead human body is
18 carried out and shall also have the right of inspection of any vehicle
19 and equipment used by a permittee for the removal or transportation of
20 a dead human body.

21 (d) Establishment Permit. –

22 (1) No person, firm or corporation shall conduct, maintain, manage or
23 operate a funeral establishment unless a permit for that establishment
24 has been issued by the Board and is conspicuously displayed in the
25 establishment. Each funeral establishment at a specific location shall
26 be deemed to be a separate entity and shall require a separate permit
27 and compliance with the requirements of this Article.

28 (2) A permit shall be issued when:

29 a. It is shown that the funeral establishment has in charge a
30 person, known as a manager, licensed for the practice of funeral
31 directing or funeral service, who shall not be permitted to
32 manage more than one funeral establishment.

33 b. The Board receives a list of the names of all part-time and full-
34 time licensees employed by the establishment.

35 c. It is shown that the funeral establishment satisfies the
36 requirements of G.S. 90-210.27A.

37 d. The Board receives payment of the permit fee.

38 (3) Applications for funeral establishment permits shall be made on forms
39 provided by the Board and filed with the Board by the owner, a
40 partner, a member of the limited liability company, or an officer of the
41 corporation by January 1 of each year, and shall be accompanied by
42 the application fee or renewal fee, as the case may be. All permits shall
43 expire on December 31 of each year.

1 A penalty for late renewal, in addition to the regular renewal fee,
2 shall be charged for renewal of registration coming after the first day
3 of February.

4 (4) The Board may suspend or revoke a permit when an owner, partner,
5 manager, member, operator, or officer of the funeral establishment
6 violates any provision of this Article or any regulations of the Board,
7 or when any agent or employee of the funeral establishment, with the
8 consent of any person, firm or corporation operating the funeral
9 establishment, violates any of those provisions, rules or regulations.

10 (5) Funeral establishment permits are not transferable. A new application
11 for a permit shall be made to the Board within 30 days of a change of
12 ownership of a funeral establishment.

13 (d1) Embalming Outside Establishment. – An embalmer who engages in
14 embalming in a facility other than a funeral establishment or in the residence of the
15 deceased person shall, no later than January 1 of each year, register the facility with the
16 Board on forms provided by the Board.

17 (e) Revocation; Suspension; Compromise; Disclosure. –

18 (1) Whenever the Board finds that an applicant for a license or a person to
19 whom a license has been issued by the Board is guilty of any of the
20 following acts or omissions and the Board also finds that the person
21 has thereby become unfit to practice, the Board may suspend or revoke
22 the license or refuse to issue or renew the license, in accordance with
23 the procedures set out in Chapter 150B:

24 a. Conviction of a felony or a crime involving fraud or moral
25 turpitude.

26 b. Fraud or misrepresentation in obtaining or renewing a license or
27 in the practice of funeral service.

28 c. False or misleading advertising as the holder of a license.

29 d. Solicitation of dead human bodies by the licensee, his agents,
30 assistants, or employees; but this paragraph shall not be
31 construed to prohibit general advertising by the licensee.

32 e. Employment directly or indirectly of any resident trainee agent,
33 assistant or other person, on a part-time or full-time basis, or on
34 commission, for the purpose of calling upon individuals or
35 institutions by whose influence dead human bodies may be
36 turned over to a particular licensee.

37 f. The direct or indirect giving of certificates of credit or the
38 payment or offer of payment of a commission by the licensee,
39 his agents, assistants or employees for the purpose of securing
40 business.

41 g. Gross immorality, including being under the influence of
42 alcohol or drugs while practicing funeral service.

43 h. Aiding or abetting an unlicensed person to perform services
44 under this Article, including the use of a picture or name in

1 connection with advertisements or other written material
2 published or caused to be published by the licensee.

- 3 i. Using profane, indecent or obscene language in the presence of
4 a dead human body, and within the immediate hearing of the
5 family or relatives of a deceased, whose body has not yet been
6 interred or otherwise disposed of.
- 7 j. Violating or cooperating with others to violate any of the
8 provisions of this Article, the rules and regulations of the
9 Board, or the standards set forth in Funeral Industry Practices,
10 16 C.F.R. 453 (1984), as amended from time to time.
- 11 k. Violation of any State law or municipal or county ordinance or
12 regulation affecting the handling, custody, care or transportation
13 of dead human bodies.
- 14 l. Refusing to surrender promptly the custody of a dead human
15 body upon the express order of the person lawfully entitled to
16 the custody thereof.
- 17 m. Knowingly making any false statement on a certificate of death.
- 18 n. Indecent exposure or exhibition of a dead human body while in
19 the custody or control of a licensee.

20 In any case in which the Board is entitled to suspend, revoke or
21 refuse to renew a license, the Board may accept from the licensee an
22 offer in compromise to pay a penalty of not more than ~~one~~ five
23 thousand dollars (\$1,000)- (\$5,000). The Board may either accept a
24 compromise or revoke or refuse to renew a license, but not both.

- 25 (2) Where the Board finds that a licensee is guilty of one or more of the
26 acts or omissions listed in subsection (e) (1) of this section but it is
27 determined by the Board that the licensee has not thereby become unfit
28 to practice, the Board may place the licensee on a term of probation in
29 accordance with the procedures set out in Chapter 150B. In any case in
30 which the Board is entitled to place a licensee on a term of probation,
31 the Board may also impose a penalty of not more than five thousand
32 dollars (\$5,000) in conjunction with the probation.

33 No person licensed under this Article shall remove or cause to be embalmed a dead
34 human body when he has information indicating crime or violence of any sort in
35 connection with the cause of death, nor shall a dead human body be cremated, until
36 permission of the State or county medical examiner has first been obtained. However,
37 nothing in this Article shall be construed to alter the duties and authority now vested in
38 the office of the coroner.

39 No funeral service establishment shall accept a dead human body from any public
40 officer (excluding the State or county medical examiner or his agent), or employee or
41 from the official of any institution, hospital or nursing home, or from a physician or any
42 person having a professional relationship with a decedent, without having first made
43 due inquiry as to the desires of the persons who have the legal authority to direct the
44 disposition of the decedent's body. If any persons are found, their authority and

1 directions shall govern the disposal of the remains of the decedent. Any funeral service
2 establishment receiving the remains in violation of this subsection shall make no charge
3 for any service in connection with the remains prior to delivery of the remains as
4 stipulated by the persons having legal authority to direct the disposition of the body.
5 This section shall not prevent any funeral service establishment from charging and
6 being reimbursed for services rendered in connection with the removal of the remains of
7 any deceased person in case of accidental or violent death, and rendering necessary
8 professional services required until the persons having legal authority to direct the
9 disposition of the body have been notified.

10 When and where a licensee presents a selection of funeral merchandise to the public
11 to be used in connection with the service to be provided by the licensee or an
12 establishment as licensed under this Article, a card or brochure shall be directly
13 associated with each item of merchandise setting forth the price of the service using said
14 merchandise and listing the services and other merchandise included in the price, if any.
15 When there are separate prices for the merchandise and services, such cards or
16 brochures shall indicate the price of the merchandise and of the items separately priced.

17 At the time funeral arrangements are made and prior to the time of rendering the
18 service and providing the merchandise, a funeral director or funeral service licensee
19 shall give or cause to be given to the person or persons making such arrangements a
20 written statement duly signed by a licensee of said funeral establishment showing the
21 price of the service as selected and what services are included therein, the price of each
22 of the supplemental items of services or merchandise requested, and the amounts
23 involved for each of the items for which the funeral establishment will advance moneys
24 as an accommodation to the person making arrangements, insofar as any of the above
25 items can be specified at that time. The statement shall have printed, typed or stamped
26 on the face thereof: "This statement of disclosure is provided pursuant to the
27 requirements of North Carolina G.S. 90-210.25(e)."

28 (f) Unlawful Practices. – If any person shall practice or hold himself out as
29 practicing the profession or art of embalming, funeral directing or practice of funeral
30 service without having complied with the licensing provisions of this Article, he shall be
31 guilty of a Class 2 misdemeanor.

32 Whenever it shall appear to the Board that any person, firm or corporation has
33 violated, threatens to violate or is violating any provisions of this Article, the Board may
34 apply to the courts of the State for a restraining order and injunction to restrain these
35 practices. If upon application the court finds that any provision of this Article is being
36 violated, or a violation is threatened, the court shall issue an order restraining and
37 enjoining the violations, and this relief may be granted regardless of whether criminal
38 prosecution is instituted under the provisions of this subsection. The venue for actions
39 brought under this subsection shall be the superior court of any county in which the acts
40 are alleged to have been committed or in the county where the defendant in the action
41 resides. "

42 **SECTION 4.** G.S. 90-210.27A reads as rewritten:

43 **"§ 90-210.27A. Funeral establishments.**

1 (a) Every funeral establishment shall contain a preparation room which is strictly
2 private, of suitable size for the embalming of dead bodies. Each preparation room shall:

- 3 (1) Contain one standard type operating table.
- 4 (2) Contain facilities for adequate drainage.
- 5 (3) Contain a sanitary waste receptacle.
- 6 (4) Contain an instrument sterilizer.
- 7 (5) Have wall-to-wall floor covering of tile, concrete, or other material
8 which can be easily cleaned.
- 9 (6) Be kept in sanitary condition and subject to inspection by the Board or
10 its agents at all times.
- 11 (7) Have a placard or sign on the door indicating that the preparation room
12 is private.
- 13 (8) Have a proper ventilation or purification system to maintain a
14 nonhazardous level of airborne contamination.

15 (b) No one is allowed in the preparation room while a dead human body is being
16 prepared except licensees, resident trainees, public officials in the discharge of their
17 duties, members of the medical profession, officials of the funeral home, next of kin, or
18 other legally authorized persons.

19 (c) Every funeral establishment shall contain a reposing room for dead human
20 bodies, of suitable size to accommodate a casket and visitors.

21 (d) Repealed by Session Laws 1997-399, s. 14.

22 (e) If a funeral establishment is solely owned by a natural person, that person
23 must be licensed by the Board as a funeral director or a funeral service licensee. If it is
24 owned by a partnership, at least one partner must be licensed by the Board as a funeral
25 director or a funeral service licensee. If it is owned by a corporation, the president,
26 vice-president, or the chairman of the board of directors must be licensed by the Board
27 as a funeral director or a funeral service licensee. If it is owned by a limited liability
28 company, at least one member must be licensed by the Board as a funeral director or a
29 funeral service licensee. The licensee required by this subsection must be actively
30 engaged in the operation of the funeral establishment.

31 (f) If a funeral establishment uses the name of a living person in the name under
32 which it does business, that person must be licensed by the Board as a funeral director
33 or a funeral service licensee.

34 (g) No funeral establishment or other licensee under this Article shall own,
35 operate, or maintain a funeral chapel without first having registered the name, location,
36 and ownership thereof with the Board.

37 (h) A funeral establishment must comply with any applicable public health laws
38 and rules and must contain the equipment and meet all of the standards established by
39 the rules adopted by the Board."

40 **SECTION 5.** G.S. 90-210.28 reads as rewritten:

41 **"§ 90-210.28. Fees.**

42 The Board may set and collect fees, not to exceed the following amounts:

43 Establishment permit	
44 Application.....	\$250.00

1	Annual renewal	175.00
2	Late renewal penalty	100.00
3	Reinspection fee	100.00
4	Courtesy card	
5	Application	75.00
6	Annual renewal	50.00
7	Out-of-state licensee	
8	Application	200.00
9	Embalmer, funeral director, funeral service	
10	Application - North	
11	Carolina Resident	150.00
12	-Non-Resident	200.00
13	Annual Renewal - embalmer or funeral director	50.00
14	-funeral service	100.00
15	Reinstatement fee	50.00
16	Resident trainee permit	
17	Application	50.00
18	Annual renewal	35.00
19	Late renewal penalty	25.00
20	Duplicate license certificate	25.00
21	Chapel registration	
22	Application	150.00
23	Annual renewal	100.00
24	<u>Establishment Permit</u>	
25	<u>Application</u>	<u>\$250.00</u>
26	<u>Annual renewal</u>	<u>\$150.00</u>
27	<u>Late renewal fee</u>	<u>\$100.00</u>
28	<u>Establishment and embalming facility inspection fee</u>	<u>\$100.00</u>
29	<u>Courtesy card</u>	
30	<u>Application</u>	<u>\$75.00</u>
31	<u>Annual renewal</u>	<u>\$50.00</u>
32	<u>Out-of-State licensee</u>	
33	<u>Application</u>	<u>\$200.00</u>
34	<u>Embalmer, funeral director, funeral service</u>	
35	<u>Application, North Carolina resident</u>	<u>\$150.00</u>
36	<u>Application, nonresident</u>	<u>\$200.00</u>
37	<u>Annual Renewal</u>	
38	<u>Embalmer</u>	<u>\$40.00</u>
39	<u>Funeral Director</u>	<u>\$40.00</u>
40	<u>Total fee, embalmer and funeral director</u>	
41	<u>when both are held by same person</u>	<u>\$60.00</u>
42	<u>Funeral service</u>	<u>\$60.00</u>
43	<u>Inactive status</u>	<u>\$50.00</u>
44	<u>Reinstatement fee</u>	<u>\$50.00</u>

1	<u>Resident trainee permit</u>	
2	<u>Application</u>	\$50.00
3	<u>Change in supervisor</u>	\$50.00
4	<u>Annual renewal</u>	\$35.00
5	<u>Late renewal fee</u>	\$25.00
6	<u>Duplicate License certificate</u>	\$25.00
7	<u>Chapel registration</u>	
8	<u>Application</u>	\$150.00
9	<u>Annual renewal</u>	\$100.00
10	<u>Late renewal fee</u>	\$75.00

11 The Board shall provide, without charge, one copy of the current statutes and
 12 regulations relating to Mortuary Science to every person applying for and paying the
 13 appropriate fees for licensing pursuant to this Article. The Board may charge all others
 14 requesting copies of the current statutes and regulations, and the licensees or applicants
 15 requesting additional copies, a fee equal to the costs of production and distribution of
 16 the requested documents."

17 **SECTION 6.** G.S. 90-210.29(b) is repealed.

18 **SECTION 7.** The title of Article 13D of Chapter 90 of the General Statutes
 19 reads as rewritten:

20 "Preneed Funeral ~~and Burial Trust~~ Funds."

21 **SECTION 8.** G.S. 20-210.60(7) reads as rewritten:

22 "Article 13D.

23 "Funeral and Burial Trust Funds.

24 **"§ 90-210.60. Definitions.**

25 As used in this Article, unless the context requires otherwise:

- 26 (1) "Board" means the North Carolina Board of Mortuary Science as
 27 created pursuant to Article 13A of Chapter 90 of the General Statutes;
- 28 (2) "Financial institution" means a bank, trust company, savings bank, or
 29 savings and loan association authorized by law to do business in this
 30 State;
- 31 (3) "Insurance company" means any corporation, limited liability
 32 company, association, partnership, society, order, individual or
 33 aggregation of individuals engaging in or proposing or attempting to
 34 engage as principals in any kind of insurance business, including the
 35 exchanging of reciprocal or interinsurance contracts between
 36 individuals, partnerships, and corporations;
- 37 (4) "Prearrangement insurance policy" means a life insurance policy,
 38 annuity contract, or other insurance contract, or any series of contracts
 39 or agreements in any form or manner, issued by an insurance company
 40 authorized by law to do business in this State, which, whether by
 41 assignment or otherwise, has for a purpose the funding of a preneed
 42 funeral contract or an insurance-funded funeral or burial
 43 prearrangement, the insured or annuitant being the person for whose
 44 service the funds were paid;

- 1 (5) "Preneed funeral contract" means any contract, agreement, or mutual
2 understanding, or any series or combination of contracts, agreements,
3 or mutual understandings, whether funded by trust deposits or
4 prearrangement insurance policies, or any combination thereof, which
5 has for a purpose the furnishing or performance of funeral services, or
6 the furnishing or delivery of personal property, merchandise, or
7 services of any nature in connection with the final disposition of a
8 dead human body, to be furnished or delivered at a time determinable
9 by the death of the person whose body is to be disposed of, but does
10 not mean the furnishing of a cemetery lot, crypt, niche, or mausoleum;
- 11 (6) "Preneed funeral contract beneficiary" means the person upon whose
12 death the preneed funeral contract will be performed; this person may
13 also be the purchaser of the preneed funeral contract;
- 14 (7) "Preneed funeral funds" means all payments of ~~money~~ cash made to
15 any person, partnership, association, corporation, or other entity upon
16 any preneed funeral contract or any other agreement, contract, or
17 prearrangement insurance policy, or any series or combination of
18 preneed funeral contracts or any other agreements, contracts, or
19 prearrangement insurance policies, but excluding the furnishing of
20 cemetery lots, crypts, niches, and mausoleums, which have for a
21 purpose or which by operation provide for the furnishing or
22 performance of funeral or burial services, or the furnishing or delivery
23 of personal property, merchandise, or services of any nature in
24 connection with the final disposition of a dead human body, to be
25 furnished or delivered at a time determinable by the death of the
26 person whose body is to be disposed of, or the providing of the
27 proceeds of any insurance policy for such use;
- 28 (8) "Preneed funeral planning" means offering to sell or selling preneed
29 funeral contracts, or making other arrangements prior to death for the
30 providing of funeral services or merchandise;
- 31 (9) "Preneed licensee" means a funeral establishment which has applied
32 for and has been granted a license to sell preneed funeral contracts
33 under the Article. Such license is also referred to in this Article as a
34 "preneed funeral establishment license."

35 **SECTION 9.** G.S. 90-210.64 reads as rewritten:

36 **"§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

37 (a) After the death of a preneed funeral contract beneficiary and full performance
38 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
39 promptly complete a certificate of performance or similar claim form and present it to
40 the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
41 insurance company that issued a preneed insurance policy pursuant to G.S. 90-
42 210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the
43 financial institution shall pay the trust funds to the contracting preneed licensee and the
44 insurance company shall pay the insurance proceeds according to the terms of the

1 policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy
2 of the certificate of performance or other claim form to the Board.

3 (b) Unless otherwise specified in the preneed funeral contract, the preneed
4 licensee shall have no obligation to deliver merchandise or perform any services for
5 which payment in full has not yet been deposited with a financial institution or that will
6 not be provided by the proceeds of a prearrangement insurance policy. Any such
7 amounts received which do not constitute payment in full shall be refunded to the estate
8 of the deceased preneed funeral contract beneficiary or credited against the cost of
9 merchandise or services contracted for by a representative of the deceased. Any balance
10 remaining after payment for the merchandise and services as set forth in the preneed
11 funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or
12 the prearrangement insurance policy beneficiary named to receive any such balance.
13 Provided, however, unless the parties agree to the contrary, there shall be no refund to
14 the estate of the preneed funeral contract beneficiary of an inflation-proof preneed
15 funeral contract.

16 (c) In the event that any person other than the contracting preneed licensee
17 performs any funeral service or provides any merchandise as a result of the death of the
18 preneed funeral contract beneficiary, the financial institution shall pay the trust funds to
19 the contracting preneed licensee and the insurance company shall pay the insurance
20 proceeds according to the terms of the policy. The preneed licensee shall, subject to the
21 provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other
22 provider.

23 (d) When the balance of a preneed funeral fund is under one hundred dollars
24 (\$100.00) and is payable to the estate of a deceased preneed funeral contract beneficiary
25 and there has been no representative of the estate appointed, the balance due may be
26 paid directly to the beneficiaries of the estate. If the balance of a preneed funeral fund
27 exceeds one hundred dollars (\$100.00) or is not payable to the estate, the balance must
28 be paid into the office of the clerk of superior court in the county where probate
29 proceedings could be filed for the deceased preneed funeral contract beneficiary.

30 (e) Upon the fulfillment of a preneed contract, all of the following items shall be
31 completed within 30 days:

32 (1) The contracting preneed licensee must submit a certificate of
33 performance or similar claim form to the financial institution holding
34 the preneed trust funds and close the preneed account.

35 (2) The proceeds of this trust account shall be distributed according to the
36 terms of the preneed contract.

37 (3) A completed copy of the certificate of performance or similar claim
38 form evidencing the final disposition of any financial institution
39 preneed trust accounts funds must be filed with the Board by the
40 contracting licensee."

41 **SECTION 10.** G.S. 90-210.67(f) is repealed.

42 **SECTION 11.** G.S. 90-210.69 reads as rewritten:

43 **"§ 90-210.69. Rulemaking; enforcement of Article; judicial review.**

1 (a) The Board is authorized to adopt rules for the carrying out and enforcement
2 of the provisions of this Article. The Board may perform such other acts and exercise
3 such other powers and duties as are authorized by this Article and by Article 13A of this
4 Chapter to carry out its powers and duties.

5 (b) The Board may administer oaths and issue subpoenas requiring the
6 attendance of persons and the production of papers and records in any investigation
7 conducted by it. Members of the Board's staff or the sheriff or other appropriate official
8 of any county of this State shall serve all notices, subpoenas and other papers given to
9 them by the Board for service in the same manner as process issued by any court of
10 record. Any person who does not obey a subpoena issued by the Board shall be guilty of
11 a misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the
12 discretion of the court.

13 (c) In accordance with the provisions of Chapter 150B of the General Statutes, if
14 the Board finds that a licensee, an applicant for a license or an applicant for license
15 renewal is guilty of one or more of the following, the Board may refuse to issue or
16 renew a license or may suspend or revoke a license or place the holder thereof on
17 probation upon conditions set by the Board, with revocation upon failure to comply with
18 the conditions:

- 19 (1) Offering to engage or engaging in activities for which a license is
20 required under this Article but without having obtained such a license.
- 21 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
22 corporation or other entity to offer to engage or engage in such
23 activities.
- 24 (3) A crime involving fraud or moral turpitude by conviction thereof.
- 25 (4) Fraud or misrepresentation in obtaining or receiving a license or in
26 preneed funeral planning.
- 27 (5) False or misleading advertising.
- 28 (6) Violating or cooperating with others to violate any provision of this
29 Article, the rules and regulations of the Board, adopted or the
30 standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984),
31 as amended from time to time.

32 In any case in which the Board is authorized to take any of the actions permitted
33 under this subsection, the Board may instead accept an offer in compromise of the
34 charges whereby the accused shall pay to the Board a penalty of not more than ~~one~~ five
35 thousand dollars (\$1,000)- (\$5,000). In any case in which the Board is entitled to place a
36 licensee on a term of probation, the Board may also impose a penalty of not more than
37 five thousand dollars (\$5,000) in conjunction with such probation.

38 (d) Any proceedings pertaining to or actions against a funeral establishment
39 under this Article may be in addition to any proceedings or actions permitted by G.S.
40 90-210.25(d)(4). Any proceedings pertaining to or actions against a person licensed for
41 funeral directing or funeral service may be in addition to any proceedings or actions
42 permitted by G.S. 90-210.25 (e)(1) and (2).

43 (e) Judicial review shall be pursuant to Article 4 of Chapter 150B of the General
44 Statutes.

1 (f) In determining the amount of any fine, penalty, or offer in compromise
2 imposed or assessed under Article 13 of Chapter 90 of the General Statutes, the Board
3 shall consider:

4 (1) The degree and extent of harm to the public health, safety and welfare
5 or to property, or the potential for harm.

6 (2) The duration and gravity of the violation.

7 (3) Whether the violation was committed willfully or intentionally or
8 reflects a continuing pattern.

9 (4) Whether the violation involved elements of fraud or deception either to
10 the public or to the Board, or both.

11 (5) The violator's prior disciplinary record with the Board.

12 (6) Whether and the extent to which the violator profited by the violation."

13 **SECTION 12.** This act becomes effective July 1, 2001.