

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 440
Committee Substitute Favorable 4/4/01
Committee Substitute #2 Favorable 4/19/01

Short Title: Embalmers and Funeral Directors-AB.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

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

3 The General Assembly of North Carolina enacts:

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

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

- 9
- 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 (b1) A member's term shall be three years and shall expire on December 31 or
16 when his or her successor has been duly elected or appointed. No member may serve
17 more than two complete consecutive terms.

18 (b2) The six seats on the Board for licensees shall be filled in an election in which
19 every person licensed to practice embalming, funeral directing, or funeral service in this
20 State 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. The six licensed members of the Board shall have full
25 voting authority.

26 (b3) The public members of the Board shall have full voting authority. They shall
27 be appointed by the Governor and may neither be licensed under this Article nor

1 employed by a person who is. A vacancy occurring in a public member's seat shall be
2 filled for the unexpired term by the Governor."

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~~ a 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~~ ceremony that is owned, operated, or maintained by a funeral
25 establishment or other licensee under this Article, and ~~which~~ that does not use the word
26 "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in
27 which or on the premises of which there is not displayed or offered for sale any caskets
28 or other funeral merchandise; in which or on the premises of which there is not located
29 any funeral business office or a preparation room; in which or on the premises of which
30 no funeral sales, financing, or arrangements are made; and which no owner, operator,
31 employee, or 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.~~ embalming.

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.

40 (i) "Funeral service licensee" means a person who is duly licensed and engaged
41 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~~ "Practice of funeral service" also means
9 engaging in making arrangements for funeral service, selling funeral supplies to the
10 public or making financial arrangements for the rendering of such services or the sale of
11 such supplies.

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

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

19 "**§ 90-210.25. Licensing.**

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

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

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

- 1 3. Laws of North Carolina and rules of the Board of
2 Mortuary Science and other agencies dealing with the
3 care, transportation and disposition of dead human
4 bodies.
- 5 (2) To be licensed for the practice of embalming under this Article, a
6 person must:
- 7 a. Be at least 18 years of age.
8 b. Be of good moral character.
9 c. Be a graduate of a mortuary science college approved by the
10 Board.
11 d. Have completed 12 months of resident traineeship as an
12 embalmer pursuant to the procedures and conditions set out in
13 G.S. 90-210.25(a)(4), either before or after satisfying the
14 educational requirement under ~~item~~ sub-subdivision c. of this
15 ~~subsection~~ subdivision.
- 16 e. Have passed an oral or written embalmer examination on the
17 following subjects:
- 18 1. Embalming, restorative arts, chemistry, pathology,
19 microbiology, and anatomy.
20 2. Repealed by 1997-399, s. 6.
21 3. Laws of North Carolina and rules of the Board of
22 Mortuary Science and other agencies dealing with the
23 care, transportation and disposition of dead human
24 bodies.
- 25 (3) To be licensed for the practice of funeral service under this Article, a
26 person must:
- 27 a. Be at least 18 years of age.
28 b. Be of good moral character.
29 c. Be a graduate of a mortuary science college approved by the
30 ~~Board.~~ Board or a school of mortuary science accredited by the
31 American Board of Funeral Service Education. Have completed
32 a minimum of 32 semester hours or 48 quarter hours of
33 instruction, including the subjects set out in sub-part e.1. of this
34 subdivision, as prescribed by a mortuary science college
35 approved by the Board or a school of mortuary science
36 accredited by the American Board of Funeral Service
37 Education.
- 38 d. Have completed 12 months of resident traineeship as a funeral
39 service licensee, pursuant to the procedures and conditions set
40 out in G.S. 90-210.25(a)(4), either before or after satisfying the
41 educational requirement under ~~item~~ sub-subdivison c. of this
42 ~~subsection~~ subdivision.

- 1 e. Have passed an oral or written funeral service examination on
2 the following subjects:
- 3 1. Psychology, sociology, funeral directing, business law,
4 funeral law, funeral management, and accounting.
 - 5 2. Embalming, restorative arts, chemistry, pathology,
6 microbiology, and anatomy.
 - 7 3. Repealed by 1997-399, s. 7.
 - 8 4. Laws of North Carolina and rules of the Board of
9 Mortuary Science and other agencies dealing with the
10 care, transportation and disposition of dead human
11 bodies.
- 12 (4) a. A person desiring to become a resident trainee shall apply to the
13 Board on a form provided by the Board. The application shall
14 state that the applicant is not less than 18 years of age, of good
15 moral character, and is the graduate of a high school or the
16 equivalent thereof, and shall indicate the licensee under whom
17 the applicant expects to train. A person training to become an
18 embalmer may serve under either a licensed embalmer or a
19 funeral service licensee. A person training to become a funeral
20 director may serve under either a licensed funeral director or a
21 funeral service licensee. A person training to become a funeral
22 service licensee shall serve under a funeral service licensee. The
23 application must be sustained by oath of the applicant and be
24 accompanied by the appropriate fee. When the Board is
25 satisfied as to the qualifications of an applicant it shall instruct
26 the secretary to issue a certificate of resident traineeship.
- 27 b. When a resident trainee leaves the proctorship of the licensee
28 under whom the trainee has worked, the licensee shall file with
29 the Board an affidavit showing the length of time served with
30 the licensee by the trainee, and the affidavit shall be made a
31 matter of record in the Board's office. The licensee shall deliver
32 a copy of the affidavit to the trainee.
- 33 c. A person who has not completed the traineeship and wishes to
34 do so under a licensee other than the one whose name appears
35 on the original certificate may reapply to the Board for
36 approval, without payment of an additional fee.
- 37 d. A certificate of resident traineeship shall be signed by the
38 resident trainee and upon payment of the renewal fee shall be
39 renewable one year after the date of original registration; but
40 the certificate may not be renewed more than one time. The
41 Board shall mail to each registered trainee at his last known
42 address a notice that the renewal fee is due and that, if not paid
43 within 30 days of the notice, the certificate will be canceled. A

1 penalty, in addition to the renewal fee, shall be charged for a
2 late renewal, but the renewal of the registration of any resident
3 trainee who is engaged in the active military service of the
4 United States at the time renewal is due may, at the discretion
5 of the Board, be held in abeyance for the duration of that
6 service without penalties. No credit shall be allowed for the
7 12-month period of resident traineeship that shall have been
8 completed more than three years preceding the examination for
9 a license.

10 e. All registered resident trainees shall report to the Board at least
11 once every ~~three months~~ month during traineeship upon forms
12 provided by the Board listing the work which has been
13 completed during the preceding ~~three months~~ month of resident
14 traineeship. The data contained in the reports shall be certified
15 as correct by the licensee under whom the trainee has served
16 during the period and by the licensed person who is managing
17 the funeral service establishment. Each report shall list the
18 following:

- 19 1. For funeral director trainees, the conduct of any funerals
20 during the relevant time period,
- 21 2. For embalming trainees, the embalming of any bodies
22 during the relevant time period,
- 23 3. For funeral service trainees, both of the activities named
24 in 1 and 2 of this subsection, engaged in during the
25 relevant time period.

26 f. To meet the resident traineeship requirements of G.S.
27 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
28 the following must be shown by the affidavit(s) of the
29 licensee(s) under whom the trainee worked:

- 30 1. That the funeral director trainee has, under supervision,
31 assisted in directing at least 25 funerals during the
32 resident traineeship,
- 33 2. That the embalmer trainee has, under supervision,
34 assisted in embalming at least 25 bodies during the
35 resident traineeship,
- 36 3. That the funeral service trainee has, under supervision
37 assisted in directing at least 25 funerals and, under
38 supervision, assisted in embalming at least 25 bodies
39 during the resident traineeship.

40 g. The Board may suspend or revoke a certificate of resident
41 traineeship for violation of any provision of this Article.

42 h. Each sponsor for a registered resident trainee must during the
43 period of sponsorship be actively employed with a funeral

- 1 establishment. The traineeship shall be a primary vocation of
2 the trainee.
- 3 i. Only one resident trainee may register and serve at any one time
4 under any one person licensed under this Article.
- 5 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 6 l. The Board shall register no more than one resident trainee at a
7 funeral establishment that ~~conducted~~ served 100 or fewer
8 ~~funerals~~ families during the 12 months immediately preceding
9 the date of the application, and shall register no more than one
10 resident trainee for each additional 100 ~~funerals~~ families
11 served at the funeral establishment during the 12
12 months immediately preceding the date of the application.
- 13 (5) The Board by regulation may recognize other examinations that the
14 Board deems equivalent to its own.
- 15 a. All licenses shall be signed by the president and secretary of the
16 Board and the seal of the Board affixed thereto. All licenses
17 shall be issued, renewed or duplicated for a period not
18 exceeding one year upon payment of the renewal fee, and all
19 licenses, renewals or duplicates thereof shall expire and
20 terminate the thirty-first day of December following the date of
21 their issue unless sooner revoked and canceled; provided, that
22 the date of expiration may be changed by unanimous consent of
23 the Board and upon 90 days' written notice of such change to all
24 persons licensed for the practice of funeral directing,
25 embalming and funeral service in this State.
- 26 b. The holder of any license issued by the Board who shall fail to
27 renew the same on or before January 31 of the calendar year for
28 which the license is to be renewed shall have forfeited and
29 surrendered the license as of that date. No license forfeited or
30 surrendered pursuant to the preceding sentence shall be
31 reinstated by the Board unless it is shown to the Board that the
32 applicant has, throughout the period of forfeiture, engaged full
33 time in another state of the United States or the District of
34 Columbia in the practice to which his North Carolina license
35 applies and has completed for each such year continuing
36 education substantially equivalent in the opinion of the Board to
37 that required of North Carolina licensees; or has completed in
38 North Carolina a total number of hours of accredited continuing
39 education computed by multiplying five times the number of
40 years of forfeiture; or has passed the North Carolina
41 examination for the forfeited license. No additional resident
42 traineeship shall be required. The applicant shall be required to
43 pay all delinquent annual renewal fees and a reinstatement fee.

1 The Board may waive the provisions of this section for an
2 applicant for a forfeiture which occurred during his service in
3 the armed forces of the United States provided he applies within
4 six months following severance therefrom.

5 c. All licensees now or hereafter licensed in North Carolina shall
6 take courses of study in subjects relating to the practice of the
7 profession for which they are licensed, to the end that new
8 techniques, scientific and clinical advances, the achievements of
9 research and the benefits of learning and reviewing skills will
10 be utilized and applied to assure proper service to the public.

11 d. As a prerequisite to the annual renewal of a license, the licensee
12 must complete, during the year immediately preceding renewal,
13 at least five hours of continuing education courses, approved by
14 the Board prior to enrollment. A licensee who completes more
15 than five hours in a year may carry over a maximum of five
16 hours as a credit to the following year's requirement. A licensee
17 who is issued an initial license on or after July 1 does not have
18 to satisfy the continuing education requirement for that year.

19 e. The Board shall not renew a license unless fulfillment of the
20 continuing education requirement has been certified to it on a
21 form provided by the Board, but the Board may waive this
22 requirement for renewal in cases of certified illness or undue
23 hardship or where the licensee lives outside of North Carolina
24 and does not practice in North Carolina, and the Board shall
25 waive the requirement for all licensees who have been licensed
26 in North Carolina for a continuous period of 25 years or more,
27 and for all licensees who are, at the time of renewal, members
28 of the General Assembly. ~~The waiver for 25 year licensees shall
29 apply only to those licensees who, before January 1, 1998, are
30 licensed, begin a course of study in a mortuary science college
31 or a trainee program, or make an application for a license.~~

32 f. The Board shall cause to be established and offered to the
33 licensees, each calendar year, at least five hours of continuing
34 education courses in subjects encompassing the license
35 categories of embalming, funeral directing and funeral service.
36 The Board may charge licensees attending these courses a
37 reasonable registration fee in order to meet the expenses thereof
38 and may also meet those expenses from other funds received
39 under the provisions of this Article.

40 g. Any person who having been previously licensed by the Board
41 as a funeral director or embalmer prior to July 1, 1975, shall not
42 be required to satisfy the requirements herein for licensure as a
43 funeral service licensee, but shall be entitled to have such

1 license renewed upon making proper application therefor and
2 upon payment of the renewal fee provided by the provisions of
3 this Article. Persons previously licensed by the Board as a
4 funeral director may engage in funeral directing, and persons
5 previously licensed by the Board as an embalmer may engage
6 in embalming. Any person having been previously licensed by
7 the Board as both a funeral director and an embalmer may upon
8 application therefor receive a license as a funeral service
9 licensee.

10 (a1) Inactive Licenses. – Any person holding a license issued by the Board for
11 funeral directing, for embalming, or for the practice of funeral service may apply for an
12 inactive license in the same category as the active license held. The inactive license is
13 renewable annually. Continuing education is not required for the renewal of an inactive
14 license. The only activity that a holder of an inactive license may engage in is to vote
15 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
16 active license in the same category, and the Board shall issue an active license if the
17 applicant has completed in North Carolina a total number of hours of accredited
18 continuing education equal to five times the number of years the applicant held the
19 inactive license. No application fee is required for the reinstatement of an active license
20 pursuant to this subsection. The holder of an inactive license who returns to active status
21 shall surrender the inactive license to the Board.

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

23 (1) The Board shall grant licenses to funeral directors, embalmers and
24 funeral service licensees, licensed in other states, territories, the
25 District of Columbia, and foreign countries, when it is shown that the
26 applicant holds a valid license as a funeral director, embalmer or
27 funeral service licensee issued by the other jurisdiction, has
28 demonstrated knowledge of the laws and regulations governing the
29 profession in North Carolina and has submitted proof of his good
30 moral character; and either that the applicant has continuously
31 practiced the profession in the other jurisdiction for at least three years
32 immediately preceding his application, or the Board has determined
33 that the licensing requirements for the other jurisdiction are
34 substantially similar to those of North Carolina.

35 (2) The Board shall periodically review the mortuary science licensing
36 requirements of other jurisdictions and shall determine which licensing
37 requirements are substantially similar to the requirements of North
38 Carolina.

39 (3) The Board may issue special permits, to be known as courtesy cards,
40 permitting nonresident funeral directors, embalmers and funeral
41 service licensees to remove bodies from and to arrange and direct
42 funerals and embalm bodies in this State, but these privileges shall not
43 include the right to establish a place of business in or engage generally

1 in the business of funeral directing and embalming in this State.
2 Except for special permits issued by the Board for teaching continuing
3 education programs and for work in connection with disasters, no
4 special permits may be issued to nonresident funeral directors,
5 embalmers, and funeral service licensees from states that do not issue
6 similar courtesy cards to persons licensed in North Carolina pursuant
7 to this Article.

8 (c) Registration, Filing and Transportation. –

9 (1) The holder of any license granted by this State for those within the
10 funeral service profession or renewal thereof provided for in this
11 Article shall cause registration to be filed in the office of the board of
12 health of the county or city in which he practices his profession, or if
13 there be no board of health in such county or city, at the office of the
14 clerk of the superior court of such county. All such licenses,
15 certificates, duplicates and renewals thereof shall be displayed in a
16 conspicuous place in the funeral establishment where the holder
17 renders service.

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

23 (3) The "transportation or removal of a dead human body" shall mean the
24 removal of a dead human body for a fee from the location of the place
25 of death or discovery of death or the transportation of the body to or
26 from a medical facility, funeral establishment or facility, crematory or
27 related holding facility, place of final disposition, or place designated
28 by the Medical Examiner for examination or autopsy of the dead
29 human body.

30 (4) Any individual, not otherwise exempt from this subsection, shall apply
31 for and receive a permit from the Board before engaging in the
32 transportation or removal of a dead human body in this State. Unless
33 otherwise exempt from this subsection, no corporation or other
34 business entity shall engage in the transportation or removal of a dead
35 human body unless it has in its employ at least one individual who
36 holds a permit issued under this section. No individual permit holder
37 shall engage in the transportation or removal of a dead human body for
38 more than one person, firm, or corporation without first providing the
39 Board with written notification of the name and physical address of
40 each such employer.

41 (5) The following persons shall be exempt from the permit requirements
42 of this section but shall otherwise be subject to subdivision (9) of this

1 subsection and any rules relating to the proper handling, care, removal,
2 or transportation of a dead human body:

3 a. Licenseses under this Article and their employees.

4 b. Employees of common carriers.

5 c. Except as provided in sub-subdivision (6)c. of this section,
6 employees of the State and its agencies and employees of local
7 governments and their agencies.

8 d. Funeral directors licensed in another state and their employees.

9 (6) The following persons shall be exempt from this section:

10 a. Emergency medical technicians, rescue squad workers,
11 volunteer and paid firemen, and law enforcement officers.

12 b. Employees of public or private hospitals, nursing homes, or
13 long-term care facilities, while handling a dead human body
14 within such facility or while acting within the scope of their
15 employment.

16 c. State and county medical examiners and their investigators.

17 d. Any individual transporting cremated remains.

18 e. Any individual transporting or removing a dead human body of
19 their immediate family or next of kin.

20 f. Any individual who has exhibited special care and concern for
21 the decedent.

22 (7) Individuals eligible to receive a permit under this section for the
23 transportation or removal of a dead human body for a fee, shall:

24 a. Be at least 18 years of age.

25 b. Possess and maintain a valid drivers license issued by this State
26 and provide proof of all liability insurance required for the
27 registration of any vehicle in which the person intends to
28 engage in the business of the removal or transportation of a
29 dead human body.

30 c. Affirmatively state under oath that the person has read and
31 understands the statutes and rules relating to the removal and
32 transportation of dead human bodies and any guidelines as may
33 be adopted by the Board.

34 d. Provide three written character references on a form prescribed
35 by the Board, one of which must be from a licensed funeral
36 director.

37 e. Be of good moral character.

38 (8) The permit issued under this section shall expire on December 31 of
39 each year. The application fee for the individual permit shall not
40 exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed
41 one hundred dollars (\$100.00), in addition to the renewal fee not to
42 exceed seventy-five dollars (\$75.00), shall be charged for any

- 1 application for renewal received by the Board after February 1 of each
2 year.
- 3 (9) No person shall transport a dead human body in the open cargo area or
4 passenger area of a vehicle or in any vehicle in which the body may be
5 viewed by the public. Any person removing or transporting a dead
6 human body shall either cover the body, place it upon a stretcher
7 designed for the purpose of transporting humans or dead human bodies
8 in a vehicle, and secure such stretcher in the vehicle used for
9 transportation, or shall enclose the body in a casket or container
10 designed for common carrier transportation, and secure the casket or
11 container in the vehicle used for transportation. No person shall use
12 profanity, indecent, or obscene language in the presence of a dead
13 human body. No person shall take a photograph or video recording of
14 a dead human body without the consent of a member of the deceased's
15 immediate family or next of kin.
- 16 (10) The Board may adopt rules under this section including permit
17 application procedures and the proper procedures for the removal,
18 handling, and transportation of dead human bodies. The Board shall
19 consult with the Office of the Chief Medical Examiner before
20 initiating rule making under this section and before adopting any rules
21 pursuant to this section. Nothing in this section prohibits the Office of
22 the Chief Medical Examiner from adopting policies and procedures
23 regarding the removal, transportation, or handling of a dead human
24 body under the jurisdiction of that office that are more stringent than
25 the laws in this section or any rules adopted under this section. Any
26 violation of this section or rules adopted under this section may be
27 punished by the Board by a suspension or revocation of the permit to
28 transport or remove dead human bodies or by a term of probation. The
29 Board may, in lieu of any disciplinary measure, accept a penalty not to
30 exceed five thousand dollars (\$5,000) per violation.
- 31 (11) Each applicant for a permit shall provide the Board with the applicant's
32 home address, name and address of any corporation or business entity
33 employing such individual for the removal or transportation of dead
34 human bodies, and the make, year, model, and license plate number of
35 any vehicle in which a dead human body is transported. A permittee
36 shall provide written notification to the Board of any change in the
37 information required to be provided to the Board by this section or by
38 the application for a permit within 30 days after such change takes
39 place.
- 40 (12) If any person shall engage in or hold himself out as engaging in the
41 business of transportation or removal of a dead human body without
42 first having received a permit under this section, the person shall be
43 guilty of a Class 2 misdemeanor.

- 1 (13) The Board shall have the authority to inspect any place or premises
2 that the business of removing or transporting a dead human body is
3 carried out and shall also have the right of inspection of any vehicle
4 and equipment used by a permittee for the removal or transportation of
5 a dead human body.
- 6 (d) Establishment Permit. –
- 7 (1) No person, firm or corporation shall conduct, maintain, manage or
8 operate a funeral establishment unless a permit for that establishment
9 has been issued by the Board and is conspicuously displayed in the
10 establishment. Each funeral establishment at a specific location shall
11 be deemed to be a separate entity and shall require a separate permit
12 and compliance with the requirements of this Article.
- 13 (2) A permit shall be issued when:
- 14 a. It is shown that the funeral establishment has in charge a
15 person, known as a manager, licensed for the practice of funeral
16 directing or funeral service, who shall not be permitted to
17 manage more than one funeral establishment.
- 18 b. The Board receives a list of the names of all part-time and
19 full-time licensees employed by the establishment.
- 20 c. It is shown that the funeral establishment satisfies the
21 requirements of G.S. 90-210.27A.
- 22 d. The Board receives payment of the permit fee.
- 23 (3) Applications for funeral establishment permits shall be made on forms
24 provided by the Board and filed with the Board by the owner, a
25 partner, a member of the limited liability company, or an officer of the
26 corporation by January 1 of each year, and shall be accompanied by
27 the application fee or renewal fee, as the case may be. All permits shall
28 expire on December 31 of each year. A penalty for late renewal, in
29 addition to the regular renewal fee, shall be charged for renewal of
30 registration received after the first day of February.
31 ~~A penalty for late renewal, in addition to the regular renewal fee,~~
32 ~~shall be charged for renewal of registration coming after the first day~~
33 ~~of February.~~
- 34 (4) The Board may suspend or revoke a permit when an owner, partner,
35 manager, member, operator, or officer of the funeral establishment
36 violates any provision of this Article or any regulations of the Board,
37 or when any agent or employee of the funeral establishment, with the
38 consent of any person, firm or corporation operating the funeral
39 establishment, violates any of those provisions, rules or regulations.
- 40 (5) Funeral establishment permits are not transferable. A new application
41 for a permit shall be made to the Board within 30 days of a change of
42 ownership of a funeral establishment.

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

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

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

- 12 a. Conviction of a felony or a crime involving fraud or moral
13 turpitude.
- 14 b. Fraud or misrepresentation in obtaining or renewing a license or
15 in the practice of funeral service.
- 16 c. False or misleading advertising as the holder of a license.
- 17 d. Solicitation of dead human bodies by the licensee, his agents,
18 assistants, or employees; but this paragraph shall not be
19 construed to prohibit general advertising by the licensee.
- 20 e. Employment directly or indirectly of any resident trainee agent,
21 assistant or other person, on a part-time or full-time basis, or on
22 commission, for the purpose of calling upon individuals or
23 institutions by whose influence dead human bodies may be
24 turned over to a particular licensee.
- 25 f. The direct or indirect giving of certificates of credit or the
26 payment or offer of payment of a commission by the licensee,
27 his agents, assistants or employees for the purpose of securing
28 business.
- 29 g. Gross immorality, including being under the influence of
30 alcohol or drugs while practicing funeral service.
- 31 h. Aiding or abetting an unlicensed person to perform services
32 under this Article, including the use of a picture or name in
33 connection with advertisements or other written material
34 published or caused to be published by the licensee.
- 35 i. Using profane, indecent or obscene language in the presence of
36 a dead human body, and within the immediate hearing of the
37 family or relatives of a deceased, whose body has not yet been
38 interred or otherwise disposed of.
- 39 j. Violating or cooperating with others to violate any of the
40 provisions of this Article, the rules and regulations of the
41 Board, or the standards set forth in Funeral Industry Practices,
42 16 C.F.R. 453 (1984), as amended from time to time.

- 1 k. Violation of any State law or municipal or county ordinance or
2 regulation affecting the handling, custody, care or transportation
3 of dead human bodies.
4 l. Refusing to surrender promptly the custody of a dead human
5 body upon the express order of the person lawfully entitled to
6 the custody thereof.
7 m. Knowingly making any false statement on a certificate of death.
8 n. Indecent exposure or exhibition of a dead human body while in
9 the custody or control of a licensee.

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

- 16 (2) Where the Board finds that a licensee is guilty of one or more of the
17 acts or omissions listed in ~~subsection (e) (1)~~ subdivision (e)(1) of this
18 section but it is determined by the Board that the licensee has not
19 thereby become unfit to practice, the Board may place the licensee on
20 a term of probation in accordance with the procedures set out in
21 Chapter 150B. In any case in which the Board is entitled to place a
22 licensee on a term of probation, the Board may also impose a penalty
23 of not more than five thousand dollars (\$5,000) in conjunction with the
24 probation.

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

31 No funeral service establishment shall accept a dead human body from any public
32 officer (excluding the State or county medical examiner or his agent), or employee or
33 from the official of any institution, hospital or nursing home, or from a physician or any
34 person having a professional relationship with a decedent, without having first made
35 due inquiry as to the desires of the persons who have the legal authority to direct the
36 disposition of the decedent's body. If any persons are found, their authority and
37 directions shall govern the disposal of the remains of the decedent. Any funeral service
38 establishment receiving the remains in violation of this subsection shall make no charge
39 for any service in connection with the remains prior to delivery of the remains as
40 stipulated by the persons having legal authority to direct the disposition of the body.
41 This section shall not prevent any funeral service establishment from charging and
42 being reimbursed for services rendered in connection with the removal of the remains of
43 any deceased person in case of accidental or violent death, and rendering necessary

1 professional services required until the persons having legal authority to direct the
2 disposition of the body have been notified.

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

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

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

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

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

36 "**§ 90-210.27A. Funeral establishments.**

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

- 39 (1) Contain one standard type operating table.
- 40 (2) Contain facilities for adequate drainage.
- 41 (3) Contain a sanitary waste receptacle.
- 42 (4) Contain an instrument sterilizer.

- 1 (5) Have wall-to-wall floor covering of tile, concrete, or other material
- 2 which can be easily cleaned.
- 3 (6) Be kept in sanitary condition and subject to inspection by the Board or
- 4 its agents at all times.
- 5 (7) Have a placard or sign on the door indicating that the preparation room
- 6 is private.
- 7 (8) Have a proper ventilation or purification system to maintain a
- 8 nonhazardous level of airborne contamination.

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

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

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

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

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

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

31 (h) All public health laws and rules apply to funeral establishments. In addition,
 32 all funeral establishments must comply with all of the standards established by the rules
 33 adopted by the Board."

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

35 "**§ 90-210.28. Fees.**

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

37 Establishment permit	
38 Application.....	\$250.00
39 Annual renewal	175.00 150.00
40 Late renewal penalty	100.00
41 Reinspection fee	100.00
42 <u>Establishment and embalming facility inspection fee</u>	<u>100.00</u>

43 Courtesy card

1	Application.....	75.00
2	Annual renewal	50.00
3	Out-of-state licensee	
4	Application.....	200.00
5	Embalmer, funeral director, funeral service	
6	Application–North	
7	Carolina-Resident	150.00
8	-Non-Resident	200.00
9	Annual Renewal-embalmer or funeral director	50.00 40.00
10	<u>Total fee, embalmer and funeral director</u>	
11	<u>when both are held by the same person</u>	60.00
12	-funeral service.....	100.00 60.00
13	<u>Inactive Status</u>	50.00
14	Reinstatement fee.....	50.00
15	Resident trainee permit	
16	Application.....	50.00
17	<u>Change in supervisor</u>	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>Late renewal</u>	75.00

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

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

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

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

35 **SECTION 8.** G.S. 90-210.60(7) reads as rewritten:

36 "(7) "Preneed funeral funds" means all payments of ~~money~~ cash made to
 37 any person, partnership, association, corporation, or other entity upon
 38 any preneed funeral contract or any other agreement, contract, or
 39 prearrangement insurance policy, or any series or combination of
 40 preneed funeral contracts or any other agreements, contracts, or
 41 prearrangement insurance policies, but excluding the furnishing of
 42 cemetery lots, crypts, niches, and mausoleums, which have for a
 43 purpose or which by operation provide for the furnishing or

1 performance of funeral or burial services, or the furnishing or delivery
2 of personal property, merchandise, or services of any nature in
3 connection with the final disposition of a dead human body, to be
4 furnished or delivered at a time determinable by the death of the
5 person whose body is to be disposed of, or the providing of the
6 proceeds of any insurance policy for such use;"

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

8 **"§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

9 (a) After the death of a preneed funeral contract beneficiary and full performance
10 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
11 promptly complete a certificate of performance or similar claim form and present it to
12 the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
13 insurance company that issued a preneed insurance policy pursuant to G.S.
14 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form,
15 the financial institution shall pay the trust funds to the contracting preneed licensee and
16 the insurance company shall pay the insurance proceeds according to the terms of the
17 policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy
18 of the certificate of performance or other claim form to the Board.

19 (b) Unless otherwise specified in the preneed funeral contract, the preneed
20 licensee shall have no obligation to deliver merchandise or perform any services for
21 which payment in full has not yet been deposited with a financial institution or that will
22 not be provided by the proceeds of a prearrangement insurance policy. Any such
23 amounts received which do not constitute payment in full shall be refunded to the estate
24 of the deceased preneed funeral contract beneficiary or credited against the cost of
25 merchandise or services contracted for by a representative of the deceased. Any balance
26 remaining after payment for the merchandise and services as set forth in the preneed
27 funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or
28 the prearrangement insurance policy beneficiary named to receive any such balance.
29 Provided, however, unless the parties agree to the contrary, there shall be no refund to
30 the estate of the preneed funeral contract beneficiary of an inflation-proof preneed
31 funeral contract.

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

39 (d) When the balance of a preneed funeral fund is one hundred dollars (\$100.00)
40 or less and is payable to the estate of a deceased preneed funeral contract beneficiary
41 and there has been no representative of the estate appointed, the balance due may be
42 paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a
43 preneed funeral fund exceeds one hundred dollars (\$100.00) or is not payable to the

1 estate, the balance must be paid into the office of the clerk of superior court in the
2 county where probate proceedings could be filed for the deceased preneed funeral
3 contract beneficiary.

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

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

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

11 (3) A completed copy of the certificate of performance or similar claim
12 form evidencing the final disposition of any financial institution
13 preneed trust account funds must be filed with the Board by the
14 contracting licensee."

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

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

17 **"§ 90-210.69. Rulemaking; enforcement of Article; judicial review.**

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

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

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

36 (1) Offering to engage or engaging in activities for which a license is
37 required under this Article but without having obtained such a license.

38 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
39 corporation or other entity to offer to engage or engage in such
40 activities.

41 (3) A crime involving fraud or moral turpitude by conviction thereof.

42 (4) Fraud or misrepresentation in obtaining or receiving a license or in
43 preneed funeral planning.

1 (5) False or misleading advertising.

2 (6) Violating or cooperating with others to violate any provision of this
3 Article, the rules and regulations of the Board, adopted or the
4 standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984),
5 as amended from time to time.

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

12 (d) Any proceedings pertaining to or actions against a funeral establishment
13 under this Article may be in addition to any proceedings or actions permitted by G.S.
14 90-210.25(d)(4). Any proceedings pertaining to or actions against a person licensed for
15 funeral directing or funeral service may be in addition to any proceedings or actions
16 permitted by G.S. 90-210.25 (e)(1) and (2).

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

19 (f) In determining the amount of any penalty imposed or assessed under Article
20 13 of Chapter 90 of the General Statutes, the Board shall consider:

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

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

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

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

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

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

30 **SECTION 12.** One public member of the North Carolina Board of Mortuary
31 Science, appointed under G.S. 90-210.18(b3), with a second term expiring December
32 31, 2001, shall have such term extended until December 31, 2002, in order to stagger
33 the expiration of all three public member terms.

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