

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 529*
Committee Substitute Favorable 6/7/18

Short Title: Amend Funeral Laws.

(Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL
3 SERVICE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 90-210.25 reads as rewritten:

6 "**§ 90-210.25. Licensing.**

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

8 (1) To be licensed for the practice of funeral directing under this Article, ~~a person~~
9 ~~must~~an applicant for licensure bears the burden of substantiating to the
10 satisfaction of the Board that the applicant:

11 a. ~~Be~~Is at least 18 years of age.

12 b. ~~Be~~Is of good moral character.

13 c. ~~Be a graduate of a Funeral Director Program at a mortuary science~~
14 ~~college approved by the Board or a school of mortuary science~~
15 ~~accredited by the American Board of Funeral Service Education. Have~~
16 ~~completed a minimum of 32 semester hours or 48 quarter hours of~~
17 ~~instruction, including the subjects set out in sub part c.1. of this~~
18 ~~subdivision, as prescribed by a mortuary science college approved by~~
19 ~~the Board or a school of mortuary science accredited by the American~~
20 ~~Board of Funeral Service Education.~~Possesses a degree in mortuary
21 science or has graduated from a Funeral Director Program, or the
22 equivalent, from a program approved by the Board and accredited by
23 the American Board of Funeral Service Education.

24 d. ~~Have~~Within the last three years, has completed 12 months of resident
25 traineeship as a funeral director, pursuant to the procedures and
26 conditions set out in G.S. 90-210.25(a)(4), either before or after
27 satisfying the educational requirement under sub-subdivision c. of this
28 subdivision.

29 e. ~~Have passed an oral or written funeral director examination on~~Within
30 the last three years, has obtained passing scores on all of the following
31 subjects:examinations:

32 1. ~~Psychology, sociology, pathology, funeral directing, business~~
33 ~~law, funeral law, funeral management, and~~
34 ~~accounting.~~Entry-level examination in funeral directing
35 administered by The International Conference of Funeral
36 Service Examining Boards.



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- 2. Repealed by Session Laws 1997-399, s. 5.
- 3. ~~Laws Examination of the laws of North Carolina~~ Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.
- 4. Examination of pathology.
- f. Has paid all applicable fees.
- (2) To be licensed for the practice of embalming under this Article, a person must:an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
 - a. ~~Be~~ Is at least 18 years of age.
 - b. ~~Be~~ Is of good moral character.
 - c. ~~Be a graduate of a~~ Possesses an associate degree in mortuary science college science, or the equivalent, from a mortuary science program approved by the Board. ~~Board and accredited by the American Board of Funeral Service Education.~~
 - d. ~~Have~~ Within the last three years, has completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. ~~Have~~ Within the past three years, has passed an oral or written embalmer examination on the following subjects:
 - 1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 - 2. Repealed by Session Laws 1997-399, s. 6.
 - 3. ~~Laws Examination of the laws of North Carolina~~ Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.
 - f. Has paid all applicable fees.
- (3) To be licensed for the practice of funeral service under this Article, a person must:an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
 - a. ~~Be~~ Is at least 18 years of age.
 - b. ~~Be~~ Is of good moral character.
 - c. ~~Be a graduate of and receive~~ Possesses an associate degree from a mortuary science college approved by the Board or a school of in mortuary science, or the equivalent, from a mortuary science program approved by the Board and accredited by the American Board of Funeral Service Education. ~~Have completed a minimum of 60 semester hours or 90 quarter hours of instruction, including the subjects set out in sub part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.~~
 - d. ~~Have~~ Within the last three years, has completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after

- 1 satisfying the educational requirement under sub-subdivision c. of this
 2 subdivision.
- 3 e. ~~Have~~ Within the last three years, has passed an oral or written funeral
 4 service examination on the following subjects:
- 5 1. ~~Psychology, sociology, funeral directing, business law, funeral~~
 6 ~~law, funeral management, and accounting.~~ Entry-level
 7 examination in funeral directing administered by The
 8 International Conference of Funeral Service Examining
 9 Boards.
- 10 2. Embalming, restorative arts, chemistry, pathology,
 11 microbiology, and anatomy.
- 12 3. Repealed by Session Laws 1997-399, s. 7.
- 13 4. ~~Laws~~ Examination of the laws of North Carolina ~~Carolina, the~~
 14 standards set forth in Funeral Industry Practices, 16 C.F.R. §
 15 453 (1984), pursuant to its most recent version, and rules of the
 16 Board and other agencies dealing with the care, transportation
 17 and disposition of dead human bodies.
- 18 f. Has paid all applicable fees.
- 19 (4) a. A person desiring to become a resident trainee shall apply to the Board
 20 on a form provided by the Board. The application shall state that the
 21 applicant is not less than 18 years of age, of good moral character, and
 22 is the graduate of a high school or the equivalent thereof, and shall
 23 indicate the licensee under whom the applicant expects to train. A
 24 person training to become an embalmer may serve under the
 25 supervision of either a licensed embalmer or a funeral service
 26 licensee. ~~licensee who is in good standing with the Board and who has~~
 27 practiced funeral service or embalming full time for a minimum of five
 28 years. A person training to become a funeral director may serve under
 29 the supervision of either a licensed funeral director or a funeral service
 30 licensee. ~~licensee who is in good standing with the Board and who has~~
 31 practiced funeral service or funeral directing full time for a minimum
 32 of five years. A person training to become a funeral service licensee
 33 shall serve under the supervision of a funeral service ~~licensee.~~ licensee
 34 who is in good standing with the Board and who has practiced funeral
 35 service full time for a minimum of five years. The application must be
 36 sustained by oath of the applicant and be accompanied by the
 37 appropriate fee. When the Board is satisfied as to the qualifications of
 38 an applicant it shall instruct the secretary to issue a certificate of
 39 resident traineeship.
- 40 ...
- 41 d. A certificate of resident traineeship shall be signed by the resident
 42 trainee and upon payment of the renewal fee shall be renewable one
 43 year after the date of original registration; but the certificate may not
 44 be renewed more than two times. The Board shall mail to each
 45 registered trainee at ~~his~~ the trainee's last known residential address or
 46 e-mail address a notice that the renewal fee is due and that, if not paid
 47 within 30 days of the notice, the certificate will be canceled. A late fee,
 48 in addition to the renewal fee, shall be charged for a late renewal, ~~but~~
 49 except that the renewal of the registration of any resident trainee who
 50 is engaged in active service in the Armed Forces of the United States
 51 ~~at the time renewal is due may, at the discretion of the Board, be held~~

- 1 ~~in abeyance for the duration of that service without penalties shall not~~
2 ~~be charged a late fee.~~ No credit shall be allowed for the 12-month
3 period of resident traineeship that shall have been completed more
4 than five years preceding the examination for a license. However, any
5 resident trainee to whom G.S. 105-249.2 grants an extension of time
6 to file a tax return shall be allowed an extension of time to retain credit
7 equal to the number of days of active deployment.
- 8 e. All registered resident trainees shall electronically report to the Board
9 at least once every month during traineeship upon forms provided by
10 the Board listing the work which has been completed during the
11 preceding month of resident traineeship. The Board may set and
12 collect a late fee not to exceed fifty dollars (\$50.00) for each work
13 report filed after the date the report is due. The data contained in the
14 reports shall be certified as correct by the licensee under whom the
15 trainee has served during the period and by the licensed person who is
16 managing the funeral service establishment. Each report shall list the
17 following:
18 ...
- 19 f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1),
20 G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be
21 shown by the affidavit(s) of the licensee(s) under whom the trainee
22 worked:
23 1. That the funeral director trainee has, under ~~supervision, the~~
24 supervision of the licensed individual, registered as the
25 trainee's supervisor, substantially assisted in directing at least
26 25 funerals during the resident traineeship,
27 2. That the embalmer trainee has, under ~~supervision, the~~
28 supervision of the licensed individual, registered as the
29 trainee's supervisor, substantially assisted in embalming at
30 least 25 bodies during the resident traineeship,
31 3. That the funeral service trainee has, under ~~supervision, the~~
32 supervision of the licensed individual, registered as the
33 trainee's supervisor, substantially assisted in directing at least
34 25 funerals and, under ~~supervision, the supervision of the~~
35 licensed individual, registered as the trainee's supervisor,
36 substantially assisted in embalming at least 25 bodies during
37 the resident traineeship.
- 38 g. The Board may ~~suspend or revoke~~ suspend, revoke, or refuse to issue
39 or renew a certificate of resident traineeship for violation of any
40 provision of this ~~Article.~~ Article or place a trainee on probation for any
41 violation of this Article or rules adopted by the Board. The Board may
42 determine the length of any suspension, revocation, refusal to issue or
43 renew, or probation and impose conditions on probation and
44 reinstatement as the Board deems appropriate.
- 45 h. Each ~~sponsor-registered supervisor~~ for a ~~registered~~ resident trainee
46 must during the period of sponsorship be actively employed with a
47 funeral establishment. The traineeship shall be a primary vocation of
48 the trainee.
- 49 i. Only one resident trainee may register and serve at any one time under
50 any one person licensed and registered as a resident trainee supervisor
51 under this Article.

- 1 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 2 l. ~~The Board shall register no more than one resident trainee at a funeral~~
- 3 ~~establishment that served 100 or fewer families during the 12 months~~
- 4 ~~immediately preceding the date of the application, and shall register~~
- 5 ~~no more than one resident trainee for each additional 100 families~~
- 6 ~~served at the funeral establishment during the 12 months immediately~~
- 7 ~~preceding the date of the application. Any resident trainee or registered~~
- 8 ~~supervisor of a resident trainee shall meet with the Board upon request.~~
- 9 (5) The Board by regulation may recognize other examinations that the Board
- 10 deems equivalent to its own. After an applicant fails to obtain a passing score
- 11 on an examination two consecutive times, the applicant must wait at least 60
- 12 days to retake the examination.
- 13 ...
- 14 b. The holder of any license issued by the Board who shall fail to renew
- 15 the same on or before February 1 of the calendar year for which the
- 16 license is to be renewed shall have forfeited and surrendered the
- 17 license as of that date. No license forfeited or surrendered pursuant to
- 18 the preceding sentence shall be reinstated by the Board unless it is
- 19 shown to the Board that the applicant has, throughout the period of
- 20 forfeiture, engaged full time in another state of the United States or the
- 21 District of Columbia in the practice to which the applicant's North
- 22 Carolina license applies and has completed for each such year
- 23 continuing education substantially equivalent in the opinion of the
- 24 Board to that required of North Carolina licensees; or has completed
- 25 in North Carolina a total number of hours of accredited continuing
- 26 education computed by multiplying five times the number of years of
- 27 forfeiture; or has passed the North Carolina examination for the
- 28 forfeited license. No additional resident traineeship shall be required.
- 29 The applicant shall be required to pay all delinquent annual renewal
- 30 fees and a reinstatement fee. The Board may waive the provisions of
- 31 this section for an applicant for a forfeiture which occurred during the
- 32 applicant's service in the Armed Forces of the United States provided
- 33 the applicant applies within six months following severance
- 34 therefrom.
- 35 c. All licensees now or hereafter licensed in North Carolina shall take
- 36 continuing education courses approved by the Board in subjects
- 37 relating to the practice of the profession for which they are licensed,
- 38 to the end that the benefits of learning and reviewing skills will be
- 39 utilized and applied to assure proper service to the public.
- 40 d. As a prerequisite to the annual renewal of a license, the licensee must
- 41 complete, during the year immediately preceding renewal, at least five
- 42 hours of continuing education courses, of which the Board may require
- 43 licensees to take up to two hours specified by the Board. All continuing
- 44 education courses must be approved by the Board prior to enrollment.
- 45 A licensee who completes more than five hours in a year may carry
- 46 over a maximum of five hours as a credit to the following year's
- 47 requirement. A licensee ~~who is issued an initial license on or after July~~
- 48 ~~1~~ does not have to satisfy the continuing education requirement for ~~that~~
- 49 ~~year.~~ the calendar year in which the license was first obtained.
- 50 ...

1 h. The Department of Public Safety may provide a criminal record check
 2 to the Board for a person who has applied for a new or renewal license,
 3 or certification through the Board. The Board shall provide to the
 4 Department of Public Safety, along with the request, the fingerprints
 5 of the applicant, any additional information required by the
 6 Department of Public Safety, and a form signed by the applicant
 7 consenting to the check of the criminal record and to the use of the
 8 fingerprints and other identifying information required by the State or
 9 national repositories. The applicant's fingerprints shall be forwarded
 10 to the State Bureau of Investigation for a search of the State's criminal
 11 history record file, and the State Bureau of Investigation shall forward
 12 a set of the fingerprints to the Federal Bureau of Investigation for a
 13 national criminal history check. The Board shall keep all information
 14 pursuant to this subdivision privileged, in accordance with applicable
 15 State law and federal guidelines, and the information shall be
 16 confidential and shall not be a public record under Chapter 132 of the
 17 General Statutes.

18 The Department of Public Safety may charge each applicant a fee
 19 for conducting the checks of criminal history records authorized by
 20 this subdivision.

21 ...

22 (a2) In order to engage in the practice of funeral directing or funeral service, such a
 23 licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment;
 24 except that such a licensee may practice funeral directing or funeral service ~~if~~ if any of the
 25 following apply:

26 (1) ~~Employed~~ The licensee is employed by a college of mortuary science;
 27 or science.

28 (2) ~~The licensee~~ licensee does all of the following:

29 a. ~~Maintains all of his or her~~ the licensee's business records at a location
 30 made known to the Board and available for inspection by the Board
 31 under the same terms and conditions as the business records of a
 32 licensed funeral ~~establishment;~~ establishment.

33 b. Complies with rules and regulations imposed on funeral
 34 establishments and the funeral profession that are designed to protect
 35 consumers, to include, but not be limited to, the Federal Trade
 36 Commission's laws and rules requiring General Price Lists and
 37 Statements of Goods and ~~Services;~~ and Services.

38 c. Pays to the Board the funeral establishment license fee required by law
 39 and set by the Board.

40 d. Obtains and maintains a professional liability insurance policy with
 41 liability limits of at least one million dollars (\$1,000,000). Certificates
 42 of professional liability insurance shall be (i) submitted to the Board
 43 within 30 days of the initial registration of the licensee by the Board,
 44 (ii) made available during any inspection by the Board, and (iii)
 45 submitted to the Board upon request. The licensee shall notify the
 46 Board in writing within 30 days of any change in the insurer or any
 47 cancellation or suspension of policy.

48 e. Provides to the Board annually as a condition of renewal the name and
 49 address of the funeral establishment or embalming facility where
 50 embalming is performed, provided that an embalming facility may not
 51 be used for storing any dead human body in excess of 24 hours. The

licensee shall notify the Board in writing within 30 days of any change in the funeral establishment or embalming facility with which the licensee has contracted or is affiliated.

Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.

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

(1) ~~The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, jurisdictions, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and rules governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.~~ has satisfied all of the following:

a. The applicant holds an active, valid license in good standing as a funeral director, embalmer, or funeral service licensee issued by a jurisdiction that will reciprocate a North Carolina license to practice as a funeral director, embalmer, or funeral service licensee. The license, at the time it was issued by the other jurisdiction, must have had equal or greater education, training, and examination requirements.

b. The applicant has demonstrated knowledge of the laws and rules governing the profession in North Carolina through achieving a passing score on the laws and rules exam administered on behalf of the Board.

c. The applicant has submitted proof of the applicant's good moral character.

d. The applicant has practiced in the profession for at least three years in a jurisdiction that will reciprocate a North Carolina license to practice as a funeral director, embalmer, or funeral service licensee.

Nothing in this subdivision shall preclude any individual from obtaining a license by meeting the requirements of subdivision (1), (2), or (3) of subsection (a) of this section.

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

...

(c) Registration, Filing and Transportation. –

...

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

...

f. Obtain and maintain a professional liability insurance policy with liability limits of at least one million dollars (\$1,000,000). Certificates of professional liability insurance shall be (i) submitted to the Board within 30 days of the initial registration of the transporter by the Board and (ii) submitted to the Board annually as a condition for renewal of each transport permit. The transporter shall notify the Board in writing

1 within 30 days of any change in the insurer or any cancellation or
2 suspension of the policy. Individuals covered by an employer's
3 professional liability insurance policy shall provide evidence
4 satisfactory to the Board that the policy covers that individual and
5 meets the criteria provided in this sub-subdivision.

6 (8) The permit issued under this section shall expire on December 31 of each year.
7 The application fee for the individual permit shall not exceed one hundred
8 twenty-five dollars (\$125.00). A fee, not to exceed one hundred dollars
9 (\$100.00), in addition to the renewal fee not to exceed seventy-five dollars
10 (\$75.00), shall be charged for any application for renewal received by the
11 Board after February 1 of each year.

12 ...
13 (10) The Board may adopt rules under this section including permit application
14 procedures and the proper procedures for the removal, handling, and
15 transportation of dead human bodies. The Board shall consult with the Office
16 of the Chief Medical Examiner before initiating rule making under this section
17 and before adopting any rules pursuant to this section. Nothing in this section
18 prohibits the Office of the Chief Medical Examiner from adopting policies
19 and procedures regarding the removal, transportation, or handling of a dead
20 human body under the jurisdiction of that office that are more stringent than
21 the laws in this section or any rules adopted under this section. ~~Any violation~~
22 ~~of this section or rules adopted under this section may be punished by the~~
23 ~~Board by a suspension or revocation of the permit to transport or remove dead~~
24 ~~human bodies or by a term of probation. The Board may, in lieu of any~~
25 ~~disciplinary measure, accept a penalty not to exceed five thousand dollars~~
26 ~~(\$5,000) per violation.~~

27 ...
28 (14) The Board may suspend, revoke, or refuse to issue or renew the permit, place
29 the permittee on a term of probation, or impose a civil penalty not to exceed
30 five thousand dollars (\$5,000) in conjunction with a term of probation or in
31 lieu of other disciplinary action when it finds that any person permitted to
32 transport dead human bodies has engaged in any of the following acts:
33 a. Conviction of a felony or a crime involving fraud or moral turpitude.
34 b. Denial, suspension, or revocation of an occupational or business
35 license by another jurisdiction.
36 c. Fraud or misrepresentation in obtaining or renewing a permit.
37 d. False or misleading advertising as the holder of a permit.
38 e. Solicitation of dead human bodies by the permittee or the permittee's
39 agents, assistants, or employees. However, this sub-subdivision shall
40 not be construed to prohibit general advertising.
41 f. Gross immorality, including being under the influence of alcohol or
42 drugs while handling or transporting dead human bodies.
43 g. Failing to treat a dead human body with respect at all times.
44 h. Violating or cooperating with others to violate any of the provisions
45 of this Article, any rules and regulations of the Board, or any State law
46 or municipal or county ordinance or regulation affecting the handling,
47 custody, care, or transport of dead human bodies.
48 i. Refusing to surrender promptly the custody of a dead human body
49 upon the express order of the person lawfully entitled to custody of the
50 body.

- 1 j. Indecent exposure or exhibition of a dead human body while in a
- 2 permittee's custody or control.
- 3 k. Practicing funeral directing, funeral service, or embalming without a
- 4 license.

5 The Board shall have the authority to determine the length and conditions
 6 of any period of revocation, suspension, refusal to issue or renew, or
 7 probation.

8 (d) Establishment Permit. –

9 ...

10 (3) Applications for funeral establishment permits shall be made on forms
 11 provided by the Board and filed with the Board by the owner, a partner, a
 12 member of the limited liability company, or an officer of the corporation by
 13 January 1 of each year, and shall be accompanied by the application fee or
 14 renewal fee, as the case may be. All permits shall expire on December 31 of
 15 each year. If the renewal application and renewal fee are not received in the
 16 Board's office on or before February 1, a late renewal fee, in addition to the
 17 regular renewal fee, shall be charged.

18 (4) The Board may place on probation, refuse to issue or renew, suspend, or
 19 revoke a permit when an owner, partner, manager, member, operator, or
 20 officer of the funeral establishment violates any provision of this Article or
 21 any regulations of the Board, or when any agent or employee of the funeral
 22 establishment, with the consent of any person, firm or corporation operating
 23 the funeral establishment, violates any of those provisions, rules or
 24 regulations. In any case in which the Board is entitled to place a funeral
 25 establishment permittee on a term of probation, the Board may also impose a
 26 penalty of not more than five thousand dollars (\$5,000) in conjunction with
 27 the probation. In any case in which the Board is entitled to suspend, revoke,
 28 or refuse to renew a permit, the Board may accept from the funeral
 29 establishment permittee an offer to pay a penalty of not more than five
 30 thousand dollars (\$5,000). The Board may either accept a penalty or revoke
 31 or refuse to renew a license, but not both. Any penalty under this subdivision
 32 may be in addition to any penalty assessed against one or more licensed
 33 individuals employed by the funeral establishment. The Board shall have the
 34 authority to determine the length and conditions of any period of revocation,
 35 suspension, refusal to issue or renew, or probation.

36 (5) Funeral establishment permits are not transferable. A new application for a
 37 permit shall be made to the Board within 30 days of a change of ownership of
 38 a funeral establishment. A change to the legal structure owning a funeral
 39 establishment shall constitute a change of ownership only when there is a
 40 change of a majority of the funeral establishment's owners, partners,
 41 managers, members, operators, or officers. For the purposes of this
 42 subdivision, a funeral establishment means one or more structures on a
 43 contiguous piece of property.

44 ...

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

46 (1) Whenever the Board finds that an applicant for a license or a person to whom
 47 a license has been issued by the Board is guilty of any of the following acts or
 48 omissions and the Board also finds that the person has thereby become unfit
 49 to practice, the Board may suspend or revoke the license or refuse to issue or
 50 renew the license, in accordance with the procedures set out in Chapter 150B
 51 of the General Statutes:

- 1 ...
- 2 b. Fraud or misrepresentation in obtaining or renewing a license or in the
- 3 practice of funeral ~~service~~service or operation of a licensee's business.
- 4 ...
- 5 j. Violating or cooperating with others to violate any of the provisions
- 6 of this Article or Articles 13D, 13E, or 13F of ~~Chapter 90 of the~~
- 7 ~~General Statutes, this Chapter,~~ any rules and regulations of the Board,
- 8 or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453
- 9 (1984), as amended from time to time.
- 10 ...
- 11 o. Failure to refund any insurance proceeds received as consideration in
- 12 excess of the funeral contract purchase price within 30 days of receipt;
- 13 provided, however, that this provision shall not be construed to include
- 14 interest or growth on funds paid toward funeral goods and services to
- 15 be provided pursuant to an inflation-proof preneed contract.
- 16 p. Failure to provide, within a reasonable time, either the goods and
- 17 services contracted for or a refund for the price of goods and services
- 18 paid for but not fulfilled.
- 19 q. Violation of G.S. 58-58-97.

20 In any case in which the Board is entitled to suspend, revoke or refuse to

21 renew a license, the Board may accept from the licensee an offer to pay a

22 penalty of not more than five thousand dollars (\$5,000). The Board may either

23 accept a penalty or revoke or refuse to renew a license, but not both.

- 24 (2) Where the Board finds that a licensee is guilty of one or more of the acts or
- 25 omissions listed in subdivision (e)(1) of this section but it is determined by the
- 26 Board that the licensee has not thereby become unfit to practice, the Board
- 27 may place the licensee on a term of probation in accordance with the
- 28 procedures set out in Chapter 150B of the General Statutes. In any case in
- 29 which the Board is entitled to place a licensee on a term of probation, the
- 30 Board may also impose a penalty of not more than five thousand dollars
- 31 (\$5,000) in conjunction with the probation. The Board may also require
- 32 satisfactory completion of remedial or educational training as a prerequisite to
- 33 license reinstatement or for completing the term of probation. The Board shall
- 34 have the authority to determine the length and conditions of any period of
- 35 suspension, revocation, probation, or refusal to issue or renew a license.

36 No person licensed under this Article shall remove or cause to be embalmed a dead human

37 body when he or she has information indicating crime or violence of any sort in connection with

38 the cause of death, nor shall a dead human body be cremated, until permission of the State or

39 county medical examiner has first been obtained. However, nothing in this Article shall be

40 construed to alter the duties and authority now vested in the office of the coroner.

41 No funeral ~~service~~ establishment shall accept a dead human body from any public officer

42 (excluding the State or county medical examiner or his agent), or employee or from the official

43 of any institution, hospital or nursing home, or from a physician or any person having a

44 professional relationship with a decedent, without having first made due inquiry as to the desires

45 of the persons who have the legal authority to direct the disposition of the decedent's body. If any

46 persons are found, their authority and directions shall govern the disposal of the remains of the

47 decedent. Any funeral service establishment receiving the remains in violation of this subsection

48 shall make no charge for any service in connection with the remains prior to delivery of the

49 remains as stipulated by the persons having legal authority to direct the disposition of the body.

50 This section shall not prevent any funeral service establishment from charging and being

51 reimbursed for services rendered in connection with the removal of the remains of any deceased

1 person in case of accidental or violent death, and rendering necessary professional services
 2 required until the persons having legal authority to direct the disposition of the body have been
 3 notified.

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

11 At the time funeral arrangements are made and prior to the time of rendering the service and
 12 providing the merchandise, a funeral director or funeral service licensee shall give or cause to be
 13 given to the person or persons making such arrangements a written statement duly signed by a
 14 licensee of said funeral establishment showing the price of the service as selected and what
 15 services are included therein, the price of each of the supplemental items of services or
 16 merchandise requested, and the amounts involved for each of the items for which the funeral
 17 establishment will advance moneys as an accommodation to the person making arrangements,
 18 insofar as any of the above items can be specified at that time. If fees charged by a finance
 19 company for expediting payment of life insurance proceeds to the establishment will be passed
 20 on to the person or persons responsible for payment of the funeral expenses, information
 21 regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing. The
 22 statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure
 23 is provided under the requirements of North Carolina G.S. 90-210.25(e)." The Board may
 24 prescribe other disclosures that a licensee shall give to consumers upon finding that the disclosure
 25 is necessary to protect public health, safety, and welfare.

26 ...
 27 (f) Unlawful Practices. – If any The following shall constitute unlawful practices:

28 (1) Any person shall practice or hold himself or herself who practices or holds
 29 himself or herself out as practicing the profession or art of embalming, funeral
 30 directing or practice of funeral service or operating a funeral establishment
 31 without having complied with the provisions of this Article, the person Article
 32 shall be guilty of a Class 2 misdemeanor.

33 (2) Any person who knowingly or willfully abuses or mutilates a dead human
 34 body in a person's custody shall be guilty of a Class 2 misdemeanor. It shall
 35 not be a violation of this subdivision for a person licensed to practice
 36 embalming or funeral service under this Article to embalm a dead human body
 37 consistent with techniques of embalming generally recognized by embalming
 38 or funeral service licensees under this Article or for a person licensed to
 39 practice funeral directing or funeral service to exhibit a dead human body
 40 consistent with lawful instructions from the person authorized to dispose of
 41 the dead human body.

42"

43 **SECTION 2.** G.S. 90-210.27A reads as rewritten:

44 "**§ 90-210.27A. Funeral establishments.**

45 ...

46 (a1) If the preparation room of a funeral establishment is damaged or destroyed by fire,
 47 weather, or other natural disaster, the Board may suspend the requirements of subsection (a) of
 48 this section, in part or whole, for a period not to exceed 180 days, provided that the funeral
 49 establishment remains in compliance with the requirements of G.S. 90-210.25(d1) and all other
 50 laws, rules, regulations, and requirements of the Division of Health Services and of the

1 municipality or county where the funeral establishment is located. To receive a suspension of
 2 more than 90 days, the applicant must show good cause for additional time.

3 ...
 4 (k) A funeral establishment shall obtain and maintain a professional liability insurance
 5 policy with liability limits of at least one million dollars (\$1,000,000). If the funeral establishment
 6 utilizes a licensee that is permitted to engage in the practice of funeral directing or funeral service
 7 under G.S. 90-210.25(a2)(2), the funeral establishment shall ensure that the licensee is named as
 8 an additional insured on the professional liability insurance policy. Proof of insurance shall be
 9 submitted to the Board before a new establishment permit will be issued and shall be submitted
 10 to the Board upon request. The Board shall not renew a funeral establishment permit until it is
 11 demonstrated that the funeral establishment has obtained liability insurance coverage. The
 12 funeral establishment shall notify the Board within 30 days of any change of insurer or any
 13 cancellation or suspension of the policy.

14 (l) Human remains shall be stored in a funeral establishment or licensed crematory at all
 15 times when the remains are not in transit or at a gravesite, church, or other facility or residence
 16 for the purpose of a visitation or funeral service.

17 (m) Unembalmed human remains retained in the custody of a funeral establishment for
 18 more than 24 hours shall be kept in a refrigeration unit."

19 **SECTION 3.** G.S. 90-210.28 reads as rewritten:

20 **"§ 90-210.28. Fees.**

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

22	Establishment permit	
23	Application	\$400.00
24	Annual renewal	250.00
25	Late renewal	150.00
26	Establishment and embalming facility reinspection fee	100.00 150.00
27	Courtesy card	
28	Application	100.00
29	Annual renewal	75.00
30	Out-of-state licensee	
31	Application	250.00
32	Embalmer, funeral director, funeral service	
33	Application-North	
34	Carolina-Resident	200.00
35	-Non-Resident	250.00
36	Annual Renewal-embalmer or	
37	funeral director	75.00
38	Total fee, embalmer and funeral director	
39	when both are held by the same person	100.00
40	-funeral service	100.00
41	Inactive Status	50.00
42	Reinstatement fee	50.00
43	Resident trainee permit	
44	Application	50.00
45	Voluntary change in supervisor	50.00
46	Annual renewal	35.00
47	Late renewal	25.00
48	Duplicate license certificate	25.00
49	Chapel registration	
50	Application	150.00
51	Annual renewal	100.00

1 Late renewal 75.00
 2 The Board shall provide, without charge, one copy of the current statutes and regulations
 3 relating to Funeral Service to every person applying for and paying the appropriate fees for
 4 licensing pursuant to this Article. The Board may charge all others requesting copies of the
 5 current statutes and regulations, and the licensees or applicants requesting additional copies, a
 6 fee equal to the costs of production and distribution of the requested documents."

7 **SECTION 4.** G.S. 90-210.29B reads as rewritten:

8 "**§ 90-210.29B. Examination scores not Exemptions from public record records.**

9 (a) The examination scores of applicants for licensure shall not be subject to the
 10 provisions of Chapter 132 of the General Statutes. The Board shall release to any person
 11 requesting examination scores whether or not the applicant has obtained a passing score ~~at the~~
 12 ~~time of the request.~~ within a reasonable amount of time.

13 (b) Records, papers, and other documents containing information collected or compiled
 14 by or on behalf of the Board as a result of a complaint, investigation, audit, disciplinary matter,
 15 or interview in connection with a licensee, permittee, or registrant, or any application for a
 16 license, permit, or registration, shall not be considered public records within the meaning of
 17 Chapter 132 of the General Statutes. Any notice of hearing or decision rendered in connection
 18 with a hearing shall be a public record subject to inspection."

19 **SECTION 5.(a)** G.S. 90-210.61(a) reads as rewritten:

20 "**§ 90-210.61. Deposit or application of preneed funeral funds.**

21 (a) Preneed funeral funds are subject to the provisions of this Article and shall be
 22 deposited or applied as follows:

23 ...
 24 (2) ~~Notwithstanding any other provision of law, if a preneed funeral contract is~~
 25 ~~funded by a trust deposit or trust deposits, a preneed licensee may retain, free~~
 26 ~~of the trust, up to ten percent (10%) of any payments made on a preneed~~
 27 ~~funeral contract, provided that the preneed licensee fully discloses in writing~~
 28 ~~in advance to the preneed funeral contract purchaser the percentage of the~~
 29 ~~payments to be retained. If there is no substitution pursuant to~~
 30 ~~G.S. 90-210.63(a), the preneed licensee shall give credit for the amount~~
 31 ~~retained upon the death of the preneed funeral contract beneficiary and~~
 32 ~~performance of the preneed funeral contract.~~

33"

34 **SECTION 5.(b)** The provision repealed in subsection (a) of this section shall
 35 continue to apply to any preneed funeral contracts entered into before this act becomes law.

36 **SECTION 6.(a)** G.S. 90-210.63(a) reads as rewritten:

37 "**§ 90-210.63. Substitution of licensee.**

38 (a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser,
 39 or after his death the preneed funeral contract beneficiary or his legal representative, upon written
 40 notice to the financial institution or insurance company and the preneed licensee who is a party
 41 to the preneed funeral contract, may direct the substitution of a different funeral establishment to
 42 furnish funeral services and merchandise.

43 ...
 44 (2) ~~The original contracting preneed licensee shall immediately pay all funds~~
 45 ~~received to the successor funeral establishment designated. Regardless of~~
 46 ~~whether the substitution is made before or after the death of the preneed~~
 47 ~~funeral contract beneficiary, the original contracting preneed licensee shall not~~
 48 ~~be required to give credit for the amount retained pursuant to~~
 49 ~~G.S. 90-210.61(a)(2), except when there was a substitution under~~
 50 ~~G.S. 90-210.68(d1) and (e). Upon making payments pursuant to this~~

subsection, the financial institution and the original contracting preneed licensee shall be relieved from all further contractual liability thereon.

...
 (4) The original contracting preneed licensee shall immediately pay all funds received to the successor funeral establishment designated. Any funeral establishment holding a permit under Article 13A of this Chapter that accepts the transfer of a preneed funeral contract after the death of the preneed contract beneficiary shall file the certificate of performance with the Board and mail a copy to the contracting preneed licensee. If the preneed funeral contract is performed by a funeral establishment in another state, the original contracting preneed licensee shall make reasonable efforts to obtain the information needed to accurately complete the certificate of performance and shall file the certificate no later than the time allowed by G.S. 92-210.64."

SECTION 6.(b) The provision repealed in subsection (a) of this section shall continue to apply to any preneed funeral contracts entered into before this act becomes law.

SECTION 7. Article 13D of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-210.63B. Cancellation of insurance preneed contracts by preneed licensee.

A preneed licensee may cancel an insurance-funded preneed funeral contract by sending written notice by first-class mail, postage prepaid, to the last known address of the preneed funeral contract purchaser or, after the purchaser's death, the preneed contract beneficiary or the beneficiary's legal representative if all the following conditions apply:

- (1) The preneed funeral contract beneficiary has not used the preneed funeral contract to qualify for benefits from the Department of Health and Human Services.
- (2) One or more insurance policies used as consideration for the preneed contract have lapsed or been revoked or cancelled by the preneed contract purchaser.
- (3) The value of all insurance policies does not exceed five hundred dollars (\$500.00)."

SECTION 8. G.S. 90-210.64 reads as rewritten:

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

...
 (d) When the balance of a preneed funeral fund is ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) or less and is payable to the estate of a deceased preneed funeral contract beneficiary and there has been no representative of the estate appointed, the balance due may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a preneed funeral fund exceeds ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) or is not payable to the estate, the balance must be paid into the office of the clerk of superior court in the county where probate proceedings could be filed for the deceased preneed funeral contract beneficiary.

...."

SECTION 9. G.S. 90-210.66 reads as rewritten:

"§ 90-210.66. Recovery fund.

...
 (b) From the fee for each preneed funeral contract as required by G.S. 90-210.67(d), the Board shall deposit at least two dollars (\$2.00) ~~(\$2.00)~~, but not more than ten dollars (\$10.00), into the Fund. The Board may ~~suspend the deposits into the Fund at any time and for any period for which the Board determines that a sufficient amount is available~~ set the amount of the deposit into the Fund as it deems necessary to meet likely disbursements and to maintain an adequate reserve.

...."

1 **SECTION 10.** G.S. 90-210.67 reads as rewritten:

2 "**§ 90-210.67. Application for license.**

3 (a) No person may offer or sell preneed funeral contracts or offer to make or make any
4 funded funeral prearrangements without first securing a license from the Board. Notwithstanding
5 any other provision of law, any person who offers to sell or sells a casket, to be furnished or
6 delivered at a time determinable by the death of the person whose body is to be disposed of in
7 the casket, shall first comply with the provisions of this Article. There shall be two types of
8 licenses: a preneed funeral establishment license and a preneed sales license. Only funeral
9 establishments holding a valid establishment permit pursuant to G.S. 90-210.25(d) shall be
10 eligible for a preneed funeral establishment license. Employees and agents of such entities, upon
11 meeting the qualifications to engage in preneed funeral planning as established by the Board,
12 shall be eligible for a preneed sales license. The Board shall establish the preneed funeral
13 planning activities that are permitted under a preneed sales license. The Board shall adopt rules
14 establishing such qualifications and activities no later than 12 months following the ratification
15 of this act [Session Laws 1991 (Reg. Sess., 1992), c. 901, s. 2]. ~~Preneed~~ A preneed sales licensee
16 licensee may sell preneed funeral contracts, prearrangement insurance policies, and make funded
17 funeral prearrangements only on behalf of one preneed funeral establishment licensee; provided,
18 however, they may sell preneed funeral contracts, prearrangement insurance policies, and make
19 funeral prearrangements for any number of licensed preneed funeral establishments that are
20 wholly owned by or affiliated with, through common ownership or contract, the same entity;
21 provided further, the preneed sales licensee may also sell preneed funeral contracts or preneed
22 insurance policies at any preneed establishment owned by the same corporation or at two or more
23 preneed establishments owned by different individuals, corporations, or business entities. If a
24 preneed sales licensee sells to two or more preneed establishments owned by different
25 individuals, corporations, or business entities, the preneed establishments shall provide to the
26 Board documentation showing informed consent of such arrangement. The preneed sales licensee
27 shall obtain a preneed sales license at each preneed funeral establishment at which the licensee
28 sells preneed funeral contracts or preneed insurance policies or makes funded funeral
29 arrangements. However, in the event they engage the preneed sales licensee engages in selling
30 prearrangement insurance policies, they the licensee shall meet the licensing requirements of the
31 Commissioner of Insurance. Every preneed funeral contract shall be signed by a person licensed
32 as a funeral director or funeral service licensee pursuant to Article 13A of Chapter 90 of the
33 General Statutes.

34 Application for a license shall be in writing, signed by the applicant and duly verified on
35 forms furnished by the Board. Each application shall contain at least the following: the full names
36 and addresses (both residence and place of business) of the applicant, and every partner, member,
37 officer and director thereof if the applicant is a partnership, limited liability company, association,
38 or corporation and any other information as the Board shall deem necessary. A preneed funeral
39 establishment license shall be valid only at the address stated in the application or at a new
40 address approved by the Board.

41 (b) An application for a preneed funeral establishment license shall be accompanied by a
42 nonrefundable application fee of not more than four hundred dollars (\$400.00). The Board shall
43 set the amounts of the application fees and renewal fees, by rule. ~~A funeral establishment~~
44 ~~receiving a new preneed establishment license after January 1, 2008, or whose preneed~~
45 ~~establishment license has lapsed or was terminated for any reason after January 1, 2008, shall~~
46 ~~obtain a surety bond in an amount not less than fifty thousand dollars (\$50,000) for five years, or~~
47 ~~upon demonstrating that it is solvent, no less than one year from the date the original license is~~
48 ~~issued. The Board may extend the bonding requirement in the event there is a claim paid from~~
49 ~~the bond.~~

50 If the license is granted, the application fee shall be applied to the annual license fee for the
51 first year or part thereof. Upon receipt of the application and payment of the application fee, the

1 Board shall issue a renewable preneed funeral establishment license unless it determines that the
 2 applicant has violated any provision of G.S. 90-210.69(c) or has made false statements or
 3 representations in the application, or is insolvent, or has conducted or is about to conduct, its
 4 business in a fraudulent manner, or is not duly authorized to transact business in this State. The
 5 license shall expire on December 31 and each preneed funeral establishment licensee shall pay
 6 annually to the Board on or before that date a license renewal fee of not more than two hundred
 7 fifty dollars (\$250.00). ~~On or before the first day of February immediately following expiration,~~
 8 ~~a license may be renewed without paying a late fee. After that date,~~ On or after February 1, a
 9 license may be renewed by paying a late fee of not more than one hundred dollars (\$100.00) in
 10 addition to the annual renewal fee.

11 If, after January 1, 2008, a funeral establishment receiving a new preneed establishment
 12 license or if a preneed establishment license has lapsed or has been terminated for any reason,
 13 other than for failure to timely renew the license, the funeral establishment shall obtain a surety
 14 bond in an amount not less than fifty thousand dollars (\$50,000) for a period of at least two years;
 15 provided, however, that the Board, in its discretion, may require the term of the surety bond to
 16 be for five years. However, upon demonstrating to the satisfaction of the Board that the funeral
 17 establishment is solvent, the Board may reduce the bond term to a period of no less than one year
 18 from the date the original license is issued. The funeral establishment may (i) purchase the bond
 19 from any company authorized by law to sell bonds in this State or (ii) deposit fifty thousand
 20 dollars (\$50,000) with the clerk of superior court in the county where the preneed funeral
 21 establishment maintains its facility that is licensed or has submitted an application for licensure
 22 to the Board. The Board may extend the bonding requirement in the event there is a claim paid
 23 from the bond.

24 (c) An application for a preneed sales license shall be accompanied by a nonrefundable
 25 application fee of not more than fifty dollars (\$50.00). The Board shall set the amounts of the
 26 application fees and renewal fees by rule, but the fees shall not exceed fifty dollars (\$50.00). If
 27 the license is granted, the application fee shall be applied to the annual license fee for the first
 28 year or part thereof. Upon receipt of the application and payment of the application fee, the Board
 29 shall issue a renewable preneed sales license provided the applicant has met the qualifications to
 30 engage in preneed funeral planning as established by the Board unless it determines that the
 31 applicant has violated any provision of G.S. 90-210.69(c). The license shall expire on December
 32 31 and each preneed sales licensee shall pay annually to the Board on or before that date a license
 33 renewal fee of not more than fifty dollars (\$50.00). ~~On or before the first day of February, a~~
 34 ~~license may be renewed without paying a late fee. After that date,~~ after February 1, a license may
 35 be renewed by paying a late fee of not more than twenty-five dollars (\$25.00) in addition to the
 36 annual renewal fee.

37 ...

38 (d1) The Board may also set and collect a fee of not more than twenty-five dollars (\$25.00)
 39 for the late filing of a certificate of performance and a fee of not more than one hundred ~~and~~ fifty
 40 dollars (\$150.00) for the late filing of an annual report.

41"

42 **SECTION 11.** G.S. 90-210.68 reads as rewritten:

43 **"§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**
 44 **terminations.**

45 (a) Every preneed licensee shall keep for examination by the Board accurate accounts,
 46 books, and records in this State of all preneed funeral contract and prearrangement insurance
 47 policy transactions, transactions used to fund preneed funeral contracts, copies of all agreements,
 48 insurance policies, instruments of assignment, the dates and amounts of payments made and
 49 accepted thereon, the names and addresses of the contracting parties, the persons for whose
 50 benefit funds are accepted, and the names of the financial institutions holding preneed funeral
 51 trust funds and insurance companies issuing ~~prearrangement insurance policies.~~ policies used to

1 fund preneed funeral contracts. The Board, its inspectors appointed pursuant to G.S. 90-210.24
 2 and its examiners, which the Board may appoint to assist in the enforcement of this Article, may
 3 during normal hours of operation and periods shortly before or after normal hours of operation,
 4 investigate the books, records, and accounts of any licensee under this Article with respect to
 5 trust funds, preneed funeral contracts, and ~~prearrangement insurance policies~~ policies used to
 6 fund preneed funeral contracts. Any preneed licensee who, upon inspection, fails to meet the
 7 requirements of this subsection or who fails to keep an appointment for an inspection shall pay a
 8 reinspection fee to the Board in an amount not to exceed one hundred dollars (\$100.00). The
 9 Board may require the attendance of and examine under oath all persons whose testimony it may
 10 require. Every preneed licensee shall submit a written report to the Board, at least annually, in a
 11 manner and with such content as established by the Board, of its preneed funeral contract sales
 12 and performance of such contracts. The Board may also require other reports.

13 (a1) On or before March 31, each preneed licensee shall prepare and submit an annual
 14 report on its preneed funeral contract sales and performance of preneed funeral contracts and
 15 submit the report to the Board in a manner and form prescribed by the Board.

16 ...
 17 (c) If any preneed licensee transfers or assigns its assets or stock to a successor funeral
 18 establishment or terminates its business as a funeral establishment, the preneed licensee and
 19 assignee shall notify the Board at least ~~45~~ 30 days prior to the effective date of the transfer,
 20 assignment or termination: provided, however, the successor funeral establishment must be a
 21 preneed licensee or shall be required to apply for and be granted such license by the Board before
 22 accepting any preneed funeral contracts, whether funded by trust deposits or preneed insurance
 23 policies. Provided further, a successor funeral establishment shall be liable to the preneed funeral
 24 contract purchasers for the amount of contract payments retained by the assigning or transferring
 25 funeral home pursuant to G.S. 90-210.61(a)(2).

26 (d) Financial institutions that accept preneed funeral trust funds and insurance companies
 27 that issue ~~prearrangement or assign~~ insurance policies that are used to fund preneed funeral
 28 contracts shall, upon request by the Board or its inspectors or examiners, disclose any information
 29 regarding preneed funeral trust accounts held or ~~prearrangement insurance policies issued by it~~
 30 ~~for a preneed licensee~~ any insurance policies used to fund a preneed funeral contract.

31 Financial institutions that accept preneed funeral trust funds and insurance companies that
 32 issue or assign insurance policy proceeds or designate a preneed funeral establishment as a policy
 33 beneficiary or owner shall also forward an account balance to the contracting preneed funeral
 34 establishment at the end of each calendar year.

35"

36 **SECTION 12.** G.S. 90-210.69 reads as rewritten:

37 "**§ 90-210.69. Rulemaking; enforcement of Article; judicial review; determination of**
 38 **penalty amount.**

39 ...
 40 (c) In accordance with the provisions of Chapter 150B of the General Statutes, if the
 41 Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty
 42 of one or more of the following, the Board may refuse to issue or renew a license or may suspend
 43 or revoke a license or place the holder thereof on probation upon conditions set by the Board,
 44 with revocation upon failure to comply with the conditions:

45 ...
 46 (4) Fraud or misrepresentation in obtaining or receiving a license or ~~in preneed~~
 47 funeral ~~planning~~ planning or in the operation of a licensee's business.
 48 ...

49 In any case in which the Board is authorized to take any of the actions permitted under this
 50 subsection, the Board may instead accept an offer in compromise of the charges whereby the
 51 accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). In any

1 case in which the Board is entitled to place a licensee on a term of probation, the Board may also
2 impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such
3 probation. The Board may determine the length and conditions of any period of probation,
4 revocation, suspension, or refusal to issue or renew a license.

5"

6 **SECTION 13.** G.S. 90-210.73 reads as rewritten:

7 **"§ 90-210.73. Not public record.**

8 The following records or documents shall not be subject to the provisions of Chapter 132 of
9 the General Statutes:

10 (1) The names and addresses of the purchasers and beneficiaries of preneed
11 funeral contracts filed with the Board shall not be subject to Chapter 132 of
12 the General Statutes. Board.

13 (2) All financial information used to demonstrate solvency in connection with a
14 bond required under G.S. 90-210.67."

15 **SECTION 14.** G.S. 90-210.123 reads as rewritten:

16 **"§ 90-210.123. Licensing and inspection.**

17 (a) Any person doing business in this State, or any cemetery, funeral establishment,
18 corporation, partnership, joint venture, voluntary organization, or any other entity may erect,
19 maintain, and operate a crematory in this State and may provide the necessary employees,
20 facilities, structure, and equipment for the cremation of human remains, provided that the person
21 or entity has secured a license as a crematory licensee in accordance with this Article. The owner
22 or manager of a cremation facility shall be a licensed funeral director or funeral service licensee.

23 ...

24 (d) Every application for licensure shall identify the crematory manager and specify the
25 manager's funeral directing or funeral service license number, and all crematory technicians
26 employed by the crematory licensee providing that nothing in this Article shall prohibit the
27 designation and identification by the crematory licensee of one individual to serve as a crematory
28 manager and crematory technician. Each crematory licensed in North Carolina shall employ on
29 a full-time basis at least one crematory technician. Every application for licensure and renewal
30 thereof shall include all crematory technicians' educational certificates. The crematory licensee
31 shall keep the Board informed at all times of the names and addresses of the crematory manager
32 and all crematory technicians. In the event a licensee is in the process of replacing its only
33 crematory technician at the time of license renewal, the licensee may continue to operate the
34 crematory for a reasonable time period not to exceed 180 days.

35 (e) All licenses and permits shall expire on the last day of December of each year. A-On
36 or after February 1, a license or permit may be renewed without paying a late fee on or before
37 the first day of February immediately following expiration. After that date, a license or permit
38 may be renewed by paying a late fee as provided in G.S. 90-210.132 in addition to the annual
39 renewal fee. Licenses and permits that remain expired six months or more require a new
40 application for renewal. Licenses and permits are not transferable. A new application for a license
41 or permit shall be made to the Board within 30 days following a change of ownership of more
42 than fifty percent (50%) of the business.

43 ...

44 (g) Whenever the Board finds that an owner, partner, crematory manager, member,
45 officer, or any crematory technician of a crematory licensee or any applicant to become a
46 crematory licensee, or that any authorized employee, agent, or representative has violated any
47 provision of this Article, or is guilty of any of the following acts, and when the Board also finds
48 that the crematory operator or applicant has thereby become unfit to practice, the Board may
49 suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the
50 General Statutes:

51 ...

(2) ~~Fraud or misrepresentation in obtaining or renewing a license or license, in the practice of cremation, cremation, or in the operation of a licensee's business.~~

...
 (10) ~~Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board, Board or violation of Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended.~~

...
 (15) Allowing anyone other than a licensee of the Board or a crematory technician to perform a cremation.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000).

(h) Where the Board finds a licensee is guilty of one or more of the acts or omissions listed in subsection (g) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation. The Board may determine the length and conditions of any period of probation, suspension, revocation, or refusal to issue or renew a license.

(i) The Board may hold hearings in accordance with the provisions of this Article and Article 3A of Chapter 150B of the General Statutes. ~~The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article.~~ The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected. The Board may obtain preliminary and final injunctions whenever a violation of this Article has occurred or threatens to occur.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor."

SECTION 15. G.S. 90-210.124 reads as rewritten:

"§ 90-210.124. **Authorizing agent.**

...
 (b) A person who does not exercise his or her right to dispose of the decedent's body under subdivision (a)(2) of this section within five days of notification or 10 days from date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or to contest disposition in accordance with this section. Pursuant to G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commissioner of Anatomy declining or failing to request delivery of the dead body, the director of social services having the duty to dispose of the human remains shall become vested with all interests and rights to the dead body and shall authorize and arrange for disposition, including cremation.

...."

1 **SECTION 16.** G.S. 90-210.125 reads as rewritten:

2 "**§ 90-210.125. Authorization to cremate.**

3 (a) A crematory licensee shall not cremate human remains until it has received a
4 cremation authorization form signed by an authorizing agent. The cremation authorization form
5 shall be prescribed by the Board and shall contain at a minimum the following information:

6 ...

7 (9) A representation that the human remains do not contain a pacemaker that is
8 not approved for cremation by the pacemaker's manufacturer or proper
9 regulating agency or any other material or implant that may be potentially
10 hazardous to the person performing the cremation.

11 "

12 **SECTION 17.** G.S. 90-210.129 reads as rewritten:

13 "**§ 90-210.129. Cremation procedures.**

14 (a) ~~In deaths~~ For any death occurring in North Carolina certified by the attending
15 physician or other person authorized by law to sign a death certificate under the supervision of a
16 physician, the body shall not be cremated before the crematory licensee receives a death
17 certificate signed by the attending physician person authorized to sign the death certificate, which
18 shall contain at a minimum the following information:

19 ...

20 (c1) For any death occurring outside North Carolina, a crematory licensee shall not
21 cremate a dead human body without first obtaining a copy of burial-transit permit issued by the
22 jurisdiction where the death occurred and one of the following documents:

23 (1) A death certificate from the other jurisdiction that meets the same content and
24 signature requirements of subsection (a) of this section.

25 (2) Any document or certificate required to authorize cremation in the jurisdiction
26 where the death occurred that is signed by a physician, medical examiner, or
27 other authorized person and that contains all information required by
28 subdivisions (1) through (9) of subsection (a) of this section.

29 The provisions of this subsection shall not be construed to waive the jurisdiction of the
30 medical examiner.

31 (d) No body shall knowingly be cremated with a pacemaker or defibrillator not approved
32 for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially
33 hazardous implant or condition in place. The authorizing agent for the cremation of the human
34 remains shall be responsible for taking all necessary steps to ensure that any pacemaker or
35 defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating
36 agency or other potentially hazardous implant or condition is removed or corrected prior to
37 cremation. If an authorizing agent informs the funeral director and the crematory licensee on the
38 cremation authorization form of the presence of a pacemaker or defibrillator or other potentially
39 hazardous implant or condition in the human remains, then the funeral director shall be
40 responsible for ensuring that all necessary steps have been taken to remove the pacemaker or
41 defibrillator or other potentially hazardous implant or to correct the hazardous condition before
42 delivering the human remains to the crematory.

43 ...

44 (h) The simultaneous cremation of the human remains of more than one person within
45 the same cremation chamber is ~~forbidden~~ forbidden, provided that the following human remains
46 may be cremated simultaneously upon the express written direction of the authorized agent:

47 (1) The human remains of multiple fetuses from the same mother and the same
48 birth.

49 (2) The human remains of multiple persons up to the age of one year old from the
50 same mother and the same birth.

51 "

SECTION 18. G.S. 90-210.132(a) reads as rewritten:

"(a) ~~The By rule, the Board may set and collect fees not to exceed the following amounts from crematory and hydrolysis licensees, crematory and hydrolysis manager permit holders, and applicants:~~ applicants not to exceed the following amounts:

- (1) Licensee application fee. \$400.00
- (2) Annual renewal fee. 150.00
- (3) Late renewal fee. 75.00
- (4) Reinspection fee. ~~100.00~~ 150.00
- (5) Per cremation or hydrolysis fee. 10.00
- (6) Late fee, per ~~cremation~~ cremation or hydrolysis. 10.00
- (7) Late fee, cremation or hydrolysis report. 75.00 per month
- (8) Crematory or hydrolysis manager permit application fee. 150.00
- (9) Annual crematory or hydrolysis manager permit renewal fee. 40.00."

SECTION 19. G.S. 90-210.133(c) reads as rewritten:

"(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory licensees or crematory managers for or directly with the public or exclusively for or through licensed funeral ~~directors~~ directors, except as provided in G.S. 90-210.123(f1)."

SECTION 20. Article 13F of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.136. Hydrolysis of human remains.

(a) The following definitions shall apply in this section:

- (1) Alkaline hydrolysis. – The technical process using water, heat, and other chemicals to destroy, dissolve, or reduce human remains to simpler or essential elements.
- (2) Hydrolysis container. – A container, other than a casket, designed to enclose human remains and made of suitable material to be easily destroyed during hydrolysis and to resist spillage and leakage. A hydrolysis container may be a cremation container or any other container that meets the requirements of this subdivision.
- (3) Hydrolysis licensee. – A person or entity licensed to hydrolyze human remains and perform hydrolysis.
- (4) Liquid waste. – Any liquid remaining after hydrolysis that does not contain any trace elements of human tissue.

(b) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or other entity shall hydrolyze human remains without first obtaining a license from the Board.

(c) Except as otherwise provided by this section, a license for the hydrolysis of human remains shall have the same requirements and fees as for the licensing of crematories under this Article. The hydrolysis of human remains shall be conducted in compliance with all requirements for cremation, and the licensee shall pay the same fees for monthly reports for each hydrolysis as crematories under this Article.

(d) The Board shall have the same powers to regulate, enforce, discipline, and inspect hydrolysis licensees and the practice of hydrolysis that have been granted under this Article for the regulation, enforcement, discipline, and inspection of crematories and the practice of cremation.

(e) Any solid remains or residue remaining after hydrolysis shall be treated and disposed of as cremated remains under this Article. Disposal of liquid waste shall be subject to all applicable health and environmental laws and regulations.

1 (f) Human remains shall be hydrolyzed in a hydrolysis container and shall not be required
2 to be hydrolyzed in a casket.

3 (g) Unless specified otherwise by the manufacturer of the equipment used for hydrolysis,
4 human remains may be hydrolyzed without first removing a pacemaker or other material or
5 implant that would be potentially hazardous if cremated.

6 (h) The Board shall promulgate rules necessary to effectuate the licensing of alkaline
7 hydrolysis."

8 **SECTION 21.** G.S. 130A-415 reads as rewritten:

9 **"§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
10 **Association for Retarded Citizens of North Carolina; disposition.**

11 (a) Any person, other than a person licensed as a funeral director or funeral service
12 licensee in this State, including officers, employees and agents of the State or of any unit of local
13 government in the State, ~~undertakers doing business within the State,~~ hospitals, nursing homes
14 or other institutions, having physical possession of a dead body shall make reasonable efforts to
15 contact relatives of the deceased or other persons who may wish to claim the body for final
16 disposition. If the body remains unclaimed for final ~~disposition for 10 days,~~ disposition,
17 the person having possession shall notify the Commission of Anatomy. Upon request of the
18 Commission of Anatomy, the person having possession shall deliver the dead body to the
19 Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall
20 permit the Commission of Anatomy to take and remove the body.

21 (a1) A dead body shall be deemed unclaimed if either of the following conditions apply:

22 (1) No individual notifies the person in possession of the dead body within 10
23 days of the date of death that the individual wishes to dispose of the dead body.

24 (2) All individuals who have expressed interest in arranging for disposition of the
25 dead body have (i) ceased communicating with the person in possession of the
26 dead body for five days, (ii) at least 10 days have passed from the date of
27 death, and (iii) the person in possession of the dead body has used reasonable
28 efforts to contact all individuals interested in arranging for final disposition.

29 (b) ~~All~~ Unless the provisions of subsection (j) of this section apply, all dead bodies not
30 claimed for final disposition within 10 days of the decedent's death may be received and delivered
31 by the Commission of Anatomy pursuant to the authority contained in G.S. 130A-33.30 and this
32 Part and in accordance with the rules of the Commission of Anatomy. Upon receipt of a body by
33 the Commission of Anatomy all interests in and rights to the unclaimed dead body shall vest in
34 the Commission of Anatomy. The recipient to which the Commission of Anatomy delivers the
35 body shall pay all expenses for the embalming and delivery of the body, and for the reasonable
36 expenses arising from efforts to notify relatives or others.

37 (b1) ~~The 10-day period-periods~~ referenced in subsections (a) and (b) subdivisions (1) and
38 (2) of subsection (a1) of this section may be shortened by the county director of social services
39 upon determination that a dead body will not be claimed for final disposition within the 10-day
40 period.

41 (c) ~~Should~~ Unless the provisions of subsection (j) of this section apply, if the Commission
42 of Anatomy ~~decline~~ declines to receive a dead body, the person with possession shall inform the
43 director of social services of the county ~~in which the body is located.~~ The ~~that is~~ responsible for
44 the expense of the final disposition of the decedent. Upon notification, all interests in and rights
45 to the abandoned dead body shall vest in the director of social services of that ~~county~~ county,
46 who then shall arrange for prompt final disposition of the body, either by ~~cremation~~ cremation,
47 hydrolysis, or burial.

48 (c1) Reasonable costs of disposition and of efforts made to notify relatives and others shall
49 be considered funeral expenses and shall be paid in accordance with G.S. 28A-19-6 and
50 G.S. 28A-19-8. If those expenses cannot be satisfied from the decedent's estate, they shall be
51 borne by the decedent's county of residence. If the deceased is not a resident of this State, or if

1 the county of residence is unknown, those expenses shall be borne by the county in which the
2 death ~~occurred~~.occurred or, if the county of residence and death of the decedent are unknown,
3 the county where the deceased was located.

4 ...

5 (j) Any funeral director or funeral service licensee doing business within the State having
6 physical possession of a dead body shall make reasonable efforts to contact relatives of the
7 deceased or other persons who may wish to claim the body for final disposition. If the body
8 remains unclaimed for final disposition for 10 days, or if the right to authorize the type, method,
9 place, and disposition, of the dead body is waived under G.S. 130A-420(b1) or
10 G.S. 90-210.24(b), and if all persons who have expressed interest in arranging for the disposition
11 for the dead body have ceased communication with the person in possession of the dead body for
12 five days, the dead body shall be deemed abandoned. If the funeral director or funeral service
13 licensee receives the dead body from a person or entity listed in subsection (a) of this section, the
14 10-day period shall run concurrently with any period imposed on that person or entity. Any
15 person having possession of an abandoned dead body shall notify the Commission of Anatomy.
16 Upon request of the Commission of Anatomy, the person having possession of the abandoned
17 dead body shall deliver the abandoned dead body to the Commission of Anatomy at a time and
18 place specified by the Commission of Anatomy or shall permit the Commission of Anatomy to
19 take and remove the abandoned dead body.

20 (k) If the Commissioner of Anatomy fails to request delivery of the abandoned dead body
21 within two days of receipt of the notification required by subsection (j) of this section, or if the
22 Commissioner of Anatomy declines delivery of the abandoned dead body, the funeral director or
23 funeral services licensee shall notify the director of social services of the county where the
24 abandoned dead body is located. The notice to the director of social services shall contain a sworn
25 statement that (i) the body is an abandoned dead body, (ii) reasonable efforts have been made to
26 inform relatives and others of the death, and (iii) the Commission of Anatomy has failed to
27 request or has declined delivery of the abandoned dead body. Upon receipt of the sworn
28 statement, the director of social services shall arrange for final disposition of the abandoned dead
29 body and all interests in and rights to the abandoned dead body shall vest in the director of social
30 services, who shall then arrange for prompt final disposition of the abandoned dead body by
31 cremation, hydrolysis, or burial. Upon payment by the director of social services for final
32 disposition of the abandoned dead body, the director shall have a claim of reasonable funeral
33 expenses which shall be paid in accordance with G.S. 28A-19-6 and G.S. 28A-19-8. If those
34 expenses cannot be satisfied from the decedent's estate, they shall be borne by the decedent's
35 county of residence. If the decedent is not a resident of this State, or if the county of residence is
36 unknown, those expenses shall be borne by the county in which the death occurred, or if the
37 county of residence and death of the decedent is unknown, the county where the deceased was
38 located."

39 **SECTION 22.** G.S. 130A-420 reads as rewritten:

40 "**§ 130A-420. Authority to dispose of body or body parts.**

41 ...

42 (a2) Unless expressly prohibited by the order of appointment, a guardian of the person
43 shall have the authority to direct the final disposition of the remains of the ward through the
44 methods authorized in subdivision (1) of subsection (a) of this section if executed before the
45 death of the ward.

46 ...

47 (b1) A person who does not exercise his or her right to dispose of the decedent's body
48 under subsection (b) of this section within five days of notification or 10 days from the date of
49 death, whichever is earlier, shall be deemed to have waived his or her right to authorize
50 disposition of the decedent's body or contest disposition in accordance with this section. Under
51 G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commission of Anatomy declining

1 or failing to request delivery of the abandoned dead body, the director of social services of the
2 county in which the dead body is located shall become vested with all interests and rights to the
3 dead body and shall authorize and arrange for disposition by cremation, hydrolysis, or burial.

4 (b2) Once the burial of an individual is completed under the provisions of this section, the
5 method and location of disposition shall not be changed unless otherwise authorized by law or
6 by a court order upon a showing of good cause.

7"

8 **SECTION 23.** If any provision of this act or its application is held invalid, the
9 invalidity does not affect other provisions or applications of this act that can be given effect
10 without the invalid provisions or application, and, to this end, the provisions of this act are
11 severable.

12 **SECTION 24.** Section 17 and Section 24 of this act are effective when they become
13 law. G.S. 90-210.25(f)(2), as enacted by Section 1 of this act, becomes effective December 1,
14 2018. The remainder of this act becomes effective October 1, 2018.