

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

3

HOUSE BILL 529\*  
Committee Substitute Favorable 6/7/18  
Third Edition Engrossed 6/11/18

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 e.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





- 1 and conditions set out in G.S. 90-210.25(a)(4), either before or after  
 2 satisfying the educational requirement under sub-subdivision c. of this  
 3 subdivision.
- 4 e. ~~Have~~ Within the last three years, has passed an oral or written funeral  
 5 service examination on the following subjects:
- 6 1. ~~Psychology, sociology, funeral directing, business law, funeral~~  
 7 ~~law, funeral management, and accounting.~~ Entry-level  
 8 examination in funeral directing administered by The  
 9 International Conference of Funeral Service Examining  
 10 Boards.
- 11 2. Embalming, restorative arts, chemistry, pathology,  
 12 microbiology, and anatomy.
- 13 3. Repealed by Session Laws 1997-399, s. 7.
- 14 4. ~~Laws~~ Examination of the laws of North Carolina ~~Carolina, the~~  
 15 standards set forth in Funeral Industry Practices, 16 C.F.R. §  
 16 453 (1984), pursuant to its most recent version, and rules of the  
 17 Board and other agencies dealing with the care, transportation  
 18 and disposition of dead human bodies.
- 19 f. Has paid all applicable fees.
- 20 (4) a. A person desiring to become a resident trainee shall apply to the Board  
 21 on a form provided by the Board. The application shall state that the  
 22 applicant is not less than 18 years of age, of good moral character, and  
 23 is the graduate of a high school or the equivalent thereof, and shall  
 24 indicate the licensee under whom the applicant expects to train. A  
 25 person training to become an embalmer may serve under the  
 26 supervision of either a licensed embalmer or a funeral service  
 27 ~~licensee.~~ licensee who is in good standing with the Board and who has  
 28 practiced funeral service or embalming full time for a minimum of five  
 29 years. A person training to become a funeral director may serve under  
 30 the supervision of either a licensed funeral director or a funeral service  
 31 ~~licensee.~~ licensee who is in good standing with the Board and who has  
 32 practiced funeral service or funeral directing full time for a minimum  
 33 of five years. A person training to become a funeral service licensee  
 34 shall serve under the supervision of a funeral service ~~licensee.~~ licensee  
 35 who is in good standing with the Board and who has practiced funeral  
 36 service full time for a minimum of five years. The application must be  
 37 sustained by oath of the applicant and be accompanied by the  
 38 appropriate fee. When the Board is satisfied as to the qualifications of  
 39 an applicant it shall instruct the secretary to issue a certificate of  
 40 resident traineeship.
- 41 ...
- 42 d. A certificate of resident traineeship shall be signed by the resident  
 43 trainee and upon payment of the renewal fee shall be renewable one  
 44 year after the date of original registration; but the certificate may not  
 45 be renewed more than two times. The Board shall mail to each  
 46 registered trainee at ~~his~~ the trainee's last known residential address or  
 47 e-mail address a notice that the renewal fee is due and that, if not paid  
 48 within 30 days of the notice, the certificate will be canceled. A late fee,  
 49 in addition to the renewal fee, shall be charged for a late renewal, ~~but~~  
 50 except that the renewal of the registration of any resident trainee who  
 51 is engaged in active service in the Armed Forces of the United States

1 at the time renewal is due may, at the discretion of the Board, be held  
2 in abeyance for the duration of that service without penalties; ~~shall not~~  
3 ~~be charged a late fee.~~ No credit shall be allowed for the 12-month  
4 period of resident traineeship that shall have been completed more  
5 than five years preceding the examination for a license. However, any  
6 resident trainee to whom G.S. 105-249.2 grants an extension of time  
7 to file a tax return shall be allowed an extension of time to retain credit  
8 equal to the number of days of active deployment.

9 e. All registered resident trainees shall electronically report to the Board  
10 at least once every month during traineeship upon forms provided by  
11 the Board listing the work which has been completed during the  
12 preceding month of resident traineeship. The Board may set and  
13 collect a late fee not to exceed fifty dollars (\$50.00) for each work  
14 report filed after the date the report is due. The data contained in the  
15 reports shall be certified as correct by the licensee under whom the  
16 trainee has served during the period and by the licensed person who is  
17 managing the funeral service establishment. Each report shall list the  
18 following:

19 ...

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

- 24 1. That the funeral director trainee has, under ~~supervision,~~ the  
25 supervision of the licensed individual, registered as the  
26 trainee's supervisor, substantially assisted in directing at least  
27 25 funerals during the resident traineeship,
- 28 2. That the embalmer trainee has, under ~~supervision,~~ the  
29 supervision of the licensed individual, registered as the  
30 trainee's supervisor, substantially assisted in embalming at  
31 least 25 bodies during the resident traineeship,
- 32 3. That the funeral service trainee has, under ~~supervision,~~ the  
33 supervision of the licensed individual, registered as the  
34 trainee's supervisor, substantially assisted in directing at least  
35 25 funerals and, under ~~supervision,~~ the supervision of the  
36 licensed individual, registered as the trainee's supervisor,  
37 substantially assisted in embalming at least 25 bodies during  
38 the resident traineeship.

39 g. The Board may ~~suspend or revoke~~ suspend, revoke, or refuse to issue  
40 or renew a certificate of resident traineeship for violation of any  
41 provision of this ~~Article.~~ Article or place a trainee on probation for any  
42 violation of this Article or rules adopted by the Board. The Board may  
43 determine the length of any suspension, revocation, refusal to issue or  
44 renew, or probation and impose conditions on probation and  
45 reinstatement as the Board deems appropriate.

46 h. Each ~~sponsor~~ registered supervisor for a ~~registered~~ resident trainee  
47 must during the period of sponsorship be actively employed with a  
48 funeral establishment. The traineeship shall be a primary vocation of  
49 the trainee.

- 1 i. Only one resident trainee may register and serve at any one time under
- 2 any one person licensed and registered as a resident trainee supervisor
- 3 under this Article.
- 4 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 5 l. ~~The Board shall register no more than one resident trainee at a funeral~~
- 6 ~~establishment that served 100 or fewer families during the 12 months~~
- 7 ~~immediately preceding the date of the application, and shall register~~
- 8 ~~no more than one resident trainee for each additional 100 families~~
- 9 ~~served at the funeral establishment during the 12 months immediately~~
- 10 ~~preceding the date of the application.~~ Any resident trainee or registered
- 11 supervisor of a resident trainee shall meet with the Board upon request.
- 12 (5) The Board by regulation may recognize other examinations that the Board
- 13 deems equivalent to its own. After an applicant fails to obtain a passing score
- 14 on an examination two consecutive times, the applicant must wait at least 60
- 15 days to retake the examination.
- 16 ...
- 17 b. The holder of any license issued by the Board who shall fail to renew
- 18 the same on or before February 1 of the calendar year for which the
- 19 license is to be renewed shall have forfeited and surrendered the
- 20 license as of that date. No license forfeited or surrendered pursuant to
- 21 the preceding sentence shall be reinstated by the Board unless it is
- 22 shown to the Board that the applicant has, throughout the period of
- 23 forfeiture, engaged full time in another state of the United States or the
- 24 District of Columbia in the practice to which the applicant's North
- 25 Carolina license applies and has completed for each such year
- 26 continuing education substantially equivalent in the opinion of the
- 27 Board to that required of North Carolina licensees; or has completed
- 28 in North Carolina a total number of hours of accredited continuing
- 29 education computed by multiplying five times the number of years of
- 30 forfeiture; or has passed the North Carolina examination for the
- 31 forfeited license. No additional resident traineeship shall be required.
- 32 The applicant shall be required to pay all delinquent annual renewal
- 33 fees and a reinstatement fee. The Board may waive the provisions of
- 34 this section for an applicant for a forfeiture which occurred during the
- 35 applicant's service in the Armed Forces of the United States provided
- 36 the applicant applies within six months following severance
- 37 therefrom.
- 38 c. All licensees now or hereafter licensed in North Carolina shall take
- 39 continuing education courses approved by the Board in subjects
- 40 relating to the practice of the profession for which they are licensed,
- 41 to the end that the benefits of learning and reviewing skills will be
- 42 utilized and applied to assure proper service to the public.
- 43 d. As a prerequisite to the annual renewal of a license, the licensee must
- 44 complete, during the year immediately preceding renewal, at least five
- 45 hours of continuing education courses, of which the Board may require
- 46 licensees to take up to two hours specified by the Board. All continuing
- 47 education courses must be approved by the Board prior to enrollment.
- 48 A licensee who completes more than five hours in a year may carry
- 49 over a maximum of five hours as a credit to the following year's
- 50 requirement. ~~A licensee who is issued an initial license on or after July~~

1 ~~does not have to satisfy the continuing education requirement for that~~  
 2 ~~year; the calendar year in which the license was first obtained.~~

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

21 The Department of Public Safety may charge each applicant a fee  
 22 for conducting the checks of criminal history records authorized by  
 23 this subdivision.

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

- 29 (1) ~~Employed~~ The licensee is employed by a college of mortuary ~~science;~~  
 30 ~~or science.~~
- 31 (2) ~~The licensee;~~ licensee does all of the following:
  - 32 a. ~~Maintains all of his or her the licensee's~~ Maintains all of the licensee's business records at a location  
 33 made known to the Board and available for inspection by the Board  
 34 under the same terms and conditions as the business records of a  
 35 licensed funeral ~~establishment;~~ establishment.
  - 36 b. Complies with rules and regulations imposed on funeral  
 37 establishments and the funeral profession that are designed to protect  
 38 consumers, to include, but not be limited to, the Federal Trade  
 39 Commission's laws and rules requiring General Price Lists and  
 40 Statements of Goods and ~~Services;~~ and Services.
  - 41 c. Pays to the Board the funeral establishment license fee required by law  
 42 and set by the Board.
  - 43 d. Obtains and maintains a professional liability insurance policy with  
 44 liability limits of at least one million dollars (\$1,000,000). Certificates  
 45 of professional liability insurance shall be (i) submitted to the Board  
 46 within 30 days of the initial registration of the licensee by the Board,  
 47 (ii) made available during any inspection by the Board, and (iii)  
 48 submitted to the Board upon request. The licensee shall notify the  
 49 Board in writing within 30 days of any change in the insurer or any  
 50 cancellation or suspension of policy.

e. Provides to the Board annually as a condition of renewal the name and address of the funeral establishment or embalming facility where embalming is performed, provided that an embalming facility may not 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 within 30 days of any change in the insurer or any cancellation or suspension of the policy. Individuals covered by an employer's professional liability insurance policy shall provide evidence satisfactory to the Board that the policy covers that individual and meets the criteria provided in this sub-subdivision.

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

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

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



- 1                   i.       Refusing to surrender promptly the custody of a dead human body
- 2                               upon the express order of the person lawfully entitled to custody of the
- 3                               body.
- 4                   j.       Indecent exposure or exhibition of a dead human body while in a
- 5                               permittee's custody or control.
- 6                   k.       Practicing funeral directing, funeral service, or embalming without a
- 7                               license.
- 8                               The Board shall have the authority to determine the length and conditions
- 9                               of any period of revocation, suspension, refusal to issue or renew, or
- 10                              probation.
- 11       (d)       Establishment Permit. –
- 12        ...
- 13        (3)       Applications for funeral establishment permits shall be made on forms
- 14                               provided by the Board and filed with the Board by the owner, a partner, a
- 15                               member of the limited liability company, or an officer of the corporation by
- 16                               January 1 of each year, and shall be accompanied by the application fee or
- 17                               renewal fee, as the case may be. All permits shall expire on December 31 of
- 18                               each year. If the renewal application and renewal fee are not received in the
- 19                               Board's office on or before February 1, a late renewal fee, in addition to the
- 20                               regular renewal fee, shall be charged.
- 21        (4)       The Board may place on probation, refuse to issue or renew, suspend, or
- 22                               revoke a permit when an owner, partner, manager, member, operator, or
- 23                               officer of the funeral establishment violates any provision of this Article or
- 24                               any regulations of the Board, or when any agent or employee of the funeral
- 25                               establishment, with the consent of any person, firm or corporation operating
- 26                               the funeral establishment, violates any of those provisions, rules or
- 27                               regulations. In any case in which the Board is entitled to place a funeral
- 28                               establishment permittee on a term of probation, the Board may also impose a
- 29                               penalty of not more than five thousand dollars (\$5,000) in conjunction with
- 30                               the probation. In any case in which the Board is entitled to suspend, revoke,
- 31                               or refuse to renew a permit, the Board may accept from the funeral
- 32                               establishment permittee an offer to pay a penalty of not more than five
- 33                               thousand dollars (\$5,000). The Board may either accept a penalty or revoke
- 34                               or refuse to renew a license, but not both. Any penalty under this subdivision
- 35                               may be in addition to any penalty assessed against one or more licensed
- 36                               individuals employed by the funeral establishment. The Board shall have the
- 37                               authority to determine the length and conditions of any period of revocation,
- 38                               suspension, refusal to issue or renew, or probation.
- 39        (5)       Funeral establishment permits are not transferable. A new application for a
- 40                               permit shall be made to the Board within 30 days of a change of ownership of
- 41                               a funeral establishment. A change to the legal structure owning a funeral
- 42                               establishment shall constitute a change of ownership only when there is a
- 43                               change of a majority of the funeral establishment's owners, partners,
- 44                               managers, members, operators, or officers. For the purposes of this
- 45                               subdivision, a funeral establishment means one or more structures on a
- 46                               contiguous piece of property.
- 47        ...
- 48        (e)       Revocation; Suspension; Compromise; Disclosure. –
- 49                   (1)       Whenever the Board finds that an applicant for a license or a person to whom
- 50                               a license has been issued by the Board is guilty of any of the following acts or
- 51                               omissions and the Board also finds that the person has thereby become unfit

1 to practice, the Board may suspend or revoke the license or refuse to issue or  
 2 renew the license, in accordance with the procedures set out in Chapter 150B  
 3 of the General Statutes:

4 ...  
 5 b. Fraud or misrepresentation in obtaining or renewing a license or in the  
 6 practice of funeral service, service or operation of a licensee's business.

7 ...  
 8 j. Violating or cooperating with others to violate any of the provisions  
 9 of this Article or Articles 13D, 13E, or 13F of Chapter 90 of the  
 10 General Statutes, this Chapter, any rules and regulations of the Board,  
 11 or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453  
 12 (1984), as amended from time to time.

13 ...  
 14 o. Failure to refund any insurance proceeds received as consideration in  
 15 excess of the funeral contract purchase price within 30 days of receipt;  
 16 provided, however, that this provision shall not be construed to include  
 17 interest or growth on funds paid toward funeral goods and services to  
 18 be provided pursuant to an inflation-proof preneed contract.

19 p. Failure to provide, within a reasonable time, either the goods and  
 20 services contracted for or a refund for the price of goods and services  
 21 paid for but not fulfilled.

22 q. Violation of G.S. 58-58-97.

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

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

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

44 No funeral ~~service~~ establishment shall accept a dead human body from any public officer  
 45 (excluding the State or county medical examiner or his agent), or employee or from the official  
 46 of any institution, hospital or nursing home, or from a physician or any person having a  
 47 professional relationship with a decedent, without having first made due inquiry as to the desires  
 48 of the persons who have the legal authority to direct the disposition of the decedent's body. If any  
 49 persons are found, their authority and directions shall govern the disposal of the remains of the  
 50 decedent. Any funeral service establishment receiving the remains in violation of this subsection  
 51 shall make no charge for any service in connection with the remains prior to delivery of the

1 remains as stipulated by the persons having legal authority to direct the disposition of the body.  
 2 This section shall not prevent any funeral service establishment from charging and being  
 3 reimbursed for services rendered in connection with the removal of the remains of any deceased  
 4 person in case of accidental or violent death, and rendering necessary professional services  
 5 required until the persons having legal authority to direct the disposition of the body have been  
 6 notified.

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

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

29 ...

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

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

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

45 ...."

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

47 "**§ 90-210.27A. Funeral establishments.**

48 ...

49 (a1) If the preparation room of a funeral establishment is damaged or destroyed by fire,  
 50 weather, or other natural disaster, the Board may suspend the requirements of subsection (a) of  
 51 this section, in part or whole, for a period not to exceed 180 days, provided that the funeral

1 establishment remains in compliance with the requirements of G.S. 90-210.25(d1) and all other  
 2 laws, rules, regulations, and requirements of the Division of Health Services and of the  
 3 municipality or county where the funeral establishment is located. To receive a suspension of  
 4 more than 90 days, the applicant must show good cause for additional time.

5 ...

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

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

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

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

22 **"§ 90-210.28. Fees.**

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

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

1	Application .....	150.00
2	Annual renewal .....	100.00
3	Late renewal .....	75.00

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

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

10 **"§ 90-210.29B. Examination scores not Exemptions from public record records.**

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

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

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

22 **"§ 90-210.61. Deposit or application of preneed funeral funds.**

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

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

35 ...."

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

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

39 **"§ 90-210.63. Substitution of licensee.**

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

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

1 ~~G.S. 90-210.68(d1) and (e). Upon making payments pursuant to this~~  
 2 ~~subsection, the financial institution and the original contracting preneed~~  
 3 ~~licensee shall be relieved from all further contractual liability thereon.~~

4 ...

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

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

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

19 **"§ 90-210.63B. Cancellation of insurance preneed contracts by preneed licensee.**

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

- 24 (1) The preneed funeral contract beneficiary has not used the preneed funeral  
 25 contract to qualify for benefits from the Department of Health and Human  
 26 Services.  
 27 (2) One or more insurance policies used as consideration for the preneed contract  
 28 have lapsed or been revoked or cancelled by the preneed contract purchaser.  
 29 (3) The value of all insurance policies does not exceed five hundred dollars  
 30 (\$500.00)."

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

32 **"§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

33 ...  
 34 (d) When the balance of a preneed funeral fund is ~~one hundred dollars (\$100.00)~~ one  
 35 thousand dollars (\$1,000) or less and is payable to the estate of a deceased preneed funeral  
 36 contract beneficiary and there has been no representative of the estate appointed, the balance due  
 37 may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a  
 38 preneed funeral fund exceeds ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) or is  
 39 not payable to the estate, the balance must be paid into the office of the clerk of superior court in  
 40 the county where probate proceedings could be filed for the deceased preneed funeral contract  
 41 beneficiary.

42 ...."

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

44 **"§ 90-210.66. Recovery fund.**

45 ...  
 46 (b) From the fee for each preneed funeral contract as required by G.S. 90-210.67(d), the  
 47 Board shall deposit at least two dollars ~~(\$2.00)~~ (\$2.00), but not more than ten dollars ~~(\$10.00),~~  
 48 into the Fund. The Board may ~~suspend the deposits into the Fund at any time and for any period~~  
 49 for which the Board determines that a sufficient amount is available ~~set the amount of the deposit~~  
 50 into the Fund as it deems necessary to meet likely disbursements and to maintain an adequate  
 51 reserve.

1       ...."

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

3       "**§ 90-210.67. Application for license.**

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

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

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

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

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

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

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

43 ...."

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

45 **"§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**  
46 **terminations.**

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



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

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

18 ...

19 (c) If any preneed licensee transfers or assigns its assets or stock to a successor funeral  
 20 establishment or terminates its business as a funeral establishment, the preneed licensee and  
 21 assignee shall notify the Board at least ~~15-30~~ days prior to the effective date of the transfer,  
 22 assignment or termination: provided, however, the successor funeral establishment must be a  
 23 preneed licensee or shall be required to apply for and be granted such license by the Board before  
 24 accepting any preneed funeral contracts, whether funded by trust deposits or preneed insurance  
 25 policies. Provided further, a successor funeral establishment shall be liable to the preneed funeral  
 26 contract purchasers for the amount of contract payments retained by the assigning or transferring  
 27 funeral home pursuant to G.S. 90-210.61(a)(2).

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

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

37 ...."

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

39 "**§ 90-210.69. Rulemaking; enforcement of Article; judicial review; determination of**  
 40 **penalty amount.**

41 ...

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

47 ...

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

50 ...

1 In any case in which the Board is authorized to take any of the actions permitted under this  
2 subsection, the Board may instead accept an offer in compromise of the charges whereby the  
3 accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). In any  
4 case in which the Board is entitled to place a licensee on a term of probation, the Board may also  
5 impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such  
6 probation. The Board may determine the length and conditions of any period of probation,  
7 revocation, suspension, or refusal to issue or renew a license.

8 ...."

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

10 **"§ 90-210.73. Not public record.**

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

13 (1) The names and addresses of the purchasers and beneficiaries of preneed  
14 funeral contracts filed with the ~~Board shall not be subject to Chapter 132 of~~  
15 ~~the General Statutes.~~Board.

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

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

19 **"§ 90-210.123. Licensing and inspection.**

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

26 ...

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

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

46 ...

47 (g) Whenever the Board finds that an owner, partner, crematory manager, member,  
48 officer, or any crematory technician of a crematory licensee or any applicant to become a  
49 crematory licensee, or that any authorized employee, agent, or representative has violated any  
50 provision of this Article, or is guilty of any of the following acts, and when the Board also finds  
51 that the crematory operator or applicant has thereby become unfit to practice, the Board may

1 suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the  
 2 General Statutes:

- 3 ...
- 4 (2) Fraud or misrepresentation in obtaining or renewing a ~~license or license~~, in  
 5 the practice of ~~cremation~~, cremation, or in the operation of a licensee's  
 6 business.
- 7 ...
- 8 (10) Violating or cooperating with others to violate any of the provisions of this  
 9 Article or of the rules of the ~~Board~~, Board or violation of Funeral Industry  
 10 Practices, 16 C.F.R. § 453 (1984), as amended.
- 11 ...
- 12 (15) Allowing anyone other than a licensee of the Board or a crematory technician  
 13 to perform a cremation.

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

17 (h) Where the Board finds a licensee is guilty of one or more of the acts or omissions  
 18 listed in subsection (g) of this 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 a term of probation in  
 20 accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in  
 21 which the Board is entitled to place a licensee on a term of probation, the Board may also impose  
 22 a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation. The  
 23 Board may determine the length and conditions of any period of probation, suspension,  
 24 revocation, or refusal to issue or renew a license.

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

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

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

44 **"§ 90-210.124. Authorizing agent.**

- 45 ...
- 46 (b) A person who does not exercise his or her right to dispose of the decedent's body  
 47 under subdivision (a)(2) of this section within five days of notification or 10 days from date of  
 48 death, whichever is earlier, shall be deemed to have waived his or her right to authorize  
 49 disposition of the decedent's body or to contest disposition in accordance with this section.  
 50 Pursuant to G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commissioner of  
 51 Anatomy declining or failing to request delivery of the dead body, the director of social services

1 having the duty to dispose of the human remains shall become vested with all interests and rights  
2 to the dead body and shall authorize and arrange for disposition, including cremation.

3 ...."

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

5 **"§ 90-210.125. Authorization to cremate.**

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

9 ...

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

14 ...."

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

16 **"§ 90-210.129. Cremation procedures.**

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

22 ...

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

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

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

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

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

46 ...

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

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

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

...."

**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 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.

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

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

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

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

7       "**§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**  
8 **Association for Retarded Citizens of North Carolina; disposition.**

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

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

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

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

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

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

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

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

1 ~~death occurred~~ occurred or, if the county of residence and death of the decedent are unknown,  
2 the county where the deceased was located.

3 ...

4 (j) Any funeral director or funeral service licensee doing business within the State having  
5 physical possession of a dead body shall make reasonable efforts to contact relatives of the  
6 deceased or other persons who may wish to claim the body for final disposition. If the body  
7 remains unclaimed for final disposition for 10 days, or if the right to authorize the type, method,  
8 place, and disposition, of the dead body is waived under G.S. 130A-420(b1) or  
9 G.S. 90-210.124(b), and if all persons who have expressed interest in arranging for the  
10 disposition for the dead body have ceased communication with the person in possession of the  
11 dead body for five days, the dead body shall be deemed abandoned. If the funeral director or  
12 funeral service licensee receives the dead body from a person or entity listed in subsection (a) of  
13 this section, the 10-day period shall run concurrently with any period imposed on that person or  
14 entity. Any person having possession of an abandoned dead body shall notify the Commission  
15 of Anatomy. Upon request of the Commission of Anatomy, the person having possession of the  
16 abandoned dead body shall deliver the abandoned dead body to the Commission of Anatomy at  
17 a time and place specified by the Commission of Anatomy or shall permit the Commission of  
18 Anatomy to take and remove the abandoned dead body.

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

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

39 **"§ 130A-420. Authority to dispose of body or body parts.**

40 ...

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

45 ...

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

1 county in which the dead body is located shall become vested with all interests and rights to the  
2 dead body and shall authorize and arrange for disposition by cremation, hydrolysis, or burial.

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

6 ...."

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

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