

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 811
Apr 10, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH10284-LUF-98A (03/12)

Short Title: Amend Practice of Funeral Service Laws.

(Public)

Sponsors: Representative Boles.

Referred to:

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5 **SECTION 1.** G.S. 58-58-97(d) is repealed.

6 **SECTION 2.** G.S.90-210.23 reads as rewritten:

7 **"§ 90-210.23. Powers and duties of the Board.**

8 (a) The Board is authorized to adopt and promulgate such rules and regulations for
9 transaction of its business and for the carrying out and enforcement of the provisions of this
10 Article as may be necessary and as are consistent with the laws of this State and of the United
11 States.

12 (b) The Board shall elect from its members a president, a vice-president and a secretary,
13 no two offices to be held by the same person. The president and vice-president and secretary
14 shall serve for one year and until their successors shall be elected and qualified. The Board
15 shall have authority to engage adequate staff as deemed necessary to perform its duties.

16 (c) The members of the Board shall serve without compensation provided that such
17 members shall be reimbursed for their necessary traveling expenses and the necessary expenses
18 incident to their attendance upon the business of the Board, and in addition thereto they shall
19 receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually
20 spent by such member upon the business of the Board. All expenses, salaries and per diem
21 provided for in this Article shall be paid from funds received under the provisions of this
22 Article and shall in no manner be an expense to the State.

23 (d) Every person licensed by the Board and every resident trainee shall furnish all
24 information required by the Board reasonably relevant to the practice of the profession or
25 business for which the person is a licensee or resident trainee. Every funeral service
26 establishment and its records and every place of business where the practice of funeral service
27 or embalming is carried on and its records shall be subject to inspection by the Board during
28 normal hours of operation and periods shortly before or after normal hours of operation and
29 shall furnish all information required by the Board reasonably relevant to the business therein
30 conducted. Every licensee, resident trainee, embalming facility, and funeral service
31 establishment shall provide the Board with a current post-office address which shall be placed
32 on the appropriate register and all notices required by law or by any rule or regulation of the
33 Board to be mailed to any licensee, resident trainee, embalming facility, or funeral service
34 establishment shall be validly given when mailed to the address so provided.



1 (d1) The Board is empowered to hold hearings in accordance with the provisions of this
2 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the
3 affirmation of witnesses before the Board.

4 In any show cause hearing before the Board held under the authority of Chapter 150B of the
5 General Statutes where the Board imposes discipline against a licensee, the Board may recover
6 the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to
7 exceed two thousand five hundred dollars (\$2,500).

8 (e) The Board is empowered to regulate and inspect, according to law, funeral service
9 establishments and embalming facilities, their operation, and the licenses under which they are
10 operated, and to enforce as provided by law the rules, regulations, and requirements of the
11 Division of Health Services and of the city, town, or county in which the funeral service
12 establishment or embalming facility is maintained and operated. ~~Any funeral establishment or
13 embalming facility that, upon inspection, is found not to meet all of the requirements of this
14 Article shall pay a reinspection fee to the Board for each additional inspection that is made to
15 ascertain that the deficiency or other violation has been corrected.~~ The Board is also
16 empowered to enforce compliance with the standards set forth in Funeral Industry Practices, 16
17 C.F.R. 453 (1984), as amended from time to time.

18 (e1) Any funeral establishment or embalming facility that, upon inspection, is found not
19 to meet all of the requirements of this Article shall pay a reinspection fee to the Board for each
20 additional inspection that is made to ascertain that the deficiency or other violation has been
21 corrected. The amount of the reinspection fee shall be based on the actual cost of reinspection
22 after considering the salary of any employees involved and any expenses incurred during the
23 reinspection.

24 (f) The Board may establish, supervise, regulate and control programs for the resident
25 trainee. It may approve schools of mortuary science or funeral service, graduation from which
26 is required by this Article as a qualification for the granting of any license, and may establish
27 essential requirements and standards for such approval of mortuary science or funeral service
28 schools.

29 (g) Schools for teaching mortuary science which are approved by the Board shall have
30 extended to them the same privileges as to the use of bodies for dissecting while teaching as
31 those granted in this State to medical colleges, but such bodies shall be obtained through the
32 same agencies which provide bodies for medical colleges.

33 (h) The Board shall adopt a common seal.

34 (h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
35 otherwise deal with real property in the same manner as a private person or corporation, subject
36 only to approval of the Governor and the Council of State. Collateral pledged by the Board for
37 an encumbrance is limited to the assets, income, and revenues of the Board.

38 (h2) The Board may employ legal counsel and clerical and technical assistance, and fix
39 the compensation therefor, and incur such other expenses as may be deemed necessary in the
40 performance of its duties and the enforcement of the provisions of this Article or as otherwise
41 required by law and as may be necessary to carry out the powers herein conferred.

42 (i) The Board may perform such other acts and exercise such other powers and duties
43 as may be provided elsewhere in this Article or otherwise by law and as may be necessary to
44 carry out the powers herein conferred."

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

46 **"§ 90-210.25. Licensing.**

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

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

- 50 a. Be at least 18 years of age.
51 b. Be of good moral character.

- 1 c. Be a graduate of a Funeral Director Program at a mortuary science
2 college approved by the Board or a school of mortuary science
3 accredited by the American Board of Funeral Service Education.
4 Have completed a minimum of 32 semester hours or 48 quarter hours
5 of instruction, including the subjects set out in sub-part e.1. of this
6 subdivision, as prescribed by a mortuary science college approved by
7 the Board or a school of mortuary science accredited by the
8 American Board of Funeral Service Education.
- 9 d. Have completed 12 months of resident traineeship as a funeral
10 director, pursuant to the procedures and conditions set out in
11 G.S. 90-210.25(a)(4), either before or after satisfying the educational
12 requirement under sub-subdivision c. of this subdivision.
- 13 e. Have passed an oral or written funeral director examination on the
14 following subjects:
- 15 1. Psychology, sociology, pathology, funeral directing, business
16 law, funeral law, funeral management, and accounting.
 - 17 2. Repealed by Session Laws 1997-399, s. 5.
 - 18 3. Laws of North Carolina—Carolina, the standards set forth in
19 Funeral Industry Practices, 16 C.F.R. 453 (1984), pursuant to
20 its most recent version, and rules of the Board and other
21 agencies dealing with the care, transportation and disposition
22 of dead human bodies.
- 23 (2) To be licensed for the practice of embalming under this Article, a person
24 must:
- 25 a. Be at least 18 years of age.
 - 26 b. Be of good moral character.
 - 27 c. Be a graduate of a mortuary science college approved by the Board.
 - 28 d. Have completed 12 months of resident traineeship as an embalmer
29 pursuant to the procedures and conditions set out in
30 G.S. 90-210.25(a)(4), either before or after satisfying the educational
31 requirement under sub-subdivision c. of this subdivision.
 - 32 e. Have passed an oral or written embalmer examination on the
33 following subjects:
- 34 1. Embalming, restorative arts, chemistry, pathology,
35 microbiology, and anatomy.
 - 36 2. Repealed by Session Laws 1997-399, s. 6.
 - 37 3. Laws of North Carolina—Carolina, the standards set forth in
38 Funeral Industry Practices, 16 C.F.R. 453 (1984), pursuant to
39 its most recent version, and rules of the Board and other
40 agencies dealing with the care, transportation and disposition
41 of dead human bodies.
- 42 (3) To be licensed for the practice of funeral service under this Article, a person
43 must:
- 44 a. Be at least 18 years of age.
 - 45 b. Be of good moral character.
 - 46 c. Be a graduate of and receive an associate degree from a mortuary
47 science college approved by the Board or a school of mortuary
48 science accredited by the American Board of Funeral Service
49 Education. Have completed a minimum of 60 semester hours or 90
50 quarter hours of instruction, including the subjects set out in sub-part
51 e.1. of this subdivision, as prescribed by a mortuary science college

- 1 approved by the Board or a school of mortuary science accredited by
2 the American Board of Funeral Service Education.
- 3 d. Have completed 12 months of resident traineeship as a funeral
4 service licensee, pursuant to the procedures and conditions set out in
5 G.S. 90-210.25(a)(4), either before or after satisfying the educational
6 requirement under sub-subdivision c. of this subdivision.
- 7 e. Have passed an oral or written funeral service examination on the
8 following subjects:
- 9 1. Psychology, sociology, funeral directing, business law,
10 funeral law, funeral management, and accounting.
 - 11 2. Embalming, restorative arts, chemistry, pathology,
12 microbiology, and anatomy.
 - 13 3. Repealed by Session Laws 1997-399, s. 7.
 - 14 4. Laws of North Carolina—Carolina, the standards set forth in
15 Funeral Industry Practices, 16 C.F.R. 453 (1984), pursuant to
16 its most recent version, and rules of the Board and other
17 agencies dealing with the care, transportation and disposition
18 of dead human bodies.
- 19 (4) a. A person desiring to become a resident trainee shall apply to the
20 Board on a form provided by the Board. The application shall state
21 that the applicant is not less than 18 years of age, of good moral
22 character, and is the graduate of a high school or the equivalent
23 thereof, and shall indicate the licensee under whom the applicant
24 expects to train. A person training to become an embalmer may serve
25 under either a licensed embalmer or a funeral service licensee. A
26 person training to become a funeral director may serve under either a
27 licensed funeral director or a funeral service licensee. A person
28 training to become a funeral service licensee shall serve under a
29 funeral service licensee. The application must be sustained by oath of
30 the applicant and be accompanied by the appropriate fee. When the
31 Board is satisfied as to the qualifications of an applicant it shall
32 instruct the secretary to issue a certificate of resident traineeship.
- 33 b. Within 30 days of a resident trainee leaving the proctorship of the
34 licensee under whom the trainee has worked, the licensee shall file
35 with the Board an affidavit showing the length of time served with
36 the licensee by the trainee, and the affidavit shall be made a matter of
37 record in the Board's office. The licensee shall deliver a copy of the
38 affidavit to the trainee.
- 39 c. A person who has not completed the traineeship and wishes to do so
40 under a licensee other than the one whose name appears on the
41 original certificate may reapply to the Board for approval.
- 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 last known address a notice that the renewal
47 fee is due and that, if not paid within 30 days of the notice, the
48 certificate will be canceled. A late fee, in addition to the renewal fee,
49 shall be charged for a late renewal, but the renewal of the registration
50 of any resident trainee who is engaged in active service in the
51 Armed Forces of the United States at the time renewal is due may, at

- 1 the discretion of the Board, be held in abeyance for the duration of
2 that service without penalties. No credit shall be allowed for the
3 12-month period of resident traineeship that shall have been
4 completed more than five years preceding the examination for a
5 license. However, any resident trainee whom G.S. 105-249.2 grants
6 an extension of time to file a tax return shall be allowed an extension
7 of time to retain credit equal to the number of days of active
8 deployment.
- 9 e. All registered resident trainees shall report to the Board at least once
10 every month during traineeship upon forms provided by the Board
11 listing the work which has been completed during the preceding
12 month of resident traineeship. The Board may set and collect a late
13 fee not to exceed fifty dollars (\$50.00) for each work report filed
14 after the date the report is due. The data contained in the reports shall
15 be certified as correct by the licensee under whom the trainee has
16 served during the period and by the licensed person who is managing
17 the funeral service establishment. Each report shall list the following:
18 1. For funeral director trainees, the conduct of any funerals
19 during the relevant time period,
20 2. For embalming trainees, the embalming of any bodies during
21 the relevant time period,
22 3. For funeral service trainees, both of the activities named in 1
23 and 2 of this subsection, engaged in during the relevant time
24 period.
- 25 f. To meet the resident traineeship requirements of
26 G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
27 the following must be shown by the affidavit(s) of the licensee(s)
28 under whom the trainee worked:
29 1. That the funeral director trainee has, under supervision,
30 assisted in directing at least 25 funerals during the resident
31 traineeship,
32 2. That the embalmer trainee has, under supervision, assisted in
33 embalming at least 25 bodies during the resident traineeship,
34 3. That the funeral service trainee has, under supervision,
35 assisted in directing at least 25 funerals and, under
36 supervision, assisted in embalming at least 25 bodies during
37 the resident traineeship.
- 38 g. ~~The Board may suspend or revoke~~ suspend, or refuse to issue
39 or renew a certificate of resident traineeship ~~for violation of any~~
40 ~~provision of this Article or place a trainee on probation for any~~
41 violation of this Article or rules adopted by the Board. The Board
42 may determine the length of any revocation, suspension, refusal to
43 issue or renew, or probation and impose conditions on probation and
44 reinstatement as the Board deems appropriate.
- 45 h. Each sponsor for a registered resident trainee must during the period
46 of sponsorship be actively employed with a funeral establishment.
47 The traineeship shall be a primary vocation of the trainee.
- 48 i. Only one resident trainee may register and serve at any one time
49 under any one person licensed under this Article.
- 50 j., k. Repealed by Session Laws 1991, c. 528, s. 4.

- 1 1. The Board shall register no more than one resident trainee at a
2 funeral establishment that served 100 or fewer families during the 12
3 months immediately preceding the date of the application, and shall
4 register no more than one resident trainee for each additional 100
5 families served at the funeral establishment during the 12 months
6 immediately preceding the date of the application.
- 7 (5) The Board by regulation may recognize other examinations that the Board
8 deems equivalent to its own.
- 9 a. All licenses shall be signed by the president and secretary of the
10 Board and the seal of the Board affixed thereto. All licenses shall be
11 issued, renewed or duplicated for a period not exceeding one year
12 upon payment of the renewal fee, and all licenses, renewals or
13 duplicates thereof shall expire and terminate the thirty-first day of
14 December following the date of their issue unless sooner revoked and
15 canceled; provided, that the date of expiration may be changed by
16 unanimous consent of the Board and upon 90 days' written notice of
17 such change to all persons licensed for the practice of funeral
18 directing, embalming and funeral service in this State.
- 19 b. The holder of any license issued by the Board who shall fail to renew
20 the same ~~on or before February~~ January 1 of the calendar year for
21 which the license is to be renewed shall have forfeited and
22 surrendered the license as of that date. No license forfeited or
23 surrendered pursuant to the preceding sentence shall be reinstated by
24 the Board unless it is shown to the Board that the applicant has,
25 throughout the period of forfeiture, engaged full time in another state
26 of the United States or the District of Columbia in the practice to
27 which the applicant's North Carolina license applies and has
28 completed for each such year continuing education substantially
29 equivalent in the opinion of the Board to that required of North
30 Carolina licensees; or has completed in North Carolina a total
31 number of hours of accredited continuing education computed by
32 multiplying five times the number of years of forfeiture; or has
33 passed the North Carolina examination for the forfeited license. No
34 additional resident traineeship shall be required. The applicant shall
35 be required to pay all delinquent annual renewal fees and a
36 reinstatement fee. The Board may waive the provisions of this
37 section for an applicant for a forfeiture which occurred during the
38 applicant's service in the Armed Forces of the United States provided
39 the applicant applies within six months following severance
40 therefrom.
- 41 c. All licensees now or hereafter licensed in North Carolina shall take
42 continuing education courses in subjects relating to the practice of
43 the profession for which they are licensed, to the end that the benefits
44 of learning and reviewing skills will be utilized and applied to assure
45 proper service to the public.
- 46 d. As a prerequisite to the annual renewal of a license, the licensee must
47 complete, during the year immediately preceding renewal, at least
48 five hours of continuing education courses, of which the Board may
49 require licensees to take up to two hours specified by the Board. All
50 continuing education courses must be approved by the Board prior to
51 enrollment. A licensee who completes more than five hours in a year

- 1 may carry over a maximum of five hours as a credit to the following
2 year's requirement. A licensee who is issued an initial license on or
3 after July 1 does not have to satisfy the continuing education
4 requirement for that year.
- 5 e. The Board shall not renew a license unless fulfillment of the
6 continuing education requirement has been certified to it on a form
7 provided by the Board, but the Board may waive this requirement for
8 renewal in cases of certified illness or undue hardship or where the
9 licensee lives outside of North Carolina and does not practice in
10 North Carolina, and the Board shall waive the requirement for all
11 licensees who were licensed on or before December 31, 2003, and
12 have been licensed in North Carolina for a continuous period of 25
13 years or more, for all licensees who are licensed on or after January
14 1, 2004, who have been licensed for a continuous period of 25 years
15 or more and have attained the age of 60 years, and for all licensees
16 who are, at the time of renewal, members of the General Assembly.
- 17 f. The Board shall cause to be established and offered to the licensees,
18 each calendar year, at least eight hours of continuing education
19 courses. The Board may charge licensees attending these courses a
20 reasonable registration fee in order to meet the expenses thereof and
21 may also meet those expenses from other funds received under the
22 provisions of this Article.
- 23 g. Any person who having been previously licensed by the Board as a
24 funeral director or embalmer prior to July 1, 1975, shall not be
25 required to satisfy the requirements herein for licensure as a funeral
26 service licensee, but shall be entitled to have such license renewed
27 upon making proper application therefor and upon payment of the
28 renewal fee provided by the provisions of this Article. Persons
29 previously licensed by the Board as a funeral director may engage in
30 funeral directing, and persons previously licensed by the Board as an
31 embalmer may engage in embalming. Any person having been
32 previously licensed by the Board as both a funeral director and an
33 embalmer may upon application therefor receive a license as a
34 funeral service licensee.
- 35 h. The Department of Justice may provide a criminal record check to
36 the Board for a person who has applied for a new or renewal license,
37 or certification through the Board. The Board shall provide to the
38 Department of Justice, along with the request, the fingerprints of the
39 applicant, any additional information required by the Department of
40 Justice, and a form signed by the applicant consenting to the check of
41 the criminal record and to the use of the fingerprints and other
42 identifying information required by the State or national repositories.
43 The applicant's fingerprints shall be forwarded to the State Bureau of
44 Investigation for a search of the State's criminal history record file,
45 and the State Bureau of Investigation shall forward a set of the
46 fingerprints to the Federal Bureau of Investigation for a national
47 criminal history check. The Board shall keep all information pursuant
48 to this subdivision privileged, in accordance with applicable State
49 law and federal guidelines, and the information shall be confidential
50 and shall not be a public record under Chapter 132 of the General
51 Statutes.

1 The Department of Justice may charge each applicant a fee for
2 conducting the checks of criminal history records authorized by this
3 subdivision.

4 (a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral
5 directing, for embalming, or for the practice of funeral service may apply for an inactive license
6 in the same category as the active license held. The inactive license is renewable annually.
7 Continuing education is not required for the renewal of an inactive license. The holder of an
8 inactive license may not engage in any activity requiring an active license. The holder of an
9 inactive license may apply for an active license in the same category, and the Board shall issue
10 an active license if the applicant has completed a total number of hours of accredited
11 continuing education equal to five times the number of years the applicant held the inactive
12 license. No application fee is required for the reinstatement of an active license pursuant to this
13 subsection. The holder of an inactive license who returns to active status shall surrender the
14 inactive license to the Board.

15 (a2) In order to engage in the practice of funeral directing or funeral service, such a
16 licensee must own, be employed by, or otherwise be an agent of a licensed funeral
17 establishment; except that such a licensee may practice funeral directing or funeral service if:

18 (1) Employed by a college of mortuary science; or

19 (2) The licensee:

20 a. Maintains all of his or her business records at a location made known
21 to the Board and available for inspection by the Board under the
22 same terms and conditions as the business records of a licensed
23 funeral establishment;

24 b. Complies with rules and regulations imposed on funeral
25 establishments and the funeral profession that are designed to protect
26 consumers, to include, but not be limited to, the Federal Trade
27 Commission's laws and rules requiring General Price Lists and
28 Statements of Goods and Services; and

29 c. Pays to the Board the funeral establishment license fee required by
30 law and set by the Board.

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

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

34 (1) The Board shall grant licenses to funeral directors, embalmers and funeral
35 service licensees, licensed in other states, territories, the District of
36 Columbia, and foreign countries, when it is shown that the applicant holds a
37 valid license as a funeral director, embalmer or funeral service licensee
38 issued by the other jurisdiction, has demonstrated knowledge of the laws and
39 rules governing the profession in North Carolina and has submitted proof of
40 his good moral character; and either that the applicant has continuously
41 practiced the profession in ~~the other~~ a jurisdiction where funeral directors,
42 embalmers, and funeral service licensees are required to hold a license to
43 practice for at least three years immediately preceding his application, or the
44 Board has determined that the licensing requirements for the other
45 jurisdiction are substantially similar to those of North Carolina.

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

49 (3) The Board may issue special permits, to be known as courtesy cards,
50 permitting nonresident funeral directors, embalmers and funeral service
51 licensees to remove bodies from and to arrange and direct funerals and

1 embalm bodies in this State, but these privileges shall not include the right to
2 establish a place of business in or engage generally in the business of funeral
3 directing and embalming in this State. Except for special permits issued by
4 the Board for teaching continuing education programs and for work in
5 connection with disasters, no special permits may be issued to nonresident
6 funeral directors, embalmers, and funeral service licensees from states that
7 do not issue similar courtesy cards to persons licensed in North Carolina
8 pursuant to this Article.

9 (c) Registration, Filing and Transportation. –

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

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

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

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

39 (5) The following persons shall be exempt from the permit requirements of this
40 section but shall otherwise be subject to subdivision (9) of this subsection
41 and any rules relating to the proper handling, care, removal, or transportation
42 of a dead human body:

43 a. Licensees under this Article and their employees.

44 b. Employees of common carriers.

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

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

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

- 1 a. Emergency medical technicians, rescue squad workers, volunteer and
2 paid firemen, and law enforcement officers while acting within the
3 scope of their employment.
- 4 b. Employees of public or private hospitals, nursing homes, or
5 long-term care facilities, while handling a dead human body within
6 such facility or while acting within the scope of their employment.
- 7 c. State and county medical examiners and their investigators.
- 8 d. Any individual transporting cremated remains.
- 9 e. Any individual transporting or removing a dead human body of their
10 immediate family or next of kin.
- 11 f. Any individual who has exhibited special care and concern for the
12 decedent.
- 13 (7) Individuals eligible to receive a permit under this section for the
14 transportation or removal of a dead human body for a fee, shall:
- 15 a. Be at least 18 years of age.
- 16 b. Possess and maintain a valid drivers license issued by this State and
17 provide proof of all liability insurance required for the registration of
18 any vehicle in which the person intends to engage in the business of
19 the removal or transportation of a dead human body.
- 20 c. Affirmatively state under oath that the person has read and
21 understands the statutes and rules relating to the removal and
22 transportation of dead human bodies and any guidelines as may be
23 adopted by the Board.
- 24 d. Provide three written character references on a form prescribed by
25 the Board, one of which must be from a licensed funeral director.
- 26 e. Be of good moral character.
- 27 (8) The permit issued under this section shall expire on December 31 of each
28 year. The application fee for the individual permit shall not exceed one
29 hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred
30 dollars (\$100.00), in addition to the renewal fee not to exceed seventy-five
31 dollars (\$75.00), shall be charged for any application ~~for renewal received~~
32 ~~by the Board after February 1 of each year.~~ made on or after January 1 to
33 renew an expired permit.
- 34 (9) No person shall transport a dead human body in the open cargo area or
35 passenger area of a vehicle or in any vehicle in which the body may be
36 viewed by the public. Any person removing or transporting a dead human
37 body shall either cover the body, place it upon a stretcher designed for the
38 purpose of transporting humans or dead human bodies in a vehicle, and
39 secure such stretcher in the vehicle used for transportation, or shall enclose
40 the body in a casket or container designed for common carrier transportation,
41 and secure the casket or container in the vehicle used for transportation. No
42 person shall fail to treat a dead human body with respect at all times. No
43 person shall take a photograph or video recording of a dead human body
44 without the consent of a member of the deceased's immediate family or next
45 of kin or other authorizing agent.
- 46 (10) The Board may adopt rules under this section including permit application
47 procedures and the proper procedures for the removal, handling, and
48 transportation of dead human bodies. The Board shall consult with the
49 Office of the Chief Medical Examiner before initiating rule making under
50 this section and before adopting any rules pursuant to this section. Nothing
51 in this section prohibits the Office of the Chief Medical Examiner from

1 adopting policies and procedures regarding the removal, transportation, or
2 handling of a dead human body under the jurisdiction of that office that are
3 more stringent than the laws in this section or any rules adopted under this
4 section. ~~Any violation of this section or rules adopted under this section may
5 be punished by the Board by a suspension or revocation of the permit to
6 transport or remove dead human bodies or by a term of probation. The Board
7 may, in lieu of any disciplinary measure, accept a penalty not to exceed five
8 thousand dollars (\$5,000) per violation.~~

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

17 (12) If any person shall engage in or hold himself out as engaging in the business
18 of transportation or removal of a dead human body without first having
19 received a permit under this section, the person shall be guilty of a Class 2
20 misdemeanor.

21 (13) The Board shall have the authority to inspect any place or premises that the
22 business of removing or transporting a dead human body is carried out and
23 shall also have the right of inspection of any vehicle and equipment used by
24 a permittee for the removal or transportation of a dead human body.

25 (14) The Board may suspend, revoke, or refuse to issue or renew the permit,
26 place the permittee on a term of probation, or accept a civil penalty not to
27 exceed five thousand dollars (\$5,000) in conjunction with a term of
28 probation or in lieu of other disciplinary action when it finds that any person
29 permitted to transport dead human bodies has engaged in any of the
30 following acts:

- 31 a. Conviction of a felony or a crime involving fraud or moral turpitude.
- 32 b. Denial, suspension, or revocation of an occupational or business
33 license by another jurisdiction.
- 34 c. Fraud or misrepresentation in obtaining or renewing a permit.
- 35 d. False or misleading advertising as the holder of a permit.
- 36 e. Solicitation of dead human bodies by the permittee or the permittee's
37 agents, assistants, or employees. However, this sub-subdivision shall
38 not be construed to prohibit general advertising.
- 39 f. Gross immorality, including being under the influence of alcohol or
40 drugs while handling or transporting dead human bodies.
- 41 g. Failing to treat a dead human body with respect at all times.
- 42 h. Violating or cooperating with others to violate any of the provisions
43 of this Article, any rules and regulations of the Board, or any State
44 law or municipal or county ordinance or regulation affecting the
45 handling, custody, care, or transport of dead human bodies.
- 46 i. Refusing to surrender promptly the custody of a dead human body
47 upon the express order of the person lawfully entitled to the custody
48 the body.
- 49 j. Indecent exposure or exhibition of a dead human body while in the
50 custody or control of a permittee.

1 k. Practicing funeral directing, funeral service, or embalming without a
2 license.

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

5 (d) Establishment Permit. –

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

12 (2) A permit shall be issued when:

13 a. It is shown that the funeral establishment has in charge a person,
14 known as a manager, licensed for the practice of funeral directing or
15 funeral service, who shall not be permitted to manage more than one
16 funeral establishment. The manager shall be charged with overseeing
17 the daily operation of the funeral establishment. If the manager
18 leaves the employment of the funeral establishment and is the only
19 licensee employed who is eligible to serve as manager, the funeral
20 establishment may operate without a manager for a period not to
21 exceed 30 days so long as: (i) the funeral establishment retains one or
22 more licensees to perform all services requiring a license under this
23 Article; (ii) the licensees are not practicing under the exception
24 authorized by G.S. 90-210.25(a2) and would otherwise be eligible to
25 serve as manager; and (iii) the funeral establishment registers the
26 name of the licensees with the Board.

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

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

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

32 (3) Applications for funeral establishment permits shall be made on forms
33 provided by the Board and filed with the Board by the owner, a partner, a
34 member of the limited liability company, or an officer of the corporation ~~by~~
35 ~~January 1 of each year~~, and shall be accompanied by the application fee or
36 renewal fee, as the case may be. All permits shall expire on December 31 of
37 each year. If the renewal application and renewal fee are not received in the
38 Board's office on or ~~before February 1~~, after January 1, a late renewal fee, in
39 addition to the regular renewal fee, shall be charged.

40 (4) The Board may place on probation, refuse to issue or renew, suspend, or
41 revoke a permit when an owner, partner, manager, member, operator, or
42 officer of the funeral establishment violates any provision of this Article or
43 any regulations of the Board, or when any agent or employee of the funeral
44 establishment, with the consent of any person, firm or corporation operating
45 the funeral establishment, violates any of those provisions, rules or
46 regulations. In any case in which the Board is entitled to place a funeral
47 establishment permittee on a term of probation, the Board may also impose a
48 penalty of not more than five thousand dollars (\$5,000) in conjunction with
49 the probation. In any case in which the Board is entitled to suspend, revoke,
50 or refuse to renew a permit, the Board may accept from the funeral
51 establishment permittee an offer to pay a penalty of not more than five

1 thousand dollars (\$5,000). The Board may either accept a penalty or revoke
2 or refuse to renew a license, but not both. Any penalty under this subdivision
3 may be in addition to any penalty assessed against one or more licensed
4 individuals employed by the funeral establishment. The Board shall have the
5 authority to determine the length and conditions of any period of revocation,
6 suspension, refusal to issue or renew, or probation.

7 (5) Funeral establishment permits are not transferable. A new application for a
8 permit shall be made to the Board within 30 days of a change of ownership
9 of a funeral establishment. The Board shall not issue more than one permit to
10 the same building or property.

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

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

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

- 22 a. Conviction of a felony or a crime involving fraud or moral turpitude.
- 23 a1. Denial, suspension, or revocation of an occupational or business
24 license by another jurisdiction.
- 25 b. Fraud or misrepresentation in obtaining or renewing a license or in
26 the practice of funeral service.
- 27 c. False or misleading advertising as the holder of a license.
- 28 d. Solicitation of dead human bodies by the licensee, his agents,
29 assistants, or employees; but this paragraph shall not be construed to
30 prohibit general advertising by the licensee.
- 31 e. Employment directly or indirectly of any resident trainee agent,
32 assistant or other person, on a part-time or full-time basis, or on
33 commission, for the purpose of calling upon individuals or
34 institutions by whose influence dead human bodies may be turned
35 over to a particular licensee.
- 36 f. The payment or offer of payment of a commission by the licensee,
37 his agents, assistants or employees for the purpose of securing
38 business except as authorized by Article 13D of this Chapter.
- 39 g. Gross immorality, including being under the influence of alcohol or
40 drugs while practicing funeral service.
- 41 h. Aiding or abetting an unlicensed person to perform services under
42 this Article, including the use of a picture or name in connection with
43 advertisements or other written material published or caused to be
44 published by the licensee.
- 45 i. Failing to treat a dead human body with respect at all times.
- 46 j. Violating or cooperating with others to violate any of the provisions
47 of this Article or Articles 13D, 13E, or 13F of Chapter 90 of the
48 General Statutes, any rules and regulations of the Board, or the
49 standards set forth in Funeral Industry Practices, 16 C.F.R. 453
50 (1984), as amended from time to time.

- 1 k. Violation of any State law or municipal or county ordinance or
2 regulation affecting the handling, custody, care or transportation of
3 dead human bodies.
- 4 l. Refusing to surrender promptly the custody of a dead human body or
5 cremated remains upon the express order of the person lawfully
6 entitled to the custody thereof.
- 7 m. Knowingly making any false statement on a certificate of death or
8 violating or cooperating with others to violate any provision of
9 Article 4 or 16 of Chapter 130A of the General Statutes or any rules
10 or regulations promulgated under those Articles as amended from
11 time to time.
- 12 n. Indecent exposure or exhibition of a dead human body while in the
13 custody or control of a licensee.
- 14 o. Failure to refund any insurance proceeds received as consideration in
15 excess of the funeral contract purchase price within 60 days of
16 receipt.
- 17 p. Failure to provide within a reasonable time either the funeral goods
18 and services purchased under a funeral contract or a refund of the
19 purchase price for the items.
- 20 q. Violation of G.S. 58-58-97.

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

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

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

42 No funeral service establishment shall accept a dead human body from any public officer
43 (excluding the State or county medical examiner or his agent), or employee or from the official
44 of any institution, hospital or nursing home, or from a physician or any person having a
45 professional relationship with a decedent, without having first made due inquiry as to the
46 desires of the persons who have the legal authority to direct the disposition of the decedent's
47 body. If any persons are found, their authority and directions shall govern the disposal of the
48 remains of the decedent. Any funeral service establishment receiving the remains in violation
49 of this subsection shall make no charge for any service in connection with the remains prior to
50 delivery of the remains as stipulated by the persons having legal authority to direct the
51 disposition of the body. This section shall not prevent any funeral service establishment from

1 charging and being reimbursed for services rendered in connection with the removal of the
2 remains of any deceased person in case of accidental or violent death, and rendering necessary
3 professional services required until the persons having legal authority to direct the disposition
4 of the body have been notified.

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

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

27 (e1) The taking or recovery of human tissue at a funeral establishment by any person is
28 prohibited. The prohibition does not apply to any of the following:

- 29 (1) A licensee under this Article that performs embalming or otherwise prepares
30 a dead human body in the ordinary course of business.
- 31 (2) The Chief Medical Examiner or anyone acting under the Chief Medical
32 Examiner's authority.
- 33 (3) An autopsy technician who takes or recovers tissue from a dead human body
34 if all of the following apply:
 - 35 a. The taking or recovery is the subject of an academic research
36 program.
 - 37 b. The academic research program has appropriate Institutional Review
38 Board supervision.
 - 39 c. The academic research program has obtained informed consent of the
40 donor or the person legally authorized to provide consent.

41 No funeral establishment or person licensed under this Article shall permit the taking or
42 recovery of human tissue from a dead human body in its custody or control for human
43 transplantation purposes or for research purposes, except that a funeral establishment or person
44 licensed under this Article may permit an autopsy technician to take or recover tissue at a
45 funeral establishment pursuant to subdivision (3) of this subsection. No funeral establishment
46 or any of its licensees, agents, or employees shall accept, solicit, or offer to accept any
47 payment, gratuity, commission, or compensation of any kind for referring potential tissue
48 donors to a tissue bank or tissue broker or to an eye bank or eye broker. For purposes of this
49 subsection, the term "tissue" does not include an eye.

50 (f) Unlawful Practices. – The following shall constitute unlawful practices:

1 (1) If any person shall practice or hold himself or herself out as practicing the
2 profession or art of embalming, funeral directing or practice of funeral
3 service or operating a funeral establishment without having complied with
4 the provisions of this Article, the person shall be guilty of a Class 2
5 misdemeanor.

6 (2) Any person who knowingly, willfully, or carelessly neglects, abuses,
7 mutilates, or fails to treat with reasonable care and concern a dead human
8 body in a person's custody shall be guilty of a Class 2 misdemeanor. It shall
9 not be a violation of this subdivision for a person licensed to practice
10 embalming or funeral service under this Article to embalm a dead human
11 body consistent with techniques of embalming generally recognized by
12 embalmer and funeral service licensees under this Article or for a person
13 licensed to practice funeral directing or funeral service to exhibit a dead
14 human body consistent with lawful instructions from the person authorized
15 to dispose of the dead human body.

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

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

26 **"§ 90-210.27A. Funeral establishments.**

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

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

41 (a1) If the preparation room of a funeral establishment is damaged or destroyed by fire,
42 weather, or other natural disaster, the Board may suspend the requirements of subsection (a) in
43 part or whole for a period not to exceed 90 days, provided that the funeral establishment
44 complies with the requirements of G.S. 90-210.25(d1) and all other laws, rules, regulations, and
45 requirements of the Division of Health Services and of the city, town, or county where the
46 funeral establishment is located.

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

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

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

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

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

(g) No funeral establishment shall own, operate, or maintain a chapel without first having registered the name, location, and ownership thereof with the Board; own or maintain more than two chapels, or own or maintain a chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a chapel for making arrangements for funeral services, selling funeral merchandise to the public by photograph, video, or computer based presentation, or making financial arrangements for the rendering of the service or sale of supplies, provided that the uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony. A chapel registration shall expire on December 31 of each calendar year. After December 31, the registrant shall pay a late fee in addition to the renewal fee to register the chapel. The Board may suspend, revoke, refuse to issue or renew, or place on probation any funeral chapel registration for any violation of this Article or rules adopted by the Board and may determine the length and conditions of any discipline imposed.

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

(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral establishment, the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, the use of names of individuals not associated with the establishment, and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

(j) A funeral establishment will not use any name other than the name by which it is properly registered with the Board."

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

"§ 90-210.28. Fees.

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

Establishment permit	
Application	\$400.00
Annual renewal	250.00
Late renewal	150.00
Establishment and embalming facility reinspection fee	100.00
Courtesy card	

1	Application	100.00
2	Annual renewal	75.00
3	Out-of-state licensee	
4	Application	250.00
5	Embalmer, funeral director, funeral service	
6	Application-North	
7	Carolina-Resident	200.00
8	-Non-Resident	250.00
9	Annual Renewal-embalmer or	
10	funeral director	75.00
11	Total fee, embalmer and funeral director	
12	when both are held by the same person	100.00
13	-funeral service	100.00
14	Inactive Status	50.00
15	Reinstatement fee	50.00
16	Resident trainee permit	
17	Application	50.00
18	Voluntary change in supervisor	50.00
19	Annual renewal	35.00
20	Late renewal	25.00
21	Duplicate license certificate	25.00
22	Chapel registration	
23	Application	150.00
24	Annual renewal	100.00
25	Late renewal	75.00

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

SECTION 6. G.S. 90-210.29B reads as rewritten:

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

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

(b) Records, papers, and other documents containing information collected or compiled by the Board or its inspectors or employees as a result of a complaint, investigation, audit, or interview in connection with an application for license shall not be considered public records within the meaning of Chapter 132 of the General Statutes until the Board has taken final action in connection with the complaint, investigation, audit, or interview."

SECTION 7. G.S. 90-210.61(a)(2) reads as rewritten:

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

...
 (2) ~~Notwithstanding~~ For preneed funeral contracts executed before January 1, 2014, and notwithstanding any other provision of law, if a preneed funeral contract is funded by a trust deposit or trust deposits, a preneed licensee may retain, free of the trust, up to ten percent (10%) of any payments made on a preneed funeral contract, provided that the preneed licensee fully discloses in writing in advance to the preneed funeral contract purchaser the

1 percentage of the payments to be retained. If there is no substitution pursuant
2 to G.S. 90-210.63(a), the preneed licensee shall give credit for the amount
3 retained upon the death of the preneed funeral contract beneficiary and
4 performance of the preneed funeral contract.

5"

6 **SECTION 8.** G.S. 90-210.63(a) reads as rewritten:

7 "(a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser,
8 or after his death the preneed funeral contract beneficiary or his legal representative, upon
9 written notice to the financial institution or insurance company and the preneed licensee who is
10 a party to the preneed funeral contract, may direct the substitution of a different funeral
11 establishment to furnish funeral services and merchandise.

12 (1) If the substitution is made after the death of the preneed funeral contract
13 beneficiary, a funeral establishment providing any funeral services or
14 merchandise need not be a preneed licensee under this Article to receive
15 payment for such services or merchandise. The original contracting preneed
16 licensee shall be entitled to payment for any services or merchandise
17 provided pursuant to G.S. 90-210.65(d). If the substitution is made before
18 the death of the preneed funeral contract beneficiary, the substitution must
19 be to a preneed licensee. If the preneed funeral contract is funded by a trust
20 deposit or deposits, the financial institution shall immediately pay the funds
21 held to the original contracting preneed licensee.

22 (2) The For preneed funeral contracts executed before January 1, 2014, the
23 original contracting preneed licensee shall immediately pay all funds
24 received to the successor funeral establishment designated. Regardless of
25 whether the substitution is made before or after the death of the preneed
26 funeral contract beneficiary, the original contracting preneed licensee shall
27 not be required to give credit for the amount retained pursuant to
28 G.S. 90-210.61(a)(2), except when there was a substitution under
29 G.S. 90-210.68(d1) and (e). For preneed funeral contracts executed on or
30 after January 1, 2014, the preneed licensee may retain an administrative fee
31 not to exceed ten percent (10%) of the funds on deposit at the time of
32 transfer if the amount of the fee is agreed upon by the parties in writing at
33 the time the contract is executed, unless there was a substitution under
34 G.S. 90-210.68(d1) and (e). Upon making payments pursuant to this
35 subsection, the financial institution and the original contracting preneed
36 licensee shall be relieved from all further contractual liability thereon.

37 (3) If the preneed funeral contract is funded by a prearrangement insurance
38 policy, the insurance company shall not pay any of the funds until the death
39 of the preneed funeral contract beneficiary, and the insurance company shall
40 pay the funds in accordance with the terms of the policy.

41 (4) Any funeral establishment holding a permit under Article 13A of this
42 Chapter that accepts the transfer of a preneed funeral contract after the death
43 of the preneed contract beneficiary shall either (i) promptly furnish to the
44 original contracting preneed licensee all information necessary to complete
45 the certificate of performance or (ii) file the certificate of performance with
46 the Board if a copy is concurrently mailed to the contracting preneed
47 licensee."

48 **SECTION 9.** Article 13D of Chapter 90 of the General Statutes is amended by
49 adding the following new section to read:

50 **"§ 90-210.63B. Cancellation of insurance preneed contracts by preneed licensee.**

1 A preneed licensee may cancel a preneed funeral contract by sending written notice First
2 Class U.S. Mail, postage prepaid to the last known address of the preneed funeral contract
3 purchaser, or after the purchaser's death, the preneed contract beneficiary or the beneficiary's
4 legal representative, if all of the following conditions apply:

- 5 (1) The preneed funeral contract beneficiary has not used the preneed funeral
6 contract to qualify for benefits from the Department of Health and Human
7 Services.
8 (2) One or more insurance policies used as consideration for the preneed
9 contract have been lapsed, revoked, or cancelled by the preneed contract
10 purchaser.
11 (3) The value of all insurance policies does not exceed five hundred dollars
12 (\$500.00)."

13 **SECTION 10.** G.S. 90-210.64(d) reads as rewritten:

14 "(d) When the balance of a preneed funeral fund is ~~one~~five hundred dollars
15 ~~(\$100.00)~~(\$500.00) or less and is payable to the estate of a deceased preneed funeral contract
16 beneficiary and there has been no representative of the estate appointed, the balance due may
17 be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a preneed
18 funeral fund exceeds ~~one~~five hundred dollars ~~(\$100.00)~~(\$500.00) or is not payable to the
19 estate, the balance must be paid into the office of the clerk of superior court in the county
20 where probate proceedings could be filed for the deceased preneed funeral contract
21 beneficiary."

22 **SECTION 11.** G.S. 90-210.67 reads as rewritten:

23 **"§ 90-210.67. Application for license.**

24 (a) No person may offer or sell preneed funeral contracts or offer to make or make any
25 funded funeral prearrangements without first securing a license from the Board.
26 Notwithstanding any other provision of law, any person who offers to sell or sells a casket, to
27 be furnished or delivered at a time determinable by the death of the person whose body is to be
28 disposed of in the casket, shall first comply with the provisions of this Article. There shall be
29 two types of licenses: a preneed funeral establishment license and a preneed sales license. Only
30 funeral establishments holding a valid establishment permit pursuant to G.S. 90-210.25(d) shall
31 be eligible for a preneed funeral establishment license. Employees and agents of such entities,
32 upon meeting the qualifications to engage in preneed funeral planning as established by the
33 Board, shall be eligible for a preneed sales license. The Board shall establish the preneed
34 funeral planning activities that are permitted under a preneed sales license. The Board shall
35 adopt rules establishing such qualifications and activities no later than 12 months following the
36 ratification of this act [Session Laws 1991 (Reg. Sess., 1992), c. 901, s. 2]. ~~Preneed A preneed~~
37 ~~sales licensee licensee~~ may sell preneed funeral contracts, prearrangement insurance policies,
38 and make funded funeral prearrangements ~~only on behalf of one preneed funeral establishment~~
39 ~~licensee; provided, however, they may sell preneed funeral contracts, prearrangement insurance~~
40 ~~policies, and make funeral prearrangements for any number of licensed preneed funeral~~
41 ~~establishments that are wholly owned by or affiliated with, through common ownership or~~
42 ~~contract, the same entity; provided further, and shall obtain a preneed sales license at each~~
43 ~~preneed funeral establishment at which the licensee sells preneed funeral contracts, preneed~~
44 ~~insurance policies, or makes funded funeral arrangements. However, in the event they~~
45 ~~engage~~the preneed sales licensee engages in selling prearrangement insurance policies, ~~they~~the
46 licensee shall meet the licensing requirements of the Commissioner of Insurance. Every
47 preneed funeral contract shall be signed by a person licensed as a funeral director or funeral
48 service licensee pursuant to Article 13A of Chapter 90 of the General Statutes.

49 Application for a license shall be in writing, signed by the applicant and duly verified on
50 forms furnished by the Board. Each application shall contain at least the following: the full
51 names and addresses (both residence and place of business) of the applicant, and every partner,

1 member, officer and director thereof if the applicant is a partnership, limited liability company,
2 association, or corporation and any other information as the Board shall deem necessary. A
3 preneed funeral establishment license shall be valid only at the address stated in the application
4 or at a new address approved by the Board.

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

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

26 A funeral establishment receiving a new preneed establishment license after January 1,
27 2008, or whose preneed establishment license has lapsed or was terminated for any reason after
28 January 1, 2008, other than for failure to timely renew the license, shall obtain a surety bond in
29 an amount not less than fifty thousand dollars (\$50,000) for five years, or upon demonstrating
30 that the establishment is solvent, not less than one year from the date the original license is
31 issued. The funeral establishment may purchase the bond from any company authorized by law
32 to sell bonds in this State or deposit fifty thousand dollars (\$50,000) with the clerk of superior
33 court in the county where the preneed funeral establishment maintains its facility that is
34 licensed or applying to be licensed by the Board. The Board may extend the bonding
35 requirement in the event there is a claim paid from the bond.

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

49 (d) Any person selling a preneed funeral contract, whether funded by a trust deposit or a
50 prearrangement insurance policy, shall remit to the Board, within 10 days of the sale, a fee not
51 to exceed twenty dollars (\$20.00) for each sale and a copy of each contract. The person shall

1 pay a late fee of not more than twenty-five dollars (\$25.00) for each late filing and payment.
2 The fees shall not be remitted in cash.

3 (d1) The Board may also set and collect a fee of not more than twenty-five dollars
4 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one
5 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

6 (e), (f). Repealed by Session Laws 2003-420, s. 14, effective October 1, 2003."

7 **SECTION 12.** G.S. 90-210.68(a) reads as rewritten:

8 "(a) Every preneed licensee shall keep for examination by the Board accurate accounts,
9 books, and records in this State of all preneed funeral contract and prearrangement insurance
10 policy transactions, copies of all agreements, insurance policies, instruments of assignment, the
11 dates and amounts of payments made and accepted thereon, the names and addresses of the
12 contracting parties, the persons for whose benefit funds are accepted, and the names of the
13 financial institutions holding preneed funeral trust funds and insurance companies issuing
14 prearrangement insurance policies. The Board, its inspectors appointed pursuant to
15 G.S. 90-210.24 and its examiners, which the Board may appoint to assist in the enforcement of
16 this Article, may during normal hours of operation and periods shortly before or after normal
17 hours of operation, investigate the books, records, and accounts of any licensee under this
18 Article with respect to trust funds, preneed funeral contracts, and prearrangement insurance
19 policies. Any preneed licensee who, upon inspection, fails to meet the requirements of this
20 subsection or who fails to keep an appointment for an inspection shall pay a reinspection fee to
21 the Board ~~in an amount not to exceed one hundred dollars (\$100.00)~~ based on the actual cost of
22 the reinspection after considering the salary of any employees involved and any expenses
23 incurred during the reinspection. The Board may require the attendance of and examine under
24 oath all persons whose testimony it may require. Every preneed licensee shall submit a written
25 report to the Board, at least annually, in a manner and with such content as established by the
26 Board, of its preneed funeral contract sales and performance of such contracts. The Board may
27 also require other reports."

28 **SECTION 13.** G.S. 90-210.69(c) reads as rewritten:

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

- 34 (1) Offering to engage or engaging in activities for which a license is required
35 under this Article but without having obtained such a license.
- 36 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
37 corporation or other entity to offer to engage or engage in such activities.
- 38 (3) A crime involving fraud or moral turpitude by conviction thereof.
- 39 (4) Fraud or misrepresentation in obtaining or receiving a license or in preneed
40 funeral planning.
- 41 (5) False or misleading advertising.
- 42 (6) Violating or cooperating with others to violate any provision of this Article,
43 the rules and regulations of the Board, or the standards set forth in Funeral
44 Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- 45 (7) Denial, suspension, or revocation of an occupational or business license by
46 another jurisdiction.

47 In any case in which the Board is authorized to take any of the actions permitted under this
48 subsection, the Board may instead accept an offer in compromise of the charges whereby the
49 accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). In any
50 case in which the Board is entitled to place a licensee on a term of probation, the Board may
51 also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such

1 probation. The Board may determine the length and conditions of any period of probation,
2 revocation, suspension, or refusal to issue or renew a license."

3 **SECTION 14.** G.S. 90-210.73 reads as rewritten:

4 **"§ 90-210.73. Not public record.**

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

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

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

12 **SECTION 15.** G.S. 90-210.80 through G.S. 90-210.107 are repealed.

13 **SECTION 16.** G.S. 90-210.81 reads as rewritten:

14 **"§ 90-210.81. Requirements as to rules and bylaws.**

15 All burial associations now operating within the State of North Carolina shall have and
16 maintain rules and bylaws embodying the following:

17 ...

18 Article 4. The annual meeting of the association shall be held at ____ (here insert the place,
19 date and hour); each member shall have one vote at said annual meeting and 15 members of the
20 association shall constitute a quorum. There shall be elected at the annual meeting of said
21 association a board of directors of seven members, each of whom shall serve for a period of
22 from one to five years as the membership may determine and until his or her successor shall
23 have been elected and qualified. Any member of the board of directors who shall fail to
24 maintain his or her membership, as provided in the rules and bylaws of said association, shall
25 cease to be a member of the board of directors and a director shall be appointed by the
26 president of said association for the unexpired term of such disqualified member. There shall be
27 at least an annual meeting of the board of directors, and such meeting shall be held immediately
28 following the annual meeting of the membership of the association. The directors of the
29 association may, by a majority vote, hold other meetings of which notice shall be given to each
30 member by mailing such notice five days before the meeting to be held. At the annual meetings
31 of the directors of the association, the board of directors shall elect a president, a vice-president,
32 and a secretary-treasurer. The president and vice-president shall be elected from among the
33 directors, but the secretary-treasurer may be selected from the director membership or from the
34 membership of the association, it being provided that it is not necessary that the
35 secretary-treasurer shall be a member of the board of directors. Among other duties that the
36 secretary-treasurer may perform, he shall be chargeable with keeping an accurate and faithful
37 roll of the membership of this association at all times and he shall be chargeable with the duty
38 of faithfully preserving and faithfully applying all moneys coming into his hands by virtue of
39 his said office. The president, vice-president and secretary-treasurer shall constitute a board of
40 control who shall direct the affairs of the association in accordance with these Articles and
41 bylaws of the association, and subject to such modification as may be made or authorized by an
42 act of the General Assembly. The secretary-treasurer shall keep a record of all assessments
43 made, dues collected and benefits paid. The books of the association, together with all records
44 and bank accounts shall be at all times open to the inspection of the Board of Funeral Service or
45 its duly constituted auditors or representatives. It shall be the duty of the secretary or
46 secretary-treasurer of each association to keep the books of the association posted up-to-date so
47 that the financial standing of the association may be readily ascertained by the Board of Funeral
48 Service or any auditor or representative employed by it. ~~Upon the failure of any secretary or~~
49 ~~secretary-treasurer to comply with this provision, it shall be the duty of the Board of Funeral~~
50 ~~Service to take charge of the books of the association and do whatever work is necessary to~~
51 ~~bring the books up to date. The actual costs of said work may be charged the burial association~~

1 ~~and shall be paid from the thirty percent (30%) allowed by law for the operation of the burial~~
2 ~~association.~~

3 Whenever in the opinion of the Board of Funeral Service, it is necessary to audit the books
4 of any burial association more than once in any calendar year, the Board of Funeral Service
5 shall have authority to assess such burial association the actual cost of any audit in excess of
6 one per calendar year, provided that no more than one audit may be deemed necessary unless a
7 discrepancy exists at the last regular audit. Such cost shall be paid from the thirty percent
8 (30%) allowed by law for the operation of the burial association.

9 Every burial association shall file with the Board of Funeral Service an annual report of its
10 financial condition on a form furnished to it by the Board of Funeral Service. Such report shall
11 be filed on or before February 15 of each calendar year and shall cover the complete financial
12 condition of the burial association for the immediate preceding calendar year. The Board of
13 Funeral Service shall levy and collect a penalty of twenty-five dollars (\$25.00) for each day
14 after February 15 that the report called for herein is not filed. The Board may, in its discretion,
15 grant any reasonable extension of the above filing date without the penalty provided in this
16 section. Such penalty shall be paid from the thirty percent (30%) allowed by law for the
17 operation of the burial association. Any secretary or secretary-treasurer who fails to file such
18 financial report on or before February 15 of each calendar year or on or before the last day of
19 any period of extension for the filing of such report granted by the Board to the burial
20 association of such secretary or secretary-treasurer shall be guilty of a Class 3 misdemeanor.
21 Each day after February 15, or the last day of any period of extension for the filing of the report
22 granted by the Board to the burial association of such secretary or secretary-treasurer, that said
23 report is not filed by the secretary or secretary-treasurer of a burial association, shall constitute
24 a separate offense.

25"

26 **SECTION 17.** Article 13E of Chapter 90 of the General Statutes is amended by
27 adding the following new section to read:

28 **"§ 90-210.108. Burial associations regulated as insurance companies.**

29 On or after January 1, 2015, no person or corporation shall own or operate a burial
30 association unless the burial association complies with all requirements imposed on an
31 insurance company or insurer, as such terms are defined under G.S. 58-1-5(3). For purposes of
32 this section, the term "burial association" means all corporations or business entities licensed or
33 regulated by the North Carolina Board of Funeral Service that operate a burial association
34 before January 1, 2015. Any person or corporation violating this section shall be guilty of a
35 Class 1 misdemeanor."

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

37 **"§ 90-210.123. Licensing and inspection.**

38 (a) Any person doing business in this State, or any cemetery, funeral establishment,
39 corporation, partnership, joint venture, voluntary organization, or any other entity may erect,
40 maintain, and operate a crematory in this State and may provide the necessary employees,
41 facilities, structure, and equipment for the cremation of human remains, provided that the
42 person or entity has secured a license as a crematory licensee in accordance with this Article.

43 (b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to
44 any funeral establishment that is zoned commercial or industrial, or at any other location
45 consistent with local zoning and environmental regulations.

46 (c) Application for a license as a crematory licensee shall be made on forms furnished
47 and prescribed by the Board. The Board shall inspect the premises, facilities, structure, and
48 equipment to be used as a crematory, confirm that the crematory manager's and crematory
49 technician's educational certificate is valid, and issue a renewable license to the crematory
50 licensee if the applicant meets all the requirements and standards of the Board and the
51 requirements of this Article.

1 (d) Every application for licensure shall identify the crematory manager and all
2 crematory technicians employed by the crematory licensee providing that nothing in this
3 Article shall prohibit the designation and identification by the crematory licensee of one
4 individual to serve as a crematory manager and crematory technician. Each crematory licensed
5 in North Carolina shall employ on a full-time basis at least one crematory technician. Every
6 application for licensure and renewal thereof shall include all crematory technicians'
7 educational certificates. The crematory licensee shall keep the Board informed at all times of
8 the names and addresses of the crematory manager and all crematory technicians. In the event a
9 licensee is in the process of replacing its only crematory technician at the time of license
10 renewal, the licensee may continue to operate the crematory for a reasonable time period not to
11 exceed 180 days.

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

20 (f) No person, cemetery, funeral establishment, corporation, partnership, joint venture,
21 voluntary organization, or any other entity shall cremate any human remains, except in a
22 crematory licensed for this express purpose and operated by a crematory licensee subject to the
23 restrictions and limitations of this Article or unless otherwise permitted by statute.

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

- 31 (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- 32 (1a) Denial, suspension, or revocation of an occupational or business license by
33 another jurisdiction.
- 34 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
35 practice of cremation.
- 36 (3) False or misleading advertising.
- 37 (4) Solicitation of dead human bodies by the licensee, his agents, assistants, or
38 employees; but this subdivision shall not be construed to prohibit general
39 advertising by the licensee.
- 40 (5) Employment directly or indirectly of any agent, assistant, or other person on
41 a part-time or full-time basis or on commission for the purpose of calling
42 upon individuals or institutions by whose influence dead human bodies may
43 be turned over to a particular licensee.
- 44 (6) The direct or indirect payment or offer of payment of a commission by the
45 licensee or the licensee's agent, assistant, or employees for the purpose of
46 securing business.
- 47 (7) Gross immorality, including being under the influence of alcohol or drugs
48 while performing cremation services.
- 49 (8) Aiding or abetting an unlicensed person to perform services under this
50 Article, including the use of a picture or name in connection with

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

3 (9) Failing to treat a dead human body with respect at all times.

4 (10) Violating or cooperating with others to violate any of the provisions of this
5 Article or of the rules of the ~~Board~~Board or violation of Funeral Industry
6 Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version.

7 (11) Violation of any State law or municipal or county ordinance or regulation
8 affecting the handling, custody, care, or transportation of dead human
9 bodies.

10 (12) Refusing to surrender promptly the custody of a dead human body or
11 cremated remains upon the express order of the person lawfully entitled to
12 the custody thereof, except as provided in G.S. 90-210.131(e).

13 (13) Indecent exposure or exhibition of a dead human body while in the custody
14 or control of a licensee.

15 (14) Practicing funeral directing, embalming, or funeral service without a license.

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

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

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

38 In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board
39 shall have the power to administer oaths and issue subpoenas requiring the attendance of
40 persons and the production of papers and records before the Board in any hearing,
41 investigation, or proceeding conducted by it. ~~Members of the Board's staff~~Inspectors of the
42 Board authorized by G.S. 90-210.24 or the sheriff or other appropriate official of any county of
43 this State shall serve all notices, subpoenas, and other papers given to them by the President of
44 the Board for service in the same manner as process issued by any court of record. Any person
45 who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1
46 misdemeanor."

47 **SECTION 19.** G.S. 90-210.129(a) reads as rewritten:

48 "(a) ~~In deaths~~For any death occurring in this State certified by the attending physician,
49 the body shall not be cremated before the crematory licensee receives a death certificate signed
50 by the attending physician, which shall contain at a minimum the following information:

51 (1) Decedent's name;

- 1 (2) Date of death;
- 2 (3) Date of birth;
- 3 (4) Sex;
- 4 (5) Place of death;
- 5 (6) Facility name (if not institution, give street and number);
- 6 (7) County of death;
- 7 (8) City of death; and
- 8 (9) Time of death (if known)."

9 **SECTION 20.** G.S. 90-210.129 is amended by adding the following new
10 subsection to read:

11 (c1) For any death occurring outside of this State, a crematory licensee shall not cremate
12 a dead human body without first obtaining a copy of a burial-transit permit issued by the
13 jurisdiction where the death occurred and one of the following documents:

- 14 (1) A death certificate from the other jurisdiction that meets the same content
15 and signature requirements of subsection (a) of this section.
- 16 (2) Any document or certificate required to authorize cremation in the
17 jurisdiction where the death occurred that is signed by a physician, medical
18 examiner, or other authorized person and contains all information required
19 by subsections (a)(1) through (a)(9) of this section.

20 The provisions of this subsection shall not be construed to waive the jurisdiction of the medical
21 examiner."

22 **SECTION 21.** G.S. 90-210.132(a) reads as rewritten:

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

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

35 **SECTION 22.** Article 13F of Chapter 90 of the General Statutes is amended by
36 adding the following new section to read:

37 "**§ 90-210.136. Hydrolysis of human remains.**

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

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

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

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

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

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

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

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

21 **SECTION 23.** G.S. 130A-415 reads as rewritten:

22 **"§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
23 **Association for Retarded Citizens of North Carolina; disposition.**

24 **(a)** Any person, including officers, employees and agents of the State or of any unit of
25 local government in the State, undertakers doing business within the State, hospitals, nursing
26 homes or other institutions, having physical possession of a dead body shall make reasonable
27 efforts to contact relatives of the deceased or other persons who may wish to claim the body for
28 final disposition. If the body remains unclaimed for final ~~disposition for 10 days,~~ disposition,
29 the person having possession shall notify the Commission of Anatomy. Upon request of the
30 Commission of Anatomy, the person having possession shall deliver the dead body to the
31 Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall
32 permit the Commission of Anatomy to take and remove the body.

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

34 **(1)** No person notifies the person in possession of the dead body within 10 days
35 from the date of death that he wishes to dispose of the dead body.

36 **(2)** All persons who have expressed interest in arranging for disposition of the
37 dead body have ceased communicating with the person in possession of the
38 dead body for five days, at least 10 days have passed from the date of death,
39 and the person in possession of the dead body has used reasonable efforts to
40 contact all persons interested in arranging for final disposition.

41 **(b)** All ~~unclaimed dead bodies not claimed for final disposition within 10 days of the~~
42 ~~decedent's death~~ may be received and delivered by the Commission of Anatomy pursuant to the
43 authority contained in G.S. 130A-33.30 and this Part and in accordance with the rules of the
44 Commission of Anatomy. Upon receipt of a body by the Commission of Anatomy all interests
45 in and rights to the unclaimed dead body shall vest in the Commission of Anatomy. The
46 recipient to which the Commission of Anatomy delivers the body shall pay all expenses for the
47 embalming and delivery of the body, and for the reasonable expenses arising from efforts to
48 notify relatives or others.

49 **(b1)** The 10-day ~~period~~ periods referenced in ~~subsections (a) and (b)~~ subdivisions (a1)(1)
50 and (a1)(2) of this section may be shortened by the county director of social services upon

1 determination that a dead body will not be claimed for final disposition within the 10-day
2 period.

3 (c) Should the Commission of Anatomy decline to receive a dead body, the person with
4 possession shall inform the director of social services of the county in which the body is
5 ~~located. The was located at the time of death. The person in possession shall verify by affidavit~~
6 that (i) the body is unclaimed, (ii) the person has made reasonable efforts to inform relatives or
7 others of the death, and (iii) the Commission of Anatomy has declined to take possession of the
8 deceased. Upon receipt of the affidavit, the director of social services of that county shall
9 arrange for prompt final disposition of the ~~body, either by cremation or burial.~~ body.

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

16 (d) No autopsy shall be performed on an unclaimed body without the written consent of
17 the Commission of Anatomy except that written consent is not required for an autopsy
18 performed pursuant to Part 2 of this Article.

19 (e) Due caution shall be taken to shield the unclaimed body from public view.

20 (f) Notwithstanding anything contained in this section, an unclaimed body shall not
21 mean a dead body for which the deceased has made a gift pursuant to Part 3A of this Article.

22 (g) Nothing in this Part shall require the officers, employees or agents of a county to
23 notify the Commission of Anatomy regarding the bodies of minors who were in the custody of
24 the county at the time of death and whose final disposition will be arranged by the county. In
25 the absence of notification, the expenses of the final disposition shall be a charge upon the
26 county having custody.

27 (h) The provisions of this Part shall not apply to bodies within the jurisdiction of the
28 medical examiner under G.S. 130A-383 or 130A-384.

29 (i) In addition to the other duties of the Commission of Anatomy, when the
30 Commission of Anatomy is notified by the Lifeguardianship Council of the Association of
31 Retarded Citizens of North Carolina, Inc., that the Council intends to claim a body, the
32 Commission shall release the body to the Council. The Lifeguardianship Council shall notify
33 the Commission of Anatomy within 24 hours after death of its intent to claim a body for burial
34 or other humane and caring disposition.

35 (j) No person, corporation or other business enterprise, county or municipality, or any
36 employee or agent thereof shall be liable in damages for failing to comply with the
37 requirements of this section, except in cases involving fraud, deceit, or gross negligence."

38 **SECTION 24.** G.S. 130A-420 is amended by adding the following new
39 subsections to read:

40 "(a1) Unless expressly prohibited by the order of appointment, a guardian of the person
41 shall have the authority to direct the final disposition of the remains of the ward through the
42 methods authorized in subdivision (a)(1) of this section if executed before the death of the
43 ward.

44 ...

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

48 **SECTION 25.** If any provision of this act or its application is held invalid, the
49 invalidity does not affect other provisions or applications of this act that can be given effect
50 without the invalid provisions or application, and to this end the provisions of this act are
51 severable.

1 **SECTION 26.** Section 15 of this act becomes effective January 1, 2015. The
2 remainder of this act becomes effective January 1, 2014.