

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 554
PROPOSED COMMITTEE SUBSTITUTE H554-PCS40387-BC-20

Short Title: Funeral Practice Licensure Tech. Corrections.

(Public)

Sponsors:

Referred to:

April 3, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY FUNERAL SERVICE AND CREMATORY LICENSES AND
3 PRACTICES.

4 The General Assembly of North Carolina enacts:

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

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

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

10 ...

11 c. Possesses a degree in mortuary science or has graduated from a
12 Funeral Director Program, or the equivalent, from a program approved
13 by the Board ~~and~~or accredited by the American Board of Funeral
14 Service Education.

15 ...

16 e. Within the last three years, has obtained passing scores on all of the
17 following examinations:

18 1. Entry-level examination in funeral ~~directing administered by~~
19 ~~The International Conference of Funeral Service Examining~~
20 ~~Boards directing.~~

21 ...

22 (3) To be licensed for the practice of funeral service under this Article, an
23 applicant for licensure bears the burden of substantiating to the satisfaction of
24 the Board that the applicant:

25 ...

26 e. Within the last three years, has passed an oral or written funeral service
27 examination on the following subjects:

28 1. Entry-level examination in funeral ~~directing administered by~~
29 ~~The International Conference of Funeral Service Examining~~
30 ~~Boards directing.~~

31 2. Embalming, restorative arts, chemistry, pathology,
32 microbiology, and anatomy.

33 3. Repealed by Session Laws 1997-399, s. 7.

34 4. Examination of the laws of North Carolina, the standards set
35 forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
36 pursuant to its most recent version, and rules of the Board and



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1 other agencies dealing with the care, transportation and
2 disposition of dead human bodies.

3 A funeral service examination taken and passed on or before October
4 1, 2018, for the purposes of attaining licensure under this section shall
5 be considered valid for a five-year period following the date on which
6 the applicant passed the examination.

7 f. Has paid all applicable fees.

8 (4) a. A person desiring to become a resident trainee shall apply to the Board on
9 a form provided by the Board. The application shall state that the applicant is
10 not less than 18 years of age, of good moral character, and is the graduate of
11 a high school or the equivalent thereof, and shall indicate the licensee under
12 whom the applicant expects to train. A person training to become an embalmer
13 may serve under the supervision of either a licensed embalmer or a funeral
14 service licensee who is in good standing with the Board and who has practiced
15 funeral service or embalming full time for a minimum of five years. A person
16 training to become a funeral director may serve under the supervision of either
17 a licensed funeral director or a funeral service licensee who is in good standing
18 with the Board and who has practiced funeral service or funeral directing full
19 time for a minimum of five years. A person training to become a funeral
20 service licensee shall serve under the supervision of a funeral service licensee
21 who is in good standing with the Board and who has practiced funeral service
22 full time for a minimum of five years. The application must be sustained by
23 oath of the applicant and be accompanied by the appropriate fee. When the
24 Board is satisfied as to the qualifications of an applicant it shall instruct the
25 secretary to issue a certificate of resident traineeship.

26 ...
27 m. A 12-month resident traineeship that is completed on or before
28 October 1, 2018, shall be recognized as a qualifying traineeship for
29 licensure under this section for the five-year period following the
30 completion date of the traineeship.

31"

32 **SECTION 1.(b)** G.S. 90-210.63 is amended by adding a new subsection to read:

33 "(c) Any licensee holding a permit under Articles 13A or 13F of this Chapter that accepts
34 the transfer of a preneed funeral contract after the death of the preneed contract beneficiary shall
35 file the certificate of performance with the Board and mail a copy to the contracting preneed
36 licensee. If the preneed funeral contract is performed by a funeral establishment in another state,
37 the original contracting preneed licensee shall make reasonable efforts to obtain the information
38 needed to accurately complete the certificate of performance and shall file the certificate no later
39 than the time allowed under G.S. 90-210.64."

40 **SECTION 1.(c)** G.S. 90-210.123 is amended by adding a new subsection to read:

41 "(d1) Crematory licensees that offer at-need cremation goods and services to the public
42 shall comply with the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
43 as amended."

44 **SECTION 1.(d)** G.S. 90-210.123(i) reads as rewritten:

45 "(i) The Board may hold hearings in accordance with the provisions of this Article and
46 Article 3A of Chapter 150B of the General Statutes. The Board is empowered to regulate and
47 inspect crematories and crematory licensees and to enforce as provided by law the provisions of
48 this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not
49 to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each
50 additional inspection that is made to ascertain whether the deficiency or other violation has been
51 corrected. The Board may obtain preliminary and final injunctions whenever a violation of this

1 Article has occurred or threatens to occur. The Board may enforce compliance with the standards
 2 set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended, and in accordance
 3 with subsection (d1) of this section.

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

12 **SECTION 1.(e)** G.S. 90-210.129(c1) reads as rewritten:

13 "(c1) For any death occurring outside North Carolina, a crematory licensee shall not
 14 cremate a dead human body without first obtaining a copy of ~~the~~ the burial-transit or disposal
 15 permit issued by the jurisdiction where the under the law of the state, province, or foreign
 16 government in which death occurred and one of the following documents: or disinterment
 17 occurred.

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

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

24 The provisions of this subsection shall not be construed to waive the jurisdiction of the
 25 medical ~~examiner-examiner, or subsection (b) of this section.~~"

26 **SECTION 1.(f)** G.S. 90-210.129(d) reads as rewritten:

27 "(d) No body shall knowingly be cremated with a pacemaker or defibrillator not approved
 28 for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially
 29 hazardous implant or condition in place. The authorizing agent for the cremation of the human
 30 remains shall be responsible for taking all necessary steps to ensure that any pacemaker or
 31 defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating
 32 agency or other potentially hazardous implant or condition is removed or corrected prior to
 33 cremation. If an authorizing agent informs the funeral ~~director and director, funeral service~~
 34 licensee, or the crematory licensee—licensee, whichever is applicable, on the cremation
 35 authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous
 36 implant or condition in the human remains, then the funeral ~~director—director, funeral service~~
 37 licensee, or the crematory licensee, whichever is applicable or responsible for obtaining the
 38 information required to complete the decedent's death certificate, shall also be responsible for
 39 ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or
 40 other potentially hazardous implant or to correct the hazardous condition before delivering the
 41 human remains to the crematory. Anyone removing a hazardous implanted device or material
 42 under this subsection shall comply with the laws and rules governing the handling of such
 43 material and with any other regulations enforced by the proper regulating authority."

44 **SECTION 1.(g)** G.S. 90-210.136(g) reads as rewritten:

45 "(g) Unless specified otherwise by the manufacturer of the equipment used for hydrolysis,
 46 human remains may be hydrolyzed without first removing a pacemaker or ~~other material or~~
 47 ~~implant that would be potentially hazardous if cremated-defibrillator.~~ Any other potentially
 48 hazardous implanted device or material shall be handled in accordance with G.S. 90-210.129(d)."

49 **SECTION 2.** G.S. 130A-113 is amended by adding a new subsection to read:

50 "(b1) For any death occurring outside North Carolina, a crematory licensee shall not
 51 cremate a dead human body without obtaining a copy of the burial-transit or disposal permit

1 issued under the law of the state, province, or foreign government in which death or disinterment
2 occurred before cremation. Nothing in this subsection shall be construed to waive the provisions
3 of G.S. 130A-388."

4 **SECTION 3.** G.S. 130A-385 is amended by adding a new subsection to read:

5 **"§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.**

6 (a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take
7 charge of the body, make inquiries regarding the cause and manner of death, reduce the findings
8 to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed
9 for that purpose.

10 The Chief Medical Examiner or the county medical examiner is authorized to inspect and
11 copy the medical records of the decedent whose death is under investigation. In addition, in an
12 investigation conducted pursuant to this Article, the Chief Medical Examiner or the county
13 medical examiner is authorized to inspect all physical evidence and documents which may be
14 relevant to determining the cause and manner of death of the person whose death is under
15 investigation, including decedent's personal possessions associated with the death, clothing,
16 weapons, tissue and blood samples, cultures, medical equipment, X rays and other medical
17 images. The Chief Medical Examiner or county medical examiner is further authorized to seek
18 an administrative search warrant pursuant to G.S. 15-27.2 for the purpose of carrying out the
19 duties imposed under this Article. In addition to the requirements of G.S. 15-27.2, no
20 administrative search warrant shall be issued pursuant to this section unless the Chief Medical
21 Examiner or county medical examiner submits an affidavit from the office of the district attorney
22 in the district in which death occurred stating that the death in question is not under criminal
23 investigation.

24 The Chief Medical Examiner shall provide directions as to the nature, character and extent
25 of an investigation and appropriate forms for the required reports. The facilities of the central and
26 district offices and their staff services shall be available to the medical examiners and designated
27 pathologists in their investigations.

28 (b) The medical examiner shall complete a certificate of death, stating the name of the
29 disease which in his opinion caused death. If the death was from external causes, the medical
30 examiner shall state on the certificate of death the means of death, and whether, in the medical
31 examiner's opinion, the manner of death was accident, suicide, homicide, execution by the State,
32 or undetermined. The medical examiner shall also furnish any information as may be required
33 by the State Registrar of Vital Statistics in order to properly classify the death.

34 (b1) In cases where a physician, nurse practitioner, or physician assistant has not signed a
35 death certificate, the medical examiner is directed to sign the death certificate within five days of
36 receiving paperwork from a funeral home. Under the cause or manner of death, the medical
37 examiner may list "undetermined" if the decedent had not seen a physician, nurse practitioner, or
38 physician assistant within three months preceding the decedent's death. A certificate with a cause
39 or manner of death listed as "undetermined" may be used for the purpose of cremation.

40"

41 **SECTION 4.** This act becomes effective October 1, 2019, and applies to cremations
42 on or after that date, and licenses granted or renewed on or after that date.