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PROPOSED SENATE COMMITTEE SUBSTITUTE H554-PCS40503-BC-65

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.~~



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- 1 2. Embalming, restorative arts, chemistry, pathology,
 2 microbiology, and anatomy.
 3 3. Repealed by Session Laws 1997-399, s. 7.
 4 4. Examination of the laws of North Carolina, the standards set
 5 forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
 6 pursuant to its most recent version, and rules of the Board and
 7 other agencies dealing with the care, transportation and
 8 disposition of dead human bodies.

9 A funeral service examination taken and passed on or before October
 10 1, 2018, for the purposes of attaining licensure under this section shall
 11 be considered valid for a five-year period following the date on which
 12 the applicant passed the examination.

- 13 f. Has paid all applicable fees.
 14 (3a) To be licensed provisionally for the practice of funeral directing under this
 15 Article, an applicant bears the burden of substantiating to the satisfaction of
 16 the Board that the applicant:
 17 a. Has completed a Board-approved application for a provisional license
 18 and paid an application fee of five hundred dollars (\$500.00).
 19 b. Is at least 18 years of age.
 20 c. Is of good moral character.
 21 d. Possesses an undergraduate degree in any field, an Associate of
 22 Applied Science degree in any field, or a diploma in funeral directing
 23 from a Board-approved curriculum at an accredited college of
 24 mortuary science.
 25 e. Has a certified resident traineeship, is eligible for certification as a
 26 resident trainee, or has at least five years of professional experience
 27 under the supervision of a licensed funeral director.

28 A provisional license issued pursuant to this subsection shall expire on
 29 December 31 of each year and shall not be renewed more than two times. The
 30 annual renewal fee for a provisional license issued pursuant to this subsection
 31 is two hundred fifty dollars (\$250.00). A provisional licensee shall complete
 32 a minimum of five hours of continuing education each year, which may
 33 include up to two hours of online instruction.

34 If, within three years of first obtaining a provisional license, the provisional
 35 licensee substantiates to the satisfaction of the Board that the provisional
 36 licensee has obtained passing scores on an examination of the laws of North
 37 Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453
 38 (1984), pursuant to its most recent version, and rules of the Board and other
 39 agencies dealing with the care, transportation, and disposition of dead human
 40 bodies, and a Board-approved entry-level examination in funeral directing, the
 41 Board may issue the provisional licensee a funeral director license subject to
 42 the same annual renewal requirements as for licensees in funeral directing.

- 43 (4) a. A person desiring to become a resident trainee shall apply to the Board on
 44 a form provided by the Board. The application shall state that the applicant is
 45 not less than 18 years of age, of good moral character, and is the graduate of
 46 a high school or the equivalent thereof, and shall indicate the licensee under
 47 whom the applicant expects to train. A person training to become an embalmer
 48 may serve under the supervision of either a licensed embalmer or a funeral
 49 service licensee who is in good standing with the Board and who has practiced
 50 funeral service or embalming full time for a minimum of five years. A person
 51 training to become a funeral director may serve under the supervision of either

1 a licensed funeral director or a funeral service licensee who is in good standing
2 with the Board and who has practiced funeral service or funeral directing full
3 time for a minimum of five years. A person training to become a funeral
4 service licensee shall serve under the supervision of a funeral service licensee
5 who is in good standing with the Board and who has practiced funeral service
6 full time for a minimum of five years. The application must be sustained by
7 oath of the applicant and be accompanied by the appropriate fee. When the
8 Board is satisfied as to the qualifications of an applicant it shall instruct the
9 secretary to issue a certificate of resident traineeship.

10 ...

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

15"

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

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

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

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

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

29 "(i) The Board may hold hearings in accordance with the provisions of this Article and
30 Article 3A of Chapter 150B of the General Statutes. The Board is empowered to regulate and
31 inspect crematories and crematory licensees and to enforce as provided by law the provisions of
32 this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not
33 to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each
34 additional inspection that is made to ascertain whether the deficiency or other violation has been
35 corrected. The Board may obtain preliminary and final injunctions whenever a violation of this
36 Article has occurred or threatens to occur. The Board may enforce compliance with the standards
37 set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended, and in accordance
38 with subsection (d1) of this section.

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

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

48 "(c1) For any death occurring outside North Carolina, a crematory licensee shall not
49 cremate a dead human body without first obtaining a copy of ~~the~~ the burial-transit or disposal
50 permit issued by the jurisdiction where the under the law of the state, province, or foreign

1 government in which death occurred and one of the following documents: or disinterment
2 occurred.

- 3 (1) ~~A death certificate from the other jurisdiction that meets the same content and~~
4 ~~signature requirements of subsection (a) of this section.~~
5 (2) ~~Any document or certificate required to authorize cremation in the jurisdiction~~
6 ~~where the death occurred that is signed by a physician, medical examiner, or~~
7 ~~other authorized person and that contains all information required by~~
8 ~~subdivisions (1) through (9) of subsection (a) of this section.~~

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

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

12 "(d) No body shall knowingly be cremated with a pacemaker or defibrillator not approved
13 for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially
14 hazardous implant or condition in place. The authorizing agent for the cremation of the human
15 remains shall be responsible for taking all necessary steps to ensure that any pacemaker or
16 defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating
17 agency or other potentially hazardous implant or condition is removed or corrected prior to
18 cremation. If an authorizing agent informs the funeral ~~director and~~ director, funeral service
19 licensee, or the crematory licensee—licensee, whichever is applicable, on the cremation
20 authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous
21 implant or condition in the human remains, then the funeral ~~director~~ director, funeral service
22 licensee, or the crematory licensee, whichever is applicable or responsible for obtaining the
23 information required to complete the decedent's death certificate, shall also be responsible for
24 ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or
25 other potentially hazardous implant or to correct the hazardous condition before delivering the
26 human remains to the crematory. Anyone removing a hazardous implanted device or material
27 under this subsection shall comply with the laws and rules governing the handling of such
28 material and with any other regulations enforced by the proper regulating authority."

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

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

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

35 "(b1) For any death occurring outside North Carolina, a crematory licensee shall not
36 cremate a dead human body without obtaining a copy of the burial-transit or disposal permit
37 issued under the law of the state, province, or foreign government in which death or disinterment
38 occurred before cremation. Nothing in this subsection shall be construed to waive the provisions
39 of G.S. 130A-388."

40 **SECTION 3.** G.S. 130A-115 reads as rewritten:

41 "**§ 130A-115. Death registration.**

42 ...

43 (c1) A physician, physician assistant, or nurse practitioner completing and signing a
44 medical certification in accordance with subsection (c) of this section shall not be liable in civil
45 damages for any acts or omissions relating to the medical certification so long as the cause of
46 death is determined in good faith using the individual's best clinical judgment and consistent with
47 current guidance provided by the applicable licensing board, unless the acts or omissions amount
48 to wanton conduct or intentional wrongdoing. This immunity is in addition to any other legal
49 immunity from liability to which these individuals may be entitled.

50"

1 **SECTION 4.** Sections 1(b)-1(g), Section 2, and Section 3 of this act become
2 effective July 31, 2019, and apply to cremations on or after that date. The remainder of this act
3 is effective when it becomes law, and Section 1(a) applies to licenses granted on or after that
4 date.