

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 485
Committee Substitute Favorable 4/14/97
Committee Substitute #2 Favorable 4/23/97

Short Title: Funeral Establishments/AB.

(Public)

Sponsors:

Referred to:

March 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS STATUTES RELATING TO THE PRACTICE OF
3 FUNERAL SERVICE, CREMATIONS, AND FUNERAL AND BURIAL TRUST
4 FUNDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 90-210.20(e1) reads as rewritten:

7 "(e1) 'Funeral chapel' means a chapel or other facility separate from the funeral
8 establishment premises for the reposing of dead human bodies, visitation or funeral
9 ceremony, which is owned, operated, or maintained by a funeral ~~establishment,~~
10 establishment or other licensee under this Article, and which does not use the word
11 'funeral' in its name, on a sign, in a directory, in advertising or in any other manner; in
12 which or on the premises of which there is not displayed or offered for sale any caskets or
13 other funeral merchandise; in which or on the premises of which there is not located any
14 funeral business office or a preparation room; in which or on the premises of which no
15 funeral sales, financing, or arrangements are made; and which no owner, operator,
16 employee, or agent thereof represents the chapel to be a funeral establishment."

17 Section 2. G.S. 90-210.23(d) reads as rewritten:

1 "(d) Every person licensed by the Board and every resident trainee shall furnish all
2 information required by the Board reasonably relevant to the practice of the profession or
3 business for which ~~he the person is~~ a licensee or resident ~~trainee, and every trainee~~. Every
4 funeral service establishment and its records and every place of business where the
5 practice of funeral service or embalming is carried on and its records thereof shall be
6 subject to inspection by the Board during normal hours of operation and periods shortly
7 before or after normal hours of operation and shall furnish all information required by the
8 Board reasonably relevant to the business therein conducted. Every licensee, resident
9 ~~trainee~~ trainee, embalming facility, and funeral service establishment shall provide the
10 Board with ~~his or its~~ a current post-office address which shall be placed on the appropriate
11 register and all notices required by law or by any rule or regulation of the Board to be
12 mailed to any licensee, resident ~~trainee~~ trainee, embalming facility, or funeral service
13 establishment shall be validly given when mailed to the address so provided.

14 The Board is empowered to hold hearings in accordance with the provisions of this
15 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive
16 the affirmation of witnesses before the Board."

17 Section 3. G.S. 90-210.23(e) reads as rewritten:

18 "(e) The Board is empowered to regulate and inspect, according to law, funeral
19 service ~~establishments, establishments and embalming facilities, their operation~~ operation,
20 and the licenses under which they are operated, and to enforce as provided by law the
21 rules, ~~regulations~~ regulations, and requirements of the Division of Health Services and of
22 the city, ~~town~~ town, or county ~~wherein any such~~ in which the funeral service establishment
23 or embalming facility is maintained and operated. Any funeral establishment or
24 embalming facility which, that, upon inspection, is found not to meet all of the
25 requirements of this Article shall pay a reinspection fee to the Board for each additional
26 inspection that is made to ascertain that the deficiency or other violation has been
27 corrected. The Board is also empowered to enforce compliance with the standards set
28 forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time."

29 Section 4. G.S. 90-210.24(b)(1) reads as rewritten:

30 "(1) Enter the office, establishment or place of business of any funeral
31 service licensee, funeral director or embalmer in North Carolina, and
32 any office, establishment or place in North Carolina where the practice
33 of funeral service or embalming is carried on, or where that practice is
34 advertised as being carried on, or where a funeral is being ~~conducted,~~
35 conducted or a body is being embalmed, to inspect the records, office, ~~or~~
36 ~~establishment, establishment, or facility,~~ or to inspect the practice being
37 carried on or license or registration of any licensee and any resident
38 trainee operating therein;".

39 Section 5. G.S. 90-210.25(a)(1) reads as rewritten:

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

- 42 a. Be at least 18 years of ~~age,~~ age.
43 b. Be of good moral ~~character,~~ character.

- 1 c. Have completed a minimum of 32 semester hours or 48 quarter
2 hours of instruction in a course of study including the subjects set
3 out in ~~items~~ item e.1. and 2. of this subsection in a mortuary
4 science college approved by the Board, or be a graduate of a
5 mortuary science college approved by the Board.
- 6 d. Have completed 12 months of resident traineeship as funeral
7 director, pursuant to the procedures and conditions set out in G.S.
8 90-210.25(a)(4), either before or after satisfying the educational
9 requirement under item c. of this ~~subsection, and subsection.~~
- 10 e. Have passed an oral or written funeral director examination on
11 the following subjects:
- 12 1. ~~Basic health sciences, including microbiology, hygiene, and~~
13 ~~public health, Psychology, sociology, funeral directing,~~
14 business law, funeral law, funeral management, and
15 accounting.
 - 16 2. ~~Funeral service administration, including accounting,~~
17 ~~psychology, funeral principles and directing, and~~
 - 18 3. Laws of North Carolina and rules of the Board of
19 Mortuary Science and other agencies dealing with the
20 care, transportation and disposition of dead human
21 bodies."

22 Section 6. G.S. 90-210.25(a)(2) reads as rewritten:

- 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,~~ age.
 - 26 b. Be of good moral ~~character,~~ character.
 - 27 c. Be a graduate of a mortuary science college approved by the
28 ~~Board,~~ Board.
 - 29 d. Have completed 12 months of resident traineeship as an
30 embalmer pursuant to the procedures and conditions set out in
31 G.S. 90-210.25(a)(4), either before or after satisfying the
32 educational requirement under item c. of this ~~subsection, and~~
33 subsection.
 - 34 e. Have passed an oral or written embalmer examination on the
35 following subjects:
- 36 1. ~~Basic health sciences, including anatomy, chemistry,~~
37 ~~microbiology, pathology and forensic pathology,~~
38 Embalming, restorative arts, chemistry, pathology,
39 microbiology, and anatomy.
 - 40 2. ~~Funeral service sciences, including embalming and~~
41 ~~restorative art, and~~
 - 42 3. Laws of North Carolina and rules of the Board of
43 Mortuary Science and other agencies dealing with the

1 care, transportation and disposition of dead human
2 bodies."

3 Section 7. G.S. 90-210.25(a)(3) reads as rewritten:

4 "(3) To be licensed for the practice of funeral service under this Article, a
5 person must:

- 6 a. Be at least 18 years of ~~age,~~ age.
- 7 b. Be of good moral ~~eharacter,~~ character.
- 8 c. Be a graduate of a mortuary science college approved by the
9 ~~Board,~~ Board.
- 10 d. Have completed 12 months of resident traineeship as a funeral
11 service licensee, pursuant to the procedures and conditions set
12 out in G.S. 90-210.25(a)(4), either before or after satisfying the
13 educational requirement under item c. of this ~~subsection,~~ and
14 subsection.
- 15 e. Have passed an oral or written funeral service examination on the
16 following subjects:
 - 17 1. ~~Basic health sciences, including anatomy, chemistry,~~
18 ~~microbiology, pathology, forensic pathology hygiene and~~
19 ~~public health, Psychology, sociology, funeral directing,~~
20 ~~business law, funeral law, funeral management, and~~
21 ~~accounting.~~
 - 22 2. ~~Funeral service sciences, including embalming and restorative~~
23 ~~art, Embalming, restorative arts, chemistry, pathology,~~
24 ~~microbiology, and anatomy.~~
 - 25 3. ~~Funeral service administration, including accounting,~~
26 ~~psychology, funeral principles and directing, and~~
 - 27 4. Laws of North Carolina and rules of the Board of
28 Mortuary Science and other agencies dealing with the
29 care, transportation and disposition of dead human
30 bodies."

31 Section 8. G.S. 90-210.25(a)(5) reads as rewritten:

32 "(5) The Board by regulation may recognize other examinations that the
33 Board deems equivalent to its own.

34 All licenses shall be signed by the president and secretary of the
35 Board and the seal of the Board affixed thereto. All licenses shall be
36 issued, renewed or duplicated for a period not exceeding one year upon
37 payment of the renewal fee, and all licenses, renewals or duplicates
38 thereof shall expire and terminate the thirty-first day of December
39 following the date of their issue unless sooner revoked and canceled;
40 provided, that the date of expiration may be changed by unanimous
41 consent of the Board and upon 90 days' written notice of such change to
42 all persons licensed for the practice of funeral directing, embalming and
43 funeral service in this State.

1 The holder of any license issued by the Board who shall fail to
2 renew the same on or before January 31 of the calendar year for which
3 the license is to be renewed shall have forfeited and surrendered the
4 license as of that date. No license forfeited or surrendered pursuant to
5 the preceding sentence shall be reinstated by the Board unless it is
6 shown to the Board that the applicant has, throughout the period of
7 forfeiture, engaged full time in another state of the United States or the
8 District of Columbia in the practice to which his North Carolina license
9 applies and has completed for each such year continuing education
10 substantially equivalent in the opinion of the Board to that required of
11 North Carolina licensees; or has completed in North Carolina a total
12 number of hours of accredited continuing education computed by
13 multiplying five times the number of years of forfeiture; or has passed
14 the North Carolina examination for the forfeited license. No additional
15 resident traineeship shall be required. The applicant shall be required to
16 pay all delinquent annual renewal fees and a reinstatement fee. The
17 Board may waive the provisions of this section for an applicant for a
18 forfeiture which occurred during his service in the armed forces of the
19 United States provided he applies within six months following
20 severance therefrom.

21 All licensees now or hereafter licensed in North Carolina shall take
22 courses of study in subjects relating to the practice of the profession for
23 which they are licensed, to the end that new techniques, scientific and
24 clinical advances, the achievements of research and the benefits of
25 learning and reviewing skills will be utilized and applied to assure
26 proper service to the public.

27 As a prerequisite to the annual renewal of a license, the licensee
28 must complete, during the year immediately preceding renewal, at least
29 five hours of continuing education courses, approved by the Board prior
30 to enrollment; ~~except that for renewals for calendar year 1980 the required~~
31 ~~length of study shall be a total of 15 hours in the three years immediately~~
32 ~~preceding January 1, 1980.~~ enrollment. A licensee who completes more
33 than five hours in a year may carry over a maximum of five hours as a
34 credit to the following year's requirement. A licensee who is issued an
35 initial license on or after July 1 does not have to satisfy the continuing
36 education requirement for that year.

37 The Board shall not renew a license unless fulfillment of the
38 continuing education requirement has been certified to it on a form
39 provided by the Board, but the Board may waive this requirement for
40 renewal in cases of certified illness or undue hardship or where the
41 licensee lives outside of North Carolina and does not practice in North
42 Carolina, and the Board shall waive the requirement for all licensees
43 who have been licensed in North Carolina for a continuous period of 25

1 years or more, and for all licensees who are, at the time of renewal,
2 members of the General Assembly. The waiver for 25-year licensees
3 shall apply only to those licensees who, before January 1, 1998, are
4 licensed, begin a course of study in a mortuary science college or a
5 trainee program, or make an application for a license.

6 The Board shall cause to be established and offered to the licensees,
7 each calendar year, at least five hours of continuing education courses in
8 subjects encompassing the license categories of embalming, funeral
9 directing and funeral service. The Board may charge licensees
10 attending these courses a reasonable registration fee in order to meet the
11 expenses thereof and may also meet those expenses from other funds
12 received under the provisions of this Article.

13 Any person who having been previously licensed by the Board as a
14 funeral director or embalmer prior to July 1, 1975, shall not be required
15 to satisfy the requirements herein for licensure as a funeral service
16 licensee, but shall be entitled to have such license renewed upon making
17 proper application therefor and upon payment of the renewal fee
18 provided by the provisions of this Article. Persons previously licensed
19 by the Board as a funeral director may engage in funeral directing, and
20 persons previously licensed by the Board as an embalmer may engage in
21 embalming. Any person having been previously licensed by the Board
22 as both a funeral director and an embalmer may upon application
23 therefor receive a license as a funeral service licensee."

24 Section 9. G.S. 90-210.25 is amended by adding a new subsection to read:

25 "(a1) Inactive Licenses. – Any person holding a license issued by the Board for
26 funeral directing, for embalming, or for the practice of funeral service may apply for an
27 inactive license in the same category as the active license held. The inactive license is
28 renewable annually. Continuing education is not required for the renewal of an inactive
29 license. The only activity that a holder of an inactive license may engage in is to vote
30 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
31 active license in the same category, and the Board shall issue an active license if the
32 applicant has completed in North Carolina a total number of hours of accredited
33 continuing education equal to five times the number of years the applicant held the
34 inactive license. No application fee is required for the reinstatement of an active license
35 pursuant to this subsection. The holder of an inactive license who returns to active status
36 shall surrender the inactive license to the Board."

37 Section 10. G.S. 90-210.25(b)(3) reads as rewritten:

38 "(3) The Board may issue special permits, to be known as courtesy cards,
39 permitting nonresident funeral directors, embalmers and funeral service
40 licensees to remove bodies from and to arrange and direct funerals and
41 embalm bodies in this State, but these privileges shall not include the
42 right to establish a place of business in or engage generally in the
43 business of funeral directing and embalming in this State. ~~Provided,~~

1 Except for special permits issued by the Board for teaching continuing
2 education programs and for work in connection with disasters, no
3 special permits may be issued to nonresident funeral directors,
4 embalmers, and funeral service licensees from states that do not issue
5 similar courtesy cards to persons licensed in North Carolina pursuant to
6 this Article."

7 Section 11. G.S. 90-210.25(d) reads as rewritten:

8 "(d) Establishment Permit. –

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

15 (2) A permit shall be issued when:

16 a. It is shown that the funeral establishment has in charge a person,
17 known as a manager, licensed for the practice of funeral directing
18 or funeral service, who shall not be permitted to manage more
19 than one funeral ~~establishment, establishment.~~

20 b. The Board receives a list of the names of all part-time and full-
21 time licensees employed by the ~~establishment, establishment.~~

22 c. It is shown that the funeral establishment satisfies the
23 requirements of ~~G.S. 90-210.27A, and~~ G.S. 90-210.27A.

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

25 (3) Applications for funeral establishment permits shall be made on forms
26 provided by the Board and filed with the Board by the owner, a ~~partner~~
27 partner, a member of the limited liability company, or an officer of the
28 corporation by January 1 of each year, and shall be accompanied by the
29 application fee or renewal fee, as the case may be. All permits shall
30 expire on December 31 of each year.

31 A penalty for late renewal, in addition to the regular renewal fee,
32 shall be charged for renewal of registration coming after the first day of
33 February.

34 (4) The Board may suspend or revoke a permit when an owner, ~~partner~~
35 partner, manager, member, operator, or officer of the funeral
36 establishment violates any provision of this Article or any regulations of
37 the Board, or when any agent or employee of the funeral establishment,
38 with the consent of any person, firm or corporation operating the funeral
39 establishment, violates any of those provisions, rules or regulations.

40 (5) Funeral establishment permits are not transferable. A new application
41 for a permit shall be made to the Board within 30 days of a change of
42 ownership of a funeral establishment."

43 Section 12. G.S. 90-210.25 is amended by adding a new subsection to read:

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

5 Section 13. G.S. 90-210.25(e) reads as rewritten:

6 "(e) Revocation; Suspension; Compromise; Disclosure. –

7 (1) Whenever the Board finds that an applicant for a license or a person to
8 whom a license has been issued by the Board is guilty of any of the
9 following acts or omissions and the Board also finds that the person has
10 thereby become unfit to practice, the Board may suspend or revoke the
11 license or refuse to issue or renew the license, in accordance with the
12 procedures set out in Chapter 150B:

- 13 a. Conviction of a felony or a crime involving fraud or moral
14 ~~turpitude;~~ ~~turpitude.~~
- 15 b. Fraud or misrepresentation in obtaining or renewing a license or
16 in the practice of funeral ~~service;~~ ~~service.~~
- 17 c. False or misleading advertising as the holder of a ~~license;~~ ~~license.~~
- 18 d. Solicitation of dead human bodies by the licensee, his agents,
19 assistants, or employees; but this paragraph shall not be
20 construed to prohibit general advertising by the ~~licensee;~~ ~~licensee.~~
- 21 e. Employment directly or indirectly of any resident trainee agent,
22 assistant or other person, on a part-time or full-time basis, or on
23 commission, for the purpose of calling upon individuals or
24 institutions by whose influence dead human bodies may be
25 turned over to a particular ~~licensee;~~ ~~licensee.~~
- 26 f. The direct or indirect giving of certificates of credit or the
27 payment or offer of payment of a commission by the licensee, his
28 agents, assistants or employees for the purpose of securing
29 ~~business;~~ ~~business.~~
- 30 g. Gross immorality, including being under the influence of alcohol
31 or drugs while practicing funeral ~~service;~~ ~~service.~~
- 32 h. Aiding or abetting an unlicensed person to perform services
33 under this Article, including the use of a picture or name in
34 connection with advertisements or other written material
35 published or caused to be published by the ~~licensee;~~ ~~licensee.~~
- 36 i. Using profane, indecent or obscene language in the presence of a
37 dead human body, and within the immediate hearing of the
38 family or relatives of a deceased, whose body has not yet been
39 interred or otherwise disposed ~~of;~~ ~~of.~~
- 40 j. Violating or cooperating with others to violate any of the
41 provisions of this ~~Article or of Article,~~ the rules and regulations of
42 the ~~Board;~~ ~~Board,~~ or the standards set forth in Funeral Industry
43 Practices, 16 C.F.R. 453 (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
3 of dead human ~~bodies;~~ bodies.
4 l. Refusing to surrender promptly the custody of a dead human
5 body upon the express order of the person lawfully entitled to the
6 custody ~~thereof;~~ thereof.
7 m. Knowingly making any false statement on a certificate of ~~death;~~
8 death.
9 n. Indecent exposure or exhibition of a dead human body while in
10 the custody or control of a licensee.

11 In any case in which the Board is entitled to suspend, revoke or
12 refuse to renew a license, the Board may accept from the licensee an
13 offer in compromise to pay a penalty of not more than one thousand
14 dollars (\$1,000). The Board may either accept a compromise or revoke
15 or refuse to renew a license, but not both.

- 16 (2) Where the Board finds that a licensee is guilty of one or more of the acts
17 or omissions listed in subsection (e)(1) of this section but it is
18 determined by the Board that the licensee has not thereby become unfit
19 to practice, the Board may place the licensee on a term of probation in
20 accordance with the procedures set out in Chapter 150B.

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

27 No funeral service establishment shall accept a dead human body from any public
28 officer (excluding the State or county medical examiner or his agent), or employee or
29 from the official of any institution, hospital or nursing home, or from a physician or any
30 person having a professional relationship with a decedent, without having first made due
31 inquiry as to the desires of the ~~next of kin and of the persons who may be chargeable with the~~
32 ~~funeral expenses of such decedent.~~ persons who have the legal authority to direct the
33 disposition of the decedent's body. If any ~~such kin be persons~~ are found, ~~his or her~~ their
34 authority and directions shall govern the disposal of the remains of ~~such~~ the decedent.
35 Any funeral service establishment receiving ~~such~~ the remains in violation ~~hereof~~ of this
36 subsection shall make no charge for any service in connection with ~~such~~ the remains prior
37 to delivery of ~~same~~ the remains as stipulated by ~~such kin;~~ the persons having legal
38 authority to direct the disposition of the body. ~~provided, however, this~~ This section shall
39 not prevent any funeral service establishment from charging and being reimbursed for
40 services rendered in connection with the removal of the remains of any deceased person
41 in case of accidental or violent death, and rendering necessary professional services
42 required until the ~~next of kin or the persons chargeable with the expenses~~ persons having
43 legal authority to direct the disposition of the body have been notified.

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

8 At the time funeral arrangements are made and prior to the time of rendering the
9 service and providing the merchandise, a funeral director or funeral service licensee shall
10 give or cause to be given to the person or persons making such arrangements a written
11 statement duly signed by a licensee of said funeral establishment showing the price of the
12 service as selected and what services are included therein, the price of each of the
13 supplemental items of services or merchandise requested, and the amounts involved for
14 each of the items for which the funeral establishment will advance moneys as an
15 accommodation to the person making arrangements, insofar as any of the above items can
16 be specified at that time. The statement shall have printed, typed or stamped on the face
17 thereof: "This statement of disclosure is provided pursuant to the requirements of North
18 Carolina G.S. 90-210.25(e)."

19 Section 14. G.S. 90-210.27A reads as rewritten:

20 **"§ 90-210.27A. Funeral establishments.**

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

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

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

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

41 ~~(d) No person who has been convicted of a felony shall:~~

- 42 ~~(1) Own a funeral establishment if it is owned by a sole proprietorship;~~
- 43 ~~(2) Be a partner in a funeral establishment if it is owned by a partnership;~~

1 (3) ~~Be an officer, member of the board of directors or owner of twenty-five~~
 2 ~~percent (25%) or more of the stock if it is owned by a corporation.~~

3 (e) If a funeral establishment is solely owned by a natural person, that person must
 4 be licensed by the Board as a funeral director or a funeral service licensee. If it is owned
 5 by a partnership, at least one partner must be licensed by the Board as a funeral director
 6 or a funeral service licensee. If it is owned by a corporation, the president, vice-
 7 president, or the chairman of the board of directors must be licensed by the Board as a
 8 funeral director or a funeral service licensee. If it is owned by a limited liability
 9 company, at least one member must be licensed by the Board as a funeral director or a
 10 funeral service licensee. The licensee required by this subsection must be actively
 11 ~~engaged, on a day-to-day basis, engaged~~ in the operation of the funeral establishment.

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

15 (g) No funeral establishment or other licensee under this Article shall own,
 16 operate, or maintain a funeral chapel without first having registered the name, location,
 17 and ownership thereof with the Board."

18 Section 15. G.S. 90-210.28 reads as rewritten:

19 **"§ 90-210.28. Fees.**

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

21	Establishment permit		
22	Application		\$250.00
23	Annual renewal	175.00	
24	Late renewal penalty	100.00	
25	Establishment reinspection <u>Reinspection fee</u>		100.00
26	Courtesy card		
27	Application	75.00	
28	Annual renewal		50.00
29	Out-of-state licensee		
30	Application	200.00	
31	Embalmer, funeral director,		
32	funeral service		
33	Application--North		
34	Carolina-Resident	150.00	
35	-Non-Resident		200.00
36	Annual Renewal-embalmer or		
37	funeral director		50.00
38	-funeral service	100.00	
39	Reinstatement fee	50.00	
40	Resident trainee permit		
41	Application		50.00
42	Annual renewal	35.00	
43	Late renewal penalty	25.00	

1	Duplicate license certificate	25.00
2	Chapel registration	
3	Application	150.00
4	Annual renewal	100.00

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

11 Section 16. G.S. 90-210.41 reads as rewritten:

12 **"§ 90-210.41. Definitions.**

13 As used in this Article, unless the context requires otherwise:

- 14 (1) ‘Authorizing agent’ means a person legally entitled to ~~order~~order, or
15 carry out the legal order for, the cremation of human remains. ~~An~~
16 ~~authorizing agent shall be, in order of priority, a spouse, an adult child, a~~
17 ~~parent, any adult sibling, guardian or close relation of the deceased.~~ In the
18 case of indigents or any other individuals whose final disposition is the
19 responsibility of the State, a public official charged with arranging the
20 final disposition of the deceased, if legally authorized, may serve as the
21 authorizing agent. In the case of individuals whose death occurred in a
22 nursing home or other private institution, and in which the institution is
23 charged with making arrangements for the final disposition of the
24 deceased, a representative of the institution, if legally authorized, may
25 serve as the authorizing agent.
- 26 (2) ‘Board’ means the North Carolina State Board of Mortuary Science.
- 27 (3) ~~‘Casket’ means a rigid container which is designed for the encasement~~
28 ~~of human remains and which is usually constructed of wood, metal or~~
29 ~~other rigid material and ornamented and lined with fabric.~~
- 30 (4) ‘Closed container’ means any container in which cremated remains can
31 be placed and closed in a manner so as to prevent leakage or spillage of
32 cremated remains or the entrance of foreign material.
- 33 (5) ‘Cremated remains’ means all human remains recovered after the
34 completion of the cremation process, including pulverization which
35 leaves only bone fragments reduced to unidentifiable dimensions.
- 36 (6) ‘Cremation’ means the technical process, using heat, that reduces human
37 remains to bone fragments.
- 38 (7) ‘Cremation chamber’ means the enclosed space within which the
39 cremation process takes place. Cremation chambers covered by this
40 Article shall be used exclusively for the cremation of human remains.
- 41 (8) ‘Cremation container’ means the container in which the human remains
42 are placed in the cremation chamber for a cremation. A cremation

- 1 container must meet all of the standards established by the rules adopted
2 by the Board.
- 3 (9) 'Crematory' means the building or portion of a building that houses the
4 cremation chamber and that may house the holding facility, business
5 office or other part of the crematory business. A crematory must
6 comply with any applicable public health laws and rules and must
7 contain the equipment and meet all of the standards established by the
8 rules adopted by the Board.
- 9 (10) 'Crematory authority' means the North Carolina Crematory Authority.
- 10 (11) 'Crematory operator' means the legal entity which is licensed by the
11 Board to operate a crematory and perform cremations.
- 12 ~~(12) 'Holding facility' means an area within or adjacent to the crematory,
13 designated for the retention of human remains prior to cremation. A
14 holding facility must comply with any applicable public health laws and
15 rules and must meet all of the standards established by the rules adopted
16 by the Board.~~
- 17 (13) 'Human remains' means the body of a deceased person, including a
18 human fetus, regardless of the length of gestation, or part of a body or
19 ~~limb~~ that has been removed from a living or deceased person.
- 20 (14) 'Niche' means a compartment or cubicle for the memorialization or
21 permanent placement of an urn containing cremated remains.
- 22 ~~(15) 'Scattering area' means a designated area for the scattering of cremated
23 remains.~~
- 24 ~~(16) 'Temporary container' means a temporary receptacle for cremated
25 remains, usually made of cardboard, plastic film or similar material
26 designed to hold the cremated remains until an urn or other permanent
27 container is acquired.~~
- 28 (17) ~~'Urn' means a receptacle designed to permanently encase the cremated
29 remains."~~

30 Section 17. G.S. 90-210.43 reads as rewritten:

31 **"§ 90-210.43. Licensing and inspection.**

32 (a) Any person doing business in this State, or any cemetery, funeral
33 establishment, corporation, partnership, joint venture, voluntary organization or any other
34 entity may erect, maintain and conduct a crematory in this State and may provide the
35 necessary appliances and facilities for the cremation of human remains, provided that
36 such person has secured a license as a crematory operator in accordance with the
37 provisions of this Article.

38 (b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent
39 to any funeral establishment that is zoned commercial or industrial, or at any other
40 location consistent with local zoning regulations.

41 (c) Application for a license as a crematory operator shall be made on forms
42 furnished and prescribed by the Board. The Board shall examine the premises and
43 structure to be used as a crematory and shall issue a renewable license to the crematory

1 operator if the applicant meets all the requirements and standards of the Board and the
2 requirements of this Article. ~~In the event of a change of ownership of a crematory, at least 30~~
3 ~~days prior to the change the new owners shall provide the Board with the name and address of~~
4 ~~the new owners.~~

5 (d) Every application for licensure shall identify the individual who is responsible
6 for overseeing the management and operation of the crematory. The crematory operator
7 shall keep the Board informed at all times of the name and address of the manager.

8 (d1) All licenses shall expire on the last day of December of each year. A license
9 may be renewed without paying a late fee on or before the first day of February
10 immediately following expiration. After that date, a license may be renewed by paying a
11 late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses
12 that remain expired six months or more require a new application for renewal. Licenses
13 are not transferable. A new application for a license shall be made to the Board within 30
14 days following a change of ownership of more than fifty percent (50%) of the business.

15 (e) No person, cemetery, funeral establishment, corporation, partnership, joint
16 venture, voluntary organization or any other entity shall cremate any human remains,
17 except in a crematory licensed for this express purpose and under the limitations provided
18 in this ~~Article.~~ Article, or unless otherwise permitted by statute.

19 (f) Whenever the Board finds that an owner, ~~partner~~ partner, manager, member, or
20 officer of a crematory operator or an applicant to become a crematory operator, or that
21 any agent or employee of a crematory operator or an applicant to become a crematory
22 operator, with the direct or implied permission of such owner, ~~partner~~ partner, manager,
23 member, or officer, has violated any provision of this Article, or is guilty of any of the
24 following acts, and when the Board also finds that the crematory operator or applicant
25 has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or
26 renew the license, in accordance with the procedures of Chapter 150B:

- 27 (1) Conviction of a felony or a crime involving fraud or moral ~~turpitude;~~
28 turpitude.
- 29 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
30 practice of ~~eremation;~~ cremation.
- 31 (3) False or misleading ~~advertising;~~ advertising.
- 32 (4) Gross immorality, including being under the influence of alcohol or
33 drugs while performing cremation ~~services;~~ services.
- 34 (5) Using profane, indecent or obscene language in the presence of a dead
35 human body, and within the immediate hearing of the family or relatives
36 of a deceased, whose body has not yet been cremated or otherwise
37 disposed ~~of;~~ of.
- 38 (6) Violating or cooperating with others to violate any of the provisions of
39 this Article or of the rules of the ~~Board;~~ Board.
- 40 (7) Violation of any State law or municipal or county ordinance or
41 regulation affecting the handling, custody, care or transportation of dead
42 human ~~bodies;~~ bodies.

1 (8) Refusing to surrender promptly the custody of a dead human body or
2 cremated remains upon the express order of the person lawfully entitled
3 to the custody thereof, except as provided in ~~G.S. 90-210.47(e)~~; G.S. 90-
4 210.47(e).

5 (9) Indecent exposure or exhibition of a dead human body while in the
6 custody or control of a licensee.

7 In any case in which the Board is authorized to take any of the actions permitted
8 under this subsection, the Board may instead accept an offer in compromise of the
9 charges whereby the accused shall pay to the Board a penalty of not more than one
10 thousand dollars (\$1,000).

11 (g) The Board and Crematory Authority may hold hearings in accordance with the
12 provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly
13 by the Board and the Crematory Authority. The Board and the Crematory Authority shall
14 jointly constitute an 'agency' under Article 3A of Chapter 150B of the General Statutes
15 with respect to proceedings initiated pursuant to this Article. The Board is empowered to
16 regulate and inspect crematories and crematory operators and to enforce as provided by
17 law the provisions of this Article and the rules adopted hereunder. Any crematory that,
18 upon inspection, is found not to meet any of the requirements of this Article shall pay a
19 reinspection fee to the Board for each additional inspection that is made to ascertain
20 whether the deficiency or other violation has been corrected.

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

30 Section 18. G.S. 90-210.44 reads as rewritten:

31 "**§ 90-210.44. Authorization and record keeping.**

32 The Board shall establish requirements for record ~~keeping and keeping,~~
33 authorizations, and cremation reports. ~~It~~ shall be a violation of this Article for any
34 crematory operator to fail to comply with the requirements."

35 Section 19. G.S. 90-210.45 reads as rewritten:

36 "**§ 90-210.45. Cremation procedures.**

37 (a) No human body shall be cremated before the crematory operator receives a
38 death certificate signed by the attending physician or an authorization for cremation
39 signed by a medical examiner.

40 (b) Human remains shall not be cremated within 24 hours after the time of death,
41 unless such death was a result of an infectious, contagious or communicable and
42 dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-
43 134, and unless such time requirement is waived in writing by the medical examiner,

1 county health director, or attending physician where the death occurred. In the event
2 such death comes under the jurisdiction of the medical examiner, the human remains
3 shall not be received by the crematory operator until authorization to cremate has been
4 received in writing from the medical examiner of the county in which the death occurred.
5 In the event the crematory operator is authorized to perform funerals as well as
6 cremation, this restriction on the receipt of human remains shall not be applicable.

7 (c) No unauthorized person shall be permitted in the crematory area while any
8 human remains are in the crematory area awaiting cremation, being cremated, or being
9 removed from the cremation chamber. Relatives of the deceased, the authorizing agent,
10 medical examiners and law enforcement officers in the execution of their duties shall be
11 authorized to have access to the holding facility and crematory facility.

12 (c1) Human remains shall be cremated only while enclosed in a cremation
13 container.

14 (d) The simultaneous cremation of the human remains of more than one person
15 within the same cremation chamber is forbidden.

16 (d1) Every crematory shall have a holding facility, within or adjacent to the
17 crematory, designated for the retention of human remains prior to cremation. The
18 holding facility must comply with any applicable public health laws and rules and must
19 meet all of the standards established pursuant to rules adopted by the Board.

20 (e) Crematory operators shall comply with standards established by the Board for the
21 reduction and pulverization of human remains by the cremation process."

22 Section 20. G.S. 90-210.46(a) reads as rewritten:

23 "(a) The authorizing agent shall provide the person with whom cremation
24 arrangements are made with a signed statement specifying the ultimate disposition of the
25 cremated remains, if known. ~~A copy of this statement shall be retained by the crematory~~
26 ~~operator.~~ The crematory operator may store or retain cremated remains as directed by the
27 authorizing agent. Records of retention and disposition of cremated remains shall be kept
28 by the crematory operator pursuant to G.S. 90-210.44."

29 Section 21. G.S. 90-210.47(b) reads as rewritten:

30 "(b) A crematory operator shall have authority to cremate human remains only
31 upon the receipt of a cremation authorization form signed by an authorizing agent. There
32 shall be no liability of a crematory operator that cremates human remains pursuant to
33 such authorization, or that releases or disposes of the cremated remains pursuant to such
34 authorization."

35 Section 22. G.S. 90-210.48(a) reads as rewritten:

36 "**§ 90-210.48. Fees.**

37 (a) The Board may set and collect fees not to exceed the following amounts from
38 licensed crematory operators and applicants:

- | | | | |
|----|-----|---------------------------|----------|
| 39 | (1) | Licensee application fee. | \$400.00 |
| 40 | (2) | Annual renewal fee. | 150.00 |
| 41 | (3) | Late renewal penalty. | 75.00 |
| 42 | (4) | Re-inspection fee. | 100.00 |
| 43 | (5) | Per cremation fee. | 10.00 |

1 (6) Late fee, per cremation. 10.00

2 (7) Late fee, cremation report. 75.00 per month."

3 Section 23. G.S. 90-210.60(3) reads as rewritten:

4 "(3) 'Insurance company' means any corporation, limited liability company,
5 association, partnership, society, order, individual or aggregation of
6 individuals engaging in or proposing or attempting to engage as
7 principals in any kind of insurance business, including the exchanging
8 of reciprocal or interinsurance contracts between individuals,
9 partnerships, and corporations;"

10 Section 24. G.S. 90-210.63(a)(2) reads as rewritten:

11 "(2) The original contracting preneed licensee shall immediately pay all ~~such~~
12 funds received to the successor funeral establishment ~~so designated;~~
13 designated. provided, however, regardless ~~Regardless~~ of whether the
14 substitution is made before or after the death of the preneed funeral
15 contract beneficiary, the original contracting preneed licensee shall not
16 be required to give credit for the amount retained pursuant to G.S. 90-
17 210.61(a)(2), except when there was a substitution under G.S. 90-
18 210.68(d1) and (e). and provided further, if ~~Except when there was a~~
19 substitution under G.S. 90-210.68(d1) and (e), if the original contracting
20 preneed licensee did not retain any portion of payments made ~~to it~~ as is
21 permitted by G.S. 90-210.61(a)(2) then ~~such~~ the preneed licensee may
22 retain up to ten percent (10%) of ~~said~~ the funds received from the
23 financial institution. Upon making payments pursuant to this
24 subsection, the financial institution and the original contracting preneed
25 licensee shall be relieved from all further contractual liability thereon."

26 Section 25. G.S. 90-210.64(a) reads as rewritten:

27 "(a) After the death of a preneed funeral contract beneficiary and full performance
28 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
29 promptly complete a certificate of performance or similar claim form and present it to the
30 financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
31 insurance company that issued a preneed insurance policy pursuant to G.S. 90-
32 210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the
33 financial institution shall pay the trust funds to the contracting preneed licensee and the
34 insurance company shall pay the insurance proceeds according to the terms of the policy.
35 Within 10 days after receiving payment, the preneed licensee shall mail a copy of the
36 certificate of performance or other claim form to the Board."

37 Section 26. G.S. 90-210.66(b) reads as rewritten:

38 "(b) From the fee of ~~fifteen dollars (\$15.00)~~ for each preneed funeral contract as
39 required by G.S. 90-210.67(d), the Board shall deposit two dollars (\$2.00) into the Fund.
40 The Board may suspend the deposits into the Fund at any time and for any period for
41 which the Board determines that a sufficient amount is available to meet likely
42 disbursements and to maintain an adequate reserve."

43 Section 27. G.S. 90-210.67 reads as rewritten:

1 **"§ 90-210.67. Application for license.**

2 (a) No person may offer or sell preneed funeral contracts or offer to make or make
3 any funded funeral prearrangements without first securing a license from the Board.
4 There shall be two types of licenses: a preneed funeral establishment license and a
5 preneed sales license. Only funeral establishments holding a valid establishment permit
6 pursuant to G.S. 90-210.25(d) shall be eligible for a preneed funeral establishment
7 license. Employees and agents of such entities, upon meeting the qualifications to engage
8 in preneed funeral planning as established by the Board, shall be eligible for a preneed
9 sales license. The Board shall establish the preneed funeral planning activities that are
10 permitted under a preneed sales license. The Board shall adopt rules establishing such
11 qualifications and activities no later than 12 months following the ratification of this act.
12 Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance
13 policies, and make funded funeral prearrangements only on behalf of one preneed funeral
14 establishment licensee; provided, however, they may sell preneed funeral contracts,
15 prearrangement insurance policies, and make funeral prearrangements for any number of
16 licensed preneed funeral establishments that are wholly owned by or affiliated with,
17 through common ownership or contract, the same entity; provided further, in the event
18 they engage in selling prearrangement insurance policies, they shall meet the licensing
19 requirements of the Commissioner of Insurance. Every preneed funeral contract shall be
20 signed by a person licensed as a funeral director or funeral service licensee pursuant to
21 Article 13A of Chapter 90 of the General Statutes.

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

29 (b) An application for a preneed funeral establishment license shall be
30 accompanied by a nonrefundable application fee of not more than one hundred fifty
31 dollars (\$150.00). The Board shall set the amounts of the application fees and renewal
32 fees by rule, but the fees shall not exceed one hundred fifty dollars (\$150.00). If the
33 license is granted, the application fee shall be applied to the annual license fee for the
34 first year or part thereof. Upon receipt of the application and payment of the application
35 fee, the Board shall issue a renewable preneed funeral establishment license unless it
36 determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made
37 false statements or representations in the application, or is insolvent, or has conducted or
38 is about to conduct, its business in a fraudulent manner, or is not duly authorized to
39 transact business in this State. The license shall expire on December 31 and ~~Each~~ ~~each~~
40 ~~preneed funeral establishment licensee shall pay annually to the Board on or before June~~
41 ~~30 of each year that date~~ a license renewal fee of not more than one hundred fifty dollars
42 (\$150.00). On or before the first day of February immediately following expiration, a
43 license may be renewed without paying a late fee. After that date, a license may be

1 renewed by paying a late fee of not more than one hundred dollars (\$100.00) in addition
2 to the annual renewal fee.

3 (c) An application for a preneed sales license shall be accompanied by a
4 nonrefundable application fee of not more than fifty dollars (\$50.00). The Board shall set
5 the amounts of the application fees and renewal fees by rule, but the fees shall not exceed
6 fifty dollars (\$50.00). If the license is granted, the application fee shall be applied to the
7 annual license fee for the first year or part thereof. Upon receipt of the application and
8 payment of the application fee, the Board shall issue a renewable preneed sales license
9 provided the applicant has met the qualifications to engage in preneed funeral planning as
10 established by the Board unless it determines that the applicant has violated any provision
11 of G.S. 90-210.69(c). The license shall expire on December 31 and ~~Each~~ each preneed
12 sales licensee shall pay annually to the Board on or before June 30 of each year, that date a
13 license renewal fee of not more than fifty dollars (\$50.00). On or before the first day of
14 February, a license may be renewed without paying a late fee. After that date, a license
15 may be renewed by paying a late fee of not more than twenty-five dollars (\$25.00) in
16 addition to the annual renewal fee.

17 (d) Any person selling a preneed funeral contract, whether funded by a trust
18 deposit or a prearrangement insurance policy, shall remit to the Board, within 10 days of
19 the sale, a fee of ~~fifteen dollars (\$15.00)~~ not to exceed twenty dollars (\$20.00) for each sale.
20 sale and a copy of each contract. The person shall pay a late fee of not more than twenty-
21 five dollars (\$25.00) for each late filing and payment. The ~~fee~~ fees shall not be remitted in
22 cash.

23 (d1) The Board may also set and collect a fee of not more than twenty-five dollars
24 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one
25 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

26 (e) The fees collected under this Article, except for monies used pursuant to G.S.
27 90-210.66, shall be used for the expenses of the Board in carrying out the provisions of
28 this Article. Any funds collected under this Article and remaining with the Board after all
29 expenses under this Article for the current fiscal year have been fully provided for shall
30 be paid over to the General Fund of the State of North Carolina. Provided, however, the
31 Board shall have the right to maintain an amount, the cumulative total of which shall not
32 exceed twenty percent (20%) of gross receipts under this Article for the previous fiscal
33 year of its operations, as a maximum contingency or emergency fund.

34 (f) Any entity licensed by the Commissioner of Banks under Article 13B of
35 Chapter 90 of the General Statutes before July 9, 1992 shall be entitled to have its license
36 renewed notwithstanding that it is not a funeral establishment, provided it otherwise
37 satisfies the requirements of this Article.”

38 Section 28. G.S. 90-210.68 reads as rewritten:

39 **"§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**
40 **terminations.**

41 (a) Every preneed licensee shall keep for examination by the Board accurate
42 accounts, books, and records in this State of all preneed funeral contract and
43 prearrangement insurance policy transactions, copies of all agreements, insurance

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

18 (b) A preneed licensee may transfer preneed funds held by it as trustee from the
19 financial institution which is a party to a preneed funeral contract to a substitute financial
20 institution that is not a party to the contract. Within 10 days after the transfer, the preneed
21 licensee shall notify the Board, in writing, of the name and address of the transferee
22 financial institution. Before the transfer may be made, the transferee financial institution
23 shall agree to make disclosures required under the preneed funeral contract to the Board
24 or its inspectors or examiners. If the contract is revocable, the licensee shall notify the
25 contracting party of the intended transfer.

26 (c) If any preneed licensee transfers or assigns its assets or stock to a successor
27 funeral establishment or terminates its business as a funeral establishment, the preneed
28 licensee and assignee shall notify the Board at least 15 days prior to the effective date of
29 the transfer, assignment or termination: provided, however, the successor funeral
30 establishment must be a preneed licensee or shall be required to apply for and be granted
31 such license by the Board before accepting any preneed funeral contracts, whether funded
32 by trust deposits or preneed insurance policies. Provided further, a successor funeral
33 establishment shall be liable to the preneed funeral contract purchasers for the amount of
34 contract payments retained by the assigning or transferring funeral home pursuant to G.S.
35 90-210.61(a)(2).

36 (d) Financial institutions that accept preneed funeral trust funds and insurance
37 companies that issue prearrangement insurance policies shall, upon request by the Board
38 or its inspectors or examiners, disclose any information regarding preneed funeral trust
39 accounts held or prearrangement insurance policies issued by it for a preneed licensee.

40 (d1) When a preneed funeral establishment license lapses or is terminated for any
41 reason, the preneed licensee shall immediately divest of all the unperformed preneed
42 funeral contracts and shall transfer them and any amounts retained under G.S. 90-

1 210.61(a)(2) to another preneed funeral establishment licensee pursuant to the procedures
2 of subsection (e) of this section.

3 (e) In the event that any preneed licensee is unable or unwilling or is for any
4 reason relieved of its responsibility to perform as trustee or to perform any preneed
5 funeral contract, the Board, with the written consent of the purchaser of the preneed
6 funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract
7 beneficiary ~~may~~ shall order the contract and any amounts retained pursuant to G.S. 90-
8 210.61(a)(2) to be assigned to a substitute preneed licensee provided that the substitute
9 licensee agrees to accept such assignment.

10 (f) The substitute preneed licensee under subsections (d1) and (e) of this section
11 shall be liable to the preneed funeral contract purchasers for the amount of contract
12 payments that had been retained by, and that the substitute preneed licensee has received
13 from, the assigning preneed licensee."

14 Section 29. G.S. 90-210.69(c) reads as rewritten:

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

- 21 (1) Offering to engage or engaging in activities for which a license is
22 required under this Article but without having obtained such a ~~license;~~
23 license.
- 24 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
25 corporation or other entity to offer to engage or engage in such ~~activities;~~
26 activities.
- 27 (3) A crime involving fraud or moral turpitude by conviction ~~thereof;~~
28 thereof.
- 29 (4) Fraud or misrepresentation in obtaining or receiving a license or in
30 preneed funeral ~~planning;~~ planning.
- 31 (5) False or misleading ~~advertising;~~ or advertising.
- 32 (6) Violating or cooperating with others to violate any provision of this
33 Article or Article, the rules and regulations of the Board, pursuant thereto.
34 or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453
35 (1984), as amended from time to time.

36 In any case in which the Board is authorized to take any of the actions permitted
37 under this subsection, the Board may instead accept an offer in compromise of the
38 charges whereby the accused shall pay to the Board a penalty of not more than one
39 thousand dollars (\$1,000)."

40 Section 30. G.S. 90-210.69(e) reads as rewritten:

41 "(e) ~~All hearings under this Article shall be conducted pursuant to G.S. 150B-40(e).~~
42 Judicial review shall be pursuant to Article 4 of Chapter 150B of the General Statutes."

43 Section 31. G.S. 90-210.70(c) reads as rewritten:

1 "(c) If a corporation or limited liability company embezzles or fraudulently or
2 knowingly and willfully misapplies or converts preneed funeral funds as provided in
3 subsection (a) hereof or otherwise violates any provision of this Article, the officers,
4 directors, members, agents, or employees responsible for committing the offense shall be
5 fined or imprisoned as herein provided."

6 Section 32. G.S. 90-210.70(d) reads as rewritten:

7 "(d) The Board shall have the power to investigate violations of this section and
8 shall deliver all evidence of violations of subsection (a) of this section to the district
9 attorney in the county where the offense occurred. The Board shall, with the fees
10 collected under this Article, employ legal counsel and other staff to monitor preneed
11 trusts, investigate complaints, audit preneed trusts, and be responsible for delivering
12 evidences to the district attorney when there is evidence ~~of criminal violation~~ that a felony
13 has been committed by a licensee. The record of complaints, auditing, and enforcement
14 shall be presented in an annual report from the Board to the General Assembly."

15 Section 33. Article 13D of Chapter 90 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 90-210.73. Not public record.**

18 The names and addresses of the purchasers and beneficiaries of preneed funeral
19 contracts filed with the Board shall not be subject to Chapter 132 of the General
20 Statutes."

21 Section 34. Article 16 of Chapter 130A of the General Statutes is amended by
22 adding a new Part to read:

23 **"PART 7. DISPOSITION OF BODY OR BODY PARTS.**

24 **"§ 130A-422. Authority to dispose of body or body parts.**

25 (a) An individual at least 18 years of age may authorize the disposition of the
26 individual's own dead body in a written will, pursuant to a health care power of attorney
27 to the extent provided in Article 3 of Chapter 32A of the General Statutes, pursuant to a
28 preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General
29 Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of
30 Chapter 90 of the General Statutes, or in a written statement signed by the individual and
31 witnessed by two persons who are at least 18 years old.

32 (b) If a decedent has left no written authorization for the disposal of the decedent's
33 body as permitted under subsection (a) of this section, the following competent persons in
34 the order listed may authorize the type, method, place, and disposition of the decedent's
35 body:

36 (1) The surviving spouse.

37 (2) A majority of the surviving children.

38 (3) The surviving parents.

39 (4) A majority of the surviving siblings.

40 (5) A majority of the persons in the classes of the next degrees of kinship,
41 in descending order, who, under State law, would inherit the decedent's
42 estate if the decedent died intestate.

1 (6) A person who has exhibited special care and concern for the decedent
2 and is willing and able to make decisions about the disposition.

3 This subsection does not grant to any person the right to cancel a preneed funeral
4 contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to
5 prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63.

6 (c) An individual at least 18 years of age may, in a writing signed by the
7 individual, authorize the disposition of one or more of the individual's body parts that has
8 been or will be removed. If the individual does not authorize the disposition, a person
9 listed in subsection (b) of this section may authorize the disposition as if the individual
10 was deceased.

11 (d) This section does not apply to the disposition of dead human bodies as
12 anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the
13 right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General
14 Statutes."

15 Section 35. The Board shall adopt temporary rules to implement the
16 provisions of this act.

17 Section 36. This act becomes effective October 1, 1997.