

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 811
Committee Substitute Favorable 5/9/13

Short Title: Amend Practice of Funeral Service Laws.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED
AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF FUNERAL
SERVICE.

The General Assembly of North Carolina enacts:

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 G.S. 58-58-97(d) is repealed.

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

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

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

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

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

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



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

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

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

18 (e1) Any funeral establishment or embalming facility that, upon inspection, is found not
19 to meet all of the requirements of this Article shall pay a reinspection fee to the Board for each
20 additional inspection that is made to ascertain that the deficiency or other violation has been
21 corrected. The amount of the reinspection fee shall be based on the actual cost of reinspection,
22 taking into consideration the salary of any employees involved and any expenses incurred
23 during the reinspection, but shall not exceed three hundred dollars (\$300.00) per reinspection.

24 (e2) If, after any inspection, a funeral establishment is found to have any documents
25 required by Funeral Industry Practices, 16 C.F.R. Part 453 (1984), not to be in compliance, the
26 Board may charge a reinspection fee not to exceed twenty-five dollars (\$25.00) per submission
27 to determine whether the documents are in compliance. If a reinspection is conducted under
28 subsection (e1) of this section, the Board shall include the costs of reinspection in the
29 reinspection fee assessed under subsection (e1) of this section.

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

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

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

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

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

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

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

1 "§ 90-210.25. Licensing.

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

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

5 a. Be at least 18 years of age.

6 b. Be of good moral character.

7 c. Be a graduate of a Funeral Director Program at a mortuary science
8 college approved by the Board or a school of mortuary science
9 accredited by the American Board of Funeral Service Education.
10 Have completed a minimum of 32 semester hours or 48 quarter hours
11 of instruction, including the subjects set out in sub-part e.1. of this
12 subdivision, as prescribed by a mortuary science college approved by
13 the Board or a school of mortuary science accredited by the
14 American Board of Funeral Service Education.15 d. Have completed 12 months of resident traineeship as a funeral
16 director, pursuant to the procedures and conditions set out in
17 G.S. 90-210.25(a)(4), either before or after satisfying the educational
18 requirement under sub-subdivision c. of this subdivision.19 e. Have passed an oral or written funeral director examination on the
20 following subjects:21 1. Psychology, sociology, pathology, funeral directing, business
22 law, funeral law, funeral management, and accounting.

23 2. Repealed by Session Laws 1997-399, s. 5.

24 3. Laws of North Carolina–Carolina, the standards set forth in
25 Funeral Industry Practices, 16 C.F.R. Part 453 (1984),
26 pursuant to its most recent version, and rules of the Board and
27 other agencies dealing with the care, transportation and
28 disposition of dead human bodies.29 (2) To be licensed for the practice of embalming under this Article, a person
30 must:

31 a. Be at least 18 years of age.

32 b. Be of good moral character.

33 c. Be a graduate of a mortuary science college approved by the Board.

34 d. Have completed 12 months of resident traineeship as an embalmer
35 pursuant to the procedures and conditions set out in
36 G.S. 90-210.25(a)(4), either before or after satisfying the educational
37 requirement under sub-subdivision c. of this subdivision.38 e. Have passed an oral or written embalmer examination on the
39 following subjects:40 1. Embalming, restorative arts, chemistry, pathology,
41 microbiology, and anatomy.

42 2. Repealed by Session Laws 1997-399, s. 6.

43 3. Laws of North Carolina–Carolina, the standards set forth in
44 Funeral Industry Practices, 16 C.F.R. Part 453 (1984),
45 pursuant to its most recent version, and rules of the Board and
46 other agencies dealing with the care, transportation and
47 disposition of dead human bodies.48 (3) To be licensed for the practice of funeral service under this Article, a person
49 must:

50 a. Be at least 18 years of age.

51 b. Be of good moral character.

- 1 c. Be a graduate of and receive an associate degree from a mortuary
2 science college approved by the Board or a school of mortuary
3 science accredited by the American Board of Funeral Service
4 Education. Have completed a minimum of 60 semester hours or 90
5 quarter hours of instruction, including the subjects set out in sub-part
6 e.1. of this subdivision, as prescribed by a mortuary science college
7 approved by the Board or a school of mortuary science accredited by
8 the American Board of Funeral Service Education.
- 9 d. Have completed 12 months of resident traineeship as a funeral
10 service licensee, pursuant to the procedures and conditions set out in
11 G.S. 90-210.25(a)(4), either before or after satisfying the educational
12 requirement under sub-subdivision c. of this subdivision.
- 13 e. Have passed an oral or written funeral service examination on the
14 following subjects:
- 15 1. Psychology, sociology, funeral directing, business law,
16 funeral law, funeral management, and accounting.
 - 17 2. Embalming, restorative arts, chemistry, pathology,
18 microbiology, and anatomy.
 - 19 3. Repealed by Session Laws 1997-399, s. 7.
 - 20 4. Laws of North Carolina—Carolina, the standards set forth in
21 Funeral Industry Practices, 16 C.F.R. Part 453 (1984),
22 pursuant to its most recent version, and rules of the Board and
23 other agencies dealing with the care, transportation and
24 disposition of dead human bodies.
- 25 (4) a. A person desiring to become a resident trainee shall apply to the
26 Board on a form provided by the Board. The application shall state
27 that the applicant is not less than 18 years of age, of good moral
28 character, and is the graduate of a high school or the equivalent
29 thereof, and shall indicate the licensee under whom the applicant
30 expects to train. A person training to become an embalmer may serve
31 under either a licensed embalmer or a funeral service licensee. A
32 person training to become a funeral director may serve under either a
33 licensed funeral director or a funeral service licensee. A person
34 training to become a funeral service licensee shall serve under a
35 funeral service licensee. The application must be sustained by oath of
36 the applicant and be accompanied by the appropriate fee. When the
37 Board is satisfied as to the qualifications of an applicant it shall
38 instruct the secretary to issue a certificate of resident traineeship.
- 39 b. Within 30 days of a resident trainee leaving the proctorship of the
40 licensee under whom the trainee has worked, the licensee shall file
41 with the Board an affidavit showing the length of time served with
42 the licensee by the trainee, and the affidavit shall be made a matter of
43 record in the Board's office. The licensee shall deliver a copy of the
44 affidavit to the trainee.
- 45 c. A person who has not completed the traineeship and wishes to do so
46 under a licensee other than the one whose name appears on the
47 original certificate may reapply to the Board for approval.
- 48 d. A certificate of resident traineeship shall be signed by the resident
49 trainee and upon payment of the renewal fee shall be renewable one
50 year after the date of original registration; but the certificate may not
51 be renewed more than two times. The Board shall mail to each

1 registered trainee at his last known address a notice that the renewal
2 fee is due and that, if not paid within 30 days of the notice, the
3 certificate will be canceled. A late fee, in addition to the renewal fee,
4 shall be charged for a late renewal, but the renewal of the registration
5 of any resident trainee who is engaged in active service in ~~the~~
6 ~~Armed~~the Armed Forces of the United States at the time renewal is
7 due may, at the discretion of the Board, be held in abeyance for the
8 duration of that service without penalties. No credit shall be allowed
9 for the 12-month period of resident traineeship that shall have been
10 completed more than five years preceding the examination for a
11 license. However, any resident trainee whom G.S. 105-249.2 grants
12 an extension of time to file a tax return shall be allowed an extension
13 of time to retain credit equal to the number of days of active
14 deployment.

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

- 24 1. For funeral director trainees, the conduct of any funerals
25 during the relevant time period,
- 26 2. For embalming trainees, the embalming of any bodies during
27 the relevant time period,
- 28 3. For funeral service trainees, both of the activities named in 1
29 and 2 of this subsection, engaged in during the relevant time
30 period.

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

- 35 1. That the funeral director trainee has, under supervision,
36 assisted in directing at least 25 funerals during the resident
37 traineeship,
- 38 2. That the embalmer trainee has, under supervision, assisted in
39 embalming at least 25 bodies during the resident traineeship,
- 40 3. That the funeral service trainee has, under supervision,
41 assisted in directing at least 25 funerals and, under
42 supervision, assisted in embalming at least 25 bodies during
43 the resident traineeship.

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

- 1 h. Each sponsor for a registered resident trainee must during the period
2 of sponsorship be actively employed with a funeral establishment.
3 The traineeship shall be a primary vocation of the trainee.
4 i. Only one resident trainee may register and serve at any one time
5 under any one person licensed under this Article.
6 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
7 l. The Board shall register no more than one resident trainee at a
8 funeral establishment that served 100 or fewer families during the 12
9 months immediately preceding the date of the application, and shall
10 register no more than one resident trainee for each additional 100
11 families served at the funeral establishment during the 12 months
12 immediately preceding the date of the application.
- 13 (5) The Board by regulation may recognize other examinations that the Board
14 deems equivalent to its own.
- 15 a. All licenses shall be signed by the president and secretary of the
16 Board and the seal of the Board affixed thereto. All licenses shall be
17 issued, renewed or duplicated for a period not exceeding one year
18 upon payment of the renewal fee, and all licenses, renewals or
19 duplicates thereof shall expire and terminate the thirty-first day of
20 December following the date of their issue unless sooner revoked and
21 canceled; provided, that the date of expiration may be changed by
22 unanimous consent of the Board and upon 90 days' written notice of
23 such change to all persons licensed for the practice of funeral
24 directing, embalming and funeral service in this State.
- 25 b. The holder of any license issued by the Board who shall fail to renew
26 the same ~~on or before February~~ January 1 of the calendar year for
27 which the license is to be renewed shall have forfeited and
28 surrendered the license as of that date. No license forfeited or
29 surrendered pursuant to the preceding sentence shall be reinstated by
30 the Board unless it is shown to the Board that the applicant has,
31 throughout the period of forfeiture, engaged full time in another state
32 of the United States or the District of Columbia in the practice to
33 which the applicant's North Carolina license applies and has
34 completed for each such year continuing education substantially
35 equivalent in the opinion of the Board to that required of North
36 Carolina licensees; or has completed in North Carolina a total
37 number of hours of accredited continuing education computed by
38 multiplying five times the number of years of forfeiture; or has
39 passed the North Carolina examination for the forfeited license. No
40 additional resident traineeship shall be required. The applicant shall
41 be required to pay all delinquent annual renewal fees and a
42 reinstatement fee. The Board may waive the provisions of this
43 section for an applicant for a forfeiture which occurred during the
44 applicant's service in the Armed Forces of the United States provided
45 the applicant applies within six months following severance
46 therefrom.
- 47 c. All licensees now or hereafter licensed in North Carolina shall take
48 continuing education courses in subjects relating to the practice of
49 the profession for which they are licensed, to the end that the benefits
50 of learning and reviewing skills will be utilized and applied to assure
51 proper service to the public.

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

1 fingerprints to the Federal Bureau of Investigation for a national
2 criminal history check. The Board shall keep all information pursuant
3 to this subdivision privileged, in accordance with applicable State
4 law and federal guidelines, and the information shall be confidential
5 and shall not be a public record under Chapter 132 of the General
6 Statutes.

7 The Department of Justice may charge each applicant a fee for
8 conducting the checks of criminal history records authorized by this
9 subdivision.

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

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

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

25 (2) ~~The licensee~~: licensee does all of the following:

- 26 a. Maintains all of his or her business records at a location made known
27 to the Board and available for inspection by the Board under the
28 same terms and conditions as the business records of a licensed
29 funeral establishment; establishment.
- 30 b. Complies with rules and regulations imposed on funeral
31 establishments and the funeral profession that are designed to protect
32 consumers, to include, but not be limited to, the Federal Trade
33 Commission's laws and rules requiring General Price Lists and
34 Statements of Goods and ~~Services~~; and Services.
- 35 c. Pays to the Board the funeral establishment license fee required by
36 law and set by the Board.
- 37 d. Obtains and maintains a professional liability insurance policy with
38 liability limits of at least one million dollars (\$1,000,000).
39 Certificates of such insurance shall be submitted to the Board within
40 30 days of the initial registration of the licensee by the Board, shall
41 be made available during any inspection by the Board, and shall be
42 submitted to the Board upon request. The licensee shall notify the
43 Board in writing within 30 days of any change in the insurer or any
44 cancellation or suspension of the policy.
- 45 e. Provides funeral directing services to no more than two funeral
46 establishments and reports the names and addresses of such
47 establishments to the Board annually as a condition of renewal of the
48 registration. The licensee shall notify the Board in writing within 30
49 days of any change in the funeral establishments with which the
50 licensee has contracted or affiliated.

- 1 Nothing in this subdivision shall preclude a licensee from arranging
2 cremations and cremating human remains while employed by a crematory.
- 3 (b) Persons Licensed under the Laws of Other Jurisdictions. –
- 4 (1) The Board shall grant licenses to funeral directors, embalmers and funeral
5 service licensees, licensed in other states, territories, the District of
6 Columbia, and foreign countries, when it is shown that the applicant holds a
7 valid license as a funeral director, embalmer or funeral service licensee
8 issued by the other jurisdiction, has demonstrated knowledge of the laws and
9 rules governing the profession in North Carolina and has submitted proof of
10 his good moral character; and either that the applicant has continuously
11 practiced the profession in ~~the other~~ a jurisdiction where funeral directors,
12 embalmers, and funeral service licensees are required to hold a license to
13 practice for at least three years immediately preceding his application, or the
14 Board has determined that the licensing requirements for the other
15 jurisdiction are substantially similar to those of North Carolina.
- 16 (2) The Board shall periodically review the mortuary science licensing
17 requirements of other jurisdictions and shall determine which licensing
18 requirements are substantially similar to the requirements of North Carolina.
- 19 (3) The Board may issue special permits, to be known as courtesy cards,
20 permitting nonresident funeral directors, embalmers and funeral service
21 licensees to remove bodies from and to arrange and direct funerals and
22 embalm bodies in this State, but these privileges shall not include the right to
23 establish a place of business in or engage generally in the business of funeral
24 directing and embalming in this State. Except for special permits issued by
25 the Board for teaching continuing education programs and for work in
26 connection with disasters, no special permits may be issued to nonresident
27 funeral directors, embalmers, and funeral service licensees from states that
28 do not issue similar courtesy cards to persons licensed in North Carolina
29 pursuant to this Article.
- 30 (c) Registration, Filing and Transportation. –
- 31 (1) The holder of any license granted by this State for those within the funeral
32 service profession or renewal thereof provided for in this Article shall cause
33 registration to be filed in the office of the board of health of the county or
34 city in which he practices his profession, or if there be no board of health in
35 such county or city, at the office of the clerk of the superior court of such
36 county. All such licenses, certificates, duplicates and renewals thereof shall
37 be displayed in a conspicuous place in the funeral establishment where the
38 holder renders service.
- 39 (2) It shall be unlawful for any railway agent, express agency, baggage master,
40 conductor or other person acting as such, to receive the dead body of any
41 person for shipment or transportation by railway or other public conveyance,
42 to a point outside of this State, unless the body is accompanied by a
43 burial-transit permit.
- 44 (3) The "transportation or removal of a dead human body" shall mean the
45 removal of a dead human body for a fee from the location of the place of
46 death or discovery of death or the transportation of the body to or from a
47 medical facility, funeral establishment or facility, crematory or related
48 holding facility, place of final disposition, or place designated by the
49 Medical Examiner for examination or autopsy of the dead human body.
- 50 (4) Any individual, not otherwise exempt from this subsection, shall apply for
51 and receive a permit from the Board before engaging in the transportation or

1 removal of a dead human body in this State. Unless otherwise exempt from
2 this subsection, no corporation or other business entity shall engage in the
3 transportation or removal of a dead human body unless it has in its employ at
4 least one individual who holds a permit issued under this section. No
5 individual permit holder shall engage in the transportation or removal of a
6 dead human body for more than one person, firm, or corporation without
7 first providing the Board with written notification of the name and physical
8 address of each such employer.

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

- 13 a. Licensees under this Article and their employees.
- 14 b. Employees of common carriers.
- 15 c. Except as provided in sub-subdivision (6)c. of this section,
16 employees of the State and its agencies and employees of local
17 governments and their agencies.
- 18 d. Funeral directors licensed in another state and their employees.

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

- 20 a. Emergency medical technicians, rescue squad workers, volunteer and
21 paid firemen, and law enforcement officers while acting within the
22 scope of their employment.
- 23 b. Employees of public or private hospitals, nursing homes, or
24 long-term care facilities, while handling a dead human body within
25 such facility or while acting within the scope of their employment.
- 26 c. State and county medical examiners and their investigators.
- 27 d. Any individual transporting cremated remains.
- 28 e. Any individual transporting or removing a dead human body of their
29 immediate family or next of kin.
- 30 f. Any individual who has exhibited special care and concern for the
31 decedent.

32 (7) Individuals eligible to receive a permit under this section for the
33 transportation or removal of a dead human body for a fee, shall:

- 34 a. Be at least 18 years of age.
- 35 b. Possess and maintain a valid drivers license issued by this State and
36 provide proof of all liability insurance required for the registration of
37 any vehicle in which the person intends to engage in the business of
38 the removal or transportation of a dead human body.
- 39 c. Affirmatively state under oath that the person has read and
40 understands the statutes and rules relating to the removal and
41 transportation of dead human bodies and any guidelines as may be
42 adopted by the Board.
- 43 d. Provide three written character references on a form prescribed by
44 the Board, one of which must be from a licensed funeral director.
- 45 e. Be of good moral character.

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

- 1 by the Board after February 1 of each year. made on or after January 1 to
2 renew an expired permit.
- 3 (9) No person shall transport a dead human body in the open cargo area or
4 passenger area of a vehicle or in any vehicle in which the body may be
5 viewed by the public. Any person removing or transporting a dead human
6 body shall either cover the body, place it upon a stretcher designed for the
7 purpose of transporting humans or dead human bodies in a vehicle, and
8 secure such stretcher in the vehicle used for transportation, or shall enclose
9 the body in a casket or container designed for common carrier transportation,
10 and secure the casket or container in the vehicle used for transportation. No
11 person shall fail to treat a dead human body with respect at all times. No
12 person shall take a photograph or video recording of a dead human body
13 without the consent of a member of the deceased's immediate family or next
14 of kin or other authorizing agent.
- 15 (10) The Board may adopt rules under this section including permit application
16 procedures and the proper procedures for the removal, handling, and
17 transportation of dead human bodies. The Board shall consult with the
18 Office of the Chief Medical Examiner before initiating rule making under
19 this section and before adopting any rules pursuant to this section. Nothing
20 in this section prohibits the Office of the Chief Medical Examiner from
21 adopting policies and procedures regarding the removal, transportation, or
22 handling of a dead human body under the jurisdiction of that office that are
23 more stringent than the laws in this section or any rules adopted under this
24 section. ~~Any violation of this section or rules adopted under this section may~~
25 ~~be punished by the Board by a suspension or revocation of the permit to~~
26 ~~transport or remove dead human bodies or by a term of probation. The Board~~
27 ~~may, in lieu of any disciplinary measure, accept a penalty not to exceed five~~
28 ~~thousand dollars (\$5,000) per violation.~~
- 29 (11) Each applicant for a permit shall provide the Board with the applicant's
30 home address, name and address of any corporation or business entity
31 employing such individual for the removal or transportation of dead human
32 bodies, and the make, year, model, and license plate number of any vehicle
33 in which a dead human body is transported. A permittee shall provide
34 written notification to the Board of any change in the information required to
35 be provided to the Board by this section or by the application for a permit
36 within 30 days after such change takes place.
- 37 (12) If any person shall engage in or hold himself out as engaging in the business
38 of transportation or removal of a dead human body without first having
39 received a permit under this section, the person shall be guilty of a Class 2
40 misdemeanor.
- 41 (13) The Board shall have the authority to inspect any place or premises that the
42 business of removing or transporting a dead human body is carried out and
43 shall also have the right of inspection of any vehicle and equipment used by
44 a permittee for the removal or transportation of a dead human body.
- 45 (14) The Board may suspend, revoke, or refuse to issue or renew the permit,
46 place the permittee on a term of probation, or accept a civil penalty not to
47 exceed five thousand dollars (\$5,000) in conjunction with a term of
48 probation or in lieu of other disciplinary action when it finds that any person
49 permitted to transport dead human bodies has engaged in any of the
50 following acts:
- 51 a. Conviction of a felony or a crime involving fraud or moral turpitude.

- 1 b. Denial, suspension, or revocation of an occupational or business
2 license by another jurisdiction.
3 c. Fraud or misrepresentation in obtaining or renewing a permit.
4 d. False or misleading advertising as the holder of a permit.
5 e. Solicitation of dead human bodies by the permittee or the permittee's
6 agents, assistants, or employees. However, this sub-subdivision shall
7 not be construed to prohibit general advertising.
8 f. Gross immorality, including being under the influence of alcohol or
9 drugs while handling or transporting dead human bodies.
10 g. Failing to treat a dead human body with respect at all times.
11 h. Violating or cooperating with others to violate any of the provisions
12 of this Article, any rules and regulations of the Board, or any State
13 law or municipal or county ordinance or regulation affecting the
14 handling, custody, care, or transport of dead human bodies.
15 i. Refusing to surrender promptly the custody of a dead human body
16 upon the express order of the person lawfully entitled to the custody
17 of the body.
18 j. Indecent exposure or exhibition of a dead human body while in the
19 custody or control of a permittee.
20 k. Practicing funeral directing, funeral service, or embalming without a
21 license.
22 The Board shall have the authority to determine the length and conditions of
23 any period of revocation, suspension, refusal to issue or renew, or probation.
24 (d) Establishment Permit. –
25 (1) No person, firm or corporation shall conduct, maintain, manage or operate a
26 funeral establishment unless a permit for that establishment has been issued
27 by the Board and is conspicuously displayed in the establishment. Each
28 funeral establishment at a specific location shall be deemed to be a separate
29 entity and shall require a separate permit and compliance with the
30 requirements of this Article.
31 (2) A permit shall be issued when:
32 a. It is shown that the funeral establishment has in charge a person,
33 known as a manager, licensed for the practice of funeral directing or
34 funeral service, who shall not be permitted to manage more than one
35 funeral establishment. The manager shall be charged with overseeing
36 the daily operation of the funeral establishment. If the manager
37 leaves the employment of the funeral establishment and is the only
38 licensee employed who is eligible to serve as manager, the funeral
39 establishment may operate without a manager for a period not to
40 exceed 30 days so long as: (i) the funeral establishment retains one or
41 more licensees to perform all services requiring a license under this
42 Article; (ii) the licensees are not practicing under the exception
43 authorized by G.S. 90-210.25(a2) and would otherwise be eligible to
44 serve as manager; and (iii) the funeral establishment registers the
45 name of the licensees with the Board.
46 b. The Board receives a list of the names of all part-time and full-time
47 licensees employed by the establishment.
48 c. It is shown that the funeral establishment satisfies the requirements
49 of G.S. 90-210.27A.
50 d. The Board receives payment of the permit fee.

- 1 (3) Applications for funeral establishment permits shall be made on forms
2 provided by the Board and filed with the Board by the owner, a partner, a
3 member of the limited liability company, or an officer of the corporation ~~by~~
4 ~~January 1 of each year~~, and shall be accompanied by the application fee or
5 renewal fee, as the case may be. All permits shall expire on December 31 of
6 each year. If the renewal application and renewal fee are ~~not~~ received in the
7 Board's office on or ~~before February 1~~, after January 1, a late renewal fee, in
8 addition to the regular renewal fee, shall be charged.
- 9 (4) The Board may place on probation, refuse to issue or renew, suspend, or
10 revoke a permit when an owner, partner, manager, member, operator, or
11 officer of the funeral establishment violates any provision of this Article or
12 any regulations of the Board, or when any agent or employee of the funeral
13 establishment, with the consent of any person, firm or corporation operating
14 the funeral establishment, violates any of those provisions, rules or
15 regulations. In any case in which the Board is entitled to place a funeral
16 establishment permittee on a term of probation, the Board may also impose a
17 penalty of not more than five thousand dollars (\$5,000) in conjunction with
18 the probation. In any case in which the Board is entitled to suspend, revoke,
19 or refuse to renew a permit, the Board may accept from the funeral
20 establishment permittee an offer to pay a penalty of not more than five
21 thousand dollars (\$5,000). The Board may either accept a penalty or revoke
22 or refuse to renew a license, but not both. Any penalty under this subdivision
23 may be in addition to any penalty assessed against one or more licensed
24 individuals employed by the funeral establishment. The Board shall have the
25 authority to determine the length and conditions of any period of revocation,
26 suspension, refusal to issue or renew, or probation.
- 27 (5) Funeral establishment permits are not transferable. A new application for a
28 permit shall be made to the Board within 30 days of a change of ownership
29 of a funeral establishment. The Board shall not issue more than one funeral
30 establishment permit to the same building or property.
- 31 (6) A funeral establishment shall not contract or affiliate with more than two
32 licensees that are permitted to engage in the practice of funeral directing or
33 funeral service under G.S. 90-210.25(a2)(2). Any funeral establishment that
34 contracts or affiliates with a licensee described in G.S. 90-210.25(a2)(2)
35 shall report the names and addresses of such licensees to the Board annually
36 as a condition of renewal of the funeral establishment permit, and the funeral
37 establishment shall notify the Board in writing within 30 days of any change
38 in such licensees with whom the funeral establishment has contracted or
39 affiliated.
- 40 (d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a
41 facility other than a funeral establishment or in the residence of the deceased person shall, no
42 later than January 1 of each year, register the facility with the Board on forms provided by the
43 Board.
- 44 (e) Revocation; Suspension; Compromise; Disclosure. –
- 45 (1) Whenever the Board finds that an applicant for a license or a person to
46 whom a license has been issued by the Board is guilty of any of the
47 following acts or omissions and the Board also finds that the person has
48 thereby become unfit to practice, the Board may suspend or revoke the
49 license or refuse to issue or renew the license, in accordance with the
50 procedures set out in Chapter 150B of the General Statutes:
- 51 a. Conviction of a felony or a crime involving fraud or moral turpitude.

- 1 a1. Denial, suspension, or revocation of an occupational or business
- 2 license by another jurisdiction.
- 3 b. Fraud or misrepresentation in obtaining or renewing a license or in
- 4 the practice of funeral service.
- 5 c. False or misleading advertising as the holder of a license.
- 6 d. Solicitation of dead human bodies by the licensee, his agents,
- 7 assistants, or employees; but this paragraph shall not be construed to
- 8 prohibit general advertising by the licensee.
- 9 e. Employment directly or indirectly of any resident trainee agent,
- 10 assistant or other person, on a part-time or full-time basis, or on
- 11 commission, for the purpose of calling upon individuals or
- 12 institutions by whose influence dead human bodies may be turned
- 13 over to a particular licensee.
- 14 f. The payment or offer of payment of a commission by the licensee,
- 15 his agents, assistants or employees for the purpose of securing
- 16 business except as authorized by Article 13D of this Chapter.
- 17 g. Gross immorality, including being under the influence of alcohol or
- 18 drugs while practicing funeral service.
- 19 h. Aiding or abetting an unlicensed person to perform services under
- 20 this Article, including the use of a picture or name in connection with
- 21 advertisements or other written material published or caused to be
- 22 published by the licensee.
- 23 i. Failing to treat a dead human body with respect at all times.
- 24 j. Violating or cooperating with others to violate any of the provisions
- 25 of this Article or Articles 13D, 13E, or 13F of Chapter 90 of the
- 26 General Statutes, any rules and regulations of the Board, or the
- 27 standards set forth in Funeral Industry Practices, 16 C.F.R. 453
- 28 (1984), as amended from time to time.
- 29 k. Violation of any State law or municipal or county ordinance or
- 30 regulation affecting the handling, custody, care or transportation of
- 31 dead human bodies.
- 32 l. Refusing to surrender promptly the custody of a dead human body or
- 33 cremated remains upon the express order of the person lawfully
- 34 entitled to the custody thereof.
- 35 m. Knowingly making any false statement on a certificate of death or
- 36 violating or cooperating with others to violate any provision of
- 37 Article 4 or 16 of Chapter 130A of the General Statutes or any rules
- 38 or regulations promulgated under those Articles as amended from
- 39 time to time.
- 40 n. Indecent exposure or exhibition of a dead human body while in the
- 41 custody or control of a licensee.
- 42 o. Failure to refund any insurance proceeds received as consideration in
- 43 excess of the funeral contract purchase price within 60 days of
- 44 receipt.
- 45 p. Failure to provide, within a reasonable time, either the funeral goods
- 46 and services purchased under a funeral contract or a refund of the
- 47 purchase price for the goods or services.
- 48 q. Violation of G.S. 58-58-97.
- 49 In any case in which the Board is entitled to suspend, revoke or refuse to
- 50 renew a license, the Board may accept from the licensee an offer to pay a

1 penalty of not more than five thousand dollars (\$5,000). The Board may
2 either accept a penalty or revoke or refuse to renew a license, but not both.
3 (2) Where the Board finds that a licensee is guilty of one or more of the acts or
4 omissions listed in subdivision (e)(1) of this section but it is determined by
5 the Board that the licensee has not thereby become unfit to practice, the
6 Board may place the licensee on a term of probation in accordance with the
7 procedures set out in Chapter 150B of the General Statutes. In any case in
8 which the Board is entitled to place a licensee on a term of probation, the
9 Board may also impose a penalty of not more than five thousand dollars
10 (\$5,000) in conjunction with the probation. The Board may also require
11 satisfactory completion of remedial or educational training as a prerequisite
12 to license reinstatement or for completing the term of probation. The Board
13 shall have the authority to determine the length and conditions of any period
14 of suspension, revocation, probation, or refusal to issue or renew a license.

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

20 No funeral service establishment shall accept a dead human body from any public officer
21 (excluding the State or county medical examiner or his agent), or employee or from the official
22 of any institution, hospital or nursing home, or from a physician or any person having a
23 professional relationship with a decedent, without having first made due inquiry as to the
24 desires of the persons who have the legal authority to direct the disposition of the decedent's
25 body. If any persons are found, their authority and directions shall govern the disposal of the
26 remains of the decedent. Any funeral service establishment receiving the remains in violation
27 of this subsection shall make no charge for any service in connection with the remains prior to
28 delivery of the remains as stipulated by the persons having legal authority to direct the
29 disposition of the body. This section shall not prevent any funeral service establishment from
30 charging and being reimbursed for services rendered in connection with the removal of the
31 remains of any deceased person in case of accidental or violent death, and rendering necessary
32 professional services required until the persons having legal authority to direct the disposition
33 of the body have been notified.

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

41 At the time funeral arrangements are made and prior to the time of rendering the service
42 and providing the merchandise, a funeral director or funeral service licensee shall give or cause
43 to be given to the person or persons making such arrangements a written statement duly signed
44 by a licensee of said funeral establishment showing the price of the service as selected and what
45 services are included therein, the price of each of the supplemental items of services or
46 merchandise requested, and the amounts involved for each of the items for which the funeral
47 establishment will advance moneys as an accommodation to the person making arrangements,
48 insofar as any of the above items can be specified at that time. If fees charged by a finance
49 company for expediting payment of life insurance proceeds to the establishment will be passed
50 on to the person or persons responsible for payment of the funeral expenses, information
51 regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing.

1 The statement shall have printed, typed or stamped on the face thereof: "This statement of
2 disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)." The Board
3 may prescribe other disclosures that a licensee shall give to consumers upon finding that the
4 disclosure is necessary to protect public health, safety, and welfare.

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

- 7 (1) A licensee under this Article that performs embalming or otherwise prepares
8 a dead human body in the ordinary course of business.
- 9 (2) The Chief Medical Examiner or anyone acting under the Chief Medical
10 Examiner's authority.
- 11 (3) An autopsy technician who takes or recovers tissue from a dead human body
12 if all of the following apply:
 - 13 a. The taking or recovery is the subject of an academic research
14 program.
 - 15 b. The academic research program has appropriate Institutional Review
16 Board supervision.
 - 17 c. The academic research program has obtained informed consent of the
18 donor or the person legally authorized to provide consent.

19 No funeral establishment or person licensed under this Article shall permit the taking or
20 recovery of human tissue from a dead human body in its custody or control for human
21 transplantation purposes or for research purposes, except that a funeral establishment or person
22 licensed under this Article may permit an autopsy technician to take or recover tissue at a
23 funeral establishment pursuant to subdivision (3) of this subsection. No funeral establishment
24 or any of its licensees, agents, or employees shall accept, solicit, or offer to accept any
25 payment, gratuity, commission, or compensation of any kind for referring potential tissue
26 donors to a tissue bank or tissue broker or to an eye bank or eye broker. For purposes of this
27 subsection, the term "tissue" does not include an eye.

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

- 29 (1) If any person shall practice or hold himself or herself out as practicing the
30 profession or art of embalming, funeral directing or practice of funeral
31 service or operating a funeral establishment without having complied with
32 the provisions of this Article, the person shall be guilty of a Class 2
33 misdemeanor.
- 34 (2) Any person who knowingly or willfully abuses, mutilates, or fails to treat
35 with reasonable care a dead human body in a person's custody shall be guilty
36 of a Class 2 misdemeanor. It shall not be a violation of this subdivision for a
37 person licensed to practice embalming or funeral service under this Article
38 to embalm a dead human body consistent with techniques of embalming
39 generally recognized by embalmer and funeral service licensees under this
40 Article or for a person licensed to practice funeral directing or funeral
41 service to exhibit a dead human body consistent with lawful instructions
42 from the person authorized to dispose of the dead human body.

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

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

2 "**§ 90-210.27A. Funeral establishments.**

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

5 (1) Contain one standard type operating table.

6 (2) Contain facilities for adequate drainage.

7 (3) Contain a sanitary waste receptacle.

8 (4) Contain an instrument sterilizer.

9 (5) Have wall-to-wall floor covering of tile, concrete, or other material which
10 can be easily cleaned.

11 (6) Be kept in sanitary condition and subject to inspection by the Board or its
12 agents at all times.

13 (7) Have a placard or sign on the door indicating that the preparation room is
14 private.

15 (8) Have a proper ventilation or purification system to maintain a nonhazardous
16 level of airborne contamination.

17 (a1) If the preparation room of a funeral establishment is damaged or destroyed by fire,
18 weather, or other natural disaster, the Board may suspend the requirements of subsection (a) of
19 this section in part or in whole for a period not to exceed 180 days, if the funeral establishment
20 complies with the requirements of G.S. 90-210.25(d1) and all other laws, rules, regulations, and
21 requirements of the Division of Health Services and of the city, town, or county where the
22 funeral establishment is located. To receive a suspension of more than 90 days, the applicant
23 must show good cause for additional time.

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

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

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

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

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

42 (g) No funeral establishment shall own, operate, or maintain a chapel without first
43 having registered the name, location, and ownership thereof with the Board; own or maintain
44 more than two chapels, or own or maintain a chapel outside of a radius of 50 miles from the
45 funeral establishment. A duly licensed person may use a chapel for making arrangements for
46 funeral services, selling funeral merchandise to the public by photograph, video, or computer
47 based presentation, or making financial arrangements for the rendering of the service or sale of
48 supplies, provided that the uses are secondary and incidental to and do not interfere with the
49 repose of dead human bodies, visitation, or funeral ceremony. A chapel registration shall
50 expire on December 31 of each calendar year. On or after January 1 for the calendar year for
51 which the chapel is to be registered, the registrant shall pay a late fee in addition to the renewal

1 fee to register the chapel. The Board may suspend, revoke, refuse to issue or renew, or place on
 2 probation any funeral chapel registration for any violation of this Article or rules adopted by
 3 the Board and may determine the length and conditions of any discipline imposed.

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

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

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

19 (k) A funeral establishment shall obtain and maintain a professional liability insurance
 20 policy with liability limits of at least one million dollars (\$1,000,000). If the funeral
 21 establishment utilizes a licensee that is permitted to engage in the practice of funeral directing
 22 or funeral service under G.S. 90-210.25(a2)(2), the funeral establishment shall ensure that such
 23 licensee is named as an additional insured on the professional liability insurance policy.
 24 Certificates of such insurance shall be submitted to the Board within 30 days of the initial
 25 issuance of a funeral establishment permit, shall be made available during any inspection by the
 26 Board, and shall be submitted to the Board upon request. The funeral establishment shall notify
 27 the Board within 30 days of any change of insurer or any cancellation or suspension of the
 28 policy.

29 (l) Human remains shall be stored in a licensed funeral establishment or licensed
 30 crematory when the remains are not in transit or at a gravesite, church, or other facility for a
 31 visitation or funeral service."

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

33 **"§ 90-210.28. Fees.**

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

35	Establishment permit	
36	Application	\$400.00
37	Annual renewal	250.00
38	Late renewal	150.00
39	Establishment and embalming facility reinspection fee	100.00
40	Funeral Industry Practices document reinspection fee	25.00
41	Courtesy card	
42	Application	100.00
43	Annual renewal	75.00
44	Out-of-state licensee	
45	Application	250.00
46	Embalmer, funeral director, funeral service	
47	Application-North	
48	Carolina-Resident	200.00
49	-Non-Resident	250.00
50	Annual Renewal-embalmer or	
51	funeral director	75.00

1	Total fee, embalmer and funeral director	
2	when both are held by the same person	100.00
3	-funeral service	100.00
4	Inactive Status	50.00
5	Reinstatement fee	50.00
6	Resident trainee permit	
7	Application	50.00
8	Voluntary change in supervisor	50.00
9	Annual renewal	35.00
10	Late renewal	25.00
11	Duplicate license certificate	25.00
12	Chapel registration	
13	Application	150.00
14	Annual renewal	100.00
15	Late renewal	75.00

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

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

22 "**§ 90-210.29B. Examination scores not Exemptions from public record records.**

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

27 (b) Records, papers, and other documents containing information collected or compiled
 28 by the Board or its inspectors or employees as a result of a complaint, investigation, audit, or
 29 interview in connection with a licensee, permittee, or registrant, or any application for a license,
 30 permit, or registration, shall not be considered public records within the meaning of Chapter
 31 132 of the General Statutes until the Board has taken final action in connection with the
 32 complaint, investigation, audit, or interview."

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

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

36 ...
 37 (2) ~~Notwithstanding~~ For preneed funeral contracts executed before January 1,
 38 2014, and notwithstanding any other provision of law, if a preneed funeral
 39 contract is funded by a trust deposit or trust deposits, a preneed licensee may
 40 retain, free of the trust, up to ten percent (10%) of any payments made on a
 41 preneed funeral contract, provided that the preneed licensee fully discloses
 42 in writing in advance to the preneed funeral contract purchaser the
 43 percentage of the payments to be retained. If there is no substitution pursuant
 44 to G.S. 90-210.63(a), the preneed licensee shall give credit for the amount
 45 retained upon the death of the preneed funeral contract beneficiary and
 46 performance of the preneed funeral contract."

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

48 "(a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser,
 49 or after his death the preneed funeral contract beneficiary or his legal representative, upon
 50 written notice to the financial institution or insurance company and the preneed licensee who is

1 a party to the preneed funeral contract, may direct the substitution of a different funeral
2 establishment to furnish funeral services and merchandise.

3 (1) If the substitution is made after the death of the preneed funeral contract
4 beneficiary, a funeral establishment providing any funeral services or
5 merchandise need not be a preneed licensee under this Article to receive
6 payment for such services or merchandise. The original contracting preneed
7 licensee shall be entitled to payment for any services or merchandise
8 provided pursuant to G.S. 90-210.65(d). If the substitution is made before
9 the death of the preneed funeral contract beneficiary, the substitution must
10 be to a preneed licensee. If the preneed funeral contract is funded by a trust
11 deposit or deposits, the financial institution shall immediately pay the funds
12 held to the original contracting preneed licensee.

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

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

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

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

42 **"§ 90-210.63B. Cancellation of insurance preneed contracts by preneed licensee.**

43 A preneed licensee may cancel a preneed funeral contract by sending written notice
44 first-class U.S. Mail, postage prepaid to the last known address of the preneed funeral contract
45 purchaser, or after the purchaser's death, the preneed contract beneficiary or the beneficiary's
46 legal representative, if all of the following conditions apply:

47 (1) The preneed funeral contract beneficiary has not used the preneed funeral
48 contract to qualify for benefits from the Department of Health and Human
49 Services.

1 (2) One or more insurance policies used as consideration for the preneed
2 contract have been lapsed, revoked, or cancelled by the preneed contract
3 purchaser.

4 (3) The value of all insurance policies does not exceed five hundred dollars
5 (\$500.00)."

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

7 "(d) When the balance of a preneed funeral fund is ~~one hundred dollars (\$100.00)~~ one
8 thousand dollars (\$1,000) or less and is payable to the estate of a deceased preneed funeral
9 contract beneficiary and there has been no representative of the estate appointed, the balance
10 due may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a
11 preneed funeral fund exceeds ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) or is
12 not payable to the estate, the balance must be paid into the office of the clerk of superior court
13 in the county where probate proceedings could be filed for the deceased preneed funeral
14 contract beneficiary."

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

16 "**§ 90-210.67. Application for license.**

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

46 Application for a license shall be in writing, signed by the applicant and duly verified on
47 forms furnished by the Board. Each application shall contain at least the following: the full
48 names and addresses (both residence and place of business) of the applicant, and every partner,
49 member, officer and director thereof if the applicant is a partnership, limited liability company,
50 association, or corporation and any other information as the Board shall deem necessary. A

1 preneed funeral establishment license shall be valid only at the address stated in the application
2 or at a new address approved by the Board.

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

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

24 A funeral establishment receiving a new preneed establishment license after January 1,
25 2008, or whose preneed establishment license has lapsed or was terminated for any reason after
26 January 1, 2008, other than for failure to timely renew the license, shall obtain a surety bond in
27 an amount not less than fifty thousand dollars (\$50,000) for five years, or upon demonstrating
28 that the establishment is solvent, not less than one year from the date the original license is
29 issued. The funeral establishment may purchase the bond from any company authorized by law
30 to sell bonds in this State or deposit fifty thousand dollars (\$50,000) with the clerk of superior
31 court in the county where the preneed funeral establishment maintains its facility that is
32 licensed or applying to be licensed by the Board. The Board may extend the bonding
33 requirement in the event there is a claim paid from the bond.

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

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

1 (d1) The Board may also set and collect a fee of not more than twenty-five dollars
2 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one
3 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

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

5 **SECTION 12.** G.S. 90-210.68 reads as rewritten:

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

26 (a2) Beginning in January 2015, and in January of each year thereafter, each preneed
27 licensee shall prepare and submit an annual report on its preneed funeral contract sales and
28 performance of preneed funeral contracts and submit the report to the Board in the manner and
29 form prescribed by the Board.

30"

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

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

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

50 In any case in which the Board is authorized to take any of the actions permitted under this
51 subsection, the Board may instead accept an offer in compromise of the charges whereby the

1 accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). In any
2 case in which the Board is entitled to place a licensee on a term of probation, the Board may
3 also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such
4 probation. The Board may determine the length and conditions of any period of probation,
5 revocation, suspension, or refusal to issue or renew a license."

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

7 **"§ 90-210.73. Not public record.**

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

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

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

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

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

17 **"§ 90-210.81. Requirements as to rules and bylaws.**

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

20 ...

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

1 ~~secretary treasurer to comply with this provision, it shall be the duty of the Board of Funeral~~
2 ~~Service to take charge of the books of the association and do whatever work is necessary to~~
3 ~~bring the books up to date. The actual costs of said work may be charged the burial association~~
4 ~~and shall be paid from the thirty percent (30%) allowed by law for the operation of the burial~~
5 ~~association.~~

6 Whenever in the opinion of the Board of Funeral Service, it is necessary to audit the books
7 of any burial association more than once in any calendar year, the Board of Funeral Service
8 shall have authority to assess such burial association the actual cost of any audit in excess of
9 one per calendar year, provided that no more than one audit may be deemed necessary unless a
10 discrepancy exists at the last regular audit. Such cost shall be paid from the thirty percent
11 (30%) allowed by law for the operation of the burial association.

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

28"

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

31 **"§ 90-210.108. Burial associations regulated as insurance companies.**

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

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

40 **"§ 90-210.123. Licensing and inspection.**

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

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

50 (c) Application for a license as a crematory licensee shall be made on forms furnished
51 and prescribed by the Board. The Board shall inspect the premises, facilities, structure, and

1 equipment to be used as a crematory, confirm that the crematory manager's and crematory
2 technician's educational certificate is valid, and issue a renewable license to the crematory
3 licensee if the applicant meets all the requirements and standards of the Board and the
4 requirements of this Article.

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

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

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

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

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

- 1 (7) Gross immorality, including being under the influence of alcohol or drugs
2 while performing cremation services.
- 3 (8) Aiding or abetting an unlicensed person to perform services under this
4 Article, including the use of a picture or name in connection with
5 advertisements or other written material published or caused to be published
6 by the licensee.
- 7 (9) Failing to treat a dead human body with respect at all times.
- 8 (10) Violating or cooperating with others to violate any of the provisions of this
9 Article or of the rules of the ~~Board~~Board or violation of Funeral Industry
10 Practices, 16 C.F.R. Part 453 (1984), pursuant to its most recent version.
- 11 (11) Violation of any State law or municipal or county ordinance or regulation
12 affecting the handling, custody, care, or transportation of dead human
13 bodies.
- 14 (12) Refusing to surrender promptly the custody of a dead human body or
15 cremated remains upon the express order of the person lawfully entitled to
16 the custody thereof, except as provided in G.S. 90-210.131(e).
- 17 (13) Indecent exposure or exhibition of a dead human body while in the custody
18 or control of a licensee.
- 19 (14) Practicing funeral directing, embalming, or funeral service without a license.

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

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

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

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

1 (j) Any crematory that, upon inspection, is found not to meet any of the requirements
2 of this Article shall pay a reinspection fee to the Board for each additional inspection that is
3 made to ascertain whether the deficiency or other violation has been corrected, taking into
4 consideration the salary of any employees involved and any expenses incurred during the
5 reinspection, but in no event shall the reinspection fee exceed three hundred dollars (\$300.00)
6 per reinspection."

7 **SECTION 19.** G.S. 90-210.123 is amended by adding the following new
8 subsection to read:

9 "(f1) A crematory shall sell or offer to sell only cremation services, including the
10 making of preneed cremation arrangements under G.S. 90-210.126, or sell or offer to sell initial
11 containers, urns, and other cremation merchandise through a person licensed by the Board to
12 practice funeral directing or funeral service who is an owner, employee, or agent of the
13 crematory."

14 **SECTION 20.** G.S. 90-210.124(b) reads as rewritten:

15 "(b) A person who does not exercise his or her right to dispose of the decedent's body
16 under subdivision (a)(2) of this section within five days of notification or 10 days from date of
17 death, whichever is earlier, shall be deemed to have waived his or her right to authorize
18 disposition of the decedent's body or to contest disposition in accordance with this section.
19 Pursuant to G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commissioner of
20 Anatomy declining or failing to request delivery of the dead body, the director of social
21 services, having the duty to dispose of the human remains, shall become vested with all
22 interests and rights to the dead body and shall authorize and arrange for disposition, including
23 cremation."

24 **SECTION 21.** G.S. 90-210.129 reads as rewritten:

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

- 30 (1) Decedent's name;
- 31 (2) Date of death;
- 32 (3) Date of birth;
- 33 (4) Sex;
- 34 (5) Place of death;
- 35 (6) Facility name (if not institution, give street and number);
- 36 (7) County of death;
- 37 (8) City of death; and
- 38 (9) Time of death (if known)

39 ...

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

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

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

51 ...

1 (h) The simultaneous cremation of the human remains of more than one person within
 2 the same cremation chamber is ~~forbidden~~forbidden, provided that the following human
 3 remains may be cremated simultaneously upon the express written direction of the authorized
 4 agent: (i) the human remains of multiple fetuses from the same mother and the same birth and
 5 (ii) the human remains of triplets up to the age of one year old from the same mother and the
 6 same birth.

7"

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

9 "(a) The Board may set and collect fees by rule not to exceed the following amounts
 10 from crematory and hydrolysis licensees, crematory and hydrolysis manager permit holders,
 11 and applicants:

- 12 (1) Licensee application fee. \$400.00
- 13 (2) Annual renewal fee. 150.00
- 14 (3) Late renewal fee. 75.00
- 15 (4) ~~Reinspection fee.~~ 100.00
- 16 (5) Per cremation or hydrolysis fee. 10.00
- 17 (6) Late fee, per ~~cremation~~cremation or hydrolysis. 10.00
- 18 (7) Late fee, cremation or hydrolysis report. 75.00 per month
- 19 (8) Crematory or hydrolysis manager
 20 permit application fee. 150.00
- 21 (9) Annual crematory or hydrolysis manager
 22 permit renewal fee. 40.00."

23 **SECTION 23.** G.S. 90-210.133(c) reads as rewritten:

24 "(c) Nothing in this Article shall prohibit or require the performance of cremations by
 25 crematory licensees or crematory managers for or directly with the public or exclusively for or
 26 through licensed funeral ~~directors~~directors, except as provided in G.S. 90-210.123(f1)."

27 **SECTION 24.** Article 13F of Chapter 90 of the General Statutes is amended by
 28 adding the following new section to read:

29 "**§ 90-210.136. Hydrolysis of human remains.**

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

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

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

46 (c) Except as otherwise provided by this section, a license for the hydrolysis of human
 47 remains shall have the same requirements and fees under this Article as for the licensing of
 48 crematories. The hydrolysis of human remains shall be conducted in compliance with all
 49 requirements for cremation, and the licensee shall pay the same fees for monthly reports for
 50 each hydrolysis as crematories under this Article.

1 (d) The Board shall have the same powers to regulate, enforce, discipline, and inspect
2 hydrolysis licensees and the practice of hydrolysis that have been granted under this Article for
3 the regulation, enforcement, discipline, and inspection of crematories and the practice of
4 cremation.

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

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

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

13 **SECTION 25.** G.S. 130A-415 reads as rewritten:

14 "**§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
15 **Association for Retarded Citizens of North Carolina; disposition.**

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

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

27 (1) No person notifies the person in possession of the dead body within 10 days
28 from the date of death that he or she wishes to dispose of the dead body.

29 (2) All persons who have expressed interest in arranging for disposition of the
30 dead body have ceased communicating with the person in possession of the
31 dead body for five days, at least 10 days have passed from the date of death,
32 and the person in possession of the dead body has used reasonable efforts to
33 contact all persons interested in arranging for final disposition.

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

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

47 (c) Unless the provisions of subsection (j) of this section apply, if ~~Should~~ the
48 Commission of Anatomy ~~decline~~ declines to receive a dead body, the person with possession
49 shall inform the director of social services of the county ~~in which the body is located.~~ that is
50 responsible for the expense of the final disposition of the decedent. Upon notification, all
51 interests in and rights to the abandoned dead body shall vest in ~~The~~ the director of social

1 services of that ~~county~~ county, who then shall arrange for prompt final disposition of the body,
2 either by ~~cremation~~ cremation, hydrolysis, or burial. Reasonable costs of disposition and of
3 efforts made to notify relatives and others shall be considered funeral expenses and shall be
4 paid in accordance with G.S. 28A-19-6 and G.S. 28A-19-8. If those expenses cannot be
5 satisfied from the decedent's estate, they shall be borne by the decedent's county of residence. If
6 the deceased is not a resident of this State, or if the county of residence is unknown, those
7 expenses shall be borne by the county in which the death ~~occurred~~ occurred or, if the county of
8 residence and death of the decedent are unknown, the county where the deceased was located.

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

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

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

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

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

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

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

34 (j) Any funeral director or funeral service licensee doing business within the State
35 having physical possession of a dead body shall make reasonable efforts to contact relatives of
36 the deceased or other persons who may wish to claim the body for final disposition. If the body
37 remains unclaimed for final disposition for 10 days, or if the right to authorize the type,
38 method, place, and disposition of the dead body is waived under G.S. 130A-420(b1) or
39 G.S. 90-210.24(b), and if all persons who have expressed interest in arranging for the
40 disposition of the dead body have ceased communication with the person in possession of the
41 dead body for five days, the dead body shall be deemed abandoned. If the funeral director or
42 funeral service licensee receives the dead body from a person or entity listed in subsection (a)
43 of this section, the 10-day period shall run concurrently with any period imposed on such
44 person. Any person having possession of an abandoned dead body shall notify the Commission
45 of Anatomy. Upon request of the Commission of Anatomy, the person having possession of the
46 abandoned dead body shall deliver the abandoned dead body to the Commission of Anatomy at
47 a time and place specified by the Commission of Anatomy or shall permit the Commission of
48 Anatomy to take and remove the abandoned dead body. If the Commission of Anatomy fails to
49 request delivery of the abandoned dead body within two days of receipt of such notification
50 required by this subsection, or if the Commission of Anatomy declines delivery of the
51 abandoned dead body, the funeral director shall notify the director of social services of the

1 county in which the abandoned dead body is located of such circumstances, and shall submit a
2 sworn statement to the director verifying that the body is an abandoned dead body, that the
3 funeral director has made reasonable efforts to inform relatives and others of the death, and that
4 the Commission of Anatomy has failed to request delivery of the abandoned dead body. Upon
5 receipt of the sworn statement, the director of social services shall arrange for final disposition
6 of the abandoned dead body and all interests in and rights to the abandoned dead body shall
7 vest in the director of social services, who shall then arrange for prompt final disposition of the
8 abandoned dead body, either by cremation, hydrolysis, or burial. Upon payment by the director
9 of social services for final disposition of the abandoned dead body, the director shall have a
10 claim for reasonable funeral expenses which shall be paid in accordance with G.S. 28A-19-6
11 and G.S. 28A-19-8. If those expenses cannot be satisfied from the decedent's estate, they shall
12 be borne by the decedent's county of residence. If the decedent is not a resident of this State, or
13 if the county of residence is unknown, those expenses shall be borne by the county in which the
14 death occurred, or if the county of residence and death of the decedent is unknown, the county
15 where the deceased was located."

16 **SECTION 26.** G.S. 130A-420 is amended by adding the following new
17 subsections to read:

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

22 ...

23 (b1) A person who does not exercise his or her right to dispose of the decedent's body
24 under subsection (b) of this section within five days of notification or 10 days from the date of
25 death, whichever is earlier, shall be deemed to have waived his or her right to authorize
26 disposition of the decedent's body or contest disposition in accordance with this section. Under
27 G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commission of Anatomy declining
28 or failing to request delivery of the dead body, the director of social services of the county in
29 which the dead body is located shall become vested with all interests and rights to the dead
30 body and shall authorize and arrange for disposition by cremation, hydrolysis, or burial.

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

34 **SECTION 27.** If any provision of this act or its application is held invalid, the
35 invalidity does not affect other provisions or applications of this act that can be given effect
36 without the invalid provisions or application, and to this end the provisions of this act are
37 severable.

38 **SECTION 28.** This act becomes effective December 1, 2013.