

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 296

Short Title: Occ.Lic./Amend Funeral Service Practice Laws.-AB (Public)

Sponsors: Representatives Boles, Alexander, and Hunter (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary I, if favorable, Finance.

March 19, 2015

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

4 The General Assembly of North Carolina enacts:

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 G.S. 58-58-97(d) is repealed.

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

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

8 ...

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

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

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

31"

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

33 "§ 90-210.25. Licensing.

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



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

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

- 16 e. All registered resident trainees shall report to the Board at least once
 17 every month during traineeship upon forms provided by the Board
 18 listing the work which has been completed during the preceding
 19 month of resident traineeship. The Board may set and collect a late
 20 fee not to exceed fifty dollars (\$50.00) for each work report filed
 21 after the date the report is due. The data contained in the reports shall
 22 be certified as correct by the licensee under whom the trainee has
 23 served during the period and by the licensed person who is managing
 24 the funeral service establishment. Each report shall list the following:
 25 1. For funeral director trainees, the conduct of any funerals
 26 during the relevant time period,
 27 2. For embalming trainees, the embalming of any bodies during
 28 the relevant time period,
 29 3. For funeral service trainees, both of the activities named in 1
 30 and 2 of this subsection, engaged in during the relevant time
 31 period.

- 32 ...
 33 g. ~~The Board may suspend or revoke~~ suspend, revoke, or refuse to issue
 34 or renew a certificate of resident traineeship ~~for violation of any~~
 35 ~~provision of this Article or place a trainee on probation for any~~
 36 violation of this Article or rules adopted by the Board. The Board
 37 may determine the length of any suspension, revocation, refusal to
 38 issue or renew, or probation and impose conditions on probation and
 39 reinstatement as the Board deems appropriate.

- 40 ...
 41 (5) The Board by regulation may recognize other examinations that the Board
 42 deems equivalent to its own.

- 43 ...
 44 b. The holder of any license issued by the Board who shall fail to renew
 45 the same ~~on or before February~~ January 1 of the calendar year for
 46 which the license is to be renewed shall have forfeited and
 47 surrendered the license as of that date. No license forfeited or
 48 surrendered pursuant to the preceding sentence shall be reinstated by
 49 the Board unless it is shown to the Board that the applicant has,
 50 throughout the period of forfeiture, engaged full time in another state
 51 of the United States or the District of Columbia in the practice to

1 which the applicant's North Carolina license applies and has
 2 completed for each such year continuing education substantially
 3 equivalent in the opinion of the Board to that required of North
 4 Carolina licensees; or has completed in North Carolina a total
 5 number of hours of accredited continuing education computed by
 6 multiplying five times the number of years of forfeiture; or has
 7 passed the North Carolina examination for the forfeited license. No
 8 additional resident traineeship shall be required. The applicant shall
 9 be required to pay all delinquent annual renewal fees and a
 10 reinstatement fee. The Board may waive the provisions of this
 11 section for an applicant for a forfeiture which occurred during the
 12 applicant's service in the Armed Forces of the United States provided
 13 the applicant applies within six months following severance
 14 therefrom.

15 ...

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

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

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

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

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

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

32 d. Obtains and maintains a professional liability insurance policy with
 33 liability limits of at least one million dollars (\$1,000,000).
 34 Certificates of professional liability insurance shall be (i) submitted
 35 to the Board within 30 days of the initial registration of the licensee
 36 by the Board, (ii) made available during any inspection by the Board,
 37 and (iii) submitted to the Board upon request. The licensee shall
 38 notify the Board in writing within 30 days of any change in the
 39 insurer or any cancellation or suspension of policy.

40 e. Provides funeral directing services to no more than two funeral
 41 establishments and reports the names and addresses of those
 42 establishments to the Board annually as a condition of renewal of the
 43 registration. The licensee shall notify the Board in writing within 30
 44 days of any change in the funeral establishments with which the
 45 licensee has contracted or affiliated.

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

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

49 (1) The Board shall grant licenses to funeral directors, embalmers and funeral
 50 service licensees, licensed in other states, territories, the District of
 51 Columbia, and foreign countries, when it is shown that the applicant holds a

1 valid license as a funeral director, embalmer or funeral service licensee
2 issued by the other jurisdiction, has demonstrated knowledge of the laws and
3 rules governing the profession in North Carolina and has submitted proof of
4 his good moral character; and either that the applicant has continuously
5 practiced the profession in ~~the other~~ a jurisdiction where funeral directors,
6 embalmers, and funeral services licensees are required to hold a license to
7 practice for at least three years immediately preceding his application, or the
8 Board has determined that the licensing requirements for the other
9 jurisdiction are substantially similar to those of North Carolina.

10 ...

11 (c) Registration, Filing and Transportation. –

12 ...

13 (8) The permit issued under this section shall expire on December 31 of each
14 year. The application fee for the individual permit shall not exceed one
15 hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred
16 dollars (\$100.00), in addition to the renewal fee not to exceed seventy-five
17 dollars (\$75.00), shall be charged for any application ~~for renewal received~~
18 ~~by the Board after February 1 of each year.~~ made on or after January 1 to
19 renew an expired permit.

20 ...

21 (10) The Board may adopt rules under this section including permit application
22 procedures and the proper procedures for the removal, handling, and
23 transportation of dead human bodies. The Board shall consult with the
24 Office of the Chief Medical Examiner before initiating rule making under
25 this section and before adopting any rules pursuant to this section. Nothing
26 in this section prohibits the Office of the Chief Medical Examiner from
27 adopting policies and procedures regarding the removal, transportation, or
28 handling of a dead human body under the jurisdiction of that office that are
29 more stringent than the laws in this section or any rules adopted under this
30 section. ~~Any violation of this section or rules adopted under this section may~~
31 ~~be punished by the Board by a suspension or revocation of the permit to~~
32 ~~transport or remove dead human bodies or by a term of probation. The Board~~
33 ~~may, in lieu of any disciplinary measure, accept a penalty not to exceed five~~
34 ~~thousand dollars (\$5,000) per violation.~~

35 ...

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

- 42 a. Conviction of a felony or a crime involving fraud or moral turpitude.
43 b. Denial, suspension, or revocation of an occupational or business
44 license by another jurisdiction.
45 c. Fraud or misrepresentation in obtaining or renewing a permit.
46 d. False or misleading advertising as the holder of a permit.
47 e. Solicitation of dead human bodies by the permittee or the permittee's
48 agents, assistants, or employees. However, this sub-subdivision shall
49 not be construed to prohibit general advertising.
50 f. Gross immorality, including being under the influence of alcohol or
51 drugs while handling or transporting dead human bodies.

- 1 g. Failing to treat a dead human body with respect at all times.
2 h. Violating or cooperating with others to violate any of the provisions
3 of this Article, any rules and regulations of the Board, or any State
4 law or municipal or county ordinance or regulation affecting the
5 handling, custody, care, or transport of dead human bodies.
6 i. Refusing to surrender promptly the custody of a dead human body
7 upon the express order of the person lawfully entitled to custody of
8 the body.
9 j. Indecent exposure or exhibition of a dead human body while in a
10 permittee's custody or control.
11 k. Practicing funeral directing, funeral service, or embalming without a
12 license.
13 The Board shall have the authority to determine the length and conditions of
14 any period of revocation, suspension, refusal to issue or renew, or probation.
15 (d) Establishment Permit. –
16 ...
17 (3) Applications for funeral establishment permits shall be made on forms
18 provided by the Board and filed with the Board by the owner, a partner, a
19 member of the limited liability company, or an officer of the corporation ~~by~~
20 ~~January 1 of each year,~~ and shall be accompanied by the application fee or
21 renewal fee, as the case may be. All permits shall expire on December 31 of
22 each year. If the renewal application and renewal fee are ~~not~~ received in the
23 Board's office on or ~~before February~~ after January 1, a late renewal fee, in
24 addition to the regular renewal fee, shall be charged.
25 (4) The Board may place on probation, refuse to issue or renew, suspend, or
26 revoke a permit when an owner, partner, manager, member, operator, or
27 officer of the funeral establishment violates any provision of this Article or
28 any regulations of the Board, or when any agent or employee of the funeral
29 establishment, with the consent of any person, firm or corporation operating
30 the funeral establishment, violates any of those provisions, rules or
31 regulations. In any case in which the Board is entitled to place a funeral
32 establishment permittee on a term of probation, the Board may also impose a
33 penalty of not more than five thousand dollars (\$5,000) in conjunction with
34 the probation. In any case in which the Board is entitled to suspend, revoke,
35 or refuse to renew a permit, the Board may accept from the funeral
36 establishment permittee an offer to pay a penalty of not more than five
37 thousand dollars (\$5,000). The Board may either accept a penalty or revoke
38 or refuse to renew a license, but not both. Any penalty under this subdivision
39 may be in addition to any penalty assessed against one or more licensed
40 individuals employed by the funeral establishment. The Board shall have the
41 authority to determine the length and conditions of any period of revocation,
42 suspension, refusal to issue or renew, or probation.
43 (5) Funeral establishment permits are not transferable. A new application for a
44 permit shall be made to the Board within 30 days of a change of ownership
45 of a funeral establishment. The Board shall not issue more than one funeral
46 establishment permit to the same building or property.
47 (6) A funeral establishment shall not contract or affiliate with more than two
48 licensees that are permitted to engage in the practice of funeral directing or
49 funeral service under subdivision (2) of subsection (a2) of this section. Any
50 funeral establishment that contracts or affiliates with a licensee described in
51 subdivision (2) of subsection (a2) of this section shall report the names and

addresses of the licensees to the Board annually as a condition of renewal of the funeral establishment permit, and the funeral establishment shall notify the Board in writing within 30 days of any change in such licensees with whom the funeral establishment has contracted or affiliated.

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

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

...
j. Violating or cooperating with others to violate any of the provisions of this Article or Articles 13D, 13E, or 13F of Chapter 90 of the General Statutes, this Chapter, any rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

...
o. Failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 60 days of receipt.

p. Failure to provide, within a reasonable time, either the funeral goods and services purchased under a funeral contract or a refund of the purchase price for the goods or services.

q. Violation of G.S. 58-58-97.

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

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

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

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the

1 desires of the persons who have the legal authority to direct the disposition of the decedent's
2 body. If any persons are found, their authority and directions shall govern the disposal of the
3 remains of the decedent. Any funeral service establishment receiving the remains in violation
4 of this subsection shall make no charge for any service in connection with the remains prior to
5 delivery of the remains as stipulated by the persons having legal authority to direct the
6 disposition of the body. This section shall not prevent any funeral service establishment from
7 charging and being reimbursed for services rendered in connection with the removal of the
8 remains of any deceased person in case of accidental or violent death, and rendering necessary
9 professional services required until the persons having legal authority to direct the disposition
10 of the body have been notified.

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

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

33 ...

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

35 (1) If any person who shall practice or hold himself or herself practices or
36 holds themselves out as practicing the profession or art of embalming,
37 funeral directing or practice of funeral service or operating a funeral
38 establishment without having complied with the provisions of this Article,
39 the person Article shall be guilty of a Class 2 misdemeanor.

40 (2) Any person who knowingly or willfully abuses, mutilates, or fails to treat
41 with reasonable care a dead human body in a person's custody shall be guilty
42 of a Class 2 misdemeanor. It shall not be a violation of this subdivision for a
43 person licensed to practice embalming or funeral service under this Article
44 to embalm a dead human body consistent with techniques of embalming
45 generally recognized by embalming or funeral service licensees under this
46 Article or for a person licensed to practice funeral directing or funeral
47 service to exhibit a dead human body consistent with lawful instructions
48 from the person authorized to dispose of the dead human body.

49"

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

51 **"§ 90-210.27A. Funeral establishments.**

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

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

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

22 ...

23 (g) No funeral establishment shall own, operate, or maintain a chapel without first
24 having registered the name, location, and ownership thereof with the Board; own or maintain
25 more than two chapels, or own or maintain a chapel outside of a radius of 50 miles from the
26 funeral establishment. A duly licensed person may use a chapel for making arrangements for
27 funeral services, selling funeral merchandise to the public by photograph, video, or computer
28 based presentation, or making financial arrangements for the rendering of the service or sale of
29 supplies, provided that the uses are secondary and incidental to and do not interfere with the
30 reposing of dead human bodies, visitation, or funeral ceremony. A chapel registration shall
31 expire on December 31 of each calendar year. On or after January 1 of the calendar year for
32 which the chapel is to be registered, the registrant shall pay a late fee in addition to the renewal
33 fee to register the chapel. The Board may suspend, revoke, refuse to issue or renew, or place on
34 probation any funeral chapel registration for any violation of this Article or rules adopted by
35 the Board and may determine the length and conditions of any discipline imposed.

36 ...

37 (k) A funeral establishment shall obtain and maintain a professional liability insurance
38 policy with liability limits of at least one million dollars (\$1,000,000). If the funeral
39 establishment utilizes a licensee that is permitted to engage in the practice of funeral directing
40 or funeral service under G.S. 90-210.25(a2)(2), the funeral establishment shall ensure that the
41 licensee is named as an additional insured on the professional liability insurance policy.
42 Certificates of insurance shall be (i) submitted to the Board within 30 days of the initial
43 issuance of a funeral establishment permit, (ii) made available during any inspection by the
44 Board, and (iii) submitted to the Board upon request. The funeral establishment shall notify the
45 Board within 30 days of any change of insurer or any cancellation or suspension of the policy.

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

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

50 "**§ 90-210.28. Fees.**

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

1	Establishment permit	
2	Application	\$400.00
3	Annual renewal	250.00
4	Late renewal	150.00
5	Establishment and embalming facility reinspection fee	100.00
6	<u>Funeral Industry Practices document reinspection fee</u>	<u>25.00</u>
7	Courtesy card	
8	Application	100.00
9	Annual renewal	75.00
10	Out-of-state licensee	
11	Application	250.00
12	Embalmer, funeral director, funeral service	
13	Application-North	
14	Carolina-Resident	200.00
15	-Non-Resident	250.00
16	Annual Renewal-embalmer or	
17	funeral director	75.00
18	Total fee, embalmer and funeral director	
19	when both are held by the same person	100.00
20	-funeral service	100.00
21	Inactive Status	50.00
22	Reinstatement fee	50.00
23	Resident trainee permit	
24	Application	50.00
25	Voluntary change in supervisor	50.00
26	Annual renewal	35.00
27	Late renewal	25.00
28	Duplicate license certificate	25.00
29	Chapel registration	
30	Application	150.00
31	Annual renewal	100.00
32	Late renewal	75.00

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

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

39 **"§ 90-210.29B. ~~Examination scores not~~ Exemptions from public record records.**

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

44 (b) Records, papers, and other documents containing information collected or compiled
 45 by the board or its inspectors or employees as a result of a complaint, investigation, audit, or
 46 interview in connection with a licensee, permittee, or registrant, or any application for a license,
 47 permit, or registration, shall not be considered public records within the meaning of Chapter
 48 132 of the General Statutes until the Board has taken final action in connection with the
 49 complaint, investigation, audit, or interview."

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

51 **"§ 90-210.61. Deposit or application of preneed funeral funds.**

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

3 ...
 4 (2) ~~Notwithstanding~~ For preneed funeral contracts executed before January 1,
 5 2015, and ~~notwithstanding~~ any other provision of law, if a preneed funeral
 6 contract is funded by a trust deposit or trust deposits, a preneed licensee may
 7 retain, free of the trust, up to ten percent (10%) of any payments made on a
 8 preneed funeral contract, provided that the preneed licensee fully discloses
 9 in writing in advance to the preneed funeral contract purchaser the
 10 percentage of the payments to be retained. If there is no substitution pursuant
 11 to G.S. 90-210.63(a), the preneed licensee shall give credit for the amount
 12 retained upon the death of the preneed funeral contract beneficiary and
 13 performance of the preneed funeral contract.

14"

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

16 **"§ 90-210.63. Substitution of licensee.**

17 (a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser,
 18 or after his death the preneed funeral contract beneficiary or his legal representative, upon
 19 written notice to the financial institution or insurance company and the preneed licensee who is
 20 a party to the preneed funeral contract, may direct the substitution of a different funeral
 21 establishment to furnish funeral services and merchandise.

22 ...

23 (2) ~~The~~ For preneed funeral contracts executed before January 1, 2015, the
 24 original contracting preneed licensee shall immediately pay all funds
 25 received to the successor funeral establishment designated. Regardless of
 26 whether the substitution is made before or after the death of the preneed
 27 funeral contract beneficiary, the original contracting preneed licensee shall
 28 not be required to give credit for the amount retained pursuant to
 29 G.S. 90-210.61(a)(2), except when there was a substitution under
 30 G.S. 90-210.68(d1) and (e). For preneed funeral contracts executed on or
 31 after January 1, 2015, the preneed licensee may retain an administrative fee
 32 not to exceed ten percent (10%) of the funds on deposit at the time of
 33 transfer if the amount of the fee is agreed upon by the parties in writing at
 34 the time the contract is executed, unless there has been a substitution under
 35 G.S. 90-210.68(d1) and (e). Upon making payments pursuant to this
 36 subsection, the financial institution and the original contracting preneed
 37 licensee shall be relieved from all further contractual liability thereon.

38 ...

39 (4) Any funeral establishment holding a permit under Article 13A of this
 40 Chapter that accepts the transfer of a preneed funeral contract after the death
 41 of the preneed contract beneficiary shall file the certificate of performance
 42 with the Board and mail a copy to the contracting preneed licensee. If the
 43 preneed funeral contract is performed by a funeral establishment in another
 44 state, the preneed licensee shall make reasonable efforts to obtain the
 45 information for the certificate of performance but shall file the certificate no
 46 later than the time allowed by G.S. 92-210.64."

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

49 **"§ 90-210.63B. Cancellation of insurance preneed contracts by preneed licensee.**

50 A preneed licensee may cancel a preneed funeral contract by sending written notice by
 51 first-class mail, postage prepaid, to the last known address of the preneed funeral contract

1 purchaser, or, after the purchaser's death, the preneed contract beneficiary or the beneficiary's
2 legal representative if all the following conditions apply:

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

11 **SECTION 10.** G.S. 90-210.64 reads as rewritten:

12 **"§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

13 ...

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

22 "

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

24 **"§ 90-210.67. Application for license.**

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

1 licensed as a funeral director or funeral service licensee pursuant to Article 13A of Chapter 90
2 of the General Statutes.

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

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

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

31 If, after January 1, 2008, a funeral establishment receiving a new preneed establishment
32 license or if a preneed establishment license has lapsed or has been terminated for any reason,
33 other than for failure to timely renew the license, the funeral establishment shall obtain a surety
34 bond in an amount not less than fifty thousand dollars (\$50,000) for a period of five years.
35 However, upon demonstrating to the satisfaction of the Board that the funeral establishment is
36 solvent, the Board may reduce the bond term to a period of no less than one year from the date
37 the original license is issued. The funeral establishment may (i) purchase the bond from any
38 company authorized by law to sell bonds in this State or (ii) deposit fifty thousand dollars
39 (\$50,000) with the clerk of superior court in the county where the preneed funeral
40 establishment maintains its facility that is licensed or has submitted an application for licensure
41 to the Board. The Board may extend the bonding requirement in the event there is a claim paid
42 from the bond.

43 (c) An application for a preneed sales license shall be accompanied by a nonrefundable
44 application fee of not more than fifty dollars (\$50.00). The Board shall set the amounts of the
45 application fees and renewal fees by rule, but the fees shall not exceed fifty dollars (\$50.00). If
46 the license is granted, the application fee shall be applied to the annual license fee for the first
47 year or part thereof. Upon receipt of the application and payment of the application fee, the
48 Board shall issue a renewable preneed sales license provided the applicant has met the
49 qualifications to engage in preneed funeral planning as established by the Board unless it
50 determines that the applicant has violated any provision of G.S. 90-210.69(c). The license shall
51 expire on December 31 and each preneed sales licensee shall pay annually to the Board on or

1 before that date a license renewal fee of not more than fifty dollars (\$50.00). On or before the
2 first day of February, a license may be renewed without paying a late fee. After that date, after
3 January 1, a license may be renewed by paying a late fee of not more than twenty-five dollars
4 (\$25.00) in addition to the annual renewal fee.

5 ...

6 (d1) The Board may also set and collect a fee of not more than twenty-five dollars
7 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one
8 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

9"

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

11 "**§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**
12 **terminations.**

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

33 (a2) On or before January 31, each preneed licensee shall prepare and submit an annual
34 report on its preneed funeral contract sales and performance of preneed funeral contracts and
35 submit the report to the Board in a manner and form prescribed by the Board.

36"

37 **SECTION 13.** G.S. 90-210.69 reads as rewritten:

38 "**§ 90-210.69. Rulemaking; enforcement of Article; judicial review; determination of**
39 **penalty amount.**

40 ...

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

- 46 (1) Offering to engage or engaging in activities for which a license is required
47 under this Article but without having obtained such a license.
- 48 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
49 corporation or other entity to offer to engage or engage in such activities.
- 50 (3) ~~A crime involving fraud or moral turpitude by conviction thereof.~~

- 1 (4) Fraud or misrepresentation in obtaining or receiving a license or in preneed
- 2 funeral planning.
- 3 (5) False or misleading advertising.
- 4 (6) Violating or cooperating with others to violate any provision of this Article,
- 5 the rules and regulations of the Board, or the standards set forth in Funeral
- 6 Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- 7 (7) Denial, suspension, or revocation of an occupational or business license by
- 8 another jurisdiction.

9 In any case in which the Board is authorized to take any of the actions permitted under this
 10 subsection, the Board may instead accept an offer in compromise of the charges whereby the
 11 accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). In any
 12 case in which the Board is entitled to place a licensee on a term of probation, the Board may
 13 also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such
 14 probation. The Board may determine the length and conditions of any period of probation,
 15 revocation, suspension, or refusal to issue or renew a license.

16"

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

18 "**§ 90-210.73. Not public record.**

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

- 21 (1) The names and addresses of the purchasers and beneficiaries of preneed
- 22 funeral contracts filed with the ~~Board shall not be subject to Chapter 132 of~~
- 23 ~~the General Statutes.~~Board.
- 24 (2) All financial information used to demonstrate solvency in connection with a
- 25 bond required under G.S. 90-210.67."

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

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

28 "**§ 90-210.81. Requirements as to rules and bylaws.**

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

31 Article 1. The name of this association shall be _____, which shall indicate that said
 32 association is a mutual burial association.

33 ...

34 Article 4. The annual meeting of the association shall be held at ____ (here insert the place,
 35 date and hour); each member shall have one vote at said annual meeting and 15 members of the
 36 association shall constitute a quorum. There shall be elected at the annual meeting of said
 37 association a board of directors of seven members, each of whom shall serve for a period of
 38 from one to five years as the membership may determine and until his or her successor shall
 39 have been elected and qualified. Any member of the board of directors who shall fail to
 40 maintain his or her membership, as provided in the rules and bylaws of said association, shall
 41 cease to be a member of the board of directors and a director shall be appointed by the
 42 president of said association for the unexpired term of such disqualified member. There shall be
 43 at least an annual meeting of the board of directors, and such meeting shall be held immediately
 44 following the annual meeting of the membership of the association. The directors of the
 45 association may, by a majority vote, hold other meetings of which notice shall be given to each
 46 member by mailing such notice five days before the meeting to be held. At the annual meetings
 47 of the directors of the association, the board of directors shall elect a president, a vice-president,
 48 and a secretary-treasurer. The president and vice-president shall be elected from among the
 49 directors, but the secretary-treasurer may be selected from the director membership or from the
 50 membership of the association, it being provided that it is not necessary that the
 51 secretary-treasurer shall be a member of the board of directors. Among other duties that the

1 secretary-treasurer may perform, he shall be chargeable with keeping an accurate and faithful
2 roll of the membership of this association at all times and he shall be chargeable with the duty
3 of faithfully preserving and faithfully applying all moneys coming into his hands by virtue of
4 his said office. The president, vice-president and secretary-treasurer shall constitute a board of
5 control who shall direct the affairs of the association in accordance with these Articles and
6 bylaws of the association, and subject to such modification as may be made or authorized by an
7 act of the General Assembly. The secretary-treasurer shall keep a record of all assessments
8 made, dues collected and benefits paid. The books of the association, together with all records
9 and bank accounts shall be at all times open to the inspection of the Board of Funeral Service or
10 its duly constituted auditors or representatives. It shall be the duty of the secretary or
11 secretary-treasurer of each association to keep the books of the association posted up-to-date so
12 that the financial standing of the association may be readily ascertained by the Board of Funeral
13 Service or any auditor or representative employed by it. ~~Upon the failure of any secretary or~~
14 ~~secretary treasurer to comply with this provision, it shall be the duty of the Board of Funeral~~
15 ~~Service to take charge of the books of the association and do whatever work is necessary to~~
16 ~~bring the books up to date. The actual costs of said work may be charged the burial association~~
17 ~~and shall be paid from the thirty percent (30%) allowed by law for the operation of the burial~~
18 ~~association.~~

19 Whenever in the opinion of the Board of Funeral Service, it is necessary to audit the books
20 of any burial association more than once in any calendar year, the Board of Funeral Service
21 shall have authority to assess such burial association the actual cost of any audit in excess of
22 one per calendar year, provided that no more than one audit may be deemed necessary unless a
23 discrepancy exists at the last regular audit. Such cost shall be paid from the thirty percent
24 (30%) allowed by law for the operation of the burial association.

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

41"

42 **SECTION 17.** Article 13E of Chapter 90 of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 90-210.108. Burial associations regulated as insurance companies.**

45 On or after January 1, 2016, no person or corporation shall own or operate a burial
46 association unless the burial association complies with all requirements imposed on an
47 insurance company or insurer, as those terms are defined under G.S. 58-1-5(3). For the
48 purposes of this section, the term "burial association" means all corporations or business
49 entities licensed or regulated by the North Carolina Board of Funeral Service that operated a
50 burial association before January 1, 2016. Any person or corporation in violation of this section
51 shall be guilty of a Class 1 misdemeanor."

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

2 "**§ 90-210.123. Licensing and inspection.**

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

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

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

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

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

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

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

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

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

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

1 who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1
2 misdemeanor.

3 (j) Any crematory that, upon inspection, fails to meet any of the requirements of this
4 Article shall pay a reinspection fee to the Board for each additional inspection that is made to
5 determine whether the deficiency or other violation has been corrected, taking into
6 consideration the salary of any employees involved and any expenses incurred during the
7 reinspection, but in no event shall the reinspection fee exceed three hundred dollars (\$300.00)
8 per reinspection."

9 **SECTION 19.** G.S. 90-210.123 is amended by adding a new subsection to read:

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

15 **SECTION 20.** G.S. 90-210.124(b) is rewritten to read:

16 **"§ 90-210.124. Authorizing agent.**

17 ...

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

27 **SECTION 21.** G.S. 90-210.129 is rewritten to read:

28 **"§ 90-210.129. Cremation procedures.**

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

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

43 ...

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

- 47 (1) A death certificate from the other jurisdiction that meets the same content
48 and signature requirements of subsection (a) of this section.
- 49 (2) Any document or certificate required to authorize cremation in the
50 jurisdiction where the death occurred that is signed by a physician, medical

examiner, or other authorized person and that contains all information required by subdivisions (1) through (9) of subsection (a) of this section.

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

...
(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is ~~forbidden~~ forbidden, provided that the following human remains may be cremated simultaneously upon the express written direction of the authorized agent:

(1) The human remains of multiple fetuses from the same mother and the same birth.

(2) The human remains of triplets up to the age of one year old from the same mother and the same birth.

...."

SECTION 22. G.S. 90-210.132(a) is rewritten to read:

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

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

SECTION 23. G.S. 90-210.133(c) is rewritten to read:

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

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

"§ 90-210.136. Hydrolysis of human remains.

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

(1) Hydrolysis or hydrolyze. – The technical process using water and other chemicals to destroy, dissolve, or reduce human remains to simpler or essential elements.

(2) Hydrolysis container. – A container, other than a casket, designed to enclose human remains that is made of suitable material to be easily destroyed during hydrolysis and to resist spillage and leakage. A hydrolysis container may be a cremation container or any other container that meets the requirements of this subsection.

(3) Hydrolysis licensee. – A person or entity licensed to hydrolyze human remains and perform hydrolysis.

(4) Liquid waste. – Any liquid remaining after hydrolysis that does not contain any trace elements of human tissue.

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

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

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

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

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

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

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

19 **§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
20 **Association for Retarded Citizens of North Carolina; disposition.**

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

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

32 (1) No individual notifies the person in possession of the dead body within 10
33 days of the date of death that the individual wishes to dispose of the dead
34 body.

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

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

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

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

3 ~~Should~~ Unless the provisions of subsection (j) of this section apply, if the
4 Commission of Anatomy declines to receive a dead body, the person with possession
5 shall inform the director of social services of the county in which the body is located that is
6 responsible for the expense of the final disposition of the decedent. Upon notification, all
7 interests in and rights to the abandoned dead body shall vest in ~~The~~ the director of social
8 services of that county, who then shall arrange for prompt final disposition of the body,
9 either by cremation, hydrolysis, or burial.

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

17 ...

18 (j) Any funeral director or funeral service licensee doing business within the State
19 having physical possession of a dead body shall make reasonable efforts to contact relatives of
20 the deceased or other persons who may wish to claim the body for final disposition. If the body
21 remains unclaimed for final disposition for 10 days, or if the right to authorize the type,
22 method, place, and disposition, of the dead body is waived under G.S. 130A-420(b1) or
23 G.S. 90-210.24(b), and if all persons who have expressed interest in arranging for the
24 disposition for the dead body have ceased communication with the person in possession of the
25 dead body for five days, the dead body shall be deemed abandoned. If the funeral director or
26 funeral service licensee receives the dead body from a person or entity listed in subsection (a)
27 of this section, the 10-day period shall run concurrently with any period imposed on that person
28 or entity. Any person having possession of an abandoned dead body shall notify the
29 Commission of Anatomy. Upon request of the Commission of Anatomy, the person having
30 possession of the abandoned dead body shall deliver the abandoned dead body to the
31 Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall
32 permit the Commission of Anatomy to take and remove the abandoned dead body.

33 (k) If the Commissioner of Anatomy fails to request delivery of the abandoned dead
34 body within two days of receipt of the notification required by subsection (j) of this section, or
35 if the Commissioner of Anatomy declines delivery of the abandoned dead body, the funeral
36 director or funeral services licensee shall notify the director of social services of the county
37 where the abandoned dead body is located. The notice to the director of social services shall
38 contain a sworn statement that (i) the body is an abandoned dead body, (ii) reasonable efforts
39 have been made to inform relatives and others of the death, and (iii) the Commission of
40 Anatomy has failed to request or has declined delivery of the abandoned dead body. Upon
41 receipt of the sworn statement, the director of social services shall arrange for final disposition
42 of the abandoned dead body and all interests in and rights to the abandoned dead body shall
43 vest in the director of social services, who shall then arrange for prompt final disposition of the
44 abandoned dead body by cremation, hydrolysis, or burial. Upon payment by the director of
45 social services for final disposition of the abandoned dead body, the director shall have a claim
46 of reasonable funeral expenses which shall be paid in accordance with G.S. 28A-19-6 and
47 G.S. 28A-19-8. If those expenses cannot be satisfied from the decedent's estate, they shall be
48 borne by the decedent's county of residence. If the decedent is not a resident of this State, or if
49 the county of residence is unknown, those expenses shall be borne by the county in which the
50 death occurred, or if the county of residence and death of the decedent is unknown, the county
51 where the deceased was located."

1 **SECTION 26.** G.S. 130A-420 is rewritten to read:

2 "**§ 130A-420. Authority to dispose of body or body parts.**

3 ...

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

8 ...

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

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

20 "

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

25 **SECTION 28.** This act becomes effective December 1, 2015.