

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 1003
Committee Substitute Favorable 5/1/25
Third Edition Engrossed 5/6/25

Short Title: Board of Funeral Service Modifications.

(Public)

Sponsors:

Referred to:

April 14, 2025

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE LAWS OF FUNERAL SERVICE AND CREMATION.
The General Assembly of North Carolina enacts:

PART I. CREMATIONS AND ALKALINE HYDROLYSIS

SECTION 1.1.(a) The following provisions are recodified as follows:

Former Citation

Recodified Citation

90-210.121(1)

90-210.121(1a)

90-210.121(17a)

90-210.121(17c)

90-210.136(a)(1)

90-210.121(1)

90-210.136(a)(2)

90-210.121(17a)

90-210.136(a)(3)

90-210.121(17b)

90-210.136(a)(4)

90-210.121(17d).

SECTION 1.1.(b) The title of Article 13F of Chapter 90 of the General Statutes reads as rewritten:

~~"Cremations.~~Cremations and Alkaline Hydrolysis."

SECTION 1.1.(c) G.S. 90-210.121, as amended by subsection (a) of this section, reads as rewritten:

"§ 90-210.121. Definitions.

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

(1) Alkaline hydrolysis. – ~~The technical process using water, heat, and other chemicals to destroy, dissolve, or reduce human remains to simpler or essential elements.~~As defined in G.S. 90-210.20.

(1a) ~~"Authorizing agent" means a~~Authorizing agent. – A person or entity legally entitled to authorize the cremation or arrange for the final disposition of human remains in accordance with G.S. 90-210.124; G.S. 130A-420.

(2) ~~"Board" means the Board.~~ – The North Carolina Board of Funeral Service.

(3) ~~"Body parts" means limbs~~Body parts. – Any of the following:

a. Limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical ~~research; or human research.~~

b. Human bodies or any portion thereof that have been donated to science for medical purposes.

(4) ~~"Casket" means a~~Casket. – A rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal,



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- 1 or other material and ornamented and lined with fabric, and which may or may
2 not be combustible.
- 3 (5) ~~"Certificate of cremation" means a~~ Certificate of cremation. – A certificate
4 provided by the crematory manager who performed the cremation containing,
5 at a minimum, all of the following information:
6 a. Name of ~~decedent;~~decedent.
7 b. Date of ~~cremation;~~cremation.
8 c. Name and address of ~~crematory; and~~crematory.
9 d. Signature of crematory manager or person acting as crematory
10 manager.
- 11 (6) ~~"Cremated remains" means all~~ Cremated remains. – All human remains
12 recovered after the completion of the cremation process, including
13 pulverization which leaves only bone fragments reduced to unidentifiable
14 dimensions.
- 15 (7) ~~"Cremation" means the~~ Cremation. – The technical process, using intense heat
16 and flame, that reduces human remains to bone fragments. Cremation includes
17 the processing and may include the pulverization of the bone fragments.
- 18 (8) ~~"Cremation chamber" means the~~ Cremation chamber. – The enclosed space
19 within which the cremation process takes place. Cremation chambers covered
20 by this Article shall be used exclusively for the cremation of human remains.
- 21 (9) ~~"Cremation container" means the~~ Cremation container. – The container in
22 which the human remains are transported to the crematory or placed therein
23 upon arrival for storage and placement in a cremation chamber for cremation.
24 A cremation container shall comply with all of the following standards:
25 a. Be composed of readily combustible materials suitable for
26 ~~cremation;~~cremation.
27 b. Be able to be closed in order to provide a complete covering for the
28 human ~~remains;~~remains.
29 c. Be resistant to leakage or ~~spillage;~~spillage.
30 d. Be rigid enough for handling with ~~ease;~~ease.
31 e. Be able to provide protection for the health, safety, and personal
32 integrity of crematory ~~personnel; and~~personnel.
33 f. Be easily identifiable. The covering of the cremation container shall
34 contain all of the following information:
35 1. The name of the ~~decedent;~~decedent.
36 2. The date of ~~death;~~death.
37 3. The sex of the ~~decedent; and~~decedent.
38 4. The age at death of the decedent.
- 39 (10) ~~"Cremation interment container" means a~~ Cremation interment container. – A
40 rigid outer container composed of concrete, steel, fiberglass, or some similar
41 material in which an urn is placed prior to being interred in the ground and
42 which is designed to withstand prolonged exposure to the elements and to
43 support the earth above the urn.
- 44 (11) ~~"Crematory" or "crematorium" means the~~ Crematory or crematorium. – The
45 building or buildings or portion of a building on a single site that houses the
46 cremation equipment, the holding and processing facilities, the business
47 office, and other parts of the crematory business. A crematory must comply
48 with all applicable public health and environmental laws and rules and must
49 contain the equipment and meet all of the standards established by the rules
50 adopted by the Board.

- (12) ~~"Crematory licensee" means the~~ Crematory licensee. – The individual or legal entity that is licensed by the Board holds a license to operate a crematory and perform cremations.
- (13) ~~"Crematory manager" means the~~ Crematory manager. – The person who is responsible for the daily management and operation of the crematory. A crematory manager must either be licensed to practice funeral directing or funeral service and be qualified as a crematory technician or must obtain a crematory manager permit issued by the Board. In order to receive a crematory manager permit, a person ~~must~~ must meet all of the following criteria:
- a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Be qualified as a crematory technician.
- Notwithstanding any other provision of law, a crematory that is licensed by the Board prior to January 1, 2004, and as of that date is not managed by a crematory manager who is licensed to practice funeral directing or funeral service, or who has a crematory manager permit, may continue to be managed by a crematory manager who is not licensed to practice funeral directing or funeral service or who does not have a crematory manager permit so long as there is no sale, transfer, devise, gift, or any other disposal of a controlling interest in the crematory.
- (13a) ~~"Cremation society" means any~~ Cremation society. – Any person, firm, corporation, or organization that is affiliated with a crematory licensed under this Article and provides cremation information to consumers.
- (14) ~~"Crematory technician" means any~~ Crematory technician. – Any employee of a crematory licensee who has a certificate confirming that the crematory technician has attended a training course approved by the Board. The Board shall recognize the cremation certificate program that is conducted by the Cremation Association of North America (CANA).
- (15) ~~"Final disposition" means the~~ Final disposition. – The cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee as provided in this Article. Upon the written direction of the authorizing agent, cremated remains may take various forms.
- (16) ~~"Holding and processing facility" means an~~ Holding and processing facility. – An area or areas that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation; that comply with all applicable public health and environmental laws; preserve the health and safety of the crematory technician and other personnel of the crematory; and that are secure from access by anyone other than authorized persons. A holding facility and processing facility must be located in a crematory.
- (17) ~~"Human remains" means the~~ Human remains. – The body of a deceased person, including a separate human fetus, regardless of the length of gestation, or body parts.
- (17a) Hydrolysis container. – A container, other than a casket, designed to enclose human remains and 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 subdivision.

- (17b) Hydrolysis licensee. – A person or entity licensed to hydrolyze human remains and perform hydrolysis.
- (17c) ~~"Initial container" means a~~ Initial container. – A receptacle for cremated remains, for which the intended use and design is to hold cremated remains, usually composed of cardboard, plastic, or similar material that can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and is a single container of sufficient size to hold the cremated remains.
- (17d) Liquid waste. – Any liquid remaining after hydrolysis that does not contain any trace elements of human tissue.
- (18) ~~"Niche" means a~~ Niche. – A compartment or cubicle for the memorialization or final disposition of an urn or container containing cremated remains.
- (19) ~~"Processing" means the~~ Processing. – The removal of bone fragments from the cremation chamber for the reduction in size, labeling and packaging, and placing in an urn or initial container.
- (20) ~~"Pulverization" means the~~ Pulverization. – The reduction of identifiable or unidentifiable bone fragments after the completion of the cremation to granulated particles by mechanical means.
- (20a) Reduced human remains. – The remains of a human body after completion of reduction.
- (20b) Reduction. – Alkaline hydrolysis, cremation, and any other method of final disposition of human remains authorized pursuant to this Article.
- (20c) Reduction container. – A container, including a cremation container or any other container that meets the requirements of this subdivision other than a casket, designed to enclose human remains and made of suitable material to be easily destroyed during alkaline hydrolysis or cremation and to resist spillage and leakage.
- (21) ~~"Scattering area" means an~~ Scattering area. – An area permitted by North Carolina law including, ~~but not limited to, an~~ an area designated by a cemetery and located on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.
- (22) Repealed by Session Laws 2007-531, s. 18, effective August 31, 2007.
- (23) ~~"Urn" means a~~ Urn. – A receptacle designed to permanently encase the cremated remains."

SECTION 1.2. G.S. 90-210.122 (Crematory Authority established.) is repealed.

SECTION 1.3. Section 1.2 of this act becomes effective October 1, 2025. The members appointed to the Crematory Authority shall serve out their respective terms until October 1, 2025, at which point, notwithstanding any other provision of law, the members' respective terms will expire. Members shall be eligible for per diem and necessary travel and subsistence expenses in accordance with G.S. 93B-5 for any eligible expenses incurred up to October 1, 2025. The North Carolina Board of Funeral Service shall ensure that any unpaid, eligible expenses pursuant to G.S. 90-210.122(d) shall be paid to members of the Crematory Authority accordingly.

SECTION 1.4. G.S. 90-210.123 reads as rewritten:

"§ 90-210.123. Licensing and inspection.

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity may erect, maintain, and operate a crematory in this State and may provide the necessary employees, facilities, structure, and equipment for the cremation of human remains, provided that the person or entity has secured a license as a crematory licensee in accordance with this Article.

(a1) A crematory operating under this Article is required to have a crematory manager. A crematory manager may manage multiple crematories within a 50-mile radius of each other. A crematory may operate for a period not to exceed 30 days without a crematory manager due to the crematory manager's termination or cessation of employment if all of the following criteria are met:

- (1) The crematory manager was the only person employed that is eligible to serve as a crematory manager at the time of the crematory manager's end of employment.
- (2) The crematory licensee retains one or more crematory technicians to perform cremations.
- (3) The crematory licensee registers the name of the crematory technicians with the Board.

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

(c) Application for a license as a crematory licensee shall be made on forms furnished and prescribed by the Board. The Board shall inspect the premises, facilities, structure, and equipment to be used as a crematory, confirm that the crematory manager's and crematory technician's educational certificate is valid, and issue a renewable license to the crematory licensee if the applicant meets all the requirements and standards of the Board and the requirements of this Article.

(c1) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history is checked for any applicant applying for initial licensure or for reinstatement of licensure, if such licensure has been expired for three or more years. The Department of Public Safety may provide a criminal history record check to the Board for a person who has applied for a new or renewed license under this Article; provided, however, that the Board and the applicant may consent to the use of a criminal background check vendor other than the Department of Public Safety, the cost of which shall be paid by the applicant. If the Department of Public Safety performs the criminal background check, the Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(d) Every application for licensure shall identify the crematory manager and all crematory technicians employed by the crematory licensee providing that nothing in this Article shall prohibit the designation and identification by the crematory licensee of one individual to serve as a crematory manager and crematory technician. Each crematory licensed in North Carolina shall employ on a full-time basis at least one crematory technician. Every application for licensure ~~and renewal thereof~~ shall include ~~all each~~ crematory technicians' technician's

educational ~~certificates, certificate.~~ The crematory licensee shall keep the Board informed at all times of the names and addresses of the crematory manager and all crematory technicians. In the event a licensee is in the process of replacing its only crematory technician at the time of license renewal, the licensee may continue to operate the crematory for a reasonable time period not to exceed ~~180~~ 30 days.

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

(e) All licenses and permits shall expire on the last day of December of each year. ~~On or after~~ After February 1, a license or permit may be renewed by paying a late fee as provided in G.S. 90-210.132 in addition to the annual renewal fee. Licenses and permits that remain expired six months or more require a new application for renewal. Licenses and permits are not transferable.

(e1) A new application for a license or permit shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business. A new application for a license or permit is required if any of the following occur:

(1) A change to the legal structure of a crematory that results in a change of a majority of the crematory licensee's owners, partners, managers, members, operators, or officers.

(2) A crematory licensee's owner, partner, manager, member, operator, or officer that holds a majority of the crematory's ownership interest dies. The estate of the decedent is permitted to apply for a permit within 180 days of the date of death.

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

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

(1) Conviction of a felony or a crime involving fraud or moral turpitude, plea of guilty or nolo contendere to a felony or misdemeanor that indicates that the individual is unfit or incompetent to engage in cremations or that the individual has deceived or defrauded the public.

(1a) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.

(2) Fraud or misrepresentation in obtaining or renewing a license, in the practice of cremation, or in the operation of a licensee's business.

(3) False or misleading advertising.

(4) Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this subdivision shall not be construed to prohibit general advertising by the licensee.

(5) Employment directly or indirectly of any agent, assistant, or other person on a part-time or full-time basis or on commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.

- (6) The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agent, assistant, or employees for the purpose of securing business.
- (7) ~~Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.~~ Acts or omissions indicating that the licensee is unable to engage in cremations with reasonable skill and safety by reason of illness, excessive use of alcohol, drugs, chemicals, or any other type of substance, or by reason of any physical or mental abnormality.
- (8) Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- (9) Failing to treat a dead human body with respect at all times.
- (10) ~~Violating or cooperating with others to violate any of the provisions of this Article~~ Article, Article 13A, 13D, or 13E of this Chapter, or of the rules of the Board or violation of Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended.
- (11) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
- (12) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.131(e).
- (13) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.
- (14) Practicing funeral directing, embalming, or funeral service without a license.
- (15) Allowing anyone other than a licensee of the Board or a crematory technician to perform a cremation.
- (16) Failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt.
- (17) Failure to provide, within a reasonable time, either the goods and services contracted for or a refund for the price of goods and services paid for but not fulfilled.
- (18) Violation of G.S. 58-58-97.
- (19) Failure to respond to the Board's inquiries in a reasonable manner or time regarding any matter affecting the individual's performance of cremations.
- (20) Failure to adequately supervise or oversee auxiliary licensed or unlicensed staff, employees, agents, or contractors, as required by this Article and Article 13D, 13E, or 13F of this Chapter, any rules of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended.
- (21) Knowingly failing to follow the lawful direction of a person with the right to authorize disposition of human remains in accordance with G.S. 130A-420.

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

(h) Where the Board finds a licensee is guilty of one or more of the acts or omissions listed in subsection (g) 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 determine the length and conditions of any period of probation, suspension, revocation, or refusal to issue or renew a license.

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

(i1) The Board may apply for injunctive relief in the superior court of (i) the county where an act is alleged to have taken place, (ii) the county where the defendant resides, or (iii) Wake County, if any person, firm, corporation, or other entity has committed an act allegedly violating any provision of this Article. If a court of competent jurisdiction finds a defendant has acted in violation of this Article, then the court shall issue an order enjoining and restraining the acts constituting violations. The Board shall be entitled to reimbursement of costs and attorneys' fees expended in an action brought under this subsection.

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

SECTION 1.5. G.S. 90-210.124 (Authorizing agent.) is repealed.

SECTION 1.6. Article 13F of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.124A. Authorizing agent.

All crematory licensees shall comply with G.S. 130A-420 when acting under their respective scope of practice for dispositions of reduced human remains or body parts."

SECTION 1.7. G.S. 90-210.125 reads as rewritten:

"§ 90-210.125. Authorization to cremate.

(a) A crematory licensee shall not cremate human remains until it has received a cremation authorization form signed by an authorizing agent. The cremation authorization form shall be prescribed by the Board and shall contain at a minimum the following information:

...

(6) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in ~~G.S. 90-210.124~~, G.S. 130A-420. Or, in the event that there is another living person who does have a superior priority right to that of the authorizing agent, a representation that the authorizing agent has made all reasonable efforts to contact such person, has been unable to do so, and has no reason to believe that such person would object to the cremation of the decedent.

(7) A representation that the authorizing agent has either disclosed the location of all living persons with an equal right to that of the authorizing agent, as set forth in ~~G.S. 90-210.124~~, G.S. 130A-420, or does not know the location of any other living person with an equal right to that of the authorizing agent.

...

(13) If a cremation authorization form is being executed on a preneed basis, the cremation authorization form shall contain the disclosure required by G.S. 90-210.126. The authorizing agent may specify in writing religious practices that conflict with ~~Article 13~~ Article 13A, 13D, or 13F of this Chapter. The crematory licensee and funeral director shall observe those religious practices except where they interfere with cremation in a licensed crematory as specified under G.S. 90-210.123 or the required documentation and record keeping.

...."

SECTION 1.8. G.S. 90-210.126 reads as rewritten:

"§ 90-210.126. Preneed cremation arrangements.

(a) Any person, on a preneed basis, may authorize the person's own cremation and the final disposition of the person's cremated remains by executing, as the authorizing agent, a cremation authorization form on a preneed basis and having the form signed by two ~~witnesses~~. The witnesses in accordance with G.S. 130A-420. If the person executes a cremation authorization form on a preneed basis, the person shall retain a copy of this form, and a copy shall be sent to the funeral establishment and/or or the crematory licensee, licensee, or both. Any person shall have the right to transfer or cancel this authorization at any time prior to the person's death by destroying the executed cremation authorization form and providing written notice to the party or parties that received the cremation authorization form.

...."

SECTION 1.9. G.S. 90-210.127 reads as rewritten:

"§ 90-210.127. Record keeping.

(a) The crematory licensee shall furnish to the person who delivers such human remains to the crematory licensee a receipt, signed by both the crematory licensee and the person who delivers the human remains, showing the date and time of the delivery; the type of casket or cremation container that was delivered; the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom such person is affiliated; the name of the person who received the human remains on behalf of the crematory licensee; and the name of the decedent. The crematory licensee shall retain a copy of this receipt in its permanent records for three years.

(b) Upon its release of ~~cremated-reduced human~~ remains, the crematory licensee shall furnish to the person who receives ~~such cremated~~ those reduced human remains from the crematory licensee a receipt, signed by both the crematory licensee and the person who receives the ~~cremated-reduced human~~ remains, showing the date and time of the release; the name of the person to whom the ~~cremated-reduced human~~ remains were released and the name of the funeral establishment, cemetery, or other entity with whom such person is affiliated; the name of the person who released the ~~cremated-reduced human~~ remains on behalf of the crematory licensee; and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records for three years.

(c) A crematory licensee shall maintain at its place of business a record of all forms required by the Board of each cremation that took place at its facility for three years. A funeral establishment shall maintain at its place of business a record of all forms generated by or provided to it under this Article for a period of three years.

(d) The crematory licensee shall maintain a record for three years of all ~~cremated-reduced human~~ remains disposed of by the crematory licensee in accordance with G.S. 90-210.126(d).

(e) Upon completion of the cremation, the crematory licensee shall issue a certificate of cremation.

(f) All records that are required to be maintained under this Article shall be subject to inspection by the Board or its agents upon request."

SECTION 1.10. G.S. 90-210.128 reads as rewritten:

1 **"§ 90-210.128. Cremation containers.**

2 (a) No crematory licensee shall make or enforce any rules requiring that any human
3 remains be placed in a casket before cremation or that human remains be cremated in a casket,
4 nor shall any crematory licensee refuse to accept human remains for cremation for the reason
5 that they are not in a casket.

6 (b) No crematory licensee shall make or enforce any rules requiring that any cremated
7 remains be placed in an urn or receptacle designed to permanently encase the ~~cremated-reduced~~
8 human remains after the cremation process has been performed."

9 **SECTION 1.11.** G.S. 90-210.129 reads as rewritten:

10 **"§ 90-210.129. Cremation procedures.**

11 (a) For any death occurring in North Carolina certified by the attending physician or other
12 person authorized by law to sign a death certificate under the supervision of a physician, the body
13 shall not be cremated before the crematory licensee receives a death certificate signed by the
14 person authorized to sign the death certificate, which shall ~~contain~~ contain, at a ~~minimum~~
15 minimum, all of the following information:

16 (1) Decedent's ~~name~~; name.

17 (2) Date of ~~death~~; death.

18 (3) Date of ~~birth~~; birth.

19 (4) ~~Sex~~; Sex.

20 (5) Place of ~~death~~; death.

21 (6) Facility name (if not institution, give street and ~~number~~; number).

22 (7) County of ~~death~~; death.

23 (8) City of ~~death~~; and death.

24 (9) Time of death (if known).

25 ...

26 (g) Human remains shall be cremated only while enclosed in a cremation container. Upon
27 completion of the cremation, and insofar as is possible, all of the recoverable residue of the
28 cremation process shall be removed from the cremation chamber. Insofar as is possible, all
29 residue of the cremation process shall then be separated from any foreign residue or anything
30 else other than bone fragments and then be processed by pulverization so as to reduce the
31 cremated remains to unidentifiable particles. Any foreign residue and anything other than the
32 particles of the cremated remains shall be removed from the ~~cremated-reduced human~~ remains
33 as far as possible and shall be disposed of by the crematory licensee. This section does not apply
34 where law otherwise provides for commingling of human remains. The fact that there is
35 incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a
36 violation of this subsection.

37 ...

38 (k) Nothing in this Article shall require a crematory licensee to perform a cremation that
39 is impossible or impractical to perform.

40 (l) The ~~cremated-reduced human~~ remains with proper identification shall be placed in an
41 initial container or the urn selected or provided by the authorizing agent. The initial container or
42 urn contents shall not be contaminated with any other object, unless specific authorization has
43 been received from the authorizing agent or as provided in subsection (g) of this section.

44 (m) If the ~~cremated-reduced human~~ remains are greater than the dimensions of an initial
45 container or urn, the excess ~~cremated-reduced human~~ remains shall be returned to the authorizing
46 agent or its representative in a separate container or urn.

47 (n) If the ~~cremated-reduced human~~ remains are to be shipped, the initial container or urn
48 shall be packed securely in a suitable shipping container that complies with the requirements of
49 the shipper. ~~Cremated-Reduced human~~ remains shall be shipped only by a method which has an
50 internal tracing system available and which provides a receipt signed by the person accepting
51 delivery, unless otherwise authorized in writing by the authorizing agent. ~~Cremated-Reduced~~

1 human remains shall be shipped to the proper address as stated on the cremation authorization
2 form signed by the authorizing agent.

3 ...

4 (r) A crematory shall refrigerate human remains at a temperature not greater than 40
5 degrees Fahrenheit, unless the cremation will begin within 24 hours of the time in which the
6 crematory licensee takes custody of the human remains."

7 **SECTION 1.12.** G.S. 90-210.130 reads as rewritten:

8 "**§ 90-210.130. Final disposition of ~~cremated~~-reduced human remains.**

9 (a) The authorizing agent shall provide the person with whom cremation arrangements
10 are made with a signed statement specifying the ultimate disposition of the ~~cremated~~-reduced
11 human remains, if known. The crematory licensee may store or retain ~~cremated~~-reduced human
12 remains as directed by the authorizing agent. Records of retention and disposition of ~~cremated~~
13 reduced human remains shall be kept by the crematory licensee pursuant to G.S. 90-210.127.

14 (b) The authorizing agent is responsible for the disposition of the ~~cremated~~-reduced
15 human remains. ~~If, after a period of 30 days from the date of cremation,~~ If the authorizing agent
16 or the agent's representative has not specified the final disposition or claimed the ~~cremated~~
17 ~~remains~~, reduced human remains within 30 days after the crematory licensee provides written
18 notice delivered by certified mail to the authorizing agent's last known address that the reduced
19 human remains are available for retrieval, the crematory licensee or the person in possession of
20 the ~~cremated~~-reduced human remains may release the ~~cremated~~-reduced human remains to
21 another family member ~~upon written notification to the authorizing agent delivered by certified~~
22 ~~mail or~~ dispose of the ~~cremated~~-reduced human remains only in a manner permitted in this
23 ~~section.~~ Article. The authorizing agent shall be responsible for reimbursing the crematory
24 licensee for all reasonable expenses incurred in disposing of the ~~cremated~~-reduced human
25 remains pursuant to this section. A record of such disposition shall be made and kept by the
26 person making the disposition. Upon disposing of ~~cremated~~-reduced human remains in
27 accordance with this ~~section.~~ Article, the crematory licensee or person in possession of the
28 ~~cremated~~-reduced human remains shall be discharged from any legal obligation or liability
29 concerning ~~such cremated~~ those reduced human remains.

30 (c) In addition to the disposal of ~~cremated~~-reduced human remains in a crypt, niche,
31 grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited
32 public land, the sea, or other public waterways pursuant to subsection (f) of this section, ~~cremated~~
33 reduced human remains may be disposed of in any manner on the private property of a consenting
34 owner, upon direction of the authorizing agent. If ~~cremated~~-reduced human remains are to be
35 disposed of by the crematory licensee on private property, other than dedicated cemetery
36 property, the authorizing agent shall provide the crematory licensee with the written consent of
37 the property owner.

38 (d) Except with the express written permission of the authorizing agent, no person
39 ~~may~~ shall do any of the following:

- 40 (1) Dispose of or scatter ~~cremated~~-reduced human remains in such a manner or in
41 such a location that the ~~cremated~~-reduced human remains are commingled
42 with those of another person. This subdivision shall not apply to the scattering
43 of ~~cremated~~-reduced human remains at sea or by air from individual closed
44 containers or to the scattering of cremated remains in an area located in a
45 dedicated cemetery and used exclusively for ~~such~~ those purposes.
- 46 (2) Place ~~cremated~~-reduced human remains of more than one person in the same
47 closed container. This subdivision shall not apply to placing the ~~cremated~~
48 reduced human remains of members of the same family in a common closed
49 container designed for the ~~cremated~~-reduced human remains of more than one
50 person with the written consent of the family.

(e) ~~Cremated-Reduced human~~ remains shall be released by the crematory licensee to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory licensee and the individual receiving the ~~cremated-reduced human~~ remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt, and contain a representation that the handling of the final disposition will be in a proper manner. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.

(f) ~~Cremated-Reduced human~~ remains may be scattered over uninhabited public land, over a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner pursuant to subsection (c) of this section. A person may utilize a boat or airplane to perform ~~such scattering. Cremated scattering under this subsection. Reduced human~~ remains shall be removed from their closed container before they are scattered."

SECTION 1.13. G.S. 90-210.131 reads as rewritten:

"§ 90-210.131. Limitation of liability.

...

(c) A crematory licensee shall not be responsible or liable for any valuables delivered to the crematory licensee with human remains.

(d) A crematory licensee shall not be liable for refusing to accept a body or to perform a cremation until it receives a court order or other suitable confirmation that a dispute has been settled ~~if~~ if any of the following are satisfied:

(1) It is aware of any dispute concerning the cremation of ~~human remains;~~ human remains.

(2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; ~~or agent.~~

(3) For any other lawful reason.

(e) If a crematory licensee is aware of any dispute concerning the release or disposition of the ~~cremated-reduced human~~ remains, the crematory licensee may refuse to release the ~~cremated-reduced human~~ remains until the dispute has been resolved or the crematory licensee has been provided with a court order authorizing the release or disposition of the ~~cremated-reduced human~~ remains. A crematory licensee shall not be liable for refusing to release or dispose of ~~cremated-reduced human~~ remains in accordance with this subsection. A crematory licensee may charge a reasonable storage fee if the dispute is not resolved within 30 days after it is received by the crematory licensee."

SECTION 1.14. G.S. 90-210.132 reads as rewritten:

"§ 90-210.132. Fees.

(a) By rule, the Board may set and collect fees from crematory and hydrolysis licensees, crematory and hydrolysis manager permit holders, and 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. | 150.00 |
| (5) | Per cremation or hydrolysis-reduction fee. | 10.00 |
| (6) | Late fee, per cremation or hydrolysis-reduction | 10.00 |
| (7) | Late fee, cremation or hydrolysis-reduction 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. |

(b) The funds collected pursuant to this Article shall become part of the general fund of the Board.

(c) No later than the tenth day of each month, every crematory licensee and hydrolysis licensee under this Article shall remit to the Board the per cremation or reduction fees for the

cremations or reductions which the crematory licensee performed during the immediately preceding calendar month. Each remittance shall be accompanied by a statement signed by an authorized representative of the licensee containing all of the following information:

- (1) The name of the crematory licensee.
- (2) Each decedent's name.
- (3) Date of each cremation or reduction.
- (4) The person or entity from whom each cremation or reduction was performed.
- (5) The number of cremations or reductions contained in the statement.
- (6) The total amount of fees remitted with the statement."

SECTION 1.15. G.S. 90-210.136, as amended by this act, reads as rewritten:

"§ 90-210.136. Hydrolysis of human remains.

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

- (1) ~~Recodified as G.S. 90-210.121(1).~~
- (2) ~~Recodified as G.S. 90-210.121(17a).~~
- (3) ~~Recodified as G.S. 90-210.121(17b).~~
- (4) ~~Recodified as G.S. 90-210.121(17d).~~

(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. Only funeral establishments holding a valid establishment permit pursuant to G.S. 90-210.25(d) shall be eligible to be a hydrolysis licensee. An application for a license under this subsection shall be made on forms furnished and prescribed by the Board.

(c) Except as otherwise provided by this section, a license for the hydrolysis of human remains shall ~~have the same requirements and comply with all provisions of this Article, including G.S. 90-210.127 and G.S. 90-210.130, and be subject to the same fees as for the~~ licensing of crematories under this Article. The hydrolysis of human remains shall be conducted in compliance with all requirements for cremation, and the licensee shall pay the same fees for monthly reports for each hydrolysis as crematories under this Article.

(c1) Alkaline hydrolysis shall not be performed except on the physical premises of a funeral establishment holding a valid establishment permit pursuant to G.S. 90-210.25(d).

...."

SECTION 1.16. G.S. 130A-415(j) reads as rewritten:

"(j) Any funeral director or funeral service licensee doing business within the State having physical possession of a dead body shall make reasonable efforts to contact relatives of the deceased or other persons who may wish to claim the body for final disposition. If the body remains unclaimed for final disposition for 10 days, or if the right to authorize the type, method, place, and disposition, of the dead body is waived under ~~G.S. 130A-420(b1) or G.S. 90-210.124(b),~~ G.S. 130A-420(b1), and if all persons who have expressed interest in arranging for the disposition for the dead body have ceased communication with the person in possession of the dead body for five days, the dead body shall be deemed abandoned. If the funeral director or funeral service licensee receives the dead body from a person or entity listed in subsection (a) of this section, the 10-day period shall run concurrently with any period imposed on that person or entity. Any person having possession of an abandoned dead body shall notify the Commission of Anatomy. Upon request of the Commission of Anatomy, the person having possession of the abandoned dead body shall deliver the abandoned dead body to the Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall permit the Commission of Anatomy to take and remove the abandoned dead body."

SECTION 1.17. This Part becomes effective October 1, 2025.

PART II. FUNERAL TRANSPORTATION AGREEMENTS/INSURANCE

SECTION 2.1.(a) G.S. 90-210.60 reads as rewritten:

"§ 90-210.60. Definitions.

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

...

(5) "Preneed funeral contract" means any contract, agreement, or mutual understanding, or any series or combination of contracts, agreements, or mutual understandings, whether funded by trust deposits or prearrangement insurance policies, or any combination thereof, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, or ~~mausoleum~~; mausoleum. This term does not include a transportation protection agreement.

...

(10) "Transportation protection agreement" means an agreement, sold separately from a preneed funeral contract, that primarily provides for the coordination and arranging of all professional services related to the preparation of human remains or cremated remains for the purpose of initial and subsequent transportation of those remains."

SECTION 2.1.(b) G.S. 90-210.72 reads as rewritten:

"§ 90-210.72. Nonapplication to certain funeral contracts.

This Article does not apply to ~~contracts~~ any of the following:

(1) Contracts for funeral services or merchandise sold as preneed burial insurance policies pursuant to Part 13 of Article 10 of Chapter 143B of the North Carolina General Statutes or to replacements policies pursuant to Article 13E of this Chapter.

(2) Replacements or conversions of such policies pursuant to G.S. 143B-472.28; G.S. 90-210.106.

(3) A transportation protection agreement as defined in this Article."

SECTION 2.1.(c) The North Carolina Board of Funeral Service may adopt rules to implement the provisions of this section.

SECTION 2.1.(d) This section becomes effective October 1, 2025, and applies to preneed funeral contracts and transportation protection agreements entered into on or after that date.

SECTION 2.2.(a) G.S. 58-7-15 reads as rewritten:

"§ 58-7-15. Kinds of insurance authorized.

The kinds of insurance that may be authorized in this State, subject to the other provisions of ~~Articles 1 through 64~~ of this Chapter, are set forth in this section. Except to the extent an insurer participates in a risk sharing plan under Article 42 of this Chapter, nothing in this section requires any insurer to insure every kind of risk that it is authorized to insure. Except to the extent an insurer participates in a risk sharing plan under Article 42 of this Chapter, no insurer may transact any other business than that specified in its charter and articles of association or incorporation. The power to do any kind of insurance against loss of or damage to property includes the power to insure all lawful interests in the property and to insure against loss of use and occupancy and rents and profits resulting therefrom; but no kind of insurance includes life insurance or insurance against legal liability for personal injury or death unless specified in this section. In addition to any power to engage in any other kind of business than an insurance business that is specifically conferred by the provisions of ~~Articles 1 through 64~~ of this Chapter, any insurer authorized to do business in this State may engage in such other kinds of business to the extent necessarily or properly incidental to the kinds of insurance business that it is authorized to do in this State. Each of the following indicates the scope of the kind of insurance business specified:

(1) "Life insurance", meaning every insurance upon the lives of human beings and every insurance appertaining thereto. The business of life insurance includes the granting of endowment benefits; additional benefits in the event of death by accident or accidental means; additional benefits operating to safeguard the contract from lapse, or to provide a special surrender value, in the event of total and permanent disability of the insured, including industrial sick benefit; and optional modes of settlement of proceeds. The business of life insurance does not include the provision of transportation protection agreements, as defined under G.S. 90-210.60.

...."

SECTION 2.2.(b) G.S. 58-58-1 reads as rewritten:

"§ 58-58-1. Definitions; requisites of contract.

(a) All corporations or associations doing business in this State, under any charter or statute of this or any other state, involving the payment of money or other thing of value to families or representatives of policy and certificate holders or members, conditioned upon the continuance or cessation of human life, or involving an insurance, guaranty, contract, or pledge for the payment of endowments or annuities, or who employ agents to solicit such business, are life insurance companies, in all respects subject to the laws herein made and provided for the government of life insurance companies, and shall not make any such insurance, guaranty, contract, or pledge in this State with any citizen, or resident thereof, which does not distinctly state the amount of benefits payable, the manner of payment, the consideration therefor and such other provisions as the Commissioner may require.

(b) This section does not apply to a preneed licensee under Article 13D of Chapter 90 of the General Statutes or for the purposes of a transportation protection agreement, as defined under G.S. 90-210.60."

SECTION 2.2.(c) G.S. 58-58-125 reads as rewritten:

"§ 58-58-125. Minimum premium rates for assessment life insurance companies.

No assessment life insurance corporation, organization or association of any kind issuing policies or contracts upon the life of any resident of this State shall hereafter be organized or licensed by the Commissioner unless such corporation, organization or association adopt premium rates based upon the attained age of the assured at the time of issuance of the contract and such rates shall not be less than those fixed by the American Experience Table of Mortality or any other recognized table of mortality approved by the Commissioner. Nothing contained in this section shall be construed to affect burial associations regulated under ~~G.S. 143B-472 through 143B-472.28~~ Article 13E of Chapter 90 of the General Statutes or railroad burial associations."

SECTION 2.2.(d) G.S. 58-58-330(a) reads as rewritten:

"(a) This Part does not apply to solicitations or sales ~~involving~~ involving any of the following:

...

(7) Contracts used to ~~fund~~ fund any of the following:

...

f. ~~Prearranged funeral contracts~~ Prearranged funeral contracts or transportation protection agreements, as both terms are defined under G.S. 90-210.60."

SECTION 2.2.(e) G.S. 58-58-335(8) reads as rewritten:

"(8) "Life insurance" means insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income; and unless otherwise specifically excluded, includes individually issued annuities. In accordance with G.S. 58-7-15, this term does not include a transportation protection agreement."

SECTION 2.2.(f) G.S. 58-60-35(a) reads as rewritten:

"§ 58-60-35. Disclosure of prearrangement insurance policy provisions.

(a) ~~As used~~ The following definitions apply in this section:

- (1) ~~"Prearrangement" means any~~ Prearrangement. – A contract, agreement, or mutual understanding, or any series or combination of contracts, agreements or mutual understandings, whether funded by trust deposits or prearrangement insurance policies, or any combination thereof, which has for a purpose the furnishing or performance of specific funeral services, or the furnishing or delivery of specific personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, mausoleum, grave marker or monument. This term does not include a transportation protection agreement, as defined under G.S. 90-210.60.
- (2) ~~"Prearrangement insurance policy" means a~~ Prearrangement insurance policy. – A life insurance policy, annuity contract, or other insurance contract, or any series of contracts or agreements in any form or manner, issued on a group or individual basis by an insurance company authorized by law to do business in this State, which, whether by assignment or otherwise, has for its sole purpose the funding of a specific preneed funeral contract or a specific insurance-funded funeral or burial prearrangement, the insured being the person for whose service the funds were paid."

SECTION 2.2.(g) This section becomes effective October 1, 2025, and applies to preneed funeral contracts and transportation protection agreements entered into on or after that date.

SECTION 2.3.(a) G.S. 58-58-97 reads as rewritten:

"§ 58-58-97. Provision of life insurance information ~~upon notification of insured's death to funeral provider.~~

(a) Any person licensed to practice funeral directing or any employee of a funeral establishment licensed under the provisions of Article 13A of Chapter 90 of the General Statutes providing funeral service, as that term is defined in G.S. 90-210.20, ~~for~~ may request from a life insurance carrier information regarding a life insurance contract or contracts as follows:

- (1) For a prospective policy beneficiary when that beneficiary is requesting the use of a life insurance policy for the fulfilment of funeral services, by providing the insurer a written authorization from the prospective policy beneficiary.
- (2) For a deceased person insured or believed to be insured under a contract of life insurance or under a group life insurance policy may request information regarding the deceased person's life insurance contracts policy, by providing an insurer with (i) a copy of a notification of death filed pursuant to G.S. 130A-112, (ii) written authorization from the person or persons with legal authority to direct disposition of the deceased's body as prescribed under G.S. 90-210.124 or G.S. 130A-420, and (iii) in the case of a person covered or believed to be covered under a group life insurance policy, the affiliation of the deceased entitling them to coverage under the group life insurance policy.

(a1) ~~As soon as possible~~ No later than one business day after receipt of the request, a request under this section, the life insurance company shall inform the person authorized by this section to make an inquiry of the following:

- (1) The existence of any contract insuring the life of the deceased person.

- 1 (2) Any beneficiaries on record under any life insurance contract insuring the life
2 of a prospective policy beneficiary or the deceased person.
3 (3) The amount of any liens or loans outstanding on the policy.
4 (4) The amount of benefits payable to the beneficiaries.
5 (5) Whether the policy has been reinstated within the last 24 months.

6 The insurer shall provide a claim form to any person or assignee making the request.

7 (b) If any person making a written request under subsection (a) of this section who has
8 provided all the information required by subsection (a) of this section does not receive a ~~timely~~
9 response within one business day from the insurer, then the person may refer the request to the
10 Consumer Services Division of the Department, which shall treat the referral as a consumer
11 complaint. The referral shall include all the information provided to the insurer under subsection
12 (a) of this section as well as copies of all communications and information received from the
13 insurer regarding the request for information. Failure to meet the deadline for the provision of
14 information under this section may subject the insurer to a penalty under G.S. 58-2-70.

15 (c) ~~If In the case of a deceased person, if~~ the beneficiary of record under the life insurance
16 contract or group life insurance policy is not the estate of the deceased, then any person
17 authorized to request information under subsection (a) of this section shall make reasonable
18 efforts to locate the beneficiaries within 100 hours of receiving information from the insurance
19 carrier regarding any life insurance contracts or group life insurance policies and shall provide
20 to all beneficiaries all documents and information obtained from the insurance carrier. The person
21 obtaining the information also shall inform all beneficiaries in writing in bold print that "THE
22 BENEFICIARY OF A LIFE INSURANCE POLICY HAS NO LEGAL DUTY OR
23 OBLIGATION TO SPEND ANY OF THAT MONEY ON THE FUNERAL, DEBTS, OR
24 OBLIGATIONS OF THE DECEASED" and shall do so before discussing with the beneficiaries
25 financial arrangements for burial of the deceased.

26"

27 **SECTION 2.3.(b)** G.S. 58-39-75(4a) reads as rewritten:

28 "(4a) To a person making an inquiry authorized under ~~G.S. 58-58-97 when~~
29 ~~providing funeral service to a deceased insured; G.S. 58-58-97; or"~~

30 **SECTION 2.3.(c)** This section is effective 30 days after it becomes law and applies
31 to inquiries made to life insurance carriers doing business in this State on or after that date.

32 **SECTION 2.4.** Except as otherwise provided, this Part is effective when it becomes
33 law.

34 **PART III. PRACTICE OF FUNERAL SERVICE/BOARD CHANGES**

35 **SECTION 3.1.** G.S. 90-210.18A reads as rewritten:

36 **"§ 90-210.18A. Board of Funeral Service created; qualifications; vacancies; removal.**

37 (a) The General Assembly declares that the practice of funeral service affects the public
38 health, safety, and welfare and is subject to regulation and control in the public interest. The
39 public interest requires that only qualified persons be permitted to practice funeral service in
40 North Carolina and that the profession merit the confidence of the public. This Article shall be
41 liberally construed to accomplish these ends.

42 (b) The North Carolina Board of Funeral Service is created and shall regulate the practice
43 of funeral service in this State. The Board shall have nine members as follows:

- 44 (1) ~~Four—Three~~ members appointed by the Governor from nominees
45 recommended by the North Carolina Funeral Directors Association, Inc.
46 These members shall be persons licensed under this Article.
47 (2) ~~Two—Three~~ members appointed by the Governor from nominees
48 recommended by the Funeral Directors & Morticians Association of North
49 Carolina, Inc. These members shall be persons licensed under this Article.
50

- (3) One member appointed by the Governor who is licensed under this Article and who is not affiliated with any funeral service trade association.
- (4) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.
- (5) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives. This member shall be a person who is not licensed under this Article or employed by a person who is licensed under this Article.

Members of the Board shall serve staggered three-year terms, ending on December 31 of the last year of the term or when a successor has been duly appointed, whichever is later. No member may serve more than two complete consecutive terms.

...."

SECTION 3.2.(a) The following provisions are recodified as follows:

Former Citation

Recodified Citation

90-210.20(a)	90-210.20(1)
90-210.20(b)	90-210.20(3)
90-210.20(c)	90-210.20(5)
90-210.20(c1)	90-210.20(6)
90-210.20(c2)	90-210.20(7)
90-210.20(d)	90-210.20(8)
90-210.20(e)	90-210.20(9)
90-210.20(e2)	90-210.20(11)
90-210.20(f)	90-210.20(12)
90-210.20(g)	90-210.20(13)
90-210.20(h)	90-210.20(14)
90-210.20(i)	90-210.20(16)
90-210.20(j)	90-210.20(17)
90-210.20(k)	90-210.20(18)
90-210.20(l)	90-210.20(20)

SECTION 3.2.(b) G.S. 90-210.20, as amended by subsection (a) of this section, reads as rewritten:

"§ 90-210.20. Definitions.

Unless a different meaning is required by the context, the following definitions apply to this Article and Articles 13D and 13F of this Chapter:

- (1) "Advertisement" means the Advertisement. – The publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public, any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio, television station, or electronic medium.
- (2) Alkaline hydrolysis. – The technical process that reduces dead human bodies to bone fragments using heat, water, and chemical agents.
- (3) "Board" means the Board. – The North Carolina Board of Funeral Service.
- (4) Branch establishment. – A funeral establishment that serves as an ancillary facility to a principal funeral establishment, which is not required to contain a preparation room pursuant to G.S. 90-210.27A(a).
- (5) "Burial" includes interment. ~~Burial.~~ – Interment in any form, cremation and the transportation of the dead human body as ~~necessary therefor.~~ necessary.

- (6) ~~"Chapel" means a chapel or other Chapel. – A facility separate from the funeral establishment premises for the primary purpose of reposing of dead human bodies, visitation or visitation, funeral ceremony ceremony, or memorial service that is owned, operated, or maintained by a principal funeral establishment under this Article, and that does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; is not staffed on a full-time basis, in which or on the premises of which which, there is not displayed any caskets or other funeral merchandise; in which or on the premises of which there is not located any business office or preparation room; and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment. A funeral establishment may utilize a chapel to make funeral arrangements and to sell funeral merchandise to the public by photograph or digital presentation, and to make financial arrangements related to the sale, provided that such uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, funeral ceremony, or memorial service.~~
- (7) ~~"Dead human bodies", as used in this Article~~ Dead human bodies. – The body of a decedent, regardless of its stage of decomposition, and includes fetuses beyond the second trimester and the ~~ashes from cremated bodies~~ ashes, bone fragments, or human materials produced as a result of cremation or alkaline hydrolysis.
- (8) ~~"Embalmer" means any~~ Embalmer. – Any person engaged in the practice of embalming.
- (9) ~~"Embalming" means the~~ Embalming. – The preservation and disinfection or attempted preservation and disinfection of dead human bodies by application of chemicals externally or internally or both and the practice of restorative art including the restoration or attempted restoration of the appearance of a dead human body. Embalming shall not include the washing or use of soap and water to cleanse or prepare a dead human body for disposition by the authorized agents, family, or friends of the deceased who do so privately without pay or as part of the ritual washing and preparation of dead human bodies prescribed by religious practices; provided, that no dead human body shall be handled in a manner inconsistent with G.S. 130A-395.
- (10) Embalming facility. – A facility, other than a funeral establishment, at which an embalmer or funeral service licensee engages in embalming and in which, or on the premises of which, there is not displayed any caskets or other funeral merchandise, and which no owner, operator, employee, or agent represents the embalming facility to be a funeral establishment or engages in funeral directing.
- (11) ~~"Entry-level examination in funeral directing" means an~~ Entry-level examination in funeral directing. – An examination (i) offered as a component of a final or capstone course in a mortuary science program approved by the Board or (ii) accredited by the American Board of Funeral Service Education or an examination equivalent to the State Board Examination Arts in Funeral Directing recognized by rule adopted by the Board to assess competency in the following subjects:
- a. Funeral arranging and directing.
 - b. Funeral service marketing and merchandising.
 - c. Funeral service counseling.
 - d. Legal and regulatory compliance.
 - e. ~~Cemetery and crematory~~ Crematory operations.

- (12) ~~"Funeral directing" means engaging~~ Funeral directing. – Engaging in the practice of funeral service except embalming.
- (13) ~~"Funeral director" means any~~ Funeral director. – Any person engaged in the practice of funeral directing.
- (14) ~~"Funeral establishment" means every~~ Funeral establishment. – Every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the practice of funeral service.
- (15) Funeral merchandise or funeral supplies. – Any personal property used in connection with the conduct of funerals or with the transportation and final disposition of a dead human body, including caskets, outer burial containers, cremation caskets, urns, and burial clothing. The term does not mean mausoleum crypts, pre-installed outer burial containers or interment receptacles, and columbarium niches or other services or merchandise at a cemetery regulated by the Cemetery Commission.
- (16) ~~"Funeral service licensee" means a~~ Funeral service licensee. – A person who is duly licensed and engaged in the practice of funeral service.
- (17) ~~"Funeral service" means the~~ Funeral service. – The aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time-limited, flexible, group-centered response to death.
- (18) ~~"Practice of funeral service" means engaging~~ Practice of funeral service. – Engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, ~~burial or burial~~, cremation, or other lawful means of final disposition, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means engaging in making arrangements for funeral service, selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies.
- (19) Principal funeral establishment. – The funeral establishment that serves as the primary or principal business office of a funeral establishment that has been issued a license by the Board to operate a branch funeral establishment or chapel.
- (20) ~~"Resident trainee" means a~~ Resident trainee. – A person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as a resident trainee with the Board."

SECTION 3.3. G.S. 90-210.23 reads as rewritten:

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

...

(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, permit holder, resident trainee, embalming facility, ~~and funeral service establishment establishment, crematory, and alkaline hydrolysis licensee~~ 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, permit holder, resident trainee, embalming facility, ~~or funeral service establishment establishment, crematory, or alkaline hydrolysis licensee~~ shall be validly given when mailed to the address so provided.

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

In any show cause hearing before the Board held under the authority of Chapter 150B of the General Statutes where the Board imposes discipline against a licensee, the Board may recover the ~~costs, other than attorneys' fees, of attorneys' fees and costs associated with~~ holding the hearing against all respondents jointly, not to exceed ~~two thousand five hundred dollars (\$2,500)-~~five thousand dollars (\$5,000).

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

...."

SECTION 3.4. G.S. 90-210.24 reads as rewritten:

"§ 90-210.24. Inspector.

(a) The Board may appoint one or more agents who shall serve at the pleasure of the Board and who shall have the title "Inspector of the North Carolina Board of Funeral Service." No person is eligible for appointment as inspector unless at the time of the appointment the person is licensed under this Article as a funeral service licensee.

(b) To determine compliance with the provisions of ~~this Article~~ Articles 13A, 13D, and 13F of this Chapter and regulations promulgated rules adopted by the Board under this Article, inspectors may do any of the following:

(1) Enter the ~~office, establishment office~~ or place of business of any funeral service licensee, funeral director or embalmer in North Carolina, and any office, ~~establishment funeral establishment, embalming facility, chapel, crematory, or alkaline hydrolysis facility, removal and transportation business, or place in North Carolina where the practice of funeral service or embalming is carried on, or where that practice is advertised as being carried on, or where a funeral visitation, funeral, or memorial service is being conducted or a body is being embalmed, to inspect the records, office, establishment, or facility, or to inspect the practice being carried on or license or registration of any licensee~~ licensee, permit holder, and any resident trainee operating therein; there.

(2) Enter any hospital, nursing home, or other institution from which a dead human body has been removed by any person licensed under this Article or

1 their designated representative to inspect records pertaining to the removal
2 and its ~~authorization; and authorization.~~
3 (3) May inspect criminal and probation records of licensees and applicants for
4 licenses under this Article to obtain evidence of their character.

5 Inspectors may serve papers and subpoenas issued by the Board or any office or member thereof
6 under authority of this Article, and shall perform other duties prescribed or ordered by the Board.

7 (c) Upon request by the Board, the Attorney General of North Carolina shall provide the
8 inspectors with appropriate identification cards, signed by the Attorney General or his designated
9 agent.

10 (d) The Board may prescribe an inspection form to be used by the inspectors in
11 performing their duties."

12 **SECTION 3.5.** G.S. 90-210.25 reads as rewritten:

13 **"§ 90-210.25. Licensing.**

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

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

18 a. Is at least 18 years of age.

19 b. Is of good moral character.

20 c. Possesses a degree in mortuary science or has graduated from a
21 Funeral Director Program, or the equivalent, from a program approved
22 by the Board or accredited by the American Board of Funeral Service
23 Education.

24 d. Within the last three years, has completed 12 months of resident
25 traineeship as a funeral director, pursuant to the procedures and
26 conditions set out in G.S. 90-210.25(a)(4), either before or after
27 satisfying the educational requirement under sub-subdivision c. of this
28 subdivision.

29 e. Within the last ~~three~~-five years, has obtained passing scores on all of
30 the following examinations:

31 1. Entry-level examination in funeral directing.

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

33 3. Examination of the laws of North Carolina, the standards set
34 forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
35 pursuant to its most recent version, and rules of the Board and
36 other agencies dealing with the care, transportation and
37 disposition of dead human bodies.

38 4. Examination of pathology.

39 f. Has paid all applicable fees.

40 (2) To be licensed for the practice of embalming under this Article, an applicant
41 for licensure bears the burden of substantiating to the satisfaction of the Board
42 that the applicant:

43 a. Is at least 18 years of age.

44 b. Is of good moral character.

45 c. Possesses an associate degree in mortuary science, or the equivalent,
46 from a mortuary science program approved by the Board and
47 accredited by the American Board of Funeral Service Education.

48 d. Within the last three years, has completed 12 months of resident
49 traineeship as an embalmer pursuant to the procedures and conditions
50 set out in G.S. 90-210.25(a)(4), either before or after satisfying the
51 educational requirement under sub-subdivision c. of this subdivision.

- 1 e. Within the past ~~three~~five years, has passed an oral or written
2 embalmer examination on the following subjects:
3 1. Embalming, restorative arts, chemistry, pathology,
4 microbiology, and anatomy.
5 2. Repealed by Session Laws 1997-399, s. 6.
6 3. Examination of the laws of North Carolina, the standards set
7 forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
8 pursuant to its most recent version, and rules of the Board and
9 other agencies dealing with the care, transportation and
10 disposition of dead human bodies.
11 f. Has paid all applicable fees.
- 12 (3) To be licensed for the practice of funeral service under this Article, an
13 applicant for licensure bears the burden of substantiating to the satisfaction of
14 the Board that the applicant:
15 a. Is at least 18 years of age.
16 b. Is of good moral character.
17 c. Possesses an associate degree in mortuary science, or the equivalent,
18 from a mortuary science program approved by the Board and
19 accredited by the American Board of Funeral Service Education.
20 d. Within the last three years, has completed 12 months of resident
21 traineeship as a funeral service licensee, pursuant to the procedures
22 and conditions set out in G.S. 90-210.25(a)(4), either before or after
23 satisfying the educational requirement under sub-subdivision c. of this
24 subdivision.
25 e. Within the last ~~three~~five years, has passed an oral or written funeral
26 service examination on the following subjects:
27 1. Entry-level examination in funeral directing.
28 2. Embalming, restorative arts, chemistry, pathology,
29 microbiology, and anatomy.
30 3. Repealed by Session Laws 1997-399, s. 7.
31 4. Examination of the laws of North Carolina, the standards set
32 forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),
33 pursuant to its most recent version, and rules of the Board and
34 other agencies dealing with the care, transportation and
35 disposition of dead human bodies.
36 ~~A funeral service examination taken and passed on or before October 1,~~
37 ~~2018, for the purposes of attaining licensure under this section shall be~~
38 ~~considered valid for a five-year period following the date on which the~~
39 ~~applicant passed the examination.~~
- 40 f. Has paid all applicable fees.
- 41 (3a) To be licensed provisionally for the practice of funeral directing under this
42 Article, an applicant bears the burden of substantiating to the satisfaction of
43 the Board that the applicant:
44 a. Has completed a Board-approved application for a provisional license
45 and paid an application fee of five hundred dollars (\$500.00).
46 b. Is at least 18 years of age.
47 c. Is of good moral character.
48 d. Possesses an undergraduate degree in any field, an Associate of
49 Applied Science degree in any field, or a diploma in funeral directing
50 from a Board-approved curriculum at an accredited college of
51 mortuary science.

- 1 e. Has a certified resident traineeship, is eligible for certification as a
2 resident trainee, or has at least five years of professional experience
3 under the supervision of a licensed funeral ~~director~~director or funeral
4 service licensee.

5 A provisional license issued pursuant to this subsection shall expire on
6 December 31 of each year and shall not be renewed more than two times. The
7 annual renewal fee for a provisional license issued pursuant to this subsection
8 is two hundred fifty dollars (\$250.00). A provisional licensee shall complete
9 a minimum of five hours of continuing education each year, ~~which may~~
10 ~~include up to two hours of online instruction~~year in accordance with
11 G.S. 90-210.25(a)(5)d.

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

- 22 (4)a. A person desiring to become a resident trainee shall apply to the Board on a
23 form provided by the Board. The application shall state that the applicant is
24 not less than 18 years of age, of good moral character, and is the graduate of
25 a high school or the equivalent thereof, and shall indicate the licensee under
26 whom the applicant expects to train. A person training to become an embalmer
27 may serve under the supervision of either a licensed embalmer or a funeral
28 service licensee who is in good standing with the Board and who has ~~practiced~~
29 been licensed to practice funeral service or embalming full time for a
30 minimum of ~~five years~~one year. A person training to become a funeral
31 director may serve under the supervision of either a licensed funeral director
32 or a funeral service licensee who is in good standing with the Board and who
33 has ~~practiced~~been licensed to practice funeral service or funeral directing full
34 time for a minimum of ~~five years~~one year. A person training to become a
35 funeral service licensee shall serve under the supervision of a funeral service
36 licensee who is in good standing with the Board and who has ~~practiced~~been
37 licensed to practice funeral service full time for a minimum of ~~five years~~one
38 year. The application must be sustained by oath of the applicant and be
39 accompanied by the appropriate fee. When the Board is satisfied as to the
40 qualifications of an applicant it shall ~~instruct the secretary to issue a certificate~~
41 ~~of resident traineeship~~register the applicant as a resident trainee.

- 42 b. Within 30 days of a resident trainee leaving the proctorship of the
43 licensee under whom the trainee has worked, the licensee shall file
44 with the Board ~~an affidavit~~affidavits showing the length of time
45 served with the licensee by the trainee, ~~and the affidavit~~trainee and
46 attesting to the trainee's competencies on a form prescribed by the
47 Board by rule. The affidavits shall be made a matter of record in the
48 Board's office. The licensee shall deliver ~~a copy~~copies of the ~~affidavit~~
49 affidavits to the trainee.

- 50 c. A person who has not completed the traineeship and wishes to do so
51 under the supervision of a licensee other than the one ~~whose name~~

1 ~~appears on the original certificate with whom he or she initially~~
2 ~~registered~~ may reapply to the Board for approval.

3 d. ~~A certificate of resident traineeship shall be signed by the resident~~
4 ~~trainee and upon~~ Upon payment of the renewal fee ~~fee~~, registration of
5 a resident traineeship shall be renewable for one year after the date of
6 original registration; but the ~~certificate~~ registration may not be
7 renewed more than two times. The Board shall mail to each registered
8 trainee at the trainee's last known residential address or e-mail address
9 a notice that the renewal fee is due and that, if not paid within 30 days
10 of the notice, the ~~certificate~~ registration will be canceled. A late fee, in
11 addition to the renewal fee, shall be charged for a late renewal, except
12 that the renewal of the registration of any resident trainee who is
13 engaged in active service in the Armed Forces of the United States
14 shall not be charged a late fee. No credit shall be allowed for the
15 12-month period of resident traineeship that shall have been completed
16 more than five years preceding the examination for a license.
17 However, any resident trainee to whom G.S. 105-249.2 grants an
18 extension of time to file a tax return shall be allowed an extension of
19 time to retain credit equal to the number of days of active deployment.

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

- 30 1. For funeral director trainees, the conduct of any funerals during
31 the relevant time period,
- 32 2. For embalming trainees, the embalming of any bodies during
33 the relevant time period,
- 34 3. For funeral service trainees, both of the activities named in 1
35 and 2 of this subsection, engaged in during the relevant time
36 period.

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

- 41 1. That the funeral director trainee has, under the supervision of
42 the licensed individual, registered as the trainee's supervisor,
43 substantially assisted in directing at least 25 funerals during the
44 resident traineeship,
- 45 2. That the embalmer trainee has, under the supervision of the
46 licensed individual, registered as the trainee's supervisor,
47 substantially assisted in embalming at least 25 bodies during
48 the resident traineeship,
- 49 3. That the funeral service trainee has, under the supervision of
50 the licensed individual, registered as the trainee's supervisor,
51 substantially assisted in directing at least 25 funerals and,

- 1 under the supervision of the licensed individual, registered as
2 the trainee's supervisor, substantially assisted in embalming at
3 least 25 bodies during the resident traineeship.
- 4 g. The Board may suspend, revoke, or refuse to issue or renew a
5 ~~certificate of registration of a resident traineeship~~ for violation of any
6 provision of this Article or place a trainee on probation for any
7 violation of this Article or rules adopted by the Board. The Board may
8 determine the length of any suspension, revocation, refusal to issue or
9 renew, or probation and impose conditions on probation and
10 reinstatement as the Board deems appropriate.
- 11 h. Each registered supervisor for a resident trainee must during the period
12 of sponsorship be actively employed with a funeral establishment. ~~The~~
13 ~~traineeship shall be a primary vocation of the trainee.~~
- 14 i. Only ~~one two~~ resident ~~trainee trainees~~ may register and serve at any
15 one time under any one person licensed and registered as a resident
16 trainee supervisor under this Article.
- 17 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 18 l. Any resident trainee or registered supervisor of a resident trainee shall
19 meet with the Board upon request.
- 20 m. ~~A 12 month resident traineeship that is completed on or before~~
21 ~~October 1, 2018, shall be recognized as a qualifying traineeship for~~
22 ~~licensure under this section for the five year period following the~~
23 ~~completion date of the traineeship.~~
- 24 (5) The Board by regulation may recognize other examinations that the Board
25 deems equivalent to its own. ~~After an applicant fails to obtain a passing score~~
26 ~~on an examination two consecutive times, the applicant must wait at least 60~~
27 ~~days to retake the examination.~~
- 28 a. All licenses shall be signed by the president and secretary of the Board
29 and the seal of the Board affixed thereto. All licenses shall be issued,
30 renewed or duplicated for a period not exceeding one year upon
31 payment of the renewal fee, and all licenses, renewals or duplicates
32 thereof shall expire and terminate the thirty-first day of December
33 following the date of their issue unless sooner revoked and canceled;
34 provided, that the date of expiration may be changed by unanimous
35 consent of the Board and upon 90 days' written notice of such change
36 to all persons licensed for the practice of funeral directing, embalming
37 and funeral service in this State.
- 38 b. The holder of any license issued by the Board who shall fail to renew
39 the same on or before February 1 of the calendar year for which the
40 license is to be renewed shall have forfeited and surrendered the
41 license as of that date. No license forfeited or surrendered pursuant to
42 the preceding sentence shall be reinstated by the Board unless it is
43 shown to the Board ~~that the that~~:
- 44 1. The applicant has, throughout the period of forfeiture, engaged
45 full time in another state of the United States or the District of
46 Columbia in the practice to which the applicant's North
47 Carolina license applies and has completed for each such year
48 continuing education substantially equivalent in the opinion of
49 the Board to that required of North Carolina licensees; or
- 50 2. The applicant has completed in North Carolina a total number
51 of hours of accredited continuing education computed by

1 multiplying five times the number of years of ~~forfeiture; or has~~
2 ~~passed the North Carolina examination for the forfeited~~
3 ~~license; forfeiture.~~

4 No additional resident traineeship shall be required. The applicant
5 shall be required to pay all delinquent annual renewal fees incurred for
6 all years since expiration of licensure and a reinstatement ~~fee; fee set~~
7 forth in G.S. 90-210.28. The Board may waive the provisions of this
8 section for an applicant for a forfeiture which occurred during the
9 applicant's service in the Armed Forces of the United States provided
10 the applicant applies within six months following severance
11 therefrom.

12 c. All licensees now or hereafter licensed in North Carolina shall take
13 continuing education courses approved by the Board in subjects
14 relating to the practice of the profession for which they are licensed,
15 to the end that the benefits of learning and reviewing skills will be
16 utilized and applied to assure proper service to the public.

17 d. As a prerequisite to the annual renewal of a license, the licensee must
18 complete, during the year immediately preceding renewal, at least five
19 hours of continuing education courses, of which the Board may require
20 licensees to take up to two hours specified by the Board. All continuing
21 education courses must be approved by the Board prior to enrollment.
22 A licensee who completes more than five hours in a year may carry
23 over a maximum of five hours as a credit to the following year's
24 renewal requirement. A licensee does not have to satisfy the
25 continuing education requirement for the calendar year in which the
26 license was first obtained.

27 e. The Board shall not renew a license unless fulfillment of the
28 continuing education requirement has been certified to it on a form
29 provided by the Board, but the Board may waive this requirement for
30 renewal in cases of certified illness or undue hardship or where the
31 licensee lives outside of North Carolina and does not practice in North
32 ~~Carolina, and the~~ Carolina. The Board shall waive the continuing
33 education requirement for ~~all licensees who the following licensees:~~

34 1. All licensees who were licensed on or before December 31,
35 2003, and have been licensed in North Carolina for a
36 continuous period of 25 years or ~~more, for all more.~~

37 2. All licensees who are licensed on or after January 1, 2004, who
38 have been licensed for a continuous period of 25 years or more
39 and have attained the age of 60 ~~years, and for all years.~~

40 3. All licensees who are, at the time of renewal, members of the
41 North Carolina General Assembly.

42 f. The Board shall cause to be established and offered to the licensees,
43 each calendar year, at least eight hours of Board-sponsored continuing
44 education courses. The Board may charge licensees attending these
45 courses a reasonable registration fee not to exceed fifty dollars
46 (\$50.00) in order to meet the expenses thereof and may also meet those
47 expenses from other funds received under the provisions of this
48 Article.

49 g. Any person who having been previously licensed by the Board as a
50 funeral director or embalmer prior to July 1, 1975, shall not be required
51 to satisfy the requirements herein for licensure as a funeral service

licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

h. All applicants for licensure, including any owner, partner, manager, member, operator, or officer of a business entity applying for licensure under this Article, shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history is checked for any applicant applying for initial licensure or for reinstatement of licensure, if such licensure has been expired for three or more years. The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board; provided, however, that the Board and the applicant may consent to the use of a criminal background check vendor other than the Department of Public Safety, the cost of which shall be paid by the applicant. If the Department of Public Safety performs the criminal background check, the Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral ~~service-service~~, or any registered resident trainee may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The holder of an inactive license may not engage in any activity requiring an active license. The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed a total number

of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; ~~except that such a licensee may practice funeral directing or funeral service if any of the following apply: establishment or be employed by a college of mortuary science in this State acting in his or her capacity as such. This subsection shall not be construed to preclude such a licensee from arranging direct cremations and cremating human remains while employed by a crematory.~~

(1) ~~The licensee is employed by a college of mortuary science.~~

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

a. ~~Maintains all of the licensee's business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment.~~

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

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

d. ~~Obtains and maintains a professional liability insurance policy with liability limits of at least one million dollars (\$1,000,000). Certificates of professional liability insurance shall be (i) submitted to the Board within 30 days of the initial registration of the licensee by the Board and (ii) submitted to the Board upon request. The licensee shall notify the Board in writing within 30 days of any change in the insurer or any cancellation or suspension of policy.~~

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

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

(1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other jurisdictions, when it is shown that the applicant has satisfied all of the following:

a. The applicant holds an active, valid license in good standing as a funeral director, embalmer, or funeral service licensee issued by a jurisdiction that will reciprocate a North Carolina license to practice as a funeral director, embalmer, or funeral service licensee. ~~The license, at the time it was issued by the other jurisdiction, must have had equal or greater education, training, and examination requirements.~~

b. The applicant has demonstrated knowledge of the laws and rules governing the profession in North Carolina through achieving a passing score on the laws and rules exam administered on behalf of the Board.

c. The applicant has submitted proof of the applicant's good moral character.

d. The applicant has practiced in the profession for at least three consecutive years in a jurisdiction that will reciprocate a North

- 1 Carolina license to practice as a funeral director, embalmer, or funeral
2 service licensee.
- 3 e. The applicant has paid all applicable fees.
- 4 Nothing in this subdivision shall preclude any individual from obtaining a
5 license by meeting the requirements of subdivision (1), (2), or (3) of
6 subsection (a) of this section.
- 7 (1a) ~~Notwithstanding subdivision (1) of this subsection, the Board shall grant~~
8 ~~licenses to funeral directors licensed in other jurisdictions if the applicant has~~
9 ~~satisfied all of the following:~~
- 10 ~~a. The applicant holds an active, valid license in good standing as a~~
11 ~~funeral director issued by the other jurisdiction for at least 10 years.~~
- 12 ~~b. The applicant has demonstrated knowledge of the laws and rules~~
13 ~~governing the profession in North Carolina through achieving a~~
14 ~~passing score on the law and rules exam administered on behalf of the~~
15 ~~Board.~~
- 16 ~~c. The applicant has submitted proof of the applicant's good moral~~
17 ~~character.~~
- 18 ~~Nothing in this subdivision shall preclude any individual from obtaining a~~
19 ~~license by meeting the requirements of subdivision (1) of this subsection, or~~
20 ~~subdivision (1), (2), or (3) of subsection (a) of this section.~~
- 21 (2) Repealed by Session Laws 2018-78, s. 1, effective October 1, 2018.
- 22 (3) The Board may issue special permits, to be known as courtesy cards,
23 permitting nonresident funeral directors, embalmers and funeral service
24 licensees to remove bodies from and to arrange and direct funerals and
25 embalm bodies in this State, but these privileges shall not include the right to
26 establish a place of business in or engage generally in the business of funeral
27 directing and embalming in this State. Except for special permits issued by the
28 Board for teaching continuing education programs and for work in connection
29 with disasters, no special permits may be issued to nonresident funeral
30 directors, embalmers, and funeral service licensees from states that do not
31 issue similar courtesy cards to persons licensed in North Carolina pursuant to
32 this Article. The Board may adopt rules under this subsection to include
33 courtesy card application procedures and the limited practice of funeral
34 service that may be conducted with a courtesy card.
- 35 (c) Registration, Filing and Transportation. –
- 36 (1) ~~The holder of any license granted by this State for those within the funeral~~
37 ~~service profession or renewal thereof provided for in this Article shall cause~~
38 ~~registration to be filed in the office of the board of health of the county or city~~
39 ~~in which he practices his profession, or if there be no board of health in such~~
40 ~~county or city, at the office of the clerk of the superior court of such county.~~
41 ~~All such~~ Except as provided in subdivision (4) of this subsection, all licenses,
42 certificates, duplicates and renewals thereof shall be displayed in a
43 conspicuous place in the funeral establishment where the holder renders
44 service.
- 45 (2) ~~It shall be unlawful for any railway agent, express agency, baggage master,~~
46 ~~conductor or other person acting as such, to receive the dead body of any~~
47 ~~person for shipment or transportation by railway or other public conveyance,~~
48 ~~to a point outside of this State, unless the body is accompanied by a~~
49 ~~burial-transit permit.~~
- 50 (3) The "transportation or removal of a dead human body" shall mean the removal
51 of a dead human body for a fee from the location of the place of death or

discovery of death or the transportation of the body to or from a medical facility, funeral establishment or embalming facility, ~~crematory or related holding facility, crematory~~, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.

- (4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a removal and transportation permit from the Board before engaging in the transportation or removal of a dead human body in this State. No person, firm, or corporation shall conduct, maintain, manage, or operate a business engaged in the transportation or removal of a dead human body unless a removal and transportation permit for that business has been issued by the Board and is conspicuously displayed in the removal vehicles of that business.

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

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

- a. Licensees under ~~this Article~~ Articles 13A and 13F of this Chapter and their employees.
- b. Employees of common carriers.
- c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
- d. ~~Funeral directors~~ directors, embalmers, or funeral service licensees licensed in another state and their employees.

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

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

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

- a. Be at least 18 years of age.
- b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.

- c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.
- d. ~~Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.~~
- e. Be of good moral character.
- f. Obtain and maintain a professional liability insurance policy with liability limits of at least five hundred thousand dollars (\$500,000). Certificates of professional liability insurance shall be (i) submitted to the Board within 30 days of the initial registration of the transporter by the Board and (ii) submitted to the Board annually as a condition for renewal of each transport permit. The transporter shall notify the Board in writing within 30 days of any change in the insurer or any cancellation or suspension of the policy. Individuals covered by an employer's professional liability insurance policy shall provide evidence satisfactory to the Board that the policy covers that individual and meets the criteria provided in this sub-subdivision.
- (8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed ~~one hundred twenty-five dollars (\$125.00)~~ two hundred dollars (\$200.00). The application fee for the business permit shall not exceed three hundred dollars (\$300.00). A fee, not to exceed one hundred dollars (\$100.00), in addition to the annual renewal fee not to exceed seventy-five dollars (\$75.00), shall be charged for any application for renewal of a permit received by the Board after February 1 of each year.
- (9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of kin or other authorizing agent.
- (10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section.
- (11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification

1 to the Board of any change in the information required to be provided to the
2 Board by this section or by the application for a permit within 30 days after
3 such change takes place.

4 (12) If any person shall engage in or hold himself out as engaging in the business
5 of transportation or removal of a dead human body without first having
6 received a permit under this section, the person shall be guilty of a Class 2
7 misdemeanor.

8 (13) The Board shall have the authority to inspect any place or premises that the
9 business of removing or transporting a dead human body is carried out and
10 shall also have the right of inspection of any vehicle and equipment used by a
11 permittee for the removal or transportation of a dead human body.

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

17 a. ~~Conviction of a felony or a crime involving fraud or moral~~
18 ~~turpitude, or plea of guilty or nolo contendere to, a felony or~~
19 misdemeanor crime that indicates the permittee is unfit or incompetent
20 to engage in removal or transportation or that the permittee has
21 deceived or defrauded the public.

22 b. Denial, suspension, or revocation of an occupational or business
23 license by another jurisdiction.

24 c. Fraud or misrepresentation in obtaining or renewing a permit.

25 d. False or misleading advertising as the holder of a permit.

26 e. Solicitation of dead human bodies by the permittee or the permittee's
27 agents, assistants, or employees. However, this sub-subdivision shall
28 not be construed to prohibit general advertising.

29 f. ~~Gross immorality, including being under the influence of alcohol or~~
30 ~~drugs while handling or transporting dead human bodies.~~ Acts or
31 omissions indicating that the permittee is unable to engage in removal
32 or transportation of dead human bodies with reasonable skill and
33 safety by reason of illness, excessive use of alcohol, drugs, chemicals,
34 or any other type, or by reason of any physical or mental abnormality.

35 g. Failing to treat a dead human body with respect at all times.

36 h. Violating or cooperating with others to violate any of the provisions
37 of this Article, any rules and regulations of the Board, or any State law
38 or municipal or county ordinance or regulation affecting the handling,
39 custody, care, or transport of dead human bodies.

40 i. Refusing to surrender promptly the custody of a dead human body
41 upon the express order of the person lawfully entitled to custody of the
42 body.

43 j. Indecent exposure or exhibition of a dead human body while in a
44 permittee's custody or control.

45 k. ~~Practicing~~ Practice of funeral directing, funeral service, or embalming
46 without a license.

47 l. Acts or omissions that endanger public health.

48 m. Acts or omissions that deceive, defraud, or harm the public while
49 engaging in the removal or transportation of dead human bodies.

n. Failure to respond to the Board's inquiries in a reasonable manner or time regarding any matter relating to the permittee's engagement in the removal or transportation of dead human bodies.

The Board shall have the authority to determine the length and conditions of any period of revocation, suspension, refusal to issue or renew, or probation.

(d) Funeral Establishment Permit. –

(1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article. Each funeral establishment shall have in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall be permitted to manage a principal funeral establishment and any branch funeral establishments and chapels registered to it within a 50-mile radius in a straight line. The manager shall be charged with overseeing the daily operation of the funeral establishment and any branch funeral establishments and chapels registered to the principal funeral establishment. If the manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days so long as: (i) the funeral establishment retains one or more licensees to perform all services requiring a license under this Article and (ii) the funeral establishment registers the name of the licensees with the Board.

(2) A permit shall be issued when:

a. ~~It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment. The manager shall be charged with overseeing the daily operation of the funeral establishment. If the manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days so long as: (i) the funeral establishment retains one or more licensees to perform all services requiring a license under this Article; (ii) the licensees are not practicing under the exception authorized by G.S. 90-210.25(a2) and would otherwise be eligible to serve as manager; and (iii) the funeral establishment registers the name of the licensees with the Board.~~ a licensed manager as set forth in this subsection.

b. The Board receives a list of the names of all part-time and full-time licensees employed or contracted by the funeral establishment.

c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.

d. The Board receives payment of the permit fee.

(3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the ~~owner, a partner, a member of the limited liability company, or an officer of the corporation~~ manager, or if operating within the 30 days allowed pursuant to subdivision

(1) of this subsection, the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, in addition to the regular renewal fee, shall be charged. Funeral establishment permits that remain expired six months or more cannot be renewed.

(4) The Board may place on probation, refuse to issue or renew, suspend, or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations. In any case in which the Board is entitled to place a funeral establishment permittee 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. In any case in which the Board is entitled to suspend, revoke, or refuse to renew a permit, the Board may accept from the funeral establishment permittee 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. Any penalty under this subdivision may be in addition to any penalty assessed against one or more licensed individuals employed by the funeral establishment. The Board shall have the authority to determine the length and conditions of any period of revocation, suspension, refusal to issue or renew, or probation.

(5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board ~~within at least 30 days of~~ within at least 30 days of prior to a change of ownership of a funeral establishment. ~~establishment occurring due to an acquisition or sale.~~ A change to the legal structure owning a funeral establishment shall constitute a change of ownership only when there is a change of a majority of the funeral establishment's owners, partners, managers, members, operators, or officers. The death of an owner, partner, manager, member, operator, or officer holding a majority of the funeral establishment's ownership interests constitutes a change of ownership; provided that the estate of the decedent shall be permitted to submit a new application for a permit within 180 days following the majority owner's death. For the purposes of this subdivision, a funeral establishment means one or more structures on a contiguous piece of property.

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

(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:

- 1 a. ~~Conviction of a felony or a crime involving fraud or moral~~
2 ~~turpitude of, or plea of guilty or nolo contendere to, a felony or~~
3 ~~misdemeanor that indicates that the individual is unfit or incompetent~~
4 ~~to engage in funeral service or that the individual has deceived or~~
5 ~~defrauded the public.~~
6 a1. Denial, suspension, or revocation of an occupational or business
7 license by another jurisdiction.
8 b. Fraud or misrepresentation in obtaining or renewing a license or in the
9 practice of funeral service or operation of a licensee's business.
10 c. False or misleading advertising as the holder of a license.
11 d. Solicitation of dead human bodies by the licensee, his agents,
12 assistants, or employees; but this paragraph shall not be construed to
13 prohibit general advertising by the licensee.
14 e. Employment directly or indirectly of any resident trainee agent,
15 assistant or other person, on a part-time or full-time basis, or on
16 commission, for the purpose of calling upon individuals or institutions
17 by whose influence dead human bodies may be turned over to a
18 particular licensee.
19 f. The payment or offer of payment of a commission by the licensee, his
20 agents, assistants or employees for the purpose of securing business
21 except as authorized by Article 13D of this Chapter.
22 g. ~~Gross immorality, including being under the influence of alcohol or~~
23 ~~drugs while practicing funeral service.~~ Acts or omissions indicating
24 that the permittee is unable to engage in funeral service with
25 reasonable skill and safety by reason of illness, excessive use of
26 alcohol, drugs, chemicals, or any other type of substance, or by reason
27 of any physical or mental abnormality.
28 h. Aiding or abetting an unlicensed person to perform services under this
29 Article, including the use of a picture or name in connection with
30 advertisements or other written material published or caused to be
31 published by the licensee.
32 i. ~~Failing~~ Failure to treat a dead human body with respect at all times.
33 j. ~~Violating or cooperating~~ Violation or cooperation with others to
34 violate any of the provisions of this Article or Articles 13D, 13E, or
35 13F of this Chapter, any rules and regulations of the Board, or the
36 standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984),
37 as amended from time to time.
38 k. Violation of any State law or municipal or county ordinance or
39 regulation affecting the handling, custody, care or transportation of
40 dead human bodies.
41 l. Refusing to surrender promptly the custody of a dead human body or
42 cremated remains upon the express order of the person lawfully
43 entitled to the custody thereof.
44 m. Knowingly making any false statement on a certificate of death or
45 violating or cooperating with others to violate any provision of Article
46 4 or 16 of Chapter 130A of the General Statutes or any rules or
47 regulations promulgated under those Articles as amended from time to
48 time.
49 n. Indecent exposure or exhibition of a dead human body while in the
50 custody or control of a licensee.

- o. Failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt; provided, however, that this provision shall not be construed to include interest or growth on funds paid toward funeral goods and services to be provided pursuant to an inflation-proof preneed contract.
- p. Failure to provide, within a reasonable time, either the goods and services contracted for or a refund for the price of goods and services paid for but not fulfilled.
- q. Violation of G.S. 58-58-97.
- r. Failure to respond to the Board's inquiries in a reasonable manner or time regarding any matter affecting the individual's performance of funeral services.
- s. Failure to adequately supervise or oversee auxiliary licensed or unlicensed staff, employees, agents, or contractors as required by this Article or Articles 13D, 13E, or 13F of this Chapter, any rules and regulations adopted by the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended.
- t. Knowingly failing to follow the lawful direction of the person or persons with the right to authorize disposition of a dead human body in accordance with G.S. 130A-420.

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~~. Office of the Chief Medical Examiner.

No funeral establishment shall accept a dead human body from any public officer (excluding the ~~State or county medical examiner or his agent~~), examiner), 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 desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the ~~decedent~~. decedent's body pursuant to G.S. 130A-420. Any funeral ~~service~~-establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having

1 legal authority to direct the disposition of the body. This section shall not prevent any funeral
2 ~~service~~ establishment from charging and being reimbursed for services rendered in connection
3 with the removal of the remains of any deceased person in case of accidental or violent death,
4 and rendering necessary professional services required until the persons having legal authority
5 to direct the disposition of the body have been notified.

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

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

29 (e1) The taking or recovery of human tissue at a ~~funeral establishment facility licensed~~
30 pursuant to Article 13A or 13F of this Chapter by any person is prohibited. The prohibition does
31 not apply to any of the following:

- 32 (1) A licensee under this Article that performs embalming or otherwise prepares
33 a dead human body in the ordinary course of business.
- 34 (2) The Chief Medical Examiner or anyone acting under the Chief Medical
35 Examiner's authority.
- 36 (3) An autopsy technician who takes or recovers tissue from a dead human body
37 if all of the following apply:
 - 38 a. The taking or recovery is the subject of an academic research program.
 - 39 b. The academic research program has appropriate Institutional Review
40 Board supervision.
 - 41 c. The academic research program has obtained informed consent of the
42 donor or the person legally authorized to provide consent.

43 ~~No funeral establishment or person licensed under this Article~~ No licensee under Article 13A
44 or 13F of this Chapter shall permit the taking or recovery of human tissue from a dead human
45 body in its custody or control for human transplantation purposes or for research purposes, except
46 that a funeral establishment or person licensed under this Article may permit an autopsy
47 technician to take or recover tissue at a funeral establishment pursuant to subdivision (3) of this
48 subsection. ~~No funeral establishment licensee under Article 13A or 13F of this Chapter~~ or any of
49 its licensees, agents, or employees shall accept, solicit, or offer to accept any payment, gratuity,
50 commission, or compensation of any kind for referring potential tissue donors to a tissue bank or

tissue broker or to an eye bank or eye broker. For purposes of this subsection, the term "tissue" does not include an eye.

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

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

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

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of (i) any county in which the acts are alleged to have been committed or in committed, (ii) the county where the defendant in the action resides, or (iii) Wake County. The Board shall be entitled to reimbursement of costs and attorneys' fees expended from any defendant found to have engaged in the unlicensed practice of funeral service by a court of this State."

SECTION 3.6. G.S. 90-210.25B reads as rewritten:

"§ 90-210.25B. Persons who shall not be licensed under this Article with criminal history.

(a) ~~The board shall not issue or renew any licensure, permit, or registration to any person or entity who has been convicted of a sexual offense against a minor. When considering an application for license, permit, or registration, the Board may find that criminal conviction for sexual offense against a minor is indicative of the applicant's lack of fitness to practice funeral service.~~

...."

SECTION 3.7. G.S. 90-210.26 (Good moral character.) is repealed.

SECTION 3.8. G.S. 90-210.27A reads as rewritten:

"§ 90-210.27A. Funeral establishments.

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

(1) Contain one standard type operating table.

(2) Contain facilities for adequate drainage.

(3) ~~Contain a sanitary waste receptacle.~~ receptacles for the storage of waste and soiled linens.

(4) Contain an instrument sterilizer.

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

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

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

- (8) Have a proper ventilation or purification system to maintain a nonhazardous level of airborne contamination.
- (9) Contain surgical gloves and clean smocks or gowns for use when embalming or otherwise preparing remains for disposition.
- (10) Contain identification tags for use in accordance with G.S. 90-210.29A.
- (a1) ~~If a funeral establishment is damaged or destroyed by fire, weather event, or natural disaster, the Board may suspend the requirements of subsections (a) and (c) of this section, in part or whole, for a period not to exceed two years, provided that the funeral establishment remains in compliance with the requirements of G.S. 90-210.25(a2)(2) and (d) and all other applicable State laws, rules, and regulations of the town, municipality, or county where the funeral establishment is located. To receive an extension of more than two years from the date of loss, the funeral establishment may petition a court of competent jurisdiction who, upon finding that granting the requested extension would not negatively affect the public health, safety, and welfare, may grant an additional extension not to exceed three years from the date of loss or one year from the date of the court's order, whichever is greater.~~If a funeral establishment is destroyed by fire, weather event, or other natural disaster, the Board may suspend the requirements of subsections (a) and (c) of this section, in part or whole, for a period not to exceed two years. To receive an extension of more than two years from the date of loss, the funeral establishment may petition a court of competent jurisdiction who, upon finding that granting the requested extension would not negatively affect the public health, safety, and welfare, may grant an additional extension not to exceed three years from the date of loss or one year from the date of the court's order, whichever is greater. In addition to remaining in compliance with all applicable State laws, rules, and regulations of the city or county where the funeral establishment is located, a funeral establishment operating under a waiver or extension granted under this section shall do all of the following:
- (1) Comply with all rules and regulations imposed on funeral establishments and the funeral profession designed to protect consumers, including the provisions of G.S. 90-210.25(d) and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453, as amended.
- (2) Maintain all of the licensee's business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a funeral establishment.
- ...
- (e) If a funeral establishment is solely owned by a natural person, that person must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a partnership, at least one partner must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a corporation, the president, vice-president, or the chairman of the board of directors must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee. The licensee required by this subsection must be actively engaged in the operation of the funeral establishment. A provisional license to practice funeral directing pursuant to G.S. 90-210.25(a)(3a) ~~shall be subject to the same supervision requirements as a resident trainee pursuant to G.S. 90-210.25(a)(4); provided, however, that a provisional funeral director's license shall not qualify as a funeral director's license for the purposes of this subsection, subsections (a2) and subsection (d) of G.S. 90-210.25, or Article 13D of this Chapter.~~
- (f) If a funeral establishment uses the name of a living person in the name under which it does business, that person must be licensed by the Board as a funeral director or a funeral service licensee.
- (g) No funeral establishment shall own, operate, or maintain a branch funeral establishment or chapel without first having registered the name, location, and ownership thereof

with the Board; ~~own or maintain more than two chapels, or own or maintain a branch funeral establishment or chapel outside of a radius of 50 miles in a straight line from the funeral establishment. A duly licensed person may use a chapel for making arrangements for funeral services, selling funeral merchandise to the public by photograph, video, or computer based presentation, or making financial arrangements for the rendering of the service or sale of supplies, provided that the uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony.~~

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

(i) No funeral establishment shall use ~~an unregistered or a~~ misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral establishment, the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, the use of names of individuals not associated with the establishment, and the use of the word "crematory" or "crematorium" words "crematory," "crematorium," or "cremation center" in the name of a funeral establishment that does not own a crematory, share a facility or other contiguous real property with a crematory licensee. If an owner of a funeral establishment owns more than one funeral establishment, establishment or chapel, the owner may not use the word "crematory" or "crematorium" "crematory," "crematorium," or "cremation center" in the name of more than one of its funeral establishments; except that each funeral home having a crematory licensee on the premises may contain the term "crematory" or "crematorium" "crematory," "crematorium," or "cremation center" in its name.

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

(k) Human remains shall be stored in a funeral establishment, a licensed crematory, or an embalming facility at all times when the remains are not in transit or at a gravesite, church, or other facility or residence for the purpose of a visitation or funeral service.

(l) ~~Unembalmed human remains retained in the custody of a funeral establishment for more than 24 hours shall be kept in a refrigeration unit. Funeral establishments and crematories shall refrigerate a deceased body at a temperature not greater than 40 degrees Fahrenheit unless final disposition will occur within 24 hours of the time that the funeral establishment or crematory takes custody.~~

SECTION 3.9. G.S. 90-210.28 reads as rewritten:

"§ 90-210.28. Fees.

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

Funeral Establishment and Branch Funeral Establishment permit

Application..... \$400.00

Annual renewal 250.00

Late renewal 150.00

Establishment and embalming facility reinspection fee..... 150.00

Courtesy card

Application..... 100.00

Annual renewal 75.00

Out-of-state licensee

Application..... 250.00

Embalmer, funeral director, funeral service

Application North Application

-North Carolina-Resident 200.00

-Non-Resident 250.00

Annual Renewal embalmer or Renewal

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

17 ~~The Board shall provide, without charge, one copy of the current statutes and regulations~~
 18 ~~relating to Funeral Service to every person applying for and paying the appropriate fees for~~
 19 ~~licensing pursuant to this Article. The Board may charge all others requesting copies of the~~
 20 ~~current statutes and regulations, and the licensees or applicants requesting additional copies, a~~
 21 ~~fee equal to the costs of production and distribution of the requested documents. The Board shall~~
 22 ~~cause to be published the current statutes and rules related to the practice of funeral service on~~
 23 ~~its website."~~

24 **SECTION 3.10.** G.S. 90-210.29A reads as rewritten:

25 **"§ 90-210.29A. Identification of bodies before burial or cremation.**

26 ~~The funeral director or person otherwise responsible~~ Upon taking physical custody of a dead
 27 human body, any licensee under this Article or Article 13F of this Chapter, or an authorized
 28 representative of a licensee, shall affix on the ankle or wrist of the decedent a durable tag
 29 permanently marked with the decedent's name and date of death. The licensee or the licensee's
 30 authorized representative, or the person otherwise responsible for the final disposition of a dead
 31 human body shall, prior to the interment or entombment of the dead body, affix on the ankle or
 32 wrist of the dead body, or, if cremated, on the inside of the temporary container or urn containing
 33 the remains of the dead body, a tag of durable, noncorroding material permanently marked with
 34 the name of the deceased, the date of death, the social security number of the deceased, the county
 35 and state of death, and the site of interment or entombment."

36 **SECTION 3.11.** G.S. 90-210.29B reads as rewritten:

37 **"§ 90-210.29B. Exemptions from public records.**

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

42 (b) Records, papers, investigative files, investigative reports, other investigative
 43 information, and other documents containing information collected or compiled by or on behalf
 44 of the Board in the possession of, or received or gathered by, the Board or its members,
 45 employees, or consultants as a result of a complaint, an investigation, inquiry, assessment, audit,
 46 disciplinary matter, or interview in connection with conducted in connection with a licensing,
 47 complaint, or disciplinary matter involving a licensee, permittee, or registrant, or any application
 48 for a license, permit, or registration, shall not be considered public records within the meaning
 49 of Chapter 132 of the General Statutes. Statutes and are not subject to discovery, subpoena, or
 50 other means of legal compulsion for release to any person other than the Board, its employees,
 51 or consultants involved in the application for license, assessment, or discipline of a license holder.

Any notice of hearing or decision rendered in connection with a hearing shall be a public record subject to inspection."

PART IV. PRENEED FUNERAL FUNDS CHANGES

SECTION 4.1. G.S. 90-210.60, as amended by Section 2.1(a) of this act, reads as rewritten:

"Article 13D.

"Preneed Funeral Funds.

"§ 90-210.60. Definitions.

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

- (1) ~~"Board" means the Board.~~ – The North Carolina Board of Funeral Service as created pursuant to Article 13A of Chapter 90 of the General Statutes; Statutes.
- (1a) Cash advance item. – Any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, sales tax, certified copies of death certificates, clergy honoraria, flowers, musicians or singers, obituary notices, and gratuities.
- (2) ~~"Financial institution" means a Financial institution.~~ – A bank, credit union, trust company, savings bank, or savings and loan association authorized by law to do business in this State; State.
- (3) ~~"Insurance company" means any Insurance company.~~ – Any corporation, limited liability company, association, partnership, society, order, individual or aggregation of individuals engaging in or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and ~~corporations;~~ corporations.
- (3a) ~~"Legal representative" means the Legal representative.~~ – The person authorized by G.S. 130A-420 who would be otherwise authorized to dispose of the remains of the preneed funeral contract beneficiary.
- (4) ~~"Prearrangement insurance policy" means a Prearrangement insurance policy.~~ – A life insurance policy, annuity contract, or other insurance contract, or any series of contracts or agreements in any form or manner, issued by an insurance company authorized by law to do business in this State, which, whether by assignment or otherwise, has for a purpose the funding of a preneed funeral contract or an insurance-funded funeral or burial prearrangement, the insured or annuitant being the person for whose service the funds were paid; paid.
- (5) ~~"Preneed funeral contract" means any Preneed funeral contract.~~ – Any contract, agreement, or mutual understanding, or any series or combination of contracts, agreements, or mutual understandings, whether funded by trust deposits or prearrangement insurance policies, or any combination thereof, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, ~~or mausoleum.~~ mausoleum, outer burial containers, or pre-installed interment receptacle sold by a cemetery that is regulated by the Cemetery Commission. The term does not include a transportation protection agreement.
- (6) ~~"Preneed funeral contract beneficiary" means the Preneed funeral contract beneficiary.~~ – The person upon whose death the preneed funeral contract will

- 1 be performed; this person may also be the purchaser of the preneed funeral
2 ~~contract; contract.~~
- 3 (7) ~~"Preneed funeral funds" means all~~ Preneed funeral funds. – All payments of
4 cash made to any person, partnership, association, corporation, or other entity
5 upon any preneed funeral contract or any other agreement, contract, or
6 prearrangement insurance policy, or any series or combination of preneed
7 funeral contracts or any other agreements, contracts, or prearrangement
8 insurance policies, but excluding the furnishing of cemetery lots, crypts,
9 niches, ~~and mausoleums,~~ mausoleums, outer burial containers, or pre-installed
10 interment receptacles sold by a cemetery regulated by the Cemetery
11 Commission, which have for a purpose or which by operation provide for the
12 furnishing or performance of funeral or burial services, or the furnishing or
13 delivery of personal property, merchandise, or services of any nature in
14 connection with the final disposition of a dead human body, to be furnished
15 or delivered at a time determinable by the death of the person whose body is
16 to be disposed of, or the providing of the proceeds of any insurance policy for
17 such use; use.
- 18 (8) ~~"Preneed funeral planning" means offering~~ Preneed funeral planning. –
19 Offering to sell or selling preneed funeral contracts, or making other
20 arrangements prior to death for the providing of funeral services or
21 ~~merchandise; merchandise.~~
- 22 (9) ~~"Preneed licensee" means a~~ Preneed licensee. – A funeral establishment which
23 has applied for and has been granted a license to sell preneed funeral contracts
24 under the Article. Such license is also referred to in this Article as a "preneed
25 funeral establishment license." license or "preneed funeral establishment
26 permit."
- 27 (10) ~~"Transportation protection agreement" means an~~ Transportation protection
28 agreement. – An agreement, sold separately from a preneed funeral contract,
29 that primarily provides for the coordination and arranging of all professional
30 services related to the preparation of human remains or cremated remains for
31 the purpose of initial and subsequent transportation of those remains."

32 SECTION 4.2. G.S. 90-210.61 reads as rewritten:

33 **"§ 90-210.61. Deposit or application of preneed funeral funds.**

34 ...

35 (d) Funds deposited in trust ~~under a revocable standard preneed funeral contract under a~~
36 revocable or irrevocable preneed funeral contract may, with the written permission of the preneed
37 funeral contract purchaser, be withdrawn by the trustee and used to purchase a prearrangement
38 insurance policy. ~~Except as provided in this subsection, no funds deposited in trust in a financial~~
39 ~~institution pursuant to this Article shall be withdrawn by the trustee to purchase a prearrangement~~
40 ~~insurance policy. Nothing in this subsection shall be construed to permit the revocation of an~~
41 irrevocable preneed funeral contract and all funds withdrawn from trust pursuant to this
42 subsection shall be applied to the purchase of a prearrangement insurance policy.

43"

44 SECTION 4.3. G.S. 90-210.62 reads as rewritten:

45 **"§ 90-210.62. Types of preneed funeral contracts; forms.**

46 ...

47 (b) The Board may prescribe forms for preneed funeral contracts consistent with this
48 Article. All contracts must be in writing on forms prescribed by the Board. Any use or attempted
49 use of any oral preneed funeral contract or any written contract in a form not prescribed by the
50 Board shall be deemed a violation of this Article. The preneed funeral contract purchaser may
51 specify in writing religious practices that conflict with this Article or Article 13A or 13F of this

Chapter. The preneed licensee shall observe those religious practices except where they interfere with cremation in a licensed crematory as specified under G.S. 90-210.123 or the required documentation and record keeping."

SECTION 4.4. G.S. 90-210.63 reads as rewritten:

"§ 90-210.63. Substitution of licensee.

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

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

(2) ~~The original contracting preneed licensee shall immediately pay all funds received to the successor funeral establishment designated.~~ Regardless of whether the substitution is made before or after the death of the preneed funeral contract beneficiary, the original contracting preneed licensee shall not be required to give credit for the amount retained pursuant to G.S. 90-210.61(a)(2), except when there was a substitution under G.S. 90-210.68(d1) and (e). Upon ~~making payments~~ substitution pursuant to this subsection, the financial institution and the original contracting preneed licensee shall be relieved from all further contractual liability thereon.

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

(b) The person giving notice of the substitution of a preneed licensee and the successor preneed licensee shall enter into a new preneed funeral contract for the funds transferred, and this Article shall apply, including the duty of the successor preneed licensee to deposit all of the funds in a ~~financial institution if the death of the preneed funeral contract beneficiary has not occurred.~~ trust or insurance product consistent with this Article. Nothing in this subsection shall be construed to ~~permit the use of the transferred funds to purchase a prearrangement insurance policy, nor to permit an irrevocable preneed funeral contract to be made revocable or to result in the payment of any of the transferred funds to the preneed funeral contract purchaser or to the preneed funeral contract beneficiary or his estate, except as provided by G.S. 90-210.64(b).~~

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

SECTION 4.5. G.S. 90-210.64 reads as rewritten:

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

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

(b) Unless otherwise specified in the preneed funeral contract, the preneed licensee shall have no obligation to deliver merchandise or perform any services for which payment in full has not yet been deposited with a financial institution or that will not be provided by the proceeds of a prearrangement insurance policy. Any such amounts received which do not constitute payment in full shall be refunded to the estate of the deceased preneed funeral contract beneficiary or credited against the cost of merchandise or services contracted for by a representative of the deceased. Any balance remaining after payment for the merchandise and services as set forth in the preneed funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or the prearrangement insurance policy beneficiary named to receive any such balance. Provided, however, unless the parties agree to the contrary, there shall be no refund to the estate of the preneed funeral contract beneficiary of an inflation-proof preneed funeral contract except as required by G.S. 90-210.63A(c).

(c) In the event that any person other than the contracting preneed licensee performs any funeral service or provides any merchandise as a result of the death of the preneed funeral contract beneficiary, the financial institution shall pay the trust funds to the ~~contracting~~ performing preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. ~~The preneed licensee shall, subject to the provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other provider. The performing preneed licensee shall provide the contracting preneed licensee with a copy of the certificate of performance prepared for the decedent contemporaneously upon submission to the Board on or before 10 days of payment.~~

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

(e) ~~Upon~~ For trust funded preneed funeral contracts, upon the fulfillment of a preneed contract, all of the following items shall be completed within 30 days:

- (1) The ~~contracting~~ performing preneed licensee must submit a certificate of performance ~~or similar claim form~~ to the financial institution holding the preneed trust funds and close the preneed account.
- (2) The proceeds of this trust account shall be distributed according to the terms of the preneed contract.
- (3) A completed copy of the certificate of performance ~~or similar claim form~~ evidencing the final disposition of any financial institution preneed trust account funds must be filed with the Board by the ~~contracting~~ performing licensee."

SECTION 4.6. G.S. 90-210.67 reads as rewritten:

"§ 90-210.67. Application for license.

...

(b) An application for a preneed funeral establishment license shall be accompanied by a nonrefundable application fee of not more than four hundred dollars (\$400.00). The Board shall set the amounts of the application fees and renewal fees, by rule.

If the license is granted, the application fee shall be applied to the annual license fee for the first year or part thereof. Upon receipt of the application and payment of the application fee, the Board shall issue a renewable preneed funeral establishment license unless it determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made false statements or representations in the application, or is insolvent, or has conducted or is about to conduct, its business in a fraudulent manner, or is not duly authorized to transact business in this State. The license shall expire on December 31 and each preneed funeral establishment licensee shall pay annually to the Board on or before that date a license renewal fee of not more than two hundred fifty dollars (\$250.00). ~~On or after~~ After February 1, a license may be renewed by paying a late fee of not more than one hundred dollars (\$100.00) in addition to the annual renewal fee. Preneed funeral establishment permits that remain expired six months or more cannot be renewed and establishments must reapply for licensure pursuant to this subsection.

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

(c) An application for a preneed sales license shall be accompanied by a nonrefundable application fee of not more than fifty dollars (\$50.00). The Board shall set the amounts of the application fees and renewal fees by rule, but the fees shall not exceed fifty dollars (\$50.00). If the license is granted, the application fee shall be applied to the annual license fee for the first year or part thereof. Upon receipt of the application and payment of the application fee, the Board shall issue a renewable preneed sales license provided the applicant has met the qualifications to engage in preneed funeral planning as established by the Board unless it determines that the applicant has violated any provision of G.S. 90-210.69(c). The license shall expire on December 31 and each preneed sales licensee shall pay annually to the Board on or before that date a license renewal fee of not more than fifty dollars (\$50.00). ~~On or after~~ After February 1, a license may be renewed by paying a late fee of not more than twenty-five dollars (\$25.00) in addition to the annual renewal fee.

...."

SECTION 4.7. G.S. 90-210.68 reads as rewritten:

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

...

(a1) On or before March ~~31~~, 31 of each year, each preneed licensee shall prepare and submit an annual report on its preneed funeral contract sales ~~and during the previous calendar year, to include the total number, status, and type of each preneed contract for which the preneed licensee serves as trustee, the total year-end balance of each contract, and the status of each preneed contract. The preneed licensee shall~~ submit the report to the Board in a manner and form prescribed by the Board.

...

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

(d) ~~Financial institutions that accept preneed funeral trust funds and insurance companies that issue or assign insurance policies that are used to fund preneed funeral contracts shall, upon request by the Board or its inspectors or examiners, disclose any information regarding preneed funeral trust accounts held or any insurance policies used to fund a preneed funeral contract and, for any insurance policy that names a funeral establishment as an assignee or beneficiary, the issuing or underwriting insurance company shall, upon request by the Board or its inspectors, disclose any information regarding the preneed funeral trust accounts or any insurance policy that names a funeral establishment as an assignee or beneficiary.~~

Financial institutions that accept preneed funeral trust funds ~~and insurance companies that issue or assign insurance policy proceeds or designate a preneed funeral establishment as a policy beneficiary or owner and,~~ for any insurance policy that names a funeral establishment as an assignee or beneficiary, the issuing or underwriting insurance company shall also forward an the account balance or policy status and current death benefit to the contracting preneed funeral establishment or the funeral establishment named as an assignee or beneficiary at the end of each calendar year.

(d1) When a preneed funeral establishment license lapses or is terminated for any reason, the preneed licensee shall immediately divest of all the unperformed preneed funeral contracts and shall transfer them and any amounts retained under G.S. 90-210.61(a)(2) to ~~another a~~ successor preneed funeral establishment licensee in good standing with the Board pursuant to the procedures of subsection (e) of this section. The contracting and the successor preneed funeral establishments shall notify the Board at least 30 days prior to such transfer. Within 30 days following the transfer, the contracting and successor preneed funeral establishments shall provide notice of the transfer to each preneed contract purchaser and to the financial institution housing the preneed funeral trust funds or the issuing or underwriting insurance company for the contracts.

(e) In the event that any preneed licensee is unable or unwilling or is for any reason relieved of its responsibility to perform as trustee or to perform any preneed funeral contract, the Board shall order the contract and any amounts retained pursuant to G.S. 90-210.61(a)(2) to be assigned to a substitute preneed licensee provided that neither the substitute preneed licensee or preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall be obligated to perform the agreement without executing a new preneed funeral contract. Any lapse or transfer of a preneed contract pursuant to this section shall not be grounds to revoke an irrevocable preneed funeral contract.

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

SECTION 4.8. G.S. 90-210.69 reads as rewritten:

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

(a) The Board is authorized to adopt rules for the carrying out and enforcement of the provisions of this Article. The Board may perform such other acts and exercise such other powers and duties as are authorized by this Article and by Article 13A of this Chapter to carry out its powers and duties.

(b) The Board may administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records in any investigation conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas and other papers given to them by the Board for service in the same manner as process issued by any court of record. Any person who does not obey a subpoena issued by the Board shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

(b1) Upon determining that it is necessary for the protection of the interest of a preneed contract purchaser or beneficiary, the Board may issue a written order to direct that the preneed funds of any preneed licensee on deposit in any institution operating under this Article be frozen and not paid out by such legal entity. Any legal entity freezing the preneed funds pursuant to the directive of the Board shall not be liable for freezing an account pursuant to an order of the Board.

(c) The Board may place on probation, refuse to issue or renew, suspend, or revoke a preneed license when an owner, partner, manager, member, operator, officer, or preneed salesperson of the preneed funeral licensee violates any provision of this Article or any rules adopted by the Board, or when any agent or employee of the preneed funeral establishment, with the consent of any person, firm, or corporation operating the funeral establishment, violates any of these provisions, rules, or regulations. In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

- (1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.
- (2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
- (3) A crime involving fraud or moral turpitude by conviction thereof. Conviction of, or plea of guilty or nolo contendere to, a felony or a misdemeanor that indicates that the individual is unfit or incompetent to engage in preneed funeral service or that the individual has deceived or defrauded the public.
- (4) Fraud or misrepresentation in obtaining or receiving a license in preneed funeral planning or in the operation of a licensee's business.
- (5) False or misleading advertising.
- (6) Violating or cooperating with others to violate any provision of this Article or Article 13A, 13E, or 13F of this Chapter, the 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.
- (7) Denial, suspension, or revocation of an occupational or business license by another jurisdiction.
- (8) Failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt; provided, however, that this provision shall not be construed to include interest or growth on funds paid toward funeral goods and services to be provided pursuant to an inflation-proof preneed contract.
- (9) Failure to provide, within a reasonable time, either the goods and services contracted for or a refund for the price of goods and services paid but not fulfilled.

(10) Violation of G.S. 58-58-97.

(11) Failure to respond to the Board's inquiries in a reasonable manner or time regarding any matter affecting the individual's performance of preneed funeral services.

Revocation of a funeral establishment permit granted pursuant to G.S. 90-210.25(d)(2) shall result in the automatic revocation of the firm's preneed funeral establishment permit by operation of law. Active suspension of a funeral establishment permit granted pursuant to G.S. 90-210.25(d)(2) shall result in the automatic active suspension of the firm's preneed funeral establishment permit for the same length of time by operation of law. In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000). 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 such probation. The Board may determine the length and conditions of any period of probation, revocation, suspension, or refusal to issue or renew a license.

(d) Any proceedings pertaining to or actions against a funeral establishment under this Article may be in addition to any proceedings or actions permitted by G.S. 90-210.25(d)(4). Any proceedings pertaining to or actions against a person licensed for funeral directing or funeral service may be in addition to any proceedings or actions permitted by G.S. 90-210.25 (e)(1) and (2).

(e) Judicial review shall be pursuant to Article 4 of Chapter 150B of the General Statutes.

(f) In determining the amount of any penalty imposed or assessed under Article 13 of Chapter 90 of the General Statutes, the Board shall consider:

- (1) The degree and extent of harm to the public health, safety, and welfare, or to property, or the potential for harm.
- (2) The duration and gravity of the violation.
- (3) Whether the violation was committed willfully or intentionally or reflects a continuing pattern.
- (4) Whether the violation involved elements of fraud or deception either to the public or to the Board, or both.
- (5) The violator's prior disciplinary record with the Board.
- (6) Whether and the extent to which the violator profited by the violation."

SECTION 4.9. G.S. 90-210.70 reads as rewritten:

"§ 90-210.70. Penalties.

...

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

SECTION 4.10. G.S. 90-210.73 reads as rewritten:

"§ 90-210.73. Not public record.

The following records or documents shall not be subject to the provisions of Chapter 132 of the General Statutes: Statutes and are not subject to discovery, subpoena, or other means of legal compulsion for release:

- 1 (1) ~~The names and addresses of the purchasers and beneficiaries of preneed~~
2 ~~Preneed~~ funeral contracts filed with the Board.
- 3 (2) All financial information used to demonstrate solvency in connection with a
4 bond required under ~~G.S. 90-210.67~~ G.S. 90-210.67 or application for
5 preneed funeral establishment permit."

6

7 **PART V. RULEMAKING AND EFFECTIVE DATE**

8 **SECTION 5.1.** The North Carolina Board of Funeral Service may adopt temporary
9 rules to implement the provisions of this act. Temporary rules adopted in accordance with this
10 section shall remain in effect until permanent rules that replace the temporary rules become
11 effective.

12 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
13 law.