

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 673

Short Title: Modify Funeral Practice Act.

(Public)

Sponsors: Senator Harris.

Referred to: Human Resources.

March 28, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE PRACTICE OF FUNERAL SERVICE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.18 reads as rewritten:

"§ 90-210.18. Construction of Article; State Board; members; election; qualifications; term; vacancies.

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

(b) The North Carolina Board of Mortuary Science is created as a continuation of the North Carolina Board of Embalmers and Funeral Directors. The Board is the agency for regulation of the practice of funeral service in this State. The Board shall have ~~seven~~ eight members as follows:

- (1) Four funeral service licensees or persons holding both funeral director's license and an embalmer's license,
- (2) Two persons holding a funeral director's license or a funeral service license, and
- (3) ~~One~~ Two public ~~member~~ members.

A member's term shall ~~be three years and shall expire~~ on December 31 or when his successor has been duly elected or appointed. A public member's term shall be four years, and he may not serve more than two complete terms. An elected member's term

1 shall be three years, and he ~~No member~~ may not serve more than two complete
2 consecutive terms.

3 The six seats on the Board for licensees shall be filled in an election in which every
4 person licensed to practice embalming, funeral directing, or funeral service in this State
5 may vote. No licensee may be nominated, elected, or serve unless he holds a North
6 Carolina license in the class designated for the seat and unless he is engaged in full-time
7 employment in this State in a practice authorized by his license. Any vacancy occurring
8 in an elective seat on the Board shall be filled for the unexpired term by majority vote of
9 the remaining Board members.

10 The public ~~member~~ members of the Board shall have full voting authority. ~~He~~ They
11 shall be appointed by the Governor and may neither be licensed under this Article nor
12 employed by a person who is. A vacancy occurring in the public ~~member's seat~~ members'
13 seats shall be filled for the unexpired term by the Governor.

14 (c) Nominations and elections of members of the North Carolina State Board of
15 Mortuary Science shall be as follows:

16 (1) An election shall be held each year to elect two persons for
17 membership on the Board of Mortuary Science, each to take office on
18 the first day of January following the election. If in any year the
19 election of a member of the Board is not completed by January 1, the
20 member elected that year shall take office immediately after
21 completion of the election.

22 (2) Every embalmer, funeral director and funeral service licensee with a
23 current North Carolina license shall be eligible to vote in all elections.
24 The holding of such a license to practice in North Carolina shall
25 constitute registration to vote in such elections. The list of licensed
26 embalmers, funeral directors and funeral service licensees shall
27 constitute the registration list for elections.

28 3) All elections shall be conducted by the State Board of Mortuary
29 Science which is hereby constituted a Board of Mortuary Science
30 Elections. If a member of the State Board of Mortuary Science whose
31 position is to be filled at any election is nominated to succeed himself
32 and does not withdraw his name, he shall be disqualified to serve as a
33 member of the Board of Mortuary Science Elections for that election
34 and the remaining members of the Board of Mortuary Science
35 Elections shall proceed and function without his participation.

36 (4) Nomination of candidates for election shall be made to the Board of
37 Mortuary Science Elections by a written petition signed by not less
38 than 20 embalmers, funeral directors or funeral service licensees
39 licensed to practice in North Carolina, and filed with said Board of
40 Mortuary Science Elections subsequent to the ~~fifteenth~~ first day of May
41 of the year in which the election is to be held and not later than
42 midnight of the ~~fifteenth~~ first day of August of such year, or not later
43 than such earlier date (not before July 1) as may be set by the Board of
44 Mortuary Science Elections: Provided, that not less than 10 days'

1 notice of such earlier date shall be given to all embalmers, funeral
2 directors and funeral service licensees qualified to sign a petition of
3 nomination.

4 (5) Any person who is nominated as provided in subdivision (4) above
5 may withdraw his name by written notice delivered to the Board of
6 Mortuary Science Elections or its designated secretary at any time
7 prior to the closing of the polls in any election.

8 (6) Following the close of nominations, there shall be prepared, under and
9 in accordance with such rules and regulations as the Board of
10 Mortuary Science Elections shall prescribe, ballots containing
11 identification of the seats for election and, in alphabetical order, the
12 names of all nominees for each seat. Each ballot shall have such
13 method of identification, and such instructions and requirements
14 printed thereon, as shall be prescribed by the Board of Mortuary
15 Science Elections at such time as may be fixed by the Board of
16 Mortuary Science Elections a ballot and a return official envelope
17 addressed to said Board shall be mailed to each embalmer, funeral
18 director and funeral service licensee licensed to practice in North
19 Carolina, together with a notice by said Board designating the latest
20 day and hour for return mailing and containing such other items as
21 such Board may see fit to include. The said envelope shall bear a serial
22 number and shall have printed on the left portion of its face the
23 following:

24 'Serial No. of Envelope.....

25 Signature of Voter.....

26 Address of Voter.....

27

28 (Note: The enclosed ballot is not valid unless the signature of the voter
29 is on this envelope).' The Board of Mortuary Science Elections may
30 cause to be printed or stamped or written on said envelope such
31 additional notice as it may see fit to give. No ballot shall be valid or
32 shall be counted in an election unless within the time hereinafter
33 provided it has been delivered to said Board by hand or by mail and
34 shall be sealed. The said Board by rule may make provision for
35 replacement of lost or destroyed envelopes or ballots upon making
36 proper provisions to safeguard against abuse.

37 (7) The date and hour fixed by the Board of Mortuary Science Elections
38 as the latest time for delivery by hand or mailing of said return ballots
39 shall be not earlier than the 10th day following the mailing of the
40 envelopes and ballots to the voters.

41 (8) The said ballots shall be canvassed by the Board of Mortuary Science
42 Elections beginning at ~~noon~~ one o'clock p.m. on a day and at a place
43 set by said Board and announced by it in the notice accompanying the
44 sending out of the ballots and envelopes, said date to be not later than

1 four days after the date fixed by the Board for the closing of the
2 balloting. The canvassing shall be made publicly and any licensed
3 embalmer, funeral director or funeral service licensee may be present.
4 The counting of ballots shall be conducted as follows: The envelopes
5 shall be displayed to the persons present and an opportunity shall be
6 given to any person present to challenge the qualification of the voter
7 whose signature appears on the envelope or to challenge the validity of
8 the envelope. Any envelope (with enclosed ballot) challenged shall be
9 set aside, and the challenge shall be heard later or at that time by said
10 Board. After the envelopes have been so exhibited, those not
11 challenged shall be opened and the ballots extracted therefrom, insofar
12 as practicable without showing the marking on the ballots, and there
13 shall be a final and complete separation of each envelope and its
14 enclosed ballot. Thereafter each ballot shall be presented for counting,
15 shall be displayed and, if not challenged, shall be counted. No ballot
16 shall be valid if it is marked for more nominees than there are positions
17 to be filled in that election: Provided, that no ballot shall be rejected
18 for any technical error unless it is impossible to determine the voter's
19 choices or choice from the ballot. The counting of ballots shall be
20 continued until completed. During the counting, challenge may be
21 made to any ballot on the grounds only of defects appearing on the
22 face of the ballot. The said Board may decide the challenge
23 immediately when it is made or it may put aside the ballot and
24 determine the challenge upon the conclusion of the counting of the
25 ballots.

26 (9) a. Election shall be determined by a majority of the votes cast. As
27 used in this subdivision 'category I' refers to the seat held by a funeral
28 service licensee or a person holding both a funeral director's license
29 and an embalmer's license, and 'category II' refers to the seat held by a
30 funeral director or a funeral service licensee. A majority shall be
31 determined:

- 32 1. In an election to fill one seat in category I and one seat in
33 category II, and if there are two or more candidates for a
34 category, the majority shall be determined by dividing
35 the total vote cast for all candidates in the category by
36 two. An excess of the sum so ascertained shall be a
37 majority.
- 38 2. In an election to fill two seats in the same category, and
39 if there are more than two candidates, the majority shall
40 be determined by dividing the total vote cast for all
41 candidates by two and by dividing the result by two.
42 Any excess of the sum so ascertained shall be a majority.
43 If more than two candidates obtain a majority the two
44 having the highest vote shall be declared elected.

- 1 b. If there is a failure to obtain a majority of the votes cast for any
2 seat the following procedures shall apply:
- 3 1. In an election to fill one seat in category I and one seat in
4 category II, and if no candidate receives a majority in a
5 category, the candidate receiving the highest number of
6 votes in that category shall be declared elected unless the
7 candidate receiving the second highest number of votes,
8 within 10 days of having been notified by the Board of
9 the vote total, shall request a second election. In the
10 second election, the names of the candidates who
11 received the highest and the next highest number of
12 votes shall appear on the ballot.
- 13 2. In an election to fill two seats in the same category, and
14 if no candidate receives a majority, the two candidates
15 receiving the highest number of votes shall be declared
16 elected unless the candidate receiving the next highest
17 number of votes, within 10 days of having been notified
18 by the Board of the vote total, shall request a second
19 election. In the second election the names of the two
20 candidates who received the highest number of votes in
21 the first election and the name of the candidate who
22 received the next highest number of votes shall appear
23 on the ballot, and the two candidates who receive the
24 highest number of votes in the second election shall be
25 declared elected. If in the first election only one
26 candidate fails to receive a majority, the candidate
27 receiving the highest number of votes, but not a majority,
28 shall be declared elected unless the candidate receiving
29 the next highest number of votes, within 10 days of
30 having been notified by the Board of the vote total, shall
31 request a second election. In the second election the
32 name of the candidate who received the highest number
33 of votes, but not a majority, in the first election and the
34 name of the candidate who received the next highest
35 number of votes shall appear on the ballot, and the
36 candidate who receives the higher number of votes in the
37 second election shall be declared elected.
- 38 c. In any election if there is a tie between candidates the tie shall
39 be resolved by a vote of the Board, provided that if a member of
40 the Board is one of the candidates in the tie he may not
41 participate in such vote.
- 42 (10) In the event there shall be required a second election, there shall be
43 followed the same procedure as outlined in the paragraphs above
44 subject to the same limitations and requirements.

- 1 (11) In the case of the death or withdrawal of a candidate prior to the
2 closing of the polls in any election, he shall be eliminated from the
3 contest and any votes cast for him shall be disregarded. If, at any time
4 after the closing of the period for nominations, because of lack of
5 plural or proper nominations, or death, or withdrawal, or
6 disqualification or any other reason, there shall be (i) only one
7 candidate for a position, he shall be declared elected by the Board of
8 Mortuary Science Elections, or (ii) no candidate for a position, the
9 position shall be filled by the State Board of Mortuary Science. In the
10 event of the death or withdrawal of a candidate after election but
11 before taking office, the position to which he was elected shall be
12 filled by the State Board of Mortuary Science. In the event of the death
13 or resignation of a member of the State Board of Mortuary Science,
14 after taking office, his position shall be filled for the unexpired term by
15 the State Board of Mortuary Science.
- 16 (12) An official list of all licensed embalmers, funeral directors and funeral
17 service licensees shall be kept at an office of the Board of Mortuary
18 Science Elections and shall be open to the inspection of any person at
19 all times. Copies may be made by any licensed embalmer, funeral
20 director or funeral service licensee. As soon as the voting in any
21 election begins, a list of the licensed embalmers, funeral directors, and
22 funeral service licensees shall be posted in such office of said Board
23 and indication by mark or otherwise shall be made on that list to show
24 whether a ballot-enclosing envelope has been returned.
- 25 (13) All envelopes enclosing ballots and all ballots shall be preserved and
26 held separately by the Board of Mortuary Science Elections for a
27 period of six months following the close of an election.
- 28 (14) From any decision of the Board of Mortuary Science Elections relative
29 to the conduct of such elections, appeal may be taken to the courts in
30 the manner otherwise provided by Chapter 150B of the General
31 Statutes of North Carolina.
- 32 (15) The Board of Mortuary Science Elections is authorized to make rules
33 and regulations relative to the conduct of these elections, provided
34 same are not in conflict with the provisions of this section and
35 provided that notice shall be given to all licensed embalmers, funeral
36 directors, and funeral service licensees.
- 37 (d) The Board of Mortuary Science Elections is authorized to appoint such
38 secretary or secretaries and/or assistant secretary or assistant secretaries to perform such
39 functions in connection with such nominations and elections as said Board shall
40 determine, provided that any protestant or contestant shall have the right to a hearing by
41 said Board in connection with any challenge of a voter, or an envelope, or a ballot or the
42 counting of an election. Said Board is authorized to designate an office or offices for the
43 keeping of lists of registered embalmers, funeral directors and funeral service licensees,
44 for the issuance and receipt of envelopes and ballots."

1 Sec. 2. G.S. 90-210.23 reads as rewritten:

2 **"§ 90-210.23. Powers and duties of the Board.**

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

7 (a1) The Board may adopt and enforce any or all of the provisions of the Funeral
8 Trade Regulation Rule, 16 CFR 453, as adopted and promulgated by the Federal Trade
9 Commission, and as subsequently amended and recodified.

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

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

23 (d) Every person licensed by the Board and every resident trainee shall furnish all
24 information required by the Board reasonably relevant to the practice of the profession
25 or business for which he is a licensee or resident trainee, and every funeral service
26 establishment shall be subject to inspection by the Board at all reasonable times and
27 shall furnish all information required by the Board reasonably relevant to the business
28 therein conducted. Every licensee, resident trainee and funeral service establishment
29 shall provide the Board with his or its current post-office address which shall be placed
30 on the appropriate register and all notices required by law or by any rule or regulation of
31 the Board to be mailed to any licensee, resident trainee or funeral service establishment
32 shall be validly given when mailed to the address so provided.

33 The Board is empowered to hold hearings in accordance with the provisions of this
34 Article and of Chapter 150A to subpoena witnesses and to administer oaths to or receive
35 the affirmation of witnesses before the Board.

36 (e) The Board is empowered to regulate and inspect, according to law, funeral
37 service establishments, their operation and the licenses under which they are operated,
38 and to enforce as provided by law the rules, regulations and requirements of the
39 Division of Health Services and of the city, town or county wherein any such funeral
40 service establishment is maintained and operated. The Board may grade funeral
41 establishments on their compliance with the laws and rules governing their operation
42 and may issue inspection certificates indicating such grade. Inspection certificates shall
43 be displayed in a conspicuous place in the funeral establishment.

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

6 (g) Schools in North Carolina for teaching mortuary science which are approved
7 by the Board shall have extended to them the same privileges as to the use of bodies for
8 teaching embalming and restorative art and for dissecting ~~while teaching~~ as those granted
9 in this State to medical colleges, but such bodies shall be obtained through the same
10 agencies which provide bodies for medical colleges.

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

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

15 Sec. 3. G.S. 90-210.25 reads as rewritten:

16 "**§ 90-210.25. Licensing.**

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

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

- 20 a. Be at least 18 years of age,
- 21 b. Be of good moral character,
- 22 c. Have completed a minimum of 32 semester hours or 48 quarter
23 hours of instruction in a course of study including the subjects
24 set out in items e.1. and 2. of this subsection in a mortuary
25 science college approved by the Board, or be a graduate of a
26 one-year program of a mortuary science college approved by
27 the Board.
- 28 d. Have completed 12 consecutive months of resident traineeship
29 as funeral director, pursuant to the procedures and conditions
30 set out in G.S. 90-210.25(a)(4), either before or after satisfying
31 the educational requirement under item c. of this subsection,
32 and
- 33 e. Have passed an oral or written funeral director examination on
34 the following subjects:
 - 35 1. Basic health sciences, including microbiology, hygiene,
36 and public health,
 - 37 2. Funeral service administration, including accounting,
38 psychology, funeral principles and directing, and
 - 39 3. Laws of North Carolina and rules of the Board of
40 Mortuary Science and other agencies dealing with the
41 care, transportation and disposition of dead human
42 bodies.

43 (2) To be licensed for the practice of embalming under this Article, a
44 person must:

- 1 a. Be at least 18 years of age,
- 2 b. Be of good moral character,
- 3 c. Be a graduate of a two-year associate degree program of a
4 mortuary science college approved by the Board, or have
5 attained a minimum of an associate degree from an accredited
6 college or university and be a graduate of a one-year program of
7 a mortuary science college approved by the Board,
- 8 d. Have completed 12 consecutive months of resident traineeship
9 as an embalmer pursuant to the procedures and conditions set
10 out in G.S. 90-210.25(a)(4), either before or after satisfying the
11 educational requirement under item c. of this subsection, and
- 12 e. Have passed an oral or written embalmer examination on the
13 following subjects:
 - 14 1. Basic health sciences, including anatomy, chemistry,
15 microbiology, pathology and forensic pathology,
 - 16 2. Funeral service sciences, including embalming and
17 restorative art, and
 - 18 3. Laws of North Carolina and rules of the Board of
19 Mortuary Science and other agencies dealing with the
20 care, transportation and disposition of dead human
21 bodies.
- 22 (3) To be licensed for the practice of funeral service under this Article, a
23 person must:
 - 24 a. Be at least 18 years of age,
 - 25 b. Be of good moral character,
 - 26 c. Be a graduate of a two-year associate degree program of a
27 mortuary science college approved by the Board, or have
28 attained a minimum of an associate degree from an accredited
29 college or university and be a graduate of a one-year program of
30 a mortuary science college approved by the Board,
 - 31 d. Have completed 12 consecutive months of resident traineeship
32 as a funeral service licensee, pursuant to the procedures and
33 conditions set out in G.S. 90-210.25(a)(4), either before or after
34 satisfying the educational requirement under item c. of this
35 subsection, and
 - 36 e. Have passed an oral or written funeral service
37 examination on the following subjects:
 - 38 1. Basic health sciences, including anatomy, chemistry,
39 microbiology, pathology, forensic pathology hygiene and
40 public health,
 - 41 2. Funeral service sciences, including embalming and
42 restorative art,
 - 43 3. Funeral service administration, including accounting,
44 psychology, funeral principles and directing, and

1 4. Laws of North Carolina and rules of the Board of
2 Mortuary Science and other agencies dealing with the
3 care, transportation and disposition of dead human
4 bodies.

5 (4) a. A person desiring to become a resident trainee shall apply to the
6 Board on a form provided by the Board. The application shall state that
7 the applicant is not less than 18 years of age, of good moral character,
8 and is the graduate of a high school or the equivalent thereof, and shall
9 indicate the licensee under whom the applicant expects to train. A
10 person training to become an embalmer may serve under either a
11 licensed embalmer or a funeral service licensee. A person training to
12 become a funeral director may serve under either a licensed funeral
13 director or a funeral service licensee. A person training to become a
14 funeral service licensee shall serve under a funeral service licensee.
15 The application must be sustained by oath of the applicant and be
16 accompanied by the appropriate fee. When the Board is satisfied as to
17 the qualifications of an applicant it shall instruct the secretary to issue
18 a certificate of resident traineeship.

19 b. When a resident trainee leaves the proctorship of the licensee
20 under whom the trainee has worked, the licensee shall file with
21 the Board an affidavit showing the length of time served with
22 the licensee by the trainee, and the affidavit shall be made a
23 matter of record in the Board's office. The licensee shall deliver
24 a copy of the affidavit to the trainee.

25 c. A person who has not completed the traineeship and wishes to
26 do so under a licensee other than the one whose name appears
27 on the original certificate may reapply to the Board for
28 approval, without payment of an additional fee.

29 d. A certificate of resident traineeship shall be signed by the
30 resident trainee and upon payment of the renewal fee shall be
31 renewable one year after the date of original registration; but
32 the certificate may not be renewed more than one time. The
33 Board shall mail to each registered trainee at his last known
34 address a notice that the renewal fee is due and that, if not paid
35 within 30 days of the notice, the certificate will be canceled. A
36 penalty, in addition to the renewal fee, shall be charged for a
37 late renewal, but the renewal of the registration of any resident
38 trainee who is engaged in the active military service of the
39 United States at the time renewal is due may, at the discretion
40 of the Board, be held in abeyance for the duration of that
41 service without penalties. No credit shall be allowed for the 12-
42 month period of resident traineeship that shall have been
43 completed more than three years preceding the examination for
44 a license.

- 1 e. All registered resident trainees shall report to the Board at least
2 every three months during traineeship upon forms provided by
3 the Board listing the work which has been completed during the
4 preceding three months of resident traineeship. The data
5 contained in the reports shall be certified as correct by the
6 licensee under whom the trainee has served during the period
7 and by the licensed person who is managing the funeral service
8 establishment. Each report shall list the following:
- 9 1. For funeral director trainees, the conduct of any funerals
10 during the relevant time period,
 - 11 2. For embalming trainees, the embalming of any bodies
12 during the relevant time period,
 - 13 3. For funeral service trainees, both of the activities named
14 in 1 and 2 of this subsection, engaged in during the
15 relevant time period.
- 16 f. To meet the resident traineeship requirements of G.S. 90-
17 210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the
18 following must be shown by the affidavit(s) of the licensee(s)
19 under whom the trainee worked:
- 20 1. That the funeral director trainee has, under supervision,
21 assisted in directing at least 25 funerals during the
22 resident traineeship,
 - 23 2. That the embalmer trainee has, under supervision,
24 assisted in embalming at least 25 bodies during the
25 resident traineeship,
 - 26 3. That the funeral service trainee has, under supervision
27 assisted in directing at least 25 funerals and, under
28 supervision, assisted in embalming at least 25 bodies
29 during the resident traineeship.
- 30 g. The Board may suspend or revoke a certificate of resident
31 traineeship for violation of any provision of this Article.
- 32 h. Each sponsor for a registered resident trainee must during the
33 period of sponsorship be actively employed with a funeral
34 establishment. The traineeship shall be a primary vocation of
35 the trainee.
- 36 i. Only one resident trainee may register and serve at any one time
37 under any one person licensed under this Article.
- 38 j. The Board shall not register a resident trainee unless it is shown
39 that the funeral establishment where he is to be employed had at
40 least 35 funerals during the 12 months immediately preceding
41 the date of the application.
- 42 k. The Board shall not register more than one resident trainee for
43 each 150 funerals had by the funeral establishment during the
44 12 months immediately preceding the date of the application.

1 (5) The Board by regulation may recognize other examinations that the
2 Board deems equivalent to its own.

3 All license shall be signed by the president and secretary of the
4 Board and the seal of the Board affixed thereto. All licenses shall be
5 issued, renewed or duplicated for a period not exceeding one year
6 upon payment of the renewal fee, and all licenses, renewals or
7 duplicates thereof shall expire and terminate the thirty-first day of
8 December following the date of their issue unless sooner revoked and
9 canceled; provided, that the date of expiration may be changed by
10 unanimous consent of the Board and upon 90 days' written notice of
11 such change to all persons licensed for the practice of funeral
12 directing, embalming and funeral service in this State.

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

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

39 As a prerequisite to the annual renewal of a license, the licensee
40 must complete, during the year immediately preceding renewal, at
41 least five hours of continuing education courses, approved by the
42 Board prior to enrollment; except that for renewals for calendar year
43 1980 the required length of study shall be a total of 15 hours in the
44 three years immediately preceding January 1, 1980.

1 The Board shall not renew a license unless fulfillment of the
2 continuing education requirement has been certified to it on a form
3 provided by the Board, but the Board may waive this requirement for
4 renewal in cases of certified illness or undue hardship or where the
5 licensee lives outside of North Carolina and does not practice in North
6 Carolina, and the Board shall waive the requirement for all licensees
7 who have been licensed in North Carolina for a continuous period of
8 25 years or more.

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

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

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

30 (1) The Board shall grant licenses to funeral directors, embalmers and
31 funeral service licensees, licensed in other states, territories, the
32 District of Columbia, and foreign countries, when it is shown that the
33 applicant holds a valid license as a funeral director, embalmer or
34 funeral service licensee issued by the other jurisdiction, has
35 demonstrated knowledge of the laws and regulations governing the
36 profession in North Carolina and has submitted proof of his good
37 moral character; and either that the applicant has continuously
38 practiced the profession in the other jurisdiction for at least three years
39 immediately preceding his application, or the Board has determined
40 that the licensing requirements for the other jurisdiction are
41 substantially similar to those of North Carolina.

42 (2) The Board shall periodically review the mortuary science licensing
43 requirements of other jurisdictions and shall determine which licensing

1 requirements are substantially similar to the requirements of North
2 Carolina.

- 3 (3) The Board may issue special permits, to be known as courtesy cards,
4 permitting nonresident funeral directors, embalmers and funeral
5 service licensees to remove bodies from and to arrange and direct
6 funerals and embalm bodies in this State, but these privileges shall not
7 include the right to establish a place of business in or engage generally
8 in the business of funeral directing and embalming in this State.
9 Provided, no special permits may be issued to nonresident funeral
10 directors, embalmers, and funeral service licensees from states that do
11 not issue similar courtesy cards to persons licensed in North Carolina
12 pursuant to this Article.

13 (c) Registration, ~~Filing~~ Filing, Handling and Transportation. – The holder of any
14 license granted by this State for those within the funeral service profession or renewal
15 thereof provided for in this Article shall cause registration to be filed in the office of the
16 board of health of the county or city in which he practices his profession, or if there be
17 no board of health in such county or city, at the office of the clerk of the superior court
18 of such county. All such licenses, certificates, duplicates and renewals thereof shall be
19 displayed in a conspicuous place in the funeral establishment where the holder renders
20 service. It shall be unlawful for any railway agent, express agency, baggage master,
21 conductor or other person acting as such, to receive the dead body of any person for
22 shipment or transportation by railway or other public conveyance, to a point outside of
23 this State, unless said body be accompanied by a removal or shipping permit. Any
24 licensee who handles or takes custody of the body of any person who dies and is known
25 to have had any infectious disease, including smallpox, plague, HIV infection, hepatitis
26 B infection, rabies or Jakob-Creutzfeldt disease, shall provide written notification to all
27 individuals who subsequently handle the body so that such persons may observe blood
28 and body fluid precautions.

29 (d) Establishment Permit. –

- 30 (1) No person, firm or corporation shall conduct, maintain, manage or
31 operate a funeral establishment unless a permit for that establishment
32 has been issued by the Board and is conspicuously displayed in the
33 establishment. Each funeral establishment at a specific location shall
34 be deemed to be a separate entity and shall require a separate permit
35 and compliance with the requirements of this Article.
- 36 (2) A permit shall be issued when:
- 37 a. It is shown that the funeral establishment has in charge a
38 person, known as a manager, licensed for the practice of funeral
39 directing or funeral service, who shall not be permitted to
40 manage more than one funeral establishment,
- 41 b. The Board receives a list of the names of all part-time and full-
42 time licensees employed by the establishment,
- 43 c. It is shown that the funeral establishment satisfies the
44 requirements of G.S. 90-210.27A, and

- 1 d. The Board receives payment of the permit fee.
- 2 (3) Applications for funeral establishment permits shall be made on forms
- 3 provided by the Board and filed with the Board by the owner, a partner
- 4 or an officer of the corporation by January 1 of each year, and shall be
- 5 accompanied by the application fee or renewal fee, as the case may be.
- 6 All permits shall expire on December 31 of each year.
- 7 A penalty for late renewal, in addition to the regular renewal fee,
- 8 shall be charged for renewal of registration coming after the first day
- 9 of February.
- 10 (4) The Board may suspend or revoke a permit when an owner, partner or
- 11 officer of the funeral establishment violates any provision of this
- 12 Article or any regulations of the Board, or when any agent or
- 13 employee of the funeral establishment, with the consent of any person,
- 14 firm or corporation operating the funeral establishment, violates any of
- 15 those provisions, rules or regulations.
- 16 (5) Funeral establishment permits are not transferable. A new application
- 17 for a permit shall be made to the Board within 30 days of a change of
- 18 ownership of a funeral establishment.
- 19 (e) Revocation; Suspension; Compromise; Disclosure. –
- 20 (1) Whenever the Board finds that an applicant for a license or a person to
- 21 whom a license has been issued by the Board is guilty of any of the
- 22 following acts or omissions and the Board also finds that the person
- 23 has thereby become unfit to practice, the Board may suspend or revoke
- 24 the license or refuse to issue or renew the license, in accordance with
- 25 the procedures set out in Chapter ~~150A~~:150B:
- 26 a. Conviction of a felony or a crime involving fraud or moral
- 27 turpitude;
- 28 b. Fraud or misrepresentation in obtaining or renewing a license or
- 29 in the practice of funeral service;
- 30 c. False or misleading advertising as the holder of a license;
- 31 d. Solicitation of dead human bodies by the licensee, his agents,
- 32 assistants, or employees; but this paragraph shall not be
- 33 construed to prohibit general advertising by the licensee;
- 34 e. Employment directly or indirectly of any resident trainee agent,
- 35 assistant or other person, on a part-time or full-time basis, or on
- 36 commission, for the purpose of calling upon individuals or
- 37 institutions by whose influence dead human bodies may be
- 38 turned over to a particular licensee;
- 39 f. The direct or indirect giving of certificates of credit or the
- 40 payment or offer of payment of a commission by the licensee,
- 41 his agents, assistants or employees for the purpose of securing
- 42 business;
- 43 g. Gross immorality, including being under the influence of
- 44 alcohol or drugs while practicing funeral service;

- 1 h. Aiding or abetting an unlicensed person to perform services
2 under this Article, including the use of a picture or name in
3 connection with advertisements or other written material
4 published or caused to be published by the licensee;
- 5 i. Using profane, indecent or obscene language in the presence of
6 a dead human body, and within the immediate hearing of the
7 family or relatives of a deceased, whose body has not yet been
8 interred or otherwise disposed of;
- 9 j. Violating or cooperating with others to violate any of the
10 provisions of this Article or of the rules and regulations of the
11 Board;
- 12 k. Violation of any State law or municipal or county ordinance or
13 regulation affecting the handling, custody, care or transportation
14 of dead human bodies;
- 15 l. Refusing to surrender promptly the custody of a dead human
16 body upon the express order of the person lawfully entitled to
17 the custody thereof;
- 18 m. Knowingly making any false statement on a certificate of death;
- 19 n. Indecent exposure or exhibition of a dead human body while in
20 the custody or control of a licensee. This offense shall include
21 the failure to comply with any of the following standards: At
22 all times except during embalming or restorative work, bodies
23 shall be in separate, closed containers of metal, wood,
24 cardboard or other rigid material, or otherwise completely
25 covered by fabric or other opaque material and placed on
26 separate mortuary stretchers or cots; except that bodies
27 remaining in a vehicle for more than 24 hours shall be in such
28 separate, closed containers, and bodies shall be placed in such
29 separate, closed containers to avoid the placement of mortuary
30 stretchers or cots directly atop each other. This subsection shall
31 not prohibit an open casket for the custom of viewing a body.

32 In any case in which the Board is entitled to suspend, revoke or
33 refuse to renew a license, the Board may accept from the licensee an
34 offer in compromise to pay a penalty of not more than ~~one~~ five
35 thousand dollars (\$1,000)–(\$5,000). The Board may either accept a
36 compromise or revoke or refuse to renew a license, but not both.

- 37 (2) Where the Board finds that a licensee is guilty of one or more of the
38 acts or omissions listed in subsection (e)(1) of this section but it is
39 determined by the Board that the licensee has not thereby become unfit
40 to practice, the Board may issue a written reprimand to or may place
41 the licensee on a term of probation in accordance with the procedures
42 set out in Chapter ~~150A-150B.~~

43 No person licensed under this Article shall remove or cause to be
44 embalmed a dead human body when he has information indicating

1 crime or violence of any sort in connection with the cause of death, nor
2 shall a dead human body be cremated, until permission of the State or
3 county medical examiner has first been obtained. However, nothing in
4 this Article shall be construed to alter the duties and authority now
5 vested in the office of the coroner.

6 No funeral service establishment shall accept a dead human body
7 from any public officer (excluding the State or county medical
8 examiner or his agent), or employee or from the official of any
9 institution, hospital or nursing home, or from a physician or any
10 person having a professional relationship with a decedent, without
11 having first made due inquiry as to the desires of the next of kin and of
12 the persons who may be chargeable with the funeral expenses of such
13 decedent. If any such kin be found, his or her authority and directions
14 shall govern the disposal of the remains of such decedent. Any funeral
15 service establishment receiving such remains in violation hereof shall
16 make no charge for any service in connection with such remains prior
17 to delivery of same as stipulated by such kin; provided, however, this
18 section shall not prevent any funeral service establishment from
19 charging and being reimbursed for services rendered in connection
20 with the removal of the remains of any deceased person in case of
21 accidental or violent death, and rendering necessary professional
22 services required until the next of kin or the persons chargeable with
23 the expenses have been notified.

24 When and where a licensee presents a selection of funeral
25 merchandise to the public to be used in connection with the service to
26 be provided by the licensee or an establishment as licensed under this
27 Article, a card or brochure shall be directly associated with each item
28 of merchandise setting forth the price of the service using said
29 merchandise and listing the services and other merchandise included in
30 the price, if any. When there are separate prices for the merchandise
31 and services, such cards or brochures shall indicate the price of the
32 merchandise and of the items separately priced.

33 At the time funeral arrangements are made and prior to the time of
34 rendering the service and providing the merchandise, a funeral director
35 or funeral service licensee shall give or cause to be given to the person
36 or persons making such arrangements a written statement duly signed
37 by a licensee of said funeral establishment showing the price of the
38 service as selected and what services are included therein, the price of
39 each of the supplemental items of services or merchandise requested,
40 and the amounts involved for each of the items for which the funeral
41 establishment will advance moneys as an accommodation to the person
42 making arrangements, insofar as any of the above items can be
43 specified at that time. The statement shall have printed, typed or

1 stamped on the face thereof: 'This statement of disclosure is provided
2 pursuant to the requirements of North Carolina G.S. 90-210.25(e).'

3 (f) Unlawful Practices. – If any person shall practice or hold himself out as
4 practicing the profession or art of embalming, funeral directing or practice of funeral
5 service without having complied with the licensing provisions of this Article, he shall
6 be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of
7 not more than ~~five hundred~~ one thousand dollars (~~\$500.00~~) (\$1,000) or imprisonment for
8 not more than six months, or both, in the discretion of the court.

9 Any person, partnership, corporation or association or its agents or representatives
10 who shall violate any of the other provisions of this Article, whether or not the Board
11 has suspended or revoked a license or imposed any other penalty pursuant to
12 subsections (d)(4), (e)(1) or (e)(2) of this section, shall be deemed guilty of a
13 misdemeanor, and, upon conviction thereof, be punished by a fine of not more than one
14 thousand dollars (\$1,000) or imprisonment for not more than six months, or by fine and
15 imprisonment.

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

26 Sec. 4. G.S. 90-210.27A reads as rewritten:

27 "**§ 90-210.27A. Funeral establishments.**

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

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

42 (b) No one is allowed in the preparation room while a dead human body is being
43 prepared except licensees, resident trainees, public officials in the discharge of their

1 duties, members of the medical profession, officials of the funeral home, next of kin, or
2 other legally authorized persons.

3 (c) Every funeral establishment shall contain a reposing room for dead human
4 bodies, of suitable size to accommodate a casket and visitors. Every funeral
5 establishment shall display on its premises and offer for sale at least six adult caskets for
6 selection by purchasers.

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

8 (1) Own a funeral establishment if it is owned by a sole proprietorship;

9 (2) Be a partner in a funeral establishment if it is owned by a partnership;

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

12 (e) If a funeral establishment is solely owned by a natural person, that person
13 must be licensed by the Board as a funeral director or a funeral service licensee. If it is
14 owned by a partnership, at least one partner must be licensed by the Board as a funeral
15 director or a funeral service licensee. If it is owned by a corporation, the president,
16 vice-president, or the chairman of the board of directors must be licensed by the Board
17 as a funeral director or a funeral service licensee. The licensee required by this
18 subsection must be actively engaged, on a day-to-day basis, in the operation of the
19 funeral establishment.

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

23 (g) No funeral establishment shall own, operate, or maintain a funeral chapel
24 without first having registered the name, location, and ownership thereof with the
25 Board.

26 (h) A funeral establishment which has failed an inspection by the Board shall pay
27 a reinspection fee for each subsequent Board inspection required to ascertain that the
28 establishment has corrected the deficiencies found.

29 (i) No funeral establishment shall display an invalid license certificate of a living
30 person."

31 Sec. 5. G.S. 90-210.28 reads as rewritten:

32 "**§ 90-210.28. Fees.**

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

| | |
|--|-------------------------------------|
| 34 Establishment permit | |
| 35 Application | \$200.00 <u>\$250.00</u> |
| 36 Annual renewal | 400.00 <u>175.00</u> |
| 37 Late renewal penalty | 75.00 <u>100.00</u> |
| 38 <u>Establishment reinspection fee</u> | <u>100.00</u> |
| 39 Courtesy card | |
| 40 Application | 75.00 |
| 41 Annual renewal | 50.00 |
| 42 Out-of-state licensee | |
| 43 Application | 150.00 <u>200.00</u> |
| 44 Embalmer, funeral director, | |

| | | | |
|----|-------------------------------|-------------------|---------------|
| 1 | funeral service | | |
| 2 | Application–North | | |
| 3 | Carolina-Resident | 400.00 | <u>150.00</u> |
| 4 | -Non-Resident | | 200.00 |
| 5 | Annual Renewal-embalmer or | | |
| 6 | funeral director | | 50.00 |
| 7 | -funeral service | 100.00 | |
| 8 | Reinstatement fee | 50.00 | |
| 9 | Resident trainee permit | | |
| 10 | Application | | 50.00 |
| 11 | Annual renewal | 35.00 | |
| 12 | Late renewal penalty | 25.00 | |
| 13 | Duplicate license certificate | 25.00 | |
| 14 | Chapel registration | | |
| 15 | Application | | 150.00 |
| 16 | Annual renewal | 100.00 | |

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

23 Sec. 6. This act is effective upon ratification and shall apply to: (i) Board
 24 members appointed on or after the date of ratification, (ii) applications for licensure
 25 submitted on or after the date of ratification, and (iii) persons entering courses of study
 26 required by G.S. 90-210.25(a) on or after the date of ratification. The term of the
 27 additional public member authorized in Section 1 of this act shall commence on January
 28 1, 1990.