

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

2

**HOUSE BILL 440
Committee Substitute Favorable 4/4/01**

Short Title: Embalmers and Funeral Directors-AB.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE EMBALMERS AND FUNERAL DIRECTORS LAW OF
3 NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 90-210.18(b) reads as rewritten:

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

- 10 (1) Four funeral service licensees or persons holding both funeral
11 director's license and an embalmer's license,
12 (2) Two persons holding a funeral director's license or a funeral service
13 license, and
14 (3) Three public members.

15 (b1) A member's term shall be three years and shall expire on December 31 or
16 when his or her successor has been duly elected or appointed. No member may serve
17 more than two complete consecutive terms.

18 (b2) The six seats on the Board for licensees shall be filled in an election in which
19 every person licensed to practice embalming, funeral directing, or funeral service in this
20 State may vote. No licensee may be nominated, elected, or serve unless he holds a North
21 Carolina license in the class designated for the seat and unless he is engaged in full-time
22 employment in this State in a practice authorized by his license. Any vacancy occurring
23 in an elective seat on the Board shall be filled for the unexpired term by majority vote of
24 the remaining Board members. The six licensed members of the Board shall have full
25 voting authority.

26 (b3) The public members of the Board shall have full voting authority. They shall
27 be appointed by the Governor and may neither be licensed under this Article nor
28 employed by a person who is. A vacancy occurring in a public member's seat shall be
29 filled for the unexpired term by the Governor."

1 **SECTION 2.** G.S. 90-210.20 reads as rewritten:

2 "**§ 90-210.20. Definitions.**

3 (a) "Advertisement" means the publication, dissemination, circulation or placing
4 before the public, or causing directly or indirectly to be made, published, disseminated
5 or placed before the public, any announcement or statement in a newspaper, magazine,
6 or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill,
7 poster, bill, sign, placard, card, label or tag, or over any ~~radio or~~ radio, television ~~station-~~
8 station, or electronic medium.

9 (b) "Board" means the North Carolina ~~State~~-Board of Mortuary Science.

10 (c) "Burial" includes interment in any form, cremation and the transportation of
11 the dead human body as necessary therefor.

12 (c1) "Dead human bodies", as used in this Article includes fetuses beyond the
13 second trimester and the ashes from cremated bodies.

14 (d) "Embalmer" means any person engaged in the practice of "~~embalming~~" as
15 defined below-embalming.

16 (e) "Embalming" means the preservation and disinfection or attempted
17 preservation and disinfection of ~~the~~-dead human bodies by application of chemicals
18 externally or internally or both and the practice of restorative art including the
19 restoration or attempted restoration of the appearance of ~~the~~-a dead human body.

20 (e1) "Funeral chapel" means a chapel or other facility separate from the funeral
21 establishment premises for the reposing of dead human bodies, visitation or funeral
22 ~~ceremony, which~~ ceremony that is owned, operated, or maintained by a funeral
23 establishment or other licensee under this Article, and ~~which~~ that does not use the word
24 "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in
25 which or on the premises of which there is not displayed or offered for sale any caskets
26 or other funeral merchandise; in which or on the premises of which there is not located
27 any funeral business office or a preparation room; in which or on the premises of which
28 no funeral sales, financing, or arrangements are made; and which no owner, operator,
29 employee, or agent thereof represents the chapel to be a funeral establishment.

30 (f) "Funeral directing" means engaging in the practice of funeral service except
31 ~~embalming as hereinbefore defined.~~ embalming.

32 (g) "Funeral director" means any person engaged in the practice of "~~funeral~~
33 ~~directing~~" as ~~defined above.~~ funeral directing.

34 (h) "Funeral establishment" means every place or premises devoted to or used in
35 the care, arrangement and preparation for the funeral and final disposition of dead
36 human bodies and maintained for the convenience of the public in connection with dead
37 human bodies or as the place for carrying on the profession of funeral service.

38 (i) "Funeral service licensee" means a person who is duly licensed and engaged
39 in the "~~practice of funeral service~~" as ~~below defined.~~ practice of funeral service.

40 (j) "~~Funeral service profession~~" service" means the aggregate of all funeral
41 service licensees and their duties and responsibilities in connection with the funeral as
42 an organized, purposeful, time-limited, flexible, group-centered response to death.

1 (k) "Practice of funeral service" means engaging in the care or disposition of
2 dead human bodies or in the practice of disinfecting and preparing by embalming or
3 otherwise dead human bodies for the funeral service, transportation, burial or cremation,
4 or in the practice of funeral directing or embalming as presently known, whether under
5 these titles or designations or otherwise. ~~It~~ "Practice of funeral service" also means
6 engaging in making arrangements for funeral service, selling funeral supplies to the
7 public or making financial arrangements for the rendering of such services or the sale of
8 such supplies.

9 (l) "Resident trainee" means a person who is engaged in preparing to become
10 licensed for the practice of funeral directing, embalming or funeral service under the
11 personal supervision and instruction of a person duly licensed for the practice of funeral
12 directing, embalming or funeral service in the State of North Carolina under the
13 provisions of this Chapter, and who is duly registered as ~~such~~ a resident trainee with the
14 Board."

15 **SECTION 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~~ instruction, including
24 the subjects set out in ~~item sub-part e.1. of this subsection in a~~
25 ~~mortuary science college approved by the Board, or be a~~
26 ~~graduate of subsection~~, as prescribed by a mortuary science
27 college approved by the Board, Board or a school of mortuary
28 science accredited by the American Board of Funeral Service
29 Education.

30 d. Have completed 12 months of resident traineeship as a funeral
31 director, pursuant to the procedures and conditions set out in
32 G.S. 90-210.25(a)(4), either before or after satisfying the
33 educational requirement under ~~item sub-subdivision c. of this~~
34 ~~subsection~~ subdivision.

35 e. Have passed an oral or written funeral director examination on
36 the following subjects:

- 37 1. Psychology, sociology, funeral directing, business law,
38 funeral law, funeral management, and accounting.
- 39 2. Repealed by 1997-399, s. 5.
- 40 3. Laws of North Carolina and rules of the Board of
41 Mortuary Science and other agencies dealing with the
42 care, transportation and disposition of dead human
43 bodies.

- 1 (2) To be licensed for the practice of embalming under this Article, a
2 person must:
- 3 a. Be at least 18 years of age.
 - 4 b. Be of good moral character.
 - 5 c. Be a graduate of a mortuary science college approved by the
6 Board.
 - 7 d. Have completed 12 months of resident traineeship as an
8 embalmer pursuant to the procedures and conditions set out in
9 G.S. 90-210.25(a)(4), either before or after satisfying the
10 educational requirement under ~~item~~ sub-subdivision c. of this
11 ~~subsection~~ subdivision.
 - 12 e. Have passed an oral or written embalmer examination on the
13 following subjects:
 - 14 1. Embalming, restorative arts, chemistry, pathology,
15 microbiology, and anatomy.
 - 16 2. Repealed by 1997-399, s. 6.
 - 17 3. Laws of North Carolina and rules of the Board of
18 Mortuary Science and other agencies dealing with the
19 care, transportation and disposition of dead human
20 bodies.
- 21 (3) To be licensed for the practice of funeral service under this Article, a
22 person must:
- 23 a. Be at least 18 years of age.
 - 24 b. Be of good moral character.
 - 25 c. Be a graduate of a mortuary science college approved by the
26 ~~Board.~~ Board or a school of mortuary science accredited by the
27 American Board of Funeral Service Education. Have completed
28 a minimum of 32 semester hours or 48 quarter hours of
29 instruction, including the subjects set out in item sub-part e.1. of
30 this subsection, as prescribed by a mortuary science college
31 approved by the Board or a school of mortuary science
32 accredited by the American Board of Funeral Service
33 Education.
 - 34 d. Have completed 12 months of resident traineeship as a funeral
35 service licensee, pursuant to the procedures and conditions set
36 out in G.S. 90-210.25(a)(4), either before or after satisfying the
37 educational requirement under item c. of this subsection.
 - 38 e. Have passed an oral or written funeral service examination on
39 the following subjects:
 - 40 1. Psychology, sociology, funeral directing, business law,
41 funeral law, funeral management, and accounting.
 - 42 2. Embalming, restorative arts, chemistry, pathology,
43 microbiology, and anatomy.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
3. Repealed by 1997-399, s. 7.
 4. Laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
- b. When a resident trainee leaves the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.
- c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for approval, without payment of an additional fee.
- d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than one time. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A penalty, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the

- 1 12-month period of resident traineeship that shall have been
2 completed more than three years preceding the examination for
3 a license.
- 4 e. All registered resident trainees shall report to the Board at least
5 once every ~~three months~~ month during traineeship upon forms
6 provided by the Board listing the work which has been
7 completed during the preceding ~~three months~~ month of resident
8 traineeship. The data contained in the reports shall be certified
9 as correct by the licensee under whom the trainee has served
10 during the period and by the licensed person who is managing
11 the funeral service establishment. Each report shall list the
12 following:
- 13 1. For funeral director trainees, the conduct of any funerals
14 during the relevant time period,
 - 15 2. For embalming trainees, the embalming of any bodies
16 during the relevant time period,
 - 17 3. For funeral service trainees, both of the activities named
18 in 1 and 2 of this subsection, engaged in during the
19 relevant time period.
- 20 f. To meet the resident traineeship requirements of G.S.
21 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
22 the following must be shown by the affidavit(s) of the
23 licensee(s) under whom the trainee worked:
- 24 1. That the funeral director trainee has, under supervision,
25 assisted in directing at least 25 funerals during the
26 resident traineeship,
 - 27 2. That the embalmer trainee has, under supervision,
28 assisted in embalming at least 25 bodies during the
29 resident traineeship,
 - 30 3. That the funeral service trainee has, under supervision
31 assisted in directing at least 25 funerals and, under
32 supervision, assisted in embalming at least 25 bodies
33 during the resident traineeship.
- 34 g. The Board may suspend or revoke a certificate of resident
35 traineeship for violation of any provision of this Article.
- 36 h. Each sponsor for a registered resident trainee must during the
37 period of sponsorship be actively employed with a funeral
38 establishment. The traineeship shall be a primary vocation of
39 the trainee.
- 40 i. Only one resident trainee may register and serve at any one time
41 under any one person licensed under this Article.
- 42 j., k. Repealed by Session Laws 1991, c. 528, s. 4.

- 1 1. The Board shall register no more than one resident trainee at a
2 funeral establishment that ~~conducted~~served 100 or fewer
3 ~~funerals~~families during the 12 months immediately preceding
4 the date of the application, and shall register no more than one
5 resident trainee for each additional 100 ~~funerals~~families served
6 at the funeral establishment during the 12
7 months immediately preceding the date of the application.
- 8 (5) The Board by regulation may recognize other examinations that the
9 Board deems equivalent to its own.
- 10 a. All licenses shall be signed by the president and secretary of the
11 Board and the seal of the Board affixed thereto. All licenses
12 shall be issued, renewed or duplicated for a period not
13 exceeding one year upon payment of the renewal fee, and all
14 licenses, renewals or duplicates thereof shall expire and
15 terminate the thirty-first day of December following the date of
16 their issue unless sooner revoked and canceled; provided, that
17 the date of expiration may be changed by unanimous consent of
18 the Board and upon 90 days' written notice of such change to all
19 persons licensed for the practice of funeral directing,
20 embalming and funeral service in this State.
- 21 b. The holder of any license issued by the Board who shall fail to
22 renew the same on or before January 31 of the calendar year for
23 which the license is to be renewed shall have forfeited and
24 surrendered the license as of that date. No license forfeited or
25 surrendered pursuant to the preceding sentence shall be
26 reinstated by the Board unless it is shown to the Board that the
27 applicant has, throughout the period of forfeiture, engaged full
28 time in another state of the United States or the District of
29 Columbia in the practice to which his North Carolina license
30 applies and has completed for each such year continuing
31 education substantially equivalent in the opinion of the Board to
32 that required of North Carolina licensees; or has completed in
33 North Carolina a total number of hours of accredited continuing
34 education computed by multiplying five times the number of
35 years of forfeiture; or has passed the North Carolina
36 examination for the forfeited license. No additional resident
37 traineeship shall be required. The applicant shall be required to
38 pay all delinquent annual renewal fees and a reinstatement fee.
39 The Board may waive the provisions of this section for an
40 applicant for a forfeiture which occurred during his service in
41 the armed forces of the United States provided he applies within
42 six months following severance therefrom.

- 1 c. All licensees now or hereafter licensed in North Carolina shall
2 take courses of study in subjects relating to the practice of the
3 profession for which they are licensed, to the end that new
4 techniques, scientific and clinical advances, the achievements of
5 research and the benefits of learning and reviewing skills will
6 be utilized and applied to assure proper service to the public.
- 7 d. As a prerequisite to the annual renewal of a license, the licensee
8 must complete, during the year immediately preceding renewal,
9 at least five hours of continuing education courses, approved by
10 the Board prior to enrollment. A licensee who completes more
11 than five hours in a year may carry over a maximum of five
12 hours as a credit to the following year's requirement. A licensee
13 who is issued an initial license on or after July 1 does not have
14 to satisfy the continuing education requirement for that year.
- 15 e. The Board shall not renew a license unless fulfillment of the
16 continuing education requirement has been certified to it on a
17 form provided by the Board, but the Board may waive this
18 requirement for renewal in cases of certified illness or undue
19 hardship or where the licensee lives outside of North Carolina
20 and does not practice in North Carolina, and the Board shall
21 waive the requirement for all licensees who have been licensed
22 in North Carolina for a continuous period of 25 years or more,
23 and for all licensees who are, at the time of renewal, members
24 of the General Assembly. ~~The waiver for 25-year licensees shall
25 apply only to those licensees who, before January 1, 1998, are
26 licensed, begin a course of study in a mortuary science college
27 or a trainee program, or make an application for a license.~~
- 28 f. The Board shall cause to be established and offered to the
29 licensees, each calendar year, at least five hours of continuing
30 education courses in subjects encompassing the license
31 categories of embalming, funeral directing and funeral service.
32 The Board may charge licensees attending these courses a
33 reasonable registration fee in order to meet the expenses thereof
34 and may also meet those expenses from other funds received
35 under the provisions of this Article.
- 36 g. Any person who having been previously licensed by the Board
37 as a funeral director or embalmer prior to July 1, 1975, shall not
38 be required to satisfy the requirements herein for licensure as a
39 funeral service licensee, but shall be entitled to have such
40 license renewed upon making proper application therefor and
41 upon payment of the renewal fee provided by the provisions of
42 this Article. Persons previously licensed by the Board as a
43 funeral director may engage in funeral directing, and persons

1 previously licensed by the Board as an embalmer may engage
2 in embalming. Any person having been previously licensed by
3 the Board as both a funeral director and an embalmer may upon
4 application therefor receive a license as a funeral service
5 licensee.

6 (a1) Inactive Licenses. – Any person holding a license issued by the Board for
7 funeral directing, for embalming, or for the practice of funeral service may apply for an
8 inactive license in the same category as the active license held. The inactive license is
9 renewable annually. Continuing education is not required for the renewal of an inactive
10 license. The only activity that a holder of an inactive license may engage in is to vote
11 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
12 active license in the same category, and the Board shall issue an active license if the
13 applicant has completed in North Carolina a total number of hours of accredited
14 continuing education equal to five times the number of years the applicant held the
15 inactive license. No application fee is required for the reinstatement of an active license
16 pursuant to this subsection. The holder of an inactive license who returns to active status
17 shall surrender the inactive license to the Board.

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

19 (1) The Board shall grant licenses to funeral directors, embalmers and
20 funeral service licensees, licensed in other states, territories, the
21 District of Columbia, and foreign countries, when it is shown that the
22 applicant holds a valid license as a funeral director, embalmer or
23 funeral service licensee issued by the other jurisdiction, has
24 demonstrated knowledge of the laws and regulations governing the
25 profession in North Carolina and has submitted proof of his good
26 moral character; and either that the applicant has continuously
27 practiced the profession in the other jurisdiction for at least three years
28 immediately preceding his application, or the Board has determined
29 that the licensing requirements for the other jurisdiction are
30 substantially similar to those of North Carolina.

31 (2) The Board shall periodically review the mortuary science licensing
32 requirements of other jurisdictions and shall determine which licensing
33 requirements are substantially similar to the requirements of North
34 Carolina.

35 (3) The Board may issue special permits, to be known as courtesy cards,
36 permitting nonresident funeral directors, embalmers and funeral
37 service licensees to remove bodies from and to arrange and direct
38 funerals and embalm bodies in this State, but these privileges shall not
39 include the right to establish a place of business in or engage generally
40 in the business of funeral directing and embalming in this State.
41 Except for special permits issued by the Board for teaching continuing
42 education programs and for work in connection with disasters, no
43 special permits may be issued to nonresident funeral directors,

1 embalmers, and funeral service licensees from states that do not issue
2 similar courtesy cards to persons licensed in North Carolina pursuant
3 to this Article.

4 (c) Registration, Filing and Transportation. –

5 (1) The holder of any license granted by this State for those within the
6 funeral service profession or renewal thereof provided for in this
7 Article shall cause registration to be filed in the office of the board of
8 health of the county or city in which he practices his profession, or if
9 there be no board of health in such county or city, at the office of the
10 clerk of the superior court of such county. All such licenses,
11 certificates, duplicates and renewals thereof shall be displayed in a
12 conspicuous place in the funeral establishment where the holder
13 renders service.

14 (2) It shall be unlawful for any railway agent, express agency, baggage
15 master, conductor or other person acting as such, to receive the dead
16 body of any person for shipment or transportation by railway or other
17 public conveyance, to a point outside of this State, unless ~~said the~~ body
18 be is accompanied by a ~~removal or shipping~~ burial-transit permit.

19 (3) The "transportation or removal of a dead human body" shall mean the
20 removal of a dead human body for a fee from the location of the place
21 of death or discovery of death or the transportation of the body to or
22 from a medical facility, funeral establishment or facility, crematory or
23 related holding facility, place of final disposition, or place designated
24 by the Medical Examiner for examination or autopsy of the dead
25 human body.

26 (4) Any individual, not otherwise exempt from this subsection, shall apply
27 for and receive a permit from the Board before engaging in the
28 transportation or removal of a dead human body in this State. Unless
29 otherwise exempt from this subsection, no corporation or other
30 business entity shall engage in the transportation or removal of a dead
31 human body unless it has in its employ at least one individual who
32 holds a permit issued under this section. No individual permit holder
33 shall engage in the transportation or removal of a dead human body for
34 more than one person, firm, or corporation without first providing the
35 Board with written notification of the name and physical address of
36 each such employer.

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

41 a. Licensees under this Article and their employees.

42 b. Employees of common carriers.

- 1 c. Except as provided in sub-subdivision (6)c. of this section,
2 employees of the State and its agencies and employees of local
3 governments and their agencies.
- 4 d. Funeral directors licensed in another state and their employees.
- 5 (6) The following persons shall be exempt from this section:
- 6 a. Emergency medical technicians, rescue squad workers,
7 volunteer and paid firemen, and law enforcement officers.
- 8 b. Employees of public or private hospitals, nursing homes, or
9 long-term care facilities, while handling a dead human body
10 within such facility or while acting within the scope of their
11 employment.
- 12 c. State and county medical examiners and their investigators.
- 13 d. Any individual transporting cremated remains.
- 14 e. Any individual transporting or removing a dead human body of
15 their immediate family or next of kin.
- 16 f. Any individual who has exhibited special care and concern for
17 the decedent.
- 18 (7) Individuals eligible to receive a permit under this section for the
19 transportation or removal of a dead human body for a fee, shall:
- 20 a. Be at least 18 years of age.
- 21 b. Possess and maintain a valid drivers license issued by this State
22 and provide proof of all liability insurance required for the
23 registration of any vehicle in which the person intends to
24 engage in the business of the removal or transportation of a
25 dead human body.
- 26 c. Affirmatively state under oath that the person has read and
27 understands the statutes and rules relating to the removal and
28 transportation of dead human bodies and any guidelines as may
29 be adopted by the Board.
- 30 d. Provide three written character references on a form prescribed
31 by the Board, one of which must be from a licensed funeral
32 director.
- 33 e. Be of good moral character.
- 34 (8) The permit issued under this section shall expire on December 31 of
35 each year. The application fee for the individual permit shall not
36 exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed
37 one hundred dollars (\$100.00), in addition to the renewal fee not to
38 exceed seventy-five dollars (\$75.00), shall be charged for any
39 application for renewal received by the Board after February 1 of each
40 year.
- 41 (9) No person shall transport a dead human body in the open cargo area or
42 passenger area of a vehicle or in any vehicle in which the body may be
43 viewed by the public. Any person removing or transporting a dead

1 human body shall either cover the body, place it upon a stretcher
2 designed for the purpose of transporting humans or dead human bodies
3 in a vehicle, and secure such stretcher in the vehicle used for
4 transportation, or shall enclose the body in a casket or container
5 designed for common carrier transportation, and secure the casket or
6 container in the vehicle used for transportation. No person shall use
7 profanity, indecent, or obscene language in the presence of a dead
8 human body. No person shall take a photograph or video recording of
9 a dead human body without the consent of a member of the deceased's
10 immediate family or next of kin.

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

26 (11) Each applicant for a permit shall provide the Board with the applicant's
27 home address, name and address of any corporation or business entity
28 employing such individual for the removal or transportation of dead
29 human bodies, and the make, year, model, and license plate number of
30 any vehicle in which a dead human body is transported. A permittee
31 shall provide written notification to the Board of any change in the
32 information required to be provided to the Board by this section or by
33 the application for a permit within 30 days after such change takes
34 place.

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

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

- 1 (d) Establishment Permit. –
2 (1) No person, firm or corporation shall conduct, maintain, manage or
3 operate a funeral establishment unless a permit for that establishment
4 has been issued by the Board and is conspicuously displayed in the
5 establishment. Each funeral establishment at a specific location shall
6 be deemed to be a separate entity and shall require a separate permit
7 and compliance with the requirements of this Article.
8 (2) A permit shall be issued when:
9 a. It is shown that the funeral establishment has in charge a
10 person, known as a manager, licensed for the practice of funeral
11 directing or funeral service, who shall not be permitted to
12 manage more than one funeral establishment.
13 b. The Board receives a list of the names of all part-time and
14 full-time licensees employed by the establishment.
15 c. It is shown that the funeral establishment satisfies the
16 requirements of G.S. 90-210.27A.
17 d. The Board receives payment of the permit fee.
18 (3) Applications for funeral establishment permits shall be made on forms
19 provided by the Board and filed with the Board by the owner, a
20 partner, a member of the limited liability company, or an officer of the
21 corporation by January 1 of each year, and shall be accompanied by
22 the application fee or renewal fee, as the case may be. All permits shall
23 expire on December 31 of each year. A penalty for late renewal, in
24 addition to the regular renewal fee, shall be charged for renewal of
25 registration received after the first day of February.
26 ~~A penalty for late renewal, in addition to the regular renewal fee,~~
27 ~~shall be charged for renewal of registration coming after the first day~~
28 ~~of February.~~
29 (4) The Board may suspend or revoke a permit when an owner, partner,
30 manager, member, operator, or officer of the funeral establishment
31 violates any provision of this Article or any regulations of the Board,
32 or when any agent or employee of the funeral establishment, with the
33 consent of any person, firm or corporation operating the funeral
34 establishment, violates any of those provisions, rules or regulations.
35 (5) Funeral establishment permits are not transferable. A new application
36 for a permit shall be made to the Board within 30 days of a change of
37 ownership of a funeral establishment.
38 (d1) Embalming Outside Establishment. – An embalmer who engages in
39 embalming in a facility other than a funeral establishment or in the residence of the
40 deceased person shall, no later than January 1 of each year, register the facility with the
41 Board on forms provided by the Board.
42 (e) Revocation; Suspension; Compromise; Disclosure. –

- 1 (1) Whenever the Board finds that an applicant for a license or a person to
2 whom a license has been issued by the Board is guilty of any of the
3 following acts or omissions and the Board also finds that the person
4 has thereby become unfit to practice, the Board may suspend or revoke
5 the license or refuse to issue or renew the license, in accordance with
6 the procedures set out in Chapter 150B:
- 7 a. Conviction of a felony or a crime involving fraud or moral
8 turpitude.
 - 9 b. Fraud or misrepresentation in obtaining or renewing a license or
10 in the practice of funeral service.
 - 11 c. False or misleading advertising as the holder of a license.
 - 12 d. Solicitation of dead human bodies by the licensee, his agents,
13 assistants, or employees; but this paragraph shall not be
14 construed to prohibit general advertising by the licensee.
 - 15 e. Employment directly or indirectly of any resident trainee agent,
16 assistant or other person, on a part-time or full-time basis, or on
17 commission, for the purpose of calling upon individuals or
18 institutions by whose influence dead human bodies may be
19 turned over to a particular licensee.
 - 20 f. The direct or indirect giving of certificates of credit or the
21 payment or offer of payment of a commission by the licensee,
22 his agents, assistants or employees for the purpose of securing
23 business.
 - 24 g. Gross immorality, including being under the influence of
25 alcohol or drugs while practicing funeral service.
 - 26 h. Aiding or abetting an unlicensed person to perform services
27 under this Article, including the use of a picture or name in
28 connection with advertisements or other written material
29 published or caused to be published by the licensee.
 - 30 i. Using profane, indecent or obscene language in the presence of
31 a dead human body, and within the immediate hearing of the
32 family or relatives of a deceased, whose body has not yet been
33 interred or otherwise disposed of.
 - 34 j. Violating or cooperating with others to violate any of the
35 provisions of this Article, the rules and regulations of the
36 Board, or the standards set forth in Funeral Industry Practices,
37 16 C.F.R. 453 (1984), 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
40 of dead human bodies.
 - 41 l. Refusing to surrender promptly the custody of a dead human
42 body upon the express order of the person lawfully entitled to
43 the custody thereof.

- 1 m. Knowingly making any false statement on a certificate of death.
2 n. Indecent exposure or exhibition of a dead human body while in
3 the custody or control of a licensee.

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

- 10 (2) Where the Board finds that a licensee is guilty of one or more of the
11 acts or omissions listed in ~~subsection (e) (1)~~ subdivision (e)(1) of this
12 section but it is determined by the Board that the licensee has not
13 thereby become unfit to practice, the Board may place the licensee on
14 a term of probation in accordance with the procedures set out in
15 Chapter 150B. In any case in which the Board is entitled to place a
16 licensee on a term of probation, the Board may also impose a penalty
17 of not more than five thousand dollars (\$5,000) in conjunction with the
18 probation.

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

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

40 When and where a licensee presents a selection of funeral merchandise to the public
41 to be used in connection with the service to be provided by the licensee or an
42 establishment as licensed under this Article, a card or brochure shall be directly
43 associated with each item of merchandise setting forth the price of the service using said

1 merchandise and listing the services and other merchandise included in the price, if any.
2 When there are separate prices for the merchandise and services, such cards or
3 brochures shall indicate the price of the merchandise and of the items separately priced.

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

15 (f) Unlawful Practices. – If any person shall practice or hold himself out as
16 practicing the profession or art of embalming, funeral directing or practice of funeral
17 service without having complied with the licensing provisions of this Article, he shall be
18 guilty of a Class 2 misdemeanor.

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

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

30 **"§ 90-210.27A. Funeral establishments.**

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

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

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

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

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

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

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

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

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

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

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

29 **"§ 90-210.28. Fees.**

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

31 Establishment permit

32 Application.....	\$250.00
33 Annual renewal	175.00 150.00
34 Late renewal penalty	100.00
35 Reinspection fee	100.00

36 Establishment and embalming facility inspection fee 100.00

37 Courtesy card

38 Application.....	75.00
39 Annual renewal	50.00

40 Out-of-state licensee

41 Application.....	200.00
---------------------	--------

42 Embalmer, funeral director, funeral service

43 Application–North

1	Carolina-Resident	150.00
2	-Non-Resident	200.00
3	Annual Renewal-embalmer or funeral director	50.00 40.00
4	<u>Total fee, embalmer and funeral director</u>	
5	<u>when both are held by the same person</u>	60.00
6	-funeral service.....	100.00 60.00
7	<u>Inactive Status</u>	50.00
8	Reinstatement fee.....	50.00
9	Resident trainee permit	
10	Application.....	50.00
11	<u>Change in supervisor</u>	50.00
12	Annual renewal	35.00
13	Late renewal penalty	25.00
14	Duplicate license certificate.....	25.00
15	Chapel registration	
16	Application.....	150.00
17	Annual renewal	100.00
18	<u>Late renewal</u>	75.00

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

25 **SECTION 6.** G.S. 90-210.29(b) is repealed.

26 **SECTION 7.** The title of Article 13D of Chapter 90 of the General Statutes
 27 reads as rewritten:

28 "Preneed Funeral ~~and Burial Trust~~ Funds."

29 **SECTION 8.** G.S. 20-210.60(7) reads as rewritten:

30 "(7) "Preneed funeral funds" means all payments of ~~money~~ cash made to
 31 any person, partnership, association, corporation, or other entity upon
 32 any preneed funeral contract or any other agreement, contract, or
 33 prearrangement insurance policy, or any series or combination of
 34 preneed funeral contracts or any other agreements, contracts, or
 35 prearrangement insurance policies, but excluding the furnishing of
 36 cemetery lots, crypts, niches, and mausoleums, which have for a
 37 purpose or which by operation provide for the furnishing or
 38 performance of funeral or burial services, or the furnishing or delivery
 39 of personal property, merchandise, or services of any nature in
 40 connection with the final disposition of a dead human body, to be
 41 furnished or delivered at a time determinable by the death of the
 42 person whose body is to be disposed of, or the providing of the
 43 proceeds of any insurance policy for such use;".

1 **SECTION 9.** G.S. 90-210.64 reads as rewritten:

2 "**§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

3 (a) After the death of a preneed funeral contract beneficiary and full performance
4 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
5 promptly complete a certificate of performance or similar claim form and present it to
6 the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
7 insurance company that issued a preneed insurance policy pursuant to G.S.
8 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form,
9 the financial institution shall pay the trust funds to the contracting preneed licensee and
10 the insurance company shall pay the insurance proceeds according to the terms of the
11 policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy
12 of the certificate of performance or other claim form to the Board.

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

26 (c) In the event that any person other than the contracting preneed licensee
27 performs any funeral service or provides any merchandise as a result of the death of the
28 preneed funeral contract beneficiary, the financial institution shall pay the trust funds to
29 the contracting preneed licensee and the insurance company shall pay the insurance
30 proceeds according to the terms of the policy. The preneed licensee shall, subject to the
31 provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other
32 provider.

33 (d) When the balance of a preneed funeral fund is one hundred dollars (\$100.00)
34 or less and is payable to the estate of a deceased preneed funeral contract beneficiary
35 and there has been no representative of the estate appointed, the balance due may be
36 paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a
37 preneed funeral fund exceeds one hundred dollars (\$100.00) or is not payable to the
38 estate, the balance must be paid into the office of the clerk of superior court in the
39 county where probate proceedings could be filed for the deceased preneed funeral
40 contract beneficiary.

41 (e) Upon the fulfillment of a preneed contract, all of the following items shall be
42 completed within 30 days:

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

10 **SECTION 10.** G.S. 90-210.67(f) is repealed.

11 **SECTION 11.** G.S. 90-210.69 reads as rewritten:

12 **"§ 90-210.69. Rulemaking; enforcement of Article; judicial review.**

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

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

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

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

1 In any case in which the Board is authorized to take any of the actions permitted
2 under this subsection, the Board may instead accept an offer in compromise of the
3 charges whereby the accused shall pay to the Board a penalty of not more than ~~one~~ five
4 thousand dollars (\$1,000)- (\$5,000). In any case in which the Board is entitled to place a
5 licensee on a term of probation, the Board may also impose a penalty of not more than
6 five thousand dollars (\$5,000) in conjunction with such probation.

7 (d) Any proceedings pertaining to or actions against a funeral establishment
8 under this Article may be in addition to any proceedings or actions permitted by G.S.
9 90-210.25(d)(4). Any proceedings pertaining to or actions against a person licensed for
10 funeral directing or funeral service may be in addition to any proceedings or actions
11 permitted by G.S. 90-210.25 (e)(1) and (2).

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

14 (f) In determining the amount of any penalty imposed or assessed under Article
15 13 of Chapter 90 of the General Statutes, the Board shall consider:

16 (1) The degree and extent of harm to the public health, safety and welfare,
17 or to property, or the potential for harm.

18 (2) The duration and gravity of the violation.

19 (3) Whether the violation was committed willfully or intentionally or
20 reflects a continuing pattern.

21 (4) Whether the violation involved elements of fraud or deception either to
22 the public or to the Board, or both.

23 (5) The violator's prior disciplinary record with the Board.

24 (6) Whether and the extent to which the violator profited by the violation."

25 **SECTION 12.** One public member of the North Carolina Board of Mortuary
26 Science, appointed under G.S. 90-210.18(b3), with a second term expiring December
27 31, 2001, shall have such term extended until December 31, 2002, in order to stagger
28 the expiration of all three public member terms.

29 **SECTION 13.** This act becomes effective July 1, 2001.