

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 673  
Finance Committee Substitute Adopted 6/7/89

Short Title: Modify Funeral Practice Act.

(Public)

Sponsors:

Referred to:

March 28, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES IN THE PRACTICE OF FUNERAL SERVICE ACT.  
3 The General Assembly of North Carolina enacts:

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

5 "**§ 90-210.18. Construction of Article; State Board; members; election;**  
6 **qualifications; term; vacancies.**

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

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

16 (1) Four funeral service licensees or persons holding both funeral  
17 director's license and an embalmer's license,

18 (2) Two persons holding a funeral director's license or a funeral service  
19 license, and

20 (3) ~~One~~ Two public member-~~members~~.

21 A member's term shall ~~be three years and shall expire~~ on December 31 or when his  
22 successor has been duly elected or appointed. A public member's term shall be four  
23 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 ~~450A-150B~~ to subpoena witnesses and to administer oaths to or  
35 receive 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 mortuary science college approved by the
- 4 Board.
- 5 d. Have completed 12 consecutive months of resident traineeship
- 6 as an embalmer pursuant to the procedures and conditions set
- 7 out in G.S. 90-210.25(a)(4), either before or after satisfying the
- 8 educational requirement under item c. of this subsection, and
- 9 e. Have passed an oral or written embalmer examination on the
- 10 following subjects:
  - 11 1. Basic health sciences, including anatomy, chemistry,
  - 12 microbiology, pathology and forensic pathology,
  - 13 2. Funeral service sciences, including embalming and
  - 14 restorative art, and
  - 15 3. Laws of North Carolina and rules of the Board of
  - 16 Mortuary Science and other agencies dealing with the
  - 17 care, transportation and disposition of dead human
  - 18 bodies.
- 19 (3) To be licensed for the practice of funeral service under this Article, a
- 20 person must:
  - 21 a. Be at least 18 years of age,
  - 22 b. Be of good moral character,
  - 23 c. Be a graduate of a mortuary science college approved by the
  - 24 Board.
  - 25 d. Have completed 12 consecutive months of resident traineeship
  - 26 as a funeral service licensee, pursuant to the procedures and
  - 27 conditions set out in G.S. 90-210.25(a)(4), either before or after
  - 28 satisfying the educational requirement under item c. of this
  - 29 subsection, and
  - 30 e. Have passed an oral or written funeral service
  - 31 examination on the following subjects:
    - 32 1. Basic health sciences, including anatomy, chemistry,
    - 33 microbiology, pathology, forensic pathology hygiene and
    - 34 public health,
    - 35 2. Funeral service sciences, including embalming and
    - 36 restorative art,
    - 37 3. Funeral service administration, including accounting,
    - 38 psychology, funeral principles and directing, and
    - 39 4. 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 (4) a. A person desiring to become a resident trainee shall apply to the
- 44 Board on a form provided by the Board. The application shall state that

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

13 b. When a resident trainee leaves the proctorship of the licensee  
14 under whom the trainee has worked, the licensee shall file with  
15 the Board an affidavit showing the length of time served with  
16 the licensee by the trainee, and the affidavit shall be made a  
17 matter of record in the Board's office. The licensee shall deliver  
18 a copy of the affidavit to the trainee.

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

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

39 e. All registered resident trainees shall report to the Board at least  
40 every three months during traineeship upon forms provided by  
41 the Board listing the work which has been completed during the  
42 preceding three months of resident traineeship. The data  
43 contained in the reports shall be certified as correct by the  
44 licensee under whom the trainee has served during the period

- 1 and by the licensed person who is managing the funeral service  
2 establishment. Each report shall list the following:
- 3 1. For funeral director trainees, the conduct of any funerals  
4 during the relevant time period,
  - 5 2. For embalming trainees, the embalming of any bodies  
6 during the relevant time period,
  - 7 3. For funeral service trainees, both of the activities named  
8 in 1 and 2 of this subsection, engaged in during the  
9 relevant time period.
- 10 f. To meet the resident traineeship requirements of G.S. 90-  
11 210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the  
12 following must be shown by the affidavit(s) of the licensee(s)  
13 under whom the trainee worked:
- 14 1. That the funeral director trainee has, under supervision,  
15 assisted in directing at least 25 funerals during the  
16 resident traineeship,
  - 17 2. That the embalmer trainee has, under supervision,  
18 assisted in embalming at least 25 bodies during the  
19 resident traineeship,
  - 20 3. That the funeral service trainee has, under supervision  
21 assisted in directing at least 25 funerals and, under  
22 supervision, assisted in embalming at least 25 bodies  
23 during the resident traineeship.
- 24 g. The Board may suspend or revoke a certificate of resident  
25 traineeship for violation of any provision of this Article.
- 26 h. Each sponsor for a registered resident trainee must during the  
27 period of sponsorship be actively employed with a funeral  
28 establishment. The traineeship shall be a primary vocation of  
29 the trainee.
- 30 i. Only one resident trainee may register and serve at any one time  
31 under any one person licensed under this Article.
- 32 j. The Board shall not register a resident trainee unless it is shown  
33 that the funeral establishment where he is to be employed had at  
34 least 35 funerals during the 12 months immediately preceding  
35 the date of the application.
- 36 k. The Board shall not register more than one resident trainee for  
37 each 150 funerals had by the funeral establishment during the  
38 12 months immediately preceding the date of the application.
- 39 (5) The Board by regulation may recognize other examinations that the  
40 Board deems equivalent to its own.
- 41 All licenses shall be signed by the president and secretary of the  
42 Board and the seal of the Board affixed thereto. All licenses shall be  
43 issued, renewed or duplicated for a period not exceeding one year  
44 upon payment of the renewal fee, and all licenses, renewals or

1 duplicates thereof shall expire and terminate the thirty-first day of  
2 December following the date of their issue unless sooner revoked and  
3 canceled; provided, that the date of expiration may be changed by  
4 unanimous consent of the Board and upon 90 days' written notice of  
5 such change to all persons licensed for the practice of funeral  
6 directing, embalming and funeral service in this State.

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

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

33 As a prerequisite to the annual renewal of a license, the licensee  
34 must complete, during the year immediately preceding renewal, at  
35 least five hours of continuing education courses, approved by the  
36 Board prior to enrollment; except that for renewals for calendar year  
37 1980 the required length of study shall be a total of 15 hours in the  
38 three years immediately preceding January 1, 1980.

39 The Board shall not renew a license unless fulfillment of the  
40 continuing education requirement has been certified to it on a form  
41 provided by the Board, but the Board may waive this requirement for  
42 renewal in cases of certified illness or undue hardship or where the  
43 licensee lives outside of North Carolina and does not practice in North  
44 Carolina, and the Board shall waive the requirement for all licensees

1 who have been licensed in North Carolina for a continuous period of  
2 25 years or more.

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

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

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

- 24 (1) The Board shall grant licenses to funeral directors, embalmers and  
25 funeral service licensees, licensed in other states, territories, the  
26 District of Columbia, and foreign countries, when it is shown that the  
27 applicant holds a valid license as a funeral director, embalmer or  
28 funeral service licensee issued by the other jurisdiction, has  
29 demonstrated knowledge of the laws and regulations governing the  
30 profession in North Carolina and has submitted proof of his good  
31 moral character; and either that the applicant has continuously  
32 practiced the profession in the other jurisdiction for at least three years  
33 immediately preceding his application, or the Board has determined  
34 that the licensing requirements for the other jurisdiction are  
35 substantially similar to those of North Carolina.
- 36 (2) The Board shall periodically review the mortuary science licensing  
37 requirements of other jurisdictions and shall determine which licensing  
38 requirements are substantially similar to the requirements of North  
39 Carolina.
- 40 (3) The Board may issue special permits, to be known as courtesy cards,  
41 permitting nonresident funeral directors, embalmers and funeral  
42 service licensees to remove bodies from and to arrange and direct  
43 funerals and embalm bodies in this State, but these privileges shall not  
44 include the right to establish a place of business in or engage generally

1 in the business of funeral directing and embalming in this State.  
2 Provided, no special permits may be issued to nonresident funeral  
3 directors, embalmers, and funeral service licensees from states that do  
4 not issue similar courtesy cards to persons licensed in North Carolina  
5 pursuant to this Article.

6 (c) Registration, ~~Filing~~ Filing, Handling and Transportation. – The holder of any  
7 license granted by this State for those within the funeral service profession or renewal  
8 thereof provided for in this Article shall cause registration to be filed in the office of the  
9 board of health of the county or city in which he practices his profession, or if there be  
10 no board of health in such county or city, at the office of the clerk of the superior court  
11 of such county. All such licenses, certificates, duplicates and renewals thereof shall be  
12 displayed in a conspicuous place in the funeral establishment where the holder renders  
13 service. It shall be unlawful for any railway agent, express agency, baggage master,  
14 conductor or other person acting as such, to receive the dead body of any person for  
15 shipment or transportation by railway or other public conveyance, to a point outside of  
16 this State, unless said body be accompanied by a removal or shipping permit. Any  
17 licensee who handles or takes custody of a dead human body and who has been notified  
18 to observe communicable disease control measures adopted pursuant to G.S. 130A-144  
19 shall provide written notification of the required precautions to all individuals who  
20 subsequently handle the body."

21 (d) Establishment Permit. –

- 22 (1) No person, firm or corporation shall conduct, maintain, manage or  
23 operate a funeral establishment unless a permit for that establishment  
24 has been issued by the Board and is conspicuously displayed in the  
25 establishment. Each funeral establishment at a specific location shall  
26 be deemed to be a separate entity and shall require a separate permit  
27 and compliance with the requirements of this Article.
- 28 (2) A permit shall be issued when:
- 29 a. It is shown that the funeral establishment has in charge a  
30 person, known as a manager, licensed for the practice of funeral  
31 directing or funeral service, who shall not be permitted to  
32 manage more than one funeral establishment,
- 33 b. The Board receives a list of the names of all part-time and full-  
34 time licensees employed by the establishment,
- 35 c. It is shown that the funeral establishment satisfies the  
36 requirements of G.S. 90-210.27A, and
- 37 d. The Board receives payment of the permit fee.
- 38 (3) Applications for funeral establishment permits shall be made on forms  
39 provided by the Board and filed with the Board by the owner, a partner  
40 or an officer of the corporation by January 1 of each year, and shall be  
41 accompanied by the application fee or renewal fee, as the case may be.  
42 All permits shall expire on December 31 of each year.

1 A penalty for late renewal, in addition to the regular renewal fee,  
2 shall be charged for renewal of registration coming after the first day  
3 of February.

4 (4) The Board may suspend or revoke a permit when an owner, partner or  
5 officer of the funeral establishment violates any provision of this  
6 Article or any regulations of the Board, or when any agent or  
7 employee of the funeral establishment, with the consent of any person,  
8 firm or corporation operating the funeral establishment, violates any of  
9 those provisions, rules or regulations.

10 (5) Funeral establishment permits are not transferable. A new application  
11 for a permit shall be made to the Board within 30 days of a change of  
12 ownership of a funeral establishment.

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

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

- 20 a. Conviction of a felony or a crime involving fraud or moral  
21 turpitude;
- 22 b. Fraud or misrepresentation in obtaining or renewing a license or  
23 in the practice of funeral service;
- 24 c. False or misleading advertising as the holder of a license;
- 25 d. Solicitation of dead human bodies by the licensee, his agents,  
26 assistants, or employees; but this paragraph shall not be  
27 construed to prohibit general advertising by the licensee;
- 28 e. Employment directly or indirectly of any resident trainee agent,  
29 assistant or other person, on a part-time or full-time basis, or on  
30 commission, for the purpose of calling upon individuals or  
31 institutions by whose influence dead human bodies may be  
32 turned over to a particular licensee;
- 33 f. The direct or indirect giving of certificates of credit or the  
34 payment or offer of payment of a commission by the licensee,  
35 his agents, assistants or employees for the purpose of securing  
36 business;
- 37 g. Gross immorality, including being under the influence of  
38 alcohol or drugs while practicing funeral service;
- 39 h. Aiding or abetting an unlicensed person to perform services  
40 under this Article, including the use of a picture or name in  
41 connection with advertisements or other written material  
42 published or caused to be published by the licensee;
- 43 i. Using profane, indecent or obscene language in the presence of  
44 a dead human body, and within the immediate hearing of the

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

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

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

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



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

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

28 At the time funeral arrangements are made and prior to the time of  
29 rendering the service and providing the merchandise, a funeral director  
30 or funeral service licensee shall give or cause to be given to the person  
31 or persons making such arrangements a written statement duly signed  
32 by a licensee of said funeral establishment showing the price of the  
33 service as selected and what services are included therein, the price of  
34 each of the supplemental items of services or merchandise requested,  
35 and the amounts involved for each of the items for which the funeral  
36 establishment will advance moneys as an accommodation to the person  
37 making arrangements, insofar as any of the above items can be  
38 specified at that time. The statement shall have printed, typed or  
39 stamped on the face thereof: 'This statement of disclosure is provided  
40 pursuant to the requirements of North Carolina G.S. 90-210.25(e).'

41 (f) Unlawful Practices. – If any person shall practice or hold himself out as  
42 practicing the profession or art of embalming, funeral directing or practice of funeral  
43 service without having complied with the licensing provisions of this Article, he shall  
44 be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of

1 not more than ~~five hundred~~ one thousand dollars ~~(\$500.00)~~ (\$1,000) or imprisonment for  
2 not more than six months, or both, in the discretion of the court.

3 Any person, partnership, corporation or association or its agents or representatives  
4 who violates any of the other provisions of this Article, whether or not the Board has  
5 suspended or revoked a license or imposed any other penalty pursuant to subsections  
6 (d)(4), (e)(1) or (e)(2) of this section, shall be deemed guilty of a misdemeanor, and,  
7 upon conviction thereof, be punished by a fine of not more than one thousand dollars  
8 (\$1,000) or imprisonment for not more than six months, or by fine and imprisonment.

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

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

20 "**§ 90-210.27A. Funeral establishments.**

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

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

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

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

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

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

- 1 (2) Be a partner in a funeral establishment if it is owned by a partnership;  
 2 (3) Be an officer, member of the board of directors or owner of twenty-  
 3 five percent (25%) or more of the stock if it is owned by a corporation.  
 4 (e) If a funeral establishment is solely owned by a natural person, that person  
 5 must be licensed by the Board as a funeral director or a funeral service licensee. If it is  
 6 owned by a partnership, at least one partner must be licensed by the Board as a funeral  
 7 director or a funeral service licensee. If it is owned by a corporation, the president,  
 8 vice-president, or the chairman of the board of directors must be licensed by the Board  
 9 as a funeral director or a funeral service licensee. The licensee required by this  
 10 subsection must be actively engaged, on a day-to-day basis, in the operation of the  
 11 funeral establishment.  
 12 (f) If a funeral establishment uses the name of a living person in the name under  
 13 which it does business, that person must be licensed by the Board as a funeral director  
 14 or a funeral service licensee.  
 15 (g) No funeral establishment shall own, operate, or maintain a funeral chapel  
 16 without first having registered the name, location, and ownership thereof with the  
 17 Board.  
 18 (h) A funeral establishment which has failed an inspection by the Board shall pay  
 19 a reinspection fee for each subsequent Board inspection required to ascertain that the  
 20 establishment has corrected the deficiencies found.  
 21 (i) No funeral establishment shall display an invalid license certificate of a living  
 22 person."

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

24 "**§ 90-210.28. Fees.**

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

26 Establishment permit		
27 Application		<del>\$200.00</del> <u>\$250.00</u>
28 Annual renewal	<del>400.00</del> <u>175.00</u>	
29 Late renewal penalty	<del>75.00</del> <u>100.00</u>	
30 <u>Establishment reinspection fee</u>		<u>100.00</u>
31 Courtesy card		
32 Application	75.00	
33 Annual renewal		50.00
34 Out-of-state licensee		
35 Application	<del>150.00</del> <u>200.00</u>	
36 Embalmer, funeral director,		
37 funeral service		
38 Application-North		
39 Carolina-Resident	<del>400.00</del> <u>150.00</u>	
40 -Non-Resident		200.00
41 Annual Renewal-embalmer or		
42 funeral director		50.00
43 -funeral service	100.00	
44 Reinstatement fee	50.00	

1	Resident trainee permit	
2	Application	50.00
3	Annual renewal	35.00
4	Late renewal penalty	25.00
5	Duplicate license certificate	25.00
6	Chapel registration	
7	Application	150.00
8	Annual renewal	100.00

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

15 Sec. 6. G.S. 90-210.20(k) reads as rewritten:

16 "(k) 'Practice of funeral service' means engaging in the care or disposition of dead  
17 human bodies or in the practice of disinfecting and preparing by embalming or  
18 otherwise dead human bodies for the funeral service, transportation, burial or cremation,  
19 or in the practice of funeral directing or embalming as presently known, whether under  
20 these titles or designations or otherwise. It also means engaging in preneed funeral  
21 planning, making arrangements for funeral service, selling funeral supplies to the public  
22 or making financial arrangements for the rendering of such services or the sale of such  
23 ~~supplies~~ supplies, whether at a time of need or prior thereto."

24 Sec. 7. G.S. 90-210.20 is amended by adding a new subsection to read:

25 "(k1) 'Preneed funeral planning' means selling preneed funeral contracts, as defined  
26 in G.S. 90-210.30(3), or making other arrangements prior to death for the providing of  
27 funeral services or merchandise."

28 Sec. 8. This act is effective upon ratification. G.S. 90-210.25(a) as amended  
29 by Section 3 of this act shall apply to persons registering as resident trainees on or after  
30 the date of ratification. Section 1 of this act shall apply to Board members appointed on  
31 or after the date of ratification and the term of the additional public member of the  
32 Board authorized in Section 1 of this act shall commence on January 1, 1990.