

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-420
SENATE BILL 550**

**AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH
CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS
TO THE FUNERAL LAW.**

The General Assembly of North Carolina enacts:

SECTION 1. The name of the North Carolina Board of Mortuary Science is changed to the North Carolina Board of Funeral Service. The Revisor of Statutes is authorized to substitute the term "Board of Funeral Service" for the term "Board of Mortuary Science" wherever that term appears in the General Statutes.

SECTION 2. Article 13C of Chapter 90 of the General Statutes reads as rewritten:

"Article 13C.
"Cremations.

"§ 90-210.40. Short title.

This Article shall be known and may be cited as the North Carolina Crematory Act.

"§ 90-210.41. Definitions.

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

- (1) ~~"Authorizing agent" means a person legally entitled to order, or carry out the legal order for, the cremation of human remains. In the case of indigents or any other individuals whose final disposition is the responsibility of the State, a public official charged with arranging the final disposition of the deceased, if legally authorized, may serve as the authorizing agent. In the case of individuals whose death occurred in a nursing home or other private institution, and in which the institution is charged with making arrangements for the final disposition of the deceased, a representative of the institution, if legally authorized, may serve as the authorizing agent.~~
- (2) "Board" means the North Carolina State Board of Mortuary Science.
- (3) ~~Repealed by Session Laws 1997-399, s. 16.~~
- (4) ~~"Closed container" means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of cremated remains or the entrance of foreign material.~~
- (5) ~~"Cremated remains" means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.~~
- (6) ~~"Cremation" means the technical process, using heat, that reduces human remains to bone fragments.~~
- (7) ~~"Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.~~
- (8) ~~"Cremation container" means the container in which the human remains are placed in the cremation chamber for a cremation. A cremation container must meet all of the standards established by the rules adopted by the Board.~~

- (9) ~~"Crematory" means the building or portion of a building that houses the cremation chamber and that may house the holding facility, business office or other part of the crematory business. A crematory must comply with any applicable public health laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.~~
- (10) "Crematory authority" means the North Carolina Crematory Authority.
- (11) "Crematory operator" means the legal entity which is licensed by the Board to operate a crematory and perform cremations.
- (12) ~~Repealed by Session Laws 1997-399, s. 16.~~
- (13) ~~"Human remains" means the body of a deceased person, including a human fetus, regardless of the length of gestation, or part of a body that has been removed from a living or deceased person.~~
- (14) ~~"Niche" means a compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains.~~
- (1) 'Authorizing agent' means a person legally entitled to authorize the cremation of human remains in accordance with G.S. 90-210.44.
- (2) 'Board' means the North Carolina Board of Funeral Service.
- (3) 'Body parts' means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion thereof that have been donated to science for medical purposes.
- (4) 'Casket' means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, or other material and ornamented and lined with fabric, and which may or may not be combustible.
- (5) 'Certificate of cremation' means a certificate provided by the crematory manager who performed the cremation containing, at a minimum, the following information:
- a. Name of decedent;
 - b. Date of cremation;
 - c. Name and address of crematory; and
 - d. Signature of crematory manager or person acting as crematory manager.
- (6) 'Cremated remains' means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.
- (7) 'Cremation' means the technical process, using intense heat and flame, that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.
- (8) 'Cremation chamber' means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.
- (9) 'Cremation container' means the container in which the human remains are transported to the crematory or placed therein upon arrival for storage and placement in a cremation chamber for cremation. A cremation container shall comply with all of the following standards:
- a. Be composed of readily combustible materials suitable for cremation;
 - b. Be able to be closed in order to provide a complete covering for the human remains;
 - c. Be resistant to leakage or spillage;
 - d. Be rigid enough for handling with ease;

- e. Be able to provide protection for the health, safety, and personal integrity of crematory personnel; and
 - f. Be easily identifiable. The covering of the cremation container shall contain the following information:
 - 1. The name of the decedent;
 - 2. The date of death;
 - 3. The sex of the decedent; and
 - 4. The age at death of the decedent.
- (10) 'Cremation interment container' means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.
- (11) 'Crematory' or 'crematorium' means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.
- (12) 'Crematory licensee' means the individual or legal entity that is licensed by the Board to operate a crematory and perform cremations.
- (13) 'Crematory manager' means the person who is responsible for the management and operation of the crematory. A crematory manager must either be licensed to practice funeral directing or funeral service and be qualified as a crematory technician or must obtain a crematory manager permit issued by the Board. In order to receive a crematory manager permit, a person must:
- a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Be qualified as a crematory technician.
- Notwithstanding any other provision of law, a crematory that is licensed by the Board prior to January 1, 2004, and as of that date is not managed by a crematory manager who is licensed to practice funeral directing or funeral service, or who has a crematory manager permit, may continue to be managed by a crematory manager who is not licensed to practice funeral directing or funeral service or who does not have a crematory manager permit so long as there is no sale, transfer, devise, bequest, gift, or any other disposal of a controlling interest in the crematory.
- (14) 'Crematory technician' means any employee of a crematory licensee who has a certificate confirming that the crematory technician has attended a training course approved by the Board. The Board shall recognize the cremation certificate program that is conducted by the Cremation Association of North America (CANA).
- (15) 'Final disposition' means the cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee as provided in this Article. Upon the written direction of the authorizing agent, cremated remains may take various forms.
- (16) 'Holding and processing facility' means an area or areas that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation; that comply with all applicable public health and environmental laws;

- preserve the health and safety of the crematory technician and other personnel of the crematory; and that are secure from access by anyone other than authorized persons. A holding facility and processing facility must be located in a crematory.
- (17) 'Human remains' means the body of a deceased person, including a separate human fetus, regardless of the length of gestation, or body parts.
 - (18) 'Niche' means a compartment or cubicle for the memorialization or final disposition of an urn or container containing cremated remains.
 - (19) 'Processing' means the removal of bone fragments from the cremation chamber for the reduction in size, labeling and packaging, and placing in an urn or temporary container.
 - (20) 'Pulverization' means the reduction of identifiable or unidentifiable bone fragments after the completion of the cremation to granulated particles by mechanical means.
 - (21) 'Scattering area' means an area permitted by North Carolina law including, but not limited to, an area designated by a cemetery and located on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.
 - (22) 'Temporary container' means a receptacle for cremated remains, usually composed of cardboard, plastic, or similar material which can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and which is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.
 - (23) 'Urn' means a receptacle designed to permanently encase the cremated remains.

"§ 90-210.42. Crematory Authority established.

(a) The North Carolina Crematory Authority is established as a Committee within the Board. The Crematory Authority shall suggest rules to the Board for the carrying out and enforcement of the provisions of this Article.

(b) The Crematory Authority shall initially consist of five members appointed by the Governor and two members of the Board appointed by the Board. The Governor may consider a list of recommendations from the Cremation Association of North Carolina.

(c) The initial terms of the members of the Crematory Authority shall be staggered by the appointing authorities so that the terms of three members (two of which shall be appointees of the Governor) expire December 31, 1991, the terms of two members (both of which shall be appointees of the Governor) expire December 31, 1992, and the terms of the remaining two members (one of which shall be an appointee of the Governor) expire December 31, 1993.

As the terms of the members appointed by the Governor expire, their successors shall be elected from among a list of nominees in an election conducted by the Board in which all licensed crematory operators are eligible to vote. The Board may conduct the election for members of the Crematory Authority simultaneously with the election for members of the Board or at any other time. The Board shall prescribe the procedures and establish the time and date for nominations and elections to the Crematory Authority. A nominee who receives a majority of the votes cast shall be declared elected. The Board shall appoint the successors to the two positions for which it makes initial appointments pursuant to this section.

The terms of the elected members of the Crematory Authority shall be three years. The terms of the members appointed by the Board, including the members initially appointed pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term

by majority vote of the remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the Board shall be filled by the Board.

(d) The members of the Crematory Authority shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 93B-5 for all time actually spent upon the business of the Crematory Authority. All expenses, salaries and per diem provided for in this Article shall be paid from funds received ~~under the provisions of this Article and Article 13A~~ and shall in no manner be an expense to the State.

(e) The Crematory Authority shall select from its members a chairman, a vice chairman and a secretary who shall serve for one year or until their successors are elected and qualified. No two offices may be held by the same person. The Crematory Authority, with the concurrence of the Board, shall have the authority to engage adequate staff as deemed necessary to perform its duties.

(f) The Crematory Authority shall hold at least one meeting in each year. In addition, the Crematory Authority may meet as often as the proper and efficient discharge of its duties shall require. ~~Five~~ Four members shall constitute a quorum.

"§ 90-210.43. Licensing and inspection.

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

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

~~(c) Application for a license as a crematory operator shall be made on forms furnished and prescribed by the Board. The Board shall examine the premises and structure to be used as a crematory and shall issue a renewable license to the crematory operator if the applicant meets all the requirements and standards of the Board and the requirements of this Article.~~

~~(d) Every application for licensure shall identify the individual who is responsible for overseeing the management and operation of the crematory. The crematory operator shall keep the Board informed at all times of the name and address of the manager.~~

~~(d1) All licenses shall expire on the last day of December of each year. A license may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license may be renewed by paying a late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses that remain expired six months or more require a new application for renewal. Licenses are not transferable. A new application for a license shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.~~

~~(e) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity shall cremate any human remains, except in a crematory licensed for this express purpose and under the limitations provided in this Article, or unless otherwise permitted by statute.~~

~~(f) Whenever the Board finds that an owner, partner, manager, member, or officer of a crematory operator or an applicant to become a crematory operator, or that any agent or employee of a crematory operator or an applicant to become a crematory operator, with the direct or implied permission of such owner, partner, manager, member, or officer, has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant~~

~~has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with the procedures of Chapter 150B:~~

- ~~(1) Conviction of a felony or a crime involving fraud or moral turpitude.~~
- ~~(2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.~~
- ~~(3) False or misleading advertising.~~
- ~~(4) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.~~
- ~~(5) Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been cremated or otherwise disposed of.~~
- ~~(6) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.~~
- ~~(7) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.~~
- ~~(8) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.47(e).~~
- ~~(9) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.~~

~~In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than one thousand dollars (\$1,000).~~

~~(g) The Board and Crematory Authority may hold hearings in accordance with the provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly by the Board and the Crematory Authority. The Board and the Crematory Authority shall jointly constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory operators and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.~~

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

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

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

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

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

(e) All licenses and permits shall expire on the last day of December of each year. A license or permit may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license or permit may be renewed by paying a late fee as provided in G.S. 90-210.52 in addition to the annual renewal fee. Licenses and permits that remain expired six months or more require a new application for renewal. Licenses and permits are not transferable. A new application for a license or permit shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.

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

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

- (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- (2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.
- (3) False or misleading advertising.
- (4) Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this subdivision shall not be construed to prohibit general advertising by the licensee.
- (5) Employment directly or indirectly of any agent, assistant, or other person on a part-time or full-time basis or on commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.
- (6) The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agent, assistant, or employees for the purpose of securing business.

- (7) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.
- (8) Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- (9) Failing to treat a dead human body with respect at all times.
- (10) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.
- (11) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
- (12) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.51(e).
- (13) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.
- (14) Practicing funeral directing, embalming, or funeral service without a license.

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

(h) Where the Board finds a licensee is guilty of one or more of the acts or omissions listed in subsection (g) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation.

(i) The Board may hold hearings in accordance with the provisions of this Article and Chapter 150B of the General Statutes. The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.

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

"§ 90-210.44. Authorizing agent.

(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

- (1) An individual at least 18 years of age may authorize the cremation and disposition of the individual's own dead body in a written will,

pursuant to health care power of attorney to the extent provided in Article 3 of Chapter 32 of the General Statutes, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old. When an individual has authorized his or her own cremation and disposition in accordance with this subsection, the individual or institution designated by that individual shall act as the authorizing agent for that individual.

(2) If a decedent has left no written authorization for the cremation and disposition of the decedent's body as permitted under subdivision (1) of this subsection, the following competent persons in the order listed may authorize the type, method, place, cremation, and disposition of the decedent's body:

- a. The surviving spouse.
- b. A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.
- c. The surviving parents.
- d. A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.
- e. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.
- f. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.
- g. In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.
- h. In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of such institution may serve as the authorizing agent in the absence of any of the above.
- i. In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63.

(b) A person who does not exercise his or her right to dispose of the decedent's body under subdivision (a)(2) of this section within five days of notification or 10 days from date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or to contest disposition in accordance with this section.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the cremation and disposition of one or more of the individual's

body parts that has been or will be removed. If the individual does not authorize the cremation and disposition, a person listed in subdivision (a)(2) of this section may authorize the cremation and disposition as if the individual were deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes.

"§ 90-210.45. Authorization to cremate.

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

- (1) The identity of the human remains and confirmation that the human remains are in fact the individual so named.
- (2) The time and date of death of the decedent.
- (3) The name and address of the funeral establishment and/or the funeral director that obtained the cremation authorization.
- (4) The name and address of the crematory to be in receipt of the human remains for the purpose of cremation.
- (5) The name and address of the authorizing agent, the relationship between the authorizing agent and the decedent, and the date and time of signature of the authorizing agent.
- (6) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in G.S. 90-210.44. Or, in the event that there is another living person who does have a superior priority right to that of the authorizing agent, a representation that the authorizing agent has made all reasonable efforts to contact such person, has been unable to do so, and has no reason to believe that such person would object to the cremation of the decedent.
- (7) A representation that the authorizing agent has either disclosed the location of all living persons with an equal right to that of the authorizing agent, as set forth in G.S. 90-201.44, or does not know the location of any other living person with an equal right to that of the authorizing agent.
- (8) Authorization for the crematory to cremate the human remains, including authorization to process or pulverize the cremated remains.
- (9) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous to the person performing the cremation.
- (10) The name of the person authorized to receive the cremated remains from the crematory licensee.
- (11) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form shall indicate that the cremated remains will be held by the crematory licensee for 30 days before they are disposed of, unless they are received from the crematory licensee prior to that time, in person, by the authorizing agent or his designee.
- (12) The signature of the authorizing agent attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in subsection (b) of this section.
- (13) If a cremation authorization form is being executed on a preneed basis, the cremation authorization form shall contain the disclosure required

by G.S. 90-210.46. The authorizing agent may specify in writing religious practices that conflict with Article 13 of this Chapter. The crematory licensee and funeral director shall observe those religious practices except where they interfere with cremation in a licensed crematory as specified under G.S. 90-210.43 or the required documentation and record keeping.

(14) A licensed funeral director of the funeral establishment or crematory licensee that received the cremation authorization form shall also sign the cremation authorization form. Such individual shall not be responsible for any of the representations made by the authorizing agent, unless such individual has actual knowledge to the contrary, except for the information requested by subdivisions (a)(1), (2), (3), (4), and (9) of this section, which shall be considered to be representations of the individual. In addition, the funeral director shall warrant to the crematory that the human remains delivered to the crematory licensee are the human remains identified on the cremation authorization form with any other documentation required by this State, any county, or any municipality.

(b) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation, except for the information required by subdivisions (a)(4) and (9) of this section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned thereby and resulting therefrom.

(c) A crematory licensee shall have the legal right to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory licensee that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization, except for such crematory licensee's gross negligence, provided that the crematory licensee performs such functions in compliance with the provisions of this Article. There shall be no liability for a funeral establishment or licensee thereof that causes a crematory licensee to cremate human remains pursuant to such authorization, except for gross negligence, provided that the funeral establishment and licensee thereof and crematory licensee perform their respective functions in compliance with the provisions of this section.

(d) After the authorizing agent has executed a cremation authorization form and prior to the commencement of the cremation, the authorizing agent may revoke the authorization and instruct the crematory licensee to cancel the cremation and to release or deliver the human remains to another crematory licensee or funeral establishment. Such instructions shall be provided to the crematory licensee in writing. A crematory licensee shall honor any instructions given to it by an authorizing agent under this section, provided that it receives such instructions prior to commencement of the cremation of the human remains.

"§ 90-210.46. Preneed cremation arrangements.

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

(b) Any cremation authorization form executed by an individual as the individual's own authorizing agent on a preneed basis shall contain the following disclosure, which shall be completed by the authorizing agent:

___ I do not wish to allow any of my survivors the option of canceling my cremation and selecting alternative arrangements, regardless of whether my survivors deem such a change to be appropriate.

___ I wish to allow only the survivors whom I have designated below the option of canceling my cremation and selecting alternative arrangements or continuing to honor my wishes for cremation and purchasing services and merchandise if they deem such a change to be appropriate.

(c) Except as provided in subsection (b) of this section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a preneed basis, any person in possession of the executed form, and any person charged with making arrangements for the disposition of the decedent's human remains who has knowledge of the existence of the executed form, shall use the person's best efforts to ensure that the decedent's human remains are cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form.

(d) If a crematory licensee is in possession of a completed cremation authorization form, executed on a preneed basis, and the crematory licensee is in possession of the designated human remains, then the crematory licensee shall be required to cremate the human remains and dispose of the human remains according to the instructions contained on the cremation authorization form. A crematory licensee that complies with the preneed cremation authorization form under these circumstances may do so without any liability. A funeral establishment or licensee thereof that causes a crematory licensee to act in accordance with the preneed cremation authorization form under these circumstances may do so without any liability.

(e) Any preneed contract sold by, or preneed arrangements made with, a funeral establishment that includes a cremation shall specify the final disposition of the cremated remains, pursuant to G.S. 90-210.50. In the event that no different or inconsistent instructions are provided to the crematory licensee by the authorizing agent at the time of death, the crematory licensee shall be authorized to release or dispose of the cremated remains as indicated in the preneed agreement. Upon compliance with the terms of the preneed agreement, the crematory licensee, and any funeral establishment or licensee thereof who caused the crematory licensee to act in compliance with the terms of the preneed agreement, shall be discharged from any legal obligation concerning such cremated remains.

(f) The provisions of this section shall not apply to any cremation authorization form or preneed contract executed prior to the effective date of this act. Any funeral establishment, however, with the written approval of the authorizing agent or person who executed the preneed contract, may designate that such cremation authorization form or preneed contract shall be subject to this act.

~~**"§ 90-210.44. Authorization and record keeping.**~~

~~The Board shall establish requirements for record keeping, authorizations, and cremation reports. It shall be a violation of this Article for any crematory operator to fail to comply with the requirements.~~

~~**"§ 90-210.47. Record keeping.**~~

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

decedent. The crematory licensee shall retain a copy of this receipt in its permanent records for three years.

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

(c) A crematory licensee shall maintain at its place of business a record of all forms required by the Board of each cremation that took place at its facility for three years.

(d) The crematory licensee shall maintain a record for three years of all cremated remains disposed of by the crematory licensee in accordance with G.S. 90-210.46(d).

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

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

"§ 90-210.48. Cremation containers.

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

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

"§ 90-210.45. Cremation procedures.

~~(a) No human body shall be cremated before the crematory operator receives a death certificate signed by the attending physician or an authorization for cremation signed by a medical examiner.~~

~~(b) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious or communicable and dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred. In the event such death comes under the jurisdiction of the medical examiner, the human remains shall not be received by the crematory operator until authorization to cremate has been received in writing from the medical examiner of the county in which the death occurred. In the event the crematory operator is authorized to perform funerals as well as cremation, this restriction on the receipt of human remains shall not be applicable.~~

~~(c) No unauthorized person shall be permitted in the crematory area while any human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber. Relatives of the deceased, the authorizing agent, medical examiners and law enforcement officers in the execution of their duties shall be authorized to have access to the holding facility and crematory facility.~~

~~(c1) Human remains shall be cremated only while enclosed in a cremation container.~~

~~(d) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.~~

~~(d1) Every crematory shall have a holding facility, within or adjacent to the crematory, designated for the retention of human remains prior to cremation. The holding facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.~~

~~(e) Crematory operators shall comply with standards established by the Board for the reduction and pulverization of human remains by the cremation process.~~

"§ 90-210.49. Cremation procedures.

(a) In deaths certified by the attending physician, the body shall not be cremated before the crematory licensee receives a death certificate signed by the attending physician, which shall contain at a minimum the following information:

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

(b) When required by G.S. 130A-388 and the rules adopted pursuant to that section or by successor statute and the rules pursuant to it, a cremation authorization form signed by a medical examiner shall be received by the crematory prior to cremation.

(c) In deaths coming under full investigation by the Office of the Chief Medical Examiner, a burial-transit permit/cremation authorization form must be received by the crematory before cremation.

(d) No body shall knowingly be cremated with a pacemaker or defibrillator or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral director and the crematory licensee on the cremation authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory.

(e) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious, or communicable and dangerous disease as listed by the Commission of Health Services, pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred.

(f) No unauthorized person shall be permitted in view of the cremation chamber or in the holding and processing facility while any human remains are being removed from the cremation container, processed, or pulverized. Relatives of the deceased and their invitees, the authorizing agent and the agent's invitees, medical examiners, Inspectors of the North Carolina Board of Funeral Service, and law enforcement officers in the execution of their duties shall be authorized to have access to the crematory area, subject to the rules adopted by the crematory licensee governing the safety of such individuals.

(g) Human remains shall be cremated only while enclosed in a cremation container. Upon completion of the cremation, and insofar as is possible, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as is possible, all residue of the cremation process shall then be separated from any foreign residue or anything else other than bone fragments and then be processed by pulverization so as to reduce the cremated remains to unidentifiable particles. Any foreign residue and anything other than the particles of the cremated remains shall be removed from the cremated remains as far as possible and shall be disposed of by the crematory licensee. This section does not apply where law otherwise

provides for commingling of human remains. The fact that there is incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a violation of this subsection.

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.

(i) Every crematory shall have a holding and processing facility, within the crematory, designated for the retention of human remains prior to cremation. The holding and processing facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.

(j) Crematory licensees shall comply with standards established by the Board for the processing and pulverization of human remains by cremation.

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

(l) The cremated remains with proper identification shall be placed in a temporary container or the urn selected or provided by the authorizing agent. The temporary container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent or as provided in subsection (g) of this section.

(m) If the cremated remains are greater than the dimensions of a temporary container or urn, the excess cremated remains shall be returned to the authorizing agent or its representative in a separate container or urn.

(n) If the cremated remains are to be shipped, the temporary container or urn shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery, unless otherwise authorized in writing by the authorizing agent. Cremated remains shall be shipped to the proper address as stated on the cremation authorization form signed by the authorizing agent.

"§ 90-210.46. Disposition of cremated remains.

~~(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory operator may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory operator pursuant to G.S. 90-210.44.~~

~~(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or his representative has not specified the ultimate disposition or claimed the cremated remains, the crematory operator or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory operator for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making such disposition. Upon disposing of cremated remains in accordance with this section, the crematory operator or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.~~

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

~~(d) Except with the express written permission of the authorizing agent no person may:~~

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

~~(e) Cremated remains shall be delivered by the crematory operator to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory operator and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.~~

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

"§ 90-210.50. Final disposition of cremated remains.

(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory licensee may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory licensee pursuant to G.S. 90-210.47.

(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.

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

(d) Except with the express written permission of the authorizing agent, no person may:

- (1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or

to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes.

- (2) Place cremated remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person with the written consent of the family.

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

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

"§ 90-210.47. Liability.

~~(a) Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.~~

~~(b) A crematory operator shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory operator that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization.~~

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

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

- ~~(1) It is aware of any dispute concerning the cremation of human remains;~~
~~(2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or~~
~~(3) For any other lawful reason.~~

~~(e) If a crematory operator is aware of any dispute concerning the release or disposition of the cremated remains, the crematory operator may refuse to release the cremated remains until the dispute has been resolved or the crematory operator has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory operator shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection.~~

"§ 90-210.51. Limitation of liability.

(a) Any person signing a cremation authorization form as authorizing agent shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.

(b) A crematory licensee shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory licensee that cremates human remains pursuant to such authorization or that releases or disposes of the cremated remains pursuant to such authorization. A crematory licensee and funeral establishment or

licensee thereof who causes the crematory licensee to act shall have no liability for the final disposition or manner in which the cremated remains are handled after the cremated remains are released in accordance with the directions of the authorizing agent.

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

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

- (1) It is aware of any dispute concerning the cremation of human remains;
- (2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or
- (3) For any other lawful reason.

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

"§ 90-210.48. Fees.

(a) The Board may set and collect fees not to exceed the following amounts from licensed crematory operators and applicants:

- | | |
|---------------------------------------|-------------------------|
| <u>(1) Licensee application fee</u> | <u>\$400.00</u> |
| <u>(2) Annual renewal fee</u> | <u>150.00</u> |
| <u>(3) Late renewal penalty</u> | <u>75.00</u> |
| <u>(4) Re-inspection fee</u> | <u>100.00</u> |
| <u>(5) Per cremation fee.</u> | <u>10.00</u> |
| <u>(6) Late fee, per cremation.</u> | <u>10.00</u> |
| <u>(7) Late fee, cremation report</u> | <u>75.00 per month.</u> |

(b) The funds collected pursuant to this Article shall become part of the general fund of the Board. The cost of the maintenance of the Crematory Authority shall be deemed a general expense of the Board. The Board shall keep an accurate accounting of all the receipts and expenditures made pursuant to this Article and shall provide a current report of such to the Crematory Authority biannually.

"§ 90-210.52. Fees.

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

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

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

"§ 90-210.49. Crematory operator authority.

(a) A crematory operator may employ a licensed funeral director for the purpose of arranging cremations with the general public, transporting human remains to the crematory, and processing all necessary paper work. Nothing in this provision may be

~~construed to require a licensed funeral director to perform any functions not otherwise required by law to be performed by a licensed funeral director.~~

~~(b) A crematory operator may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be construed to prevent a crematory operator from adopting rules which are more stringent than the provisions of this Article.~~

~~(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory operators for or directly with the public, or exclusively for or through licensed funeral directors.~~

~~(d) Nothing in this Article may be construed to prohibit a crematory operator from transporting human remains.~~

~~(e) Nothing in this Article may be construed to relieve the holder of a license issued hereunder from obtaining any other licenses or permits required by law.~~

"§ 90-210.53. Crematory licensee rights.

(a) A crematory licensee may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be construed to prevent a crematory licensee from adopting rules which are more stringent than the provisions of this Article.

(b) Nothing in this Article may be construed to relieve the crematory licensee from obtaining any other licenses or permits required by law.

(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory licensees or crematory managers for or directly with the public or exclusively for or through licensed funeral directors.

"§ 90-210.50. Rule making; applicability; violations; and prohibitions of Article.

~~(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States. The Board shall adopt rules only after consideration of the Crematory Authority's suggested rules pursuant to G.S. 90-210.42(a). The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.~~

~~(b) The provisions of this Article shall not apply to the cremation of human remains and medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such human remains and medical waste is the legal responsibility of said institutions.~~

~~(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.~~

~~(d) No person, firm, or corporation may request or authorize cremation or cremate a dead human body when he has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate has thereafter been obtained.~~

"§ 90-210.54. Rulemaking, applicability, violations, and prohibitions of Article.

(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States. The Board may develop a Standard Cremation Authorization Form and procedures for its execution that shall be used by the crematory licensee subject to this Article, unless a crematory has its own form approved by the Board. A crematory licensee that uses its own approved cremation authorization form must have the cremation authorization form reapproved if changed or after amendments are made to this Article or the rules adopted by the Board related to cremation authorization forms. The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.

(b) The provisions of this Article shall not apply to the cremation of medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such medical waste is the legal responsibility of the institutions.

(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

(d) No person, firm, or corporation may request or authorize cremation or cremate human remains when the person, firm, or corporation has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate the human remains has thereafter been obtained."

SECTION 3. G.S. 90-210.20(e1) reads as rewritten:

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

SECTION 4. G.S. 90-210.22 reads as rewritten:

"§ 90-210.22. Required meetings of the Board.

The Board shall hold at least ~~two~~ four meetings in each ~~year at which examinations shall be given to qualified applicants for licenses~~ year. In addition, the Board may meet as often as the proper and efficient discharge of its duties shall require. Five members shall constitute a quorum."

SECTION 5.(a) G.S. 90-210.23(b) reads as rewritten:

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

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

SECTION 5.(b) G.S. 90-210.23 is amended by adding the following new subsections to read:

"(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

"(h2) The Board may employ legal counsel and clerical and technical assistance, and fix the compensation therefor, and incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Article or as otherwise required by law and as may be necessary to carry out the powers herein conferred."

SECTION 6. G.S. 90-210.24(a) reads as rewritten:

"§ 90-210.24. Inspector.

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

SECTION 7. G.S. 90-210.25 reads as rewritten:

"§ 90-210.25. Licensing.

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

- (1) To be licensed for the practice of funeral directing under this Article, a person must:
 - a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.
 - d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. Have passed an oral or written funeral director examination on the following subjects:
 1. Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.
 2. Repealed by 1997-399, s. 5.
 3. 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.
- (2) To be licensed for the practice of embalming under this Article, a person must:
 - a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Be a graduate of a mortuary science college approved by the Board.
 - d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. Have passed an oral or written embalmer examination on the following subjects:
 1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 2. Repealed by 1997-399, s. 6.
 3. 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.
- (3) To be licensed for the practice of funeral service under this Article, a person must:
 - a. Be at least 18 years of age.
 - b. Be of good moral character.

- c. Be a graduate of and receive an associate degree from a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of ~~32-60~~ semester hours or ~~48-90~~ quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.
 - d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivison c. of this subdivision.
 - e. Have passed an oral or written funeral service examination on the following subjects:
 - 1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
 - 2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 - 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.~~ approval.
 - 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.~~ two times. 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, late fee,~~ 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 12-month period of resident traineeship that shall have been completed more than ~~three~~ five years preceding the examination for a license.

- e. All registered resident trainees shall report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
 - 1. For funeral director trainees, the conduct of any funerals during the relevant time period,
 - 2. For embalming trainees, the embalming of any bodies during the relevant time period,
 - 3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.
- f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
 - 1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
 - 2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
 - 3. That the funeral service trainee has, under ~~supervision~~ supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.
- g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.
- h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.
- i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.
- j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- l. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 families served at the funeral

- establishment during the 12 months immediately preceding the date of the application.
- (5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.
- a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.
 - b. The holder of any license issued by the Board who shall fail to renew the same on or before ~~January 31~~February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.
 - c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses ~~of study~~ in subjects relating to the practice of the profession for which they are licensed, to the end that ~~new techniques, scientific and clinical advances, the achievements of research and~~ the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.
 - d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.

- e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.
- f. The Board shall cause to be established and offered to the licensees, each calendar year, at least ~~five-eight~~ hours of continuing education ~~courses in subjects encompassing the license categories of embalming, funeral directing and funeral service courses.~~ The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.
- g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.
- h. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

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

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

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

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

(2) The licensee:

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

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

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

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

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

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

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

(3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State.

Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.

(c) Registration, Filing and Transportation. –

- (1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.
- (2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.
- (3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.
- (4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.
- (5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:
 - a. Licensees under this Article and their employees.
 - b. Employees of common carriers.
 - c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
 - d. Funeral directors licensed in another state and their employees.
- (6) The following persons shall be exempt from this section:
 - a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers.
 - b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body

- within such facility or while acting within the scope of their employment.
- c. State and county medical examiners and their investigators.
 - d. Any individual transporting cremated remains.
 - e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
 - f. Any individual who has exhibited special care and concern for the decedent.
- (7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
- a. Be at least 18 years of age.
 - b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.
 - c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.
 - d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.
 - e. Be of good moral character.
- (8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred dollars (\$100.00), in addition to the renewal fee not to exceed seventy-five dollars (\$75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.
- (9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. ~~use profanity, indecent, or obscene language in the presence of a dead human body.~~ No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of ~~kin-kin~~ or other authorizing agent.
- (10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any

violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars (\$5,000) per violation.

- (11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.
 - (12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.
 - (13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.
- (d) Establishment Permit. –
- (1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.
 - (2) A permit shall be issued when:
 - a. It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment.
 - b. The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.
 - c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.
 - d. The Board receives payment of the permit fee.
 - (3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, A penalty for late renewal, in addition to the regular renewal fee, shall be ~~charged for renewal of registration received after the first day of February.~~ charged.
 - (4) The Board may suspend or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the

consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations.

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

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

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

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

- a. Conviction of a felony or a crime involving fraud or moral turpitude.
- b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.
- c. False or misleading advertising as the holder of a license.
- d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.
- e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.
- f. ~~The direct or indirect giving of certificates of credit or the payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business-business except as authorized by Article 13D of this Chapter.~~
- g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.
- h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- i. ~~Failing to treat a dead human body with respect at all times. Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.~~
- j. Violating or cooperating with others to violate any of the provisions of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.
- l. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof.

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

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

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

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

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

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

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

on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)."

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

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

SECTION 8.(a) Chapter 65 of the General Statutes is amended by adding the following new Article to read:

"Article 11.

"Minimum Burial Depth."

SECTION 8.(b) G.S. 90-210.25A is recodified as G.S. 65-77 in Article 11 of Chapter 65 of the General Statutes, as enacted by Section 8(a) of this act.

SECTION 9.(a) G.S. 90-210.27A(g) reads as rewritten:

"(g) No funeral establishment or other licensee under this Article shall own, operate, or maintain a funeral chapel without first having registered the name, location, and ownership thereof with the ~~Board~~ Board; own or maintain more than two funeral chapels, or own or maintain a funeral chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a funeral chapel for making arrangements for funeral service, selling funeral supplies to the public, or making financial arrangements for the rendering of such service or sale of supplies, provided that such uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony."

SECTION 9.(b) G.S. 90-210.27A is amended by adding the following new subsections to read:

"(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral establishment and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

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

SECTION 10. G.S. 90-210.29A reads as rewritten:

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

The funeral director or person otherwise responsible for the final disposition of a dead body shall, prior to the interment or entombment of the dead body, affix on the ankle or wrist of the dead body, or, if cremated, on the inside of the ~~vessel~~ temporary container or urn containing the remains of the dead body, a tag of durable, noncorroding material permanently marked with the name of the deceased, the date of death, the social security number of the deceased, the county and state of death, and the site of interment or entombment."

SECTION 11. G.S. 90-210.63(a)(2) reads as rewritten:

"§ 90-210.63. Substitution of licensee.

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

(2) The original contracting preneed licensee shall immediately pay all funds received to the successor funeral establishment designated. Regardless of whether the substitution is made before or after the death of the preneed funeral contract beneficiary, the original contracting preneed licensee shall not be required to give credit for the amount retained pursuant to G.S. 90-210.61(a)(2), except when there was a substitution under G.S. 90-210.68(d1) and (e). ~~Except when there was a substitution under G.S. 90-210.68(d1) and (e), if the original contracting preneed licensee did not retain any portion of payments made as is permitted by G.S. 90-210.61(a)(2) then the preneed licensee may retain up to ten percent (10%) of the funds received from the financial institution.~~ Upon making payments pursuant to this subsection, the financial institution and the original contracting preneed licensee shall be relieved from all further contractual liability thereon.

"
"....."
SECTION 12. G.S. 90-210.64(a) reads as rewritten:

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

SECTION 13. G.S. 90-210.65(e) reads as rewritten:

"(e) This section shall not apply to irrevocable preneed funeral contracts. Irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded except by order of a court of competent jurisdiction. Notwithstanding the previous sentence, irrevocable preneed funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is otherwise cancelled and the lapsed or cancelled policy no longer provides any funding for the preneed funeral contract."

SECTION 14. G.S. 90-210.67(e) and (f) are repealed.

SECTION 15. G.S. 90-210.70 is amended by adding the following new subsection to read:

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

SECTION 16. G.S. 143B-472.5, as recodified by Section 17 of this act, reads as rewritten:

"§ 90-210.83. Assessments against association for expenses of Board of Mortuary Science associations.

~~In order to meet the expenses of the supervision of the burial associations, the Board of Mortuary Science shall prepare an annual budget for the office of the Board of Mortuary Science. Thereafter, the Board of Mortuary Science shall~~ The North Carolina Board of Funeral Service shall annually assess each burial association one hundred dollars (\$100.00) plus an amount not to exceed fifty cents (50¢) per member, and shall prorate the remaining amount of this budget, over and above any other funds made available to it for this purpose, and assess each association on a pro rata basis in accordance with the number of members of each association. Each burial association shall remit to the Board of Mortuary Science Funeral Service its pro rata part of the total assessment, which expense shall be included in the thirty per centum (30%) expense allowance as provided in G.S. 143B-472.3. 90-210.81. This assessment shall be made on the first day of July of each and every year and said assessment shall be paid within 30 days thereafter. If any association shall fail or refuse to pay such assessment within 30 days, the Board of ~~Mortuary Science~~ Funeral Service is authorized to transfer all memberships and assets of every kind and description to the nearest association that is found by the Board of ~~Mortuary Science~~ Funeral Service to be in good sound financial condition."

SECTION 17.(a) Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 13E.

"Mutual Burial Associations."

SECTION 17.(b) G.S. 143B-472.2 through G.S. 143B-472.29 are recodified as G.S. 90-210.80 through G.S. 90-210.107 in Article 13E of Chapter 90 of the General Statutes, as enacted by Section 17(a) of this act. The Revisor of Statutes is authorized to make changes to statutory cross-references that will reflect the results of the recodification.

SECTION 18. This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 18th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:10 p.m. this 14th day of August, 2003