



HOUSE BILL 529: Amend Funeral Laws.

2017-2018 General Assembly

Committee:		Date:	August 9, 2018
Introduced by:		Prepared by:	Trina Griffin Staff Attorney
Analysis of:	S.L. 2018-78		

OVERVIEW: *S.L. 2018-78 makes various changes to the laws pertaining to the practice of funeral service, many of which are technical, clarifying, or codifications of existing rules. Some of the more notable substantive changes include the following:*

- *Provides an exception to the prohibition against the simultaneous cremation of human remains of more than one person when the cremation is for (1) the human remains of multiple fetuses from the same mother and same birth, or (2) human remains of multiple persons up to the age of one year old from the same mother and the same birth. This provision became effective June 25, 2018.*
- *Authorizes the process of alkaline hydrolysis for the disposal of human remains. Generally, the license for the hydrolysis of human remains has the same requirements and fees as licensing of crematories, and the Board has the same powers over hydrolysis licensees.*
- *Requires unembalmed human remains retained in the custody of a funeral establishment for more than 24 hours be kept in a refrigeration unit.*
- *Requires individuals permitted to transport and remove dead human bodies for a fee to obtain and maintain a professional liability insurance policy with liability limits of at least \$500,000.*
- *Makes it a Class 2 misdemeanor for any person to knowingly and willfully abuse, mutilate, or not treat with reasonable care a dead human body in that person's custody. This provision becomes effective December 1, 2018.*

Except as otherwise provided, this act becomes effective October 1, 2018.

BILL ANALYSIS:

Licensing Changes

- Eliminates references to a specific number of hours of instruction that trainees are required to take for licensure purposes. The revised language would give schools the flexibility to determine the curriculum that best meets the needs for licensure and remove a potential barrier to entry for individuals coming to North Carolina from other states.
- Reduces from five to three years the amount of time that completion of traineeship and the passage of examinations remains valid for purposes of applying for licensure.
- Requires that a person applying to become a resident trainee be supervised by licensees who have been engaged in the practice for at least five years.

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- Exempts resident trainees who are members of the Armed Forces and who are engaged in active service from having to pay a late fee for registration renewals and grants an extension of time for retaining credit for resident traineeship for any trainee who is granted an income tax extension by reason of serving in combat or being located in a presidentially declared disaster area.
- Clarifies the Board's authority to revoke, suspend, or refuse to issue or renew a certificate of resident traineeship or place a trainee on probation for any violation of Article 13A of Chapter 90 or rules adopted by the Board. The Board may determine the length of any revocation, suspension, refusal to issue or renew, or probation and impose conditions on probation and reinstatement as the Board deems appropriate.
- Removes the cap on the number of trainees that may be licensed for a single funeral establishment based on the number of families served at the establishment.
- Requires an applicant who fails to obtain a passing score on an exam 2 consecutive times to wait 60 days before retaking the exam.
- Modifies the provisions to qualify for licensure by reciprocity. Under current law, the person must have practiced in the profession continuously for three years or in a jurisdiction that the Board determines to have substantially similar licensing requirements as North Carolina. The revised provision does not require that the three years of practice be continuous but adds a requirement that the jurisdiction must reciprocate a North Carolina license.

Liability Insurance Requirement

- Requires individuals permitted to transport and remove dead human bodies for a fee to obtain and maintain a professional liability insurance policy with liability limits of at least \$500,000.
- Authorizes a licensee who does not own or is not employed by a licensed funeral establishment to nevertheless engage in the practice of funeral directing or funeral service as long as the licensee maintains a professional liability insurance policy with limits of \$1 million and meets certain other conditions.

Changes Regarding Funeral Establishments

- Allows the Board to suspend the requirements for preparation rooms in funeral establishments for up to 180 days if the preparation room is damaged by fire, weather, or other natural disaster.
- Requires human remains to be stored in a licensed funeral establishment or license crematory when the remains are not in transit or at a gravesite, church, or other facility for a visitation or funeral service.
- Requires unembalmed human remains retained in the custody of a funeral establishment for more than 24 hours be kept in a refrigeration unit.

New Criminal Offense

- Makes it a Class 2 misdemeanor for any person to knowingly and willfully abuse, mutilate, or not treat with reasonable care a dead human body in that person's custody. Under current law, and with some exceptions, it is a Class I felony for any person to willfully (i) disturb, vandalize, or desecrate human remains, by any means, including any physical alteration or manipulation of the human

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remains, or (ii) commit or attempt to commit upon any human remains any act of sexual penetration.¹ This provision becomes effective December 1, 2018.

Public Records Exemption

- Provides that documents containing information collected or compiled by the Board as a result of a complaint, investigation, audit, or interview in connection with a licensee or license application are not a public record until the Board has taken final action.
- Provides that the financial information used to demonstrate solvency in connection with a required bond for preneed licenses are not public records.

Preneed Funeral Contract Changes

- Provides for a cancellation of a preneed funeral contract by a preneed licensee if specified conditions apply.
- Increases from \$100 to \$1,000 the threshold at which the balance of a preneed funeral fund must be paid directly to the beneficiary rather than into the clerk of superior court.
- Increases from \$2 to \$10, the amount form the fee for each preneed funeral contract that is deposited into the Recovery Fund.
- Allows a funeral establishment that has a preneed establishment license to purchase the required surety bond from any company authorized to sell bonds in the State or deposit \$50,000 with the clerk of superior court in the county where the establishment maintains its facility licensed by the Board.
- Requires each preneed licensee to submit an annual report to the Board on its contract sales.
- Clarifies that the Board has the authority to determine the length and conditions of any period of suspension, revocation, probation, or refusal to issue or renew a license for a preneed license.

Cremations

- Allows the suspension, revocation, refusal to issue or renew a crematory license for violating the most recent version of the Funeral Industry Practices, and allows the Board to determine the length and conditions of any period of probation, suspension, revocation, or refusal to issue or renew a license.
- Provides the process for giving the director of social services the duty to dispose of human remains when there is no authorizing agent of the decedent to do so.
- Provides that for deaths occurring in the State, cremation cannot occur until the crematory licensee receives a death certificate signed by the attending physician or other person authorized by law to sign a death certificate under the supervision of a physician. For deaths occurring outside the State, a crematory licensee may not cremate a body without first obtaining a copy of a burial-transit permit issued by the jurisdiction where the death occurred and either (1) a death certificate from the other jurisdiction or (2) any document or certificate required to authorize cremation in the jurisdiction where the death occurred that is signed by an authorized person.
- Provides an exception to the prohibition against the simultaneous cremation of human remains of more than one person when the cremation is for (1) the human remains of multiple fetuses from

¹ G.S. 14-401.22.

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the same mother and same birth, or (2) human remains of multiple persons up to the age of one year old from the same mother and the same birth. This provision became effective June 25, 2018.

Hydrolysis

- Authorizes the process of alkaline hydrolysis for the disposal of human remains. Except as otherwise provided, the license for the hydrolysis of human remains has the same requirements and fees as licensing of crematories, and the Board has the same powers over hydrolysis licensees.

Unclaimed Bodies and Disposition Related to Wards of the State

- States under what circumstances a dead body is deemed "unclaimed" and makes conforming changes.
- Sets out the process for how funeral directors and funeral services should handle the disposition of an abandoned dead body.
- Clarifies when a guardian may dispose of the remains of a ward and when the director of social services may dispose of dead bodies.

Fee Changes

- Authorizes the Board to set and collect a late fee not to exceed \$50 for each work report filed after the date the report is due.
- Increases from \$100 to \$150 as the maximum fee that may be charged for a reinspection.
- Authorizes the same fees for the newly authorized procedure of the hydrolysis of human remains that are in place for crematory licensees.

EFFECTIVE DATE: The provision authorizing simultaneous cremation for multiple persons became effective June 25, 2018. The new criminal offense becomes effective December 1, 2018. The remainder of the act becomes effective October 1, 2018.