

CHAPTER 34 - BOARD OF FUNERAL SERVICE

SUBCHAPTER 34A - BOARD FUNCTIONS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 34A .0101 AGENCY NAME AND ADDRESS

The name of the agency promulgating the rules in this Chapter is the North Carolina Board of Funeral Service. As used in these Rules, the word "Board" shall refer to this agency. The office of the Board is located at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605.

History Note: Authority G.S. 90-210.22; 90-210.23(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. July 1, 2004; November 1, 2001; December 1, 1993; July 1, 1991; October 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0102 PURPOSE OF BOARD

History Note: Authority G.S. 90-210.23(a),(i);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. August 1, 2004; May 1, 1993; July 1, 1991;
Repealed Eff. August 1, 2012.

21 NCAC 34A .0103 PETITION FOR NOMINATION

21 NCAC 34A .0104 VOTING RECORDS

History Note: Authority G.S. 90-210.23(a); 90-210.122(c); 90-210.134(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; August 1, 2004; July 1, 1991; September 1, 1979;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34A .0105 PUBLIC INSPECTION OF MATERIALS

History Note: Authority G.S. 90-210.23(a),(i);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. August 1, 1988; September 1, 1979;
Repealed Eff. August 1, 2012.

21 NCAC 34A .0106 REQUESTS FOR REASONS FOR ADOPTION OF RULE

21 NCAC 34A .0107 REQUESTS FOR PROMULGATION: AMENDMENT OR REPEAL

History Note: Authority G.S. 90-210.23(a); 150B-11(1); 150B-12(e); 150B-20;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. July 1, 2004; August 1, 1988;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34A .0108 REQUESTS FOR DECLARATORY RULING

(a) For the purpose of dealing with a request by a person aggrieved for a declaratory ruling, pursuant to G.S. 150B-4, the following procedures shall apply:

- (1) The request shall be in writing on a form provided by the Board, dated and verified by the person submitting the same, and shall be submitted in person or by mail to the office of the Board.
- (2) The form shall require the individual to submit the name and address of the person submitting the same; his or her license number or numbers if licensed by the Board; his or her current employment; a description of the rule or statute referred to; a statement of any facts the applicability of which to a rule or statute the person is questioning; and a statement of the manner in which the person is aggrieved by the rule or statute or its potential application to him or her.
- (3) Within 30 days after receiving such a request completed form, the Board shall meet, at which meeting at least a quorum of its members shall be present, to consider the request. At such meeting the Board shall make a decision by majority vote of those present as to whether to issue the ruling. The Board shall issue a ruling except:
 - (A) when it finds that the person making the request is not a "person aggrieved", as defined in G.S. 150B-2(6); or
 - (B) when it finds, in a request concerning the validity of a rule, that the circumstances are so unchanged since the adoption of the rule in question that a ruling would not be warranted; or
 - (C) when it finds, in a request concerning the validity of a rule, that the rulemaking record shows that the Board considered all specified relevant factors when it adopted the rule in question.

(b) The Board shall, not later than the 60th day after it received such a request, deposit in the United States mail, postage prepaid, a written statement addressed to the person making the request and setting forth the Board's ruling on the merits of the request for a declaratory ruling, or setting forth the reason the ruling was not made, as the case may be. If the Board decides to make the ruling, it may make the ruling at the meeting convened to consider the request, or it may defer its ruling until a later date, but not later than the 60th day after the request for a ruling is received. Before making the ruling the Board may gather additional information, may give notice to other persons and may permit such other persons to submit information or arguments under such conditions as are set forth in such notice. Such ruling shall be made by the Board at a meeting at which at least a quorum of its members shall be present and by majority vote of those present.

History Note: Authority G.S. 90-210.23(a); 150B-4; Eff. February 1, 1976; Readopted Eff. September 27, 1977; Amended Eff. January 1, 2009; July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0109 ADMINISTRATIVE HEARING PROCEDURES

History Note: Authority G.S. 90-210.23(a),(d); 150B-21.6; 150B-38(h); Eff. February 1, 1976; Readopted Eff. September 27, 1977; Amended Eff. July 1, 2004; December 1, 1988; July 1, 1988; Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34A .0110	REQUEST FOR HEARING IN CONTESTED CASE
21 NCAC 34A .0111	GRANTING: DENYING HEARING REQUEST: CONTESTED CASE
21 NCAC 34A .0112	NOTICE OF HEARING IN CONTESTED CASE
21 NCAC 34A .0113	WHO SHALL HEAR
21 NCAC 34A .0114	PETITION FOR INTERVENTION IN CONTESTED CASE
21 NCAC 34A .0115	TYPES OF INTERVENTION
21 NCAC 34A .0116	SUBPOENAS

History Note: Authority G.S. 90-210.23(a),(d); 150B-11; 150B-23; 150B-27; 150B-32(a); 150B-34; 150B-36; Eff. February 1, 1976; Readopted Eff. September 27, 1977;

Repealed Eff. July 1, 1988.

21 NCAC 34A .0117 FORM OF SUBPOENA
21 NCAC 34A .0118 FORM OF SUBPOENA TO PRODUCE DOCUMENT OR OBJECT

*History Note: Authority G.S. 90-210.23(a);
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. August 1, 2004; August 1, 1988;
 Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

21 NCAC 34A .0119 FINAL DECISION IN CONTESTED CASE

(a) Immediately upon the conclusion of a disciplinary proceeding conducted pursuant to G.S. 150B-38 and upon an adopted motion by the Board, the Board shall deliberate on whether an applicant, licensee, or permit holder involved has violated a statute or rule for which the Board has the authority to enforce, and what disciplinary action, if any, should be taken against the applicant, licensee, or permit holder.

(b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. For purposes of this Rule, "good cause" shall mean the length of the hearing, the complexity of the issues involved, and the availability of the parties.

(c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall provide the parties an opportunity to submit proposed findings of fact and conclusions of law to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed findings of fact and conclusions of law.

(d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board shall make a written final agency decision in accordance with G.S. 150B-42.

(e) Disciplinary costs shall be assessed against an applicant, licensee, or permit holder in a written final agency decision that results in disciplinary action following a show cause hearing, as set forth in G.S. 90-210.23(d1). For purposes of this Rule, "disciplinary costs" are actual costs incurred by the Board to prosecute the case, including per diems and expenses paid to Board members and witnesses, costs for a court reporter and transcripts, and costs associated with preparing exhibits.

*History Note: Authority G.S. 90-210.23(a), (d); 90-210.23(d1); 150B-38(h); 150B-42;
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Repealed Eff. July 1, 1988;
 Eff. October 1, 2021 (Codifier approved request from agency to reuse rule number).*

21 NCAC 34A .0120 PROPOSAL FOR DECISION IN CONTESTED CASE

*History Note: Authority G.S. 90-210.23(a),(d); 150B-11; 150B-23; 150B-27; 150B-32(a); 150B-34; 150B-36;
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Repealed Eff. July 1, 1988.*

21 NCAC 34A .0121 NOTICE MAILING LIST

*History Note: Authority G.S. 90-210.23(a); 150B-11(1);
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

21 NCAC 34A .0122 CHARACTER AFFIDAVIT FORM

Affidavits of good moral character shall be furnished on forms provided by the Board. The affiant shall furnish the name and address of the affiant, the name of the applicant, the length of time the affiant has been acquainted with the applicant, an affirmation of the good moral character of the applicant, certification by a notary public, and other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a); 90-210.26;
Eff. September 1, 1979;
Amended Eff. August 1, 2004.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0123 CONSUMER COMPLAINT FORM

The Board may provide consumer complaint forms. The complainant shall furnish the names and addresses of all parties involved, a description of the complaint, the signature of the complainant, and other information that the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a); 90-210.18(a); 90-210.25(e); 90-210.134(a);
Eff. September 1, 1979;
Recodified from 21 NCAC 34 .0124 Eff. February 7, 1991;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0124 SOLICITATION

(a) Definitions. As used in this Rule:

- (1) "Licensee" shall mean a person licensed by the Board as a funeral service, funeral director, or embalmer.
- (2) "Real-time communication" shall mean any in-person, live telephone, or real-time electronic contact.
- (3) "Solicit" shall mean engaging in the act of solicitation.
- (4) "Solicitation," shall mean any uninvited, intentional contact with an individual for the purpose of procuring the right to provide funeral services or merchandise, either immediately or at a future date when financial gain is a significant motive.

(b) All licensees of the Board must comply with the following in order to avoid committing solicitation as prohibited by G.S. 90-210.25(e)(1)d:

- (1) A licensee of the Board shall not solicit professional employment from a prospective customer by real-time communication when a significant motive for the licensee's doing so is the licensee's pecuniary gain, unless the person contacted:
 - (A) is a licensee; or
 - (B) has a family, close personal, or prior professional relationship with the licensee.
- (2) A licensee shall not solicit professional employment from a prospective customer by real-time communication or by written, recorded or electronic communication that is not a real-time communication even when allowed by Parts (b)(1)(A) or (b)(1)(B) of this Rule if:
 - (A) the prospective customer has made known to the licensee a desire not to be solicited by the licensee; or
 - (B) the solicitation involves coercion, duress, harassment, compulsion, intimidation, or threats.
- (3) Every written, recorded or electronic communication that is not a real-time communication from a licensee soliciting professional employment from a prospective customer known to be in need of funeral services for an imminent or recent death shall include the words "This is an advertisement for funeral services" on the outside envelope, if a written communication sent by mail, and at the beginning of the body of a written or electronic communication in print as large or larger than the licensee's or licensee's business name, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in Parts (b)(1)(A) or (b)(1)(B) of this Rule.

(c) A licensee shall violate this Rule whenever any agent, employee, or assistant of the licensee violates Subparagraphs (b)(1), (b)(2), or (b)(3) of this Rule with the knowledge, direction, or consent of the licensee.

History Note: Authority G.S. 90-210.23(a); 90-210.25(e)(1)d;
Eff. April 1, 1987;
Recodified from 21 NCAC 34 .0126 Eff. February 7, 1991;
Amended Eff. February 1, 2009; July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0125 FINGERPRINTS

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1), (2), (3), (4); 90-210.25(e)(1); 90-210.43(f); 90-210.50(a); 90-210.67(b), (c); 90-210.69(a), (c);
Eff. August 2, 1993;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34A .0126 COMPLAINTS; PRELIMINARY DETERMINATIONS

(a) A person who believes that any person, firm or corporation is in violation of any provision of G.S. 90, Article 13A, 13D, 13E, or 13F or Title 21, Chapter 34, of the North Carolina Administrative Code, may file a written complaint with the Board's staff. If the accused is subject to the jurisdiction of the Board, the complaint shall be handled pursuant to this Rule.

(b) A complaint shall be handled initially by the Board's Executive Director, or staff designated by him or her. If a complaint on its face appears to be outside the jurisdiction of the Board, the Executive Director or his or her staff designees may forward the complaint to the Board's disciplinary committee without following the procedures of Paragraphs (c) through (e) of this Rule and may forward the matter to any federal or state agency with the appropriate jurisdiction.

(c) The Executive Director or his or her staff designees shall notify the accused of the complaint in writing. Such notice shall be served by hand or by certified mail, return receipt requested; shall state the allegations as contained in the complaint, or may enclose a copy of the complaint; and shall contain a request that the accused submit a response in writing within 10 days from the date the notice of the complaint is received by the accused.

(d) If the accused responds to the allegations, the Executive Director or his or her staff designees shall forward a summary of the response, or the response itself, to the person who filed the complaint and give him or her 15 days to respond. Following a receipt of a rebuttal by the complainant or after 15 days without having received a rebuttal and any additional investigation deemed necessary by the Executive Director or his or her staff designees, the matter shall then be referred to the disciplinary committee.

(e) If the accused does not respond to the allegations, the Executive Director or his or her staff designees shall investigate the allegations and refer the complaint and any other available evidence to the Board's disciplinary committee for review.

(f) In accordance with Paragraphs (d) through (e) of this Rule, the disciplinary committee shall review the complaint file. The disciplinary committee may request additional investigation of a file or make a preliminary determination to recommend that the Board take one of the following actions:

- (1) that the complaint be dismissed because of insufficient grounds to believe one or more licensees has violated any law or regulation of the Board or other grounds requiring dismissal;
- (2) that a letter of caution be issued;
- (3) that the case be compromised pursuant to G.S. 90-210.25(e)(1), 90-210.123(g), or 90-210.69(c);
- (4) that the case be set for a contested case hearing because sufficient grounds exist to believe one or more licensees may have violated a law or regulation of the Board justifying disciplinary action;
or
- (5) Any other action the Board may take that is authorized by law.

(g) The Board may accept or reject, in whole or in part, the recommendations of the disciplinary committee.

History Note: Authority G.S. 90-210.23(a),(d); 90-210.25(e); 90-210.69(a),(c); 90-210.80; 90-210.123(g); 90-210.134(a);
Eff. October 1, 1993;
Amended Eff. February 1, 2009; July 1, 2004; August 1, 1998; November 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34A .0127 FILING OF DOCUMENTS

Any document that does not require a fingerprint card or the payment of a fee, or that does not pertain to elections to the N.C. Crematory Authority or to a resident traineeship, may be filed with the Board by U.S. mail, private courier service, facsimile, or hand delivery. All other documents must be filed by U.S. mail, private courier service, or hand delivery. Documents shall be considered filed on the date of receipt or, if sent by U.S. mail or private courier service, on the date of postmark or date stamp used by the private courier respectively.

*History Note: Authority G.S. 90-210.23(a);
Eff. January 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34A .0128 WAIVER

(a) The Board may waive any rule in this Chapter that is not statutorily required if a licensee, trainee, or continuing education course provider submits a written request. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

(b) The Board may waive any rule in this Chapter that is not statutorily required upon its own initiative during a disaster declaration by the President of the United States or the Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration issued under G.S. 166A-19.3(19), based on the factors set forth in Paragraph (a)(1), (2), (3), (5) and (6) of this Rule. If the Board wishes to waive a rule, it shall provide notice by posting a link on their website and sending out information to their interested persons mailing list.

(c) Any waiver granted by the Board in accordance with this Rule based upon a declared state of emergency shall include a date certain upon which the waiver will expire, not to exceed 12 months from the date that the waiver is granted.

*History Note: Authority G.S. 90-210.23(a); 150B-19(6);
Emergency Adoption Eff. April 14, 2020;
Temporary Adoption Eff. July 24, 2020;
Eff. March 1, 2021.*

SECTION .0200 - FEES AND OTHER PAYMENTS

21 NCAC 34A .0201 FEES AND OTHER PAYMENTS

(a) Fees for funeral service shall be as follows:

Establishment permit	
Application	\$250.00
Annual renewal	\$200.00
Late renewal fee	\$100.00
Establishment and embalming facility reinspection fee	\$100.00
Courtesy card	
Application	\$ 75.00
Annual renewal	\$ 50.00
Out-of-state licensee	
Application	\$200.00
Embalmer, funeral director, funeral service	

Application, North Carolina resident	\$150.00
Application, non-resident	\$200.00
Annual renewal	
Embalmer	\$ 75.00
Funeral Director	\$ 75.00
Total fee, embalmer and funeral director, when both are held by same person	\$ 100.00
Funeral service	\$ 100.00
Inactive status	\$ 30.00
Reinstatement fee	\$ 50.00
Resident trainee permit	
Application	\$ 50.00
Voluntary change in supervisor	\$ 50.00
Annual renewal	\$ 35.00
Late renewal	\$ 25.00
Duplicate License certificate	\$ 25.00
Chapel registration	
Application	\$150.00
Annual renewal	\$100.00
Late renewal	\$ 75.00
(b) Fees for crematory and hydrolysis licensees shall be as follows:	
License	
Application	\$400.00
Annual renewal	\$150.00
Late renewal fee	\$ 75.00
Crematory or hydrolysis reinspection fee	\$100.00
Per-cremation or hydrolysis fee	\$ 10.00
Late filing or payment fee for each cremation or hydrolysis	\$ 10.00
Late filing fee for cremation or hydrolysis report, per month	\$ 75.00
Crematory or Hydrolysis Manager Permit	
Application	\$150.00
Annual renewal	\$ 40.00
(c) Fees for preneed funeral contract regulation shall be as follows:	
Preneed funeral establishment license	
Application	\$150.00
Annual renewal	\$150.00
Late renewal fee	\$100.00
Reinspection fee	\$100.00
Preneed sales license	
Application	\$ 20.00
Annual renewal	\$ 20.00
Late renewal fee	\$ 25.00
Preneed contract filings	
Filing fee for each contract	\$ 20.00
Late filing or payment fee for each contract	\$ 25.00
Late filing fee for each certificate of performance	\$ 25.00
Late filing fee for annual report	\$150.00
(d) Fees for Transportation Permits shall be as follows:	
Application	\$125.00
Annual renewal	\$ 75.00
Late fee	\$ 50.00
(e) All fees remitted to the Board are non-refundable.	

History Note: Authority G.S. 90-210.23(a); 90-210.25(c); 90-210.28; 90-210.67(b),(c),(d),(d1); 90-210.68(a); 90-210.132; Eff. September 1, 1979; Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;

*Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;
Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;
Temporary Amendment Eff. October 1, 1997;
Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;
Readopted Eff. January 8, 2020.*

21 NCAC 34A .0202 WORTHLESS CHECKS

- (a) Any person, firm or corporation submitting to the Board a check which is dishonored and returned shall be charged a processing fee in the maximum amount per check as permitted by the North Carolina law in effect at the time.
- (b) Until the worthless check has been made good and the processing fee and any applicable late payment penalties have been paid, any license, permit, authority or privilege which as been issued or given based on the worthless check shall be invalid.
- (c) All documents delivered by the Board requesting payment of fees shall contain a notice of the processing fee as required by North Carolina law.

*History Note: Authority G.S. 90-210.23(a); 25-3-512; 150B-11;
Eff. October 1, 1983;
Amended Eff. July 1, 1988;
Recodified from 21 NCAC 34 .0125 Eff. February 7, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34A .0203 REPORT TO GENERAL ASSEMBLY

*History Note: Authority G.S. 90-210.23(a); 93B-2(d);
Eff. September 1, 2010;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

21 NCAC 34A .0204 PETITION FOR PREDETERMINATION

- (a) General. An individual seeking predetermination pursuant to G.S. 93B-8.1(b6) and this Rule may file with the Board a petition form located on the Board's website, www.ncbfs.org.
- (b) Petition Procedure. The petition form shall include all of the following information:
 - (1) The person's name;
 - (2) The last four digits of the person's social security number;
 - (3) The person's current residential address;
 - (4) The person's current mailing address;
 - (5) A nationwide criminal history record report from a reporting service designated by the Board, the cost of which shall be borne by the petitioner;
 - (6) For each crime identified in the criminal history record report, the following information:
 - (A) Whether the crime was a felony or misdemeanor;
 - (B) The date that the crime occurred;
 - (C) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
 - (D) The age of the person at the time of the crime;
 - (E) The circumstances surrounding the commission of the crime;
 - (F) The sentence imposed for the crime;
 - (G) The period of time during which the person was incarcerated for the crime, if any;
 - (H) The period of time during which the person was on probation or parole for the crime, if any;
 - (I) Any documentation related to the person's rehabilitation or employment since the date of the crime, if any;
 - (J) Whether the person has undergone any rehabilitative drug or alcohol treatment since the date of the crime;
 - (K) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A 173.2; and

- (L) Any affidavits or other written documents, including character references, for the person; and
- (7) An affirmation under oath that the person has read the statutes and rules governing the practice of funeral service and that the information contained in the petition is true and accurate.

Incomplete petitions shall not be considered by the Board. If incomplete petitions received by the Board are not made complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was made.

(c) **Petition Fee.** A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee may be paid by certified bank check or money order made payable to the North Carolina Board of Funeral Service. Cash shall not be accepted.

(d) **Delegation of Authority for Predetermination.** The Board delegates authority for rendering predeterminations under this Rule to a committee of the Board that is tasked with reviewing disciplinary matters.

*History Note: Authority G.S. 90-210.25; 93B-8.1;
Eff. August 1, 2020.*

21 NCAC 34A .0119 FINAL DECISION IN CONTESTED CASE

(a) Immediately upon the conclusion of a disciplinary proceeding conducted pursuant to G.S. 150B-38 and upon an adopted motion by the Board, the Board shall deliberate on whether an applicant, licensee, or permit holder involved has violated a statute or rule for which the Board has the authority to enforce, and what disciplinary action, if any, should be taken against the applicant, licensee, or permit holder.

(b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. For purposes of this Rule, "good cause" shall mean the length of the hearing, the complexity of the issues involved, and the availability of the parties.

(c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall provide the parties an opportunity to submit proposed findings of fact and conclusions of law to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed findings of fact and conclusions of law.

(d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board shall make a written final agency decision in accordance with G.S. 150B-42.

(e) Disciplinary costs shall be assessed against an applicant, licensee, or permit holder in a written final agency decision that results in disciplinary action following a show cause hearing, as set forth in G.S. 90-210.23(d1). For purposes of this Rule, "disciplinary costs" are actual costs incurred by the Board to prosecute the case, including per diems and expenses paid to Board members and witnesses, costs for a court reporter and transcripts, and costs associated with preparing exhibits.

*History Note: Authority G.S. 90-210.23(a), (d); 90-210.23(d1); 150B-38(h); 150B-42;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. July 1, 1988;
Eff. October 1, 2021 (Codifier approved request from agency to reuse rule number).*

SUBCHAPTER 34B - FUNERAL SERVICE

SECTION .0100 - RESIDENT TRAINEES

Editor's Note: 21 NCAC 34B .0101 - .0125 was recodified from 21 NCAC 34 .0201 - .0225 Eff. February 7, 1991.

21 NCAC 34B .0101 CASE VOLUME OF ESTABLISHMENT

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0102 TRAINEESHIP

Each trainee must work at least 2,000 hours during the trainee's resident traineeship. Daytime and nighttime employment shall be acceptable so long as the trainee receives training in all aspects of the license sought, as defined in G.S. 90-210.20(e), (f), and (k).

History Note: Authority G.S. 90-210.23(a),(f); 90-210.25(a)(1)d.,(2)d.,(3)d.,(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1997;
Amended Eff. December 1, 2004; August 1, 1998; August 1, 1988; October 1, 1983; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0103 AUTHORIZED PRACTICE: SUPERVISION

(a) Duly certified resident trainees in training for funeral service, duly certified resident trainees in training for funeral directing and duly certified resident trainees in training for embalming, while participating in learning experiences and while supervised by a person licensed by the Board as a funeral service licensee, funeral director or embalmer, respectively, may assist in the practice of funeral service, funeral directing or embalming respectively, as limited by this Rule.

(b) A licensee wishing to supervise a trainee shall meet the following requirements:

- (1) The licensee shall have either practiced continuously in North Carolina for a minimum of five years before the date of the application, or shall have taken a trainee supervisor certification course provided by the Board; and
- (2) The licensee shall not have any disciplinary action taken by the Board or the licensing board of any other jurisdiction to suspend or revoke his or her license during the five years preceding the application.

(c) Duly certified resident trainees in training for funeral service or for funeral directing, while participating in learning experiences and while supervised by a person licensed by the Board as a preneed sales licensee, may also assist in the preneed funeral planning activities described in 21 NCAC 34D .0202(b)(1), (2), (4), and (5).

(d) No credit shall be given for the resident trainee's work that is unsupervised or performed under the supervision of a person not registered with the Board as the resident trainee's supervisor. If the registered supervisor does not supervise the resident trainee for a continuous period of more than two weeks, the traineeship under that supervisor shall terminate, requiring a new traineeship application. When a resident trainee assists in funeral service, funeral directing, embalming or preneed funeral planning on the funeral home premises, a licensed supervisor shall be on the funeral home premises where and while such activities are performed; provided that a licensed supervisor shall be present in the same room whenever a resident trainee accepts any initial payment or negotiates any contract for funeral services either at-need or pre-need with the public. When a resident trainee assists in funeral service, funeral directing, embalming or any funeral planning off the funeral home premises, such activities shall be performed only in the presence of a licensed supervisor employed with the establishment with which the resident trainee is registered.

(e) A licensed supervisor shall review with the purchaser any contract negotiated by a resident trainee, and then the licensed supervisor shall obtain the purchaser's signature on the contract in the licensed supervisor's presence.

(f) The resident trainee's license certificate for indicating the trainee's authority to assist in the activities described and authorized in this Rule and in 21 NCAC 34D .0202(b) is the resident trainee pocket certificate.

History Note: Authority G.S. 90-210.23(a),(f); 90-210.25(a)(4),(5)d.; 90-210.67(a); 90-210.69(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; November 1, 2004; August 1, 1998; June 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0104 CHANGE IN EMPLOYMENT

Each resident trainee shall complete an application form prescribed by the Board prior to making any change in employment during the resident traineeship. The form shall require the applicant to furnish the name of the trainee, the former funeral establishment and supervisor, the dates of services with the former funeral establishment, the proposed funeral establishment and supervisor, the proposed effective date of the change, and any other information the Board deems necessary as determined by law.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4)c.;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. December 1, 2004; September 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0105 FUNERAL DIRECTOR TRAINEE APPLICATION FORM

Applications for a funeral director resident trainee shall be made on forms provided by the Board. The applicant shall furnish the applicant's photograph, name, address and biographical data; education; employment history; criminal convictions; verification by the applicant; an affidavit of a licensee that the trainee is serving under him or her; and any other information the Board deems necessary as required by law. A transcript of the applicant's high school record must accompany the application.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0106 EMBALMER TRAINEE APPLICATION FORM

Applications for an embalmer resident trainee shall be made on forms provided by the Board. The applicant shall furnish the applicant's photograph, name, address and biographical data; education; employment history; criminal convictions; verification by the applicant; an affidavit of a licensee that the trainee is serving under him or her; and any other information the Board deems necessary as required by law. A transcript of the applicant's high school record must accompany the application.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0107 FUNERAL SERVICE TRAINEE APPLICATION FORM

Applications for a funeral service resident trainee shall be made on applications provided by the Board. The form shall require the applicant to furnish the applicant's photograph, name, address and biographical data; education; employment history; criminal convictions; verification by the applicant; an affidavit of a licensee that the trainee is serving under him or her; and any other information the Board deems necessary as required by law. A transcript of the applicant's high school record must accompany the application.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Eff. November 1, 2004;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0108 TRAINEE POCKET CERTIFICATE

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. November 1, 1994.*

21 NCAC 34B .0109 EFFECTIVE DATE OF CERTIFICATE

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

21 NCAC 34B .0110 WORK REPORTS AND CHECKLISTS

(a) Active resident trainees shall submit a work report to the Board every month on a form provided by the Board no later than the 10th day of the calendar month that immediately follows the month during which the work was performed. On the work report, the resident trainee shall provide:

- (1) The trainee's name and signature;
- (2) The month during which the work was performed;
- (3) The number of hours worked during that month;
- (4) The name and address of the funeral establishment where the resident trainee is working;
- (5) A description of the work performed during that month;
- (6) The name, license number, and notarized signature of the trainee's supervisor; and
- (7) The name, license number, and notarized signature of the licensed manager of the funeral establishment where the resident trainee is working.

(b) By signing the work report, the trainee's supervisor shall certify that the data contained in the report is correct. Neither the trainee nor the trainee's supervisor shall be permitted to amend or revise the work report after it is submitted to the Board. The Board shall not accept incomplete work reports and a trainee who fails to submit a complete work report by the due date shall be subject to the provisions of Paragraph (c) of this Rule.

(c) A late fee of twenty-five dollars (\$25.00) shall be assessed against the trainee for each work report that is submitted to the Board after the due date. Following a trainee's first failure to timely submit a work report, the Board shall issue the trainee a letter that cautions against future non-compliance with this Rule. Following a trainee's second failure to timely submit a work report, the work set forth in the second untimely work report shall not be credited toward the certification of the trainee's resident traineeship. Following a trainee's third failure to timely submit a work report, the Board shall revoke the trainee's resident traineeship.

(d) Resident trainees shall maintain a checklist for each decedent for whom he or she performs funeral services on a form provided by the Board. The checklist shall contain the following information:

- (1) The name of the deceased person;
- (2) The date when the services were provided;
- (3) The trainee's name and signature;
- (4) A description of the funeral services provided; and
- (5) The supervisor's signature.

(e) Resident trainees shall maintain a list of the preneed funeral contracts with which the resident trainees participated.

(f) All documents and information set forth in this Rule shall be retained by the trainee until his or her traineeship requirement has been certified by the Board. During this time, the reports and information shall be subject to inspection by the Board or its authorized agent.

*History Note: Authority G.S. 90-210.23(a); 90-210.23(d); 90-210.23(f); 90-210.25(a)(4)e.; 90-210.25(a)(4)g.;
90-210.67(a); 90-210.69(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;*

Amended Eff. November 1, 2004; June 1, 1994; August 1, 1988; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
Amended Eff. November 1, 2020.

21 NCAC 34B .0111 WORK REPORT FORM

History Note: Authority G.S. 90-210.23(a),(d),(f); 90-210.25(a)(4);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. August 1, 1988; September 1, 1979;
Repealed Eff. November 1, 2004.

- 21 NCAC 34B .0112 FUNERAL SERVICE AND FUNERAL DIRECTING CASE REPORT FORM**
- 21 NCAC 34B .0113 TRAINEE'S SUMMARY CASE REPORT FORM**
- 21 NCAC 34B .0114 TRAINEE'S ACTIVITY REPORT FORM**
- 21 NCAC 34B .0115 REPORTS ON STUDY SCHEDULE**
- 21 NCAC 34B .0116 DESCRIPTION OF STUDY SCHEDULE**
- 21 NCAC 34B .0117 ANATOMICAL DIAGRAM**
- 21 NCAC 34B .0118 BOARD CHECK SHEET FOR TRAINEE**
- 21 NCAC 34B .0119 FINAL AFFIDAVIT: RENEWAL CERTIFICATE**

History Note: Authority G.S. 90-210.23(a),(f); 90-210.25(a)(4); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0120 TRAINEE FINAL AFFIDAVIT FORM

Upon the conclusion of a resident traineeship with a licensed supervisor, the supervisor shall submit an affidavit to certify that the trainee has served and performed certain work under him as required by G.S. 90-210.25(a)(4). The affidavit shall be submitted within 30 days on forms provided by the Board and require the affiant to furnish the names of the licensee and the trainee; dates and place of service; the number of funerals, preneed funeral contracts and embalmings that the trainee has assisted in during traineeship; and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a),(d),(f); 90-210.25(a)(4)f.; 90-210.67(a); 90-210.69(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; November 1, 2004; June 1, 1994; August 1, 1988; September 1,
1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017.

21 NCAC 34B .0121 EXPIRATION NOTICE

Prior to expiration of a resident trainee certificate, the Board may notify the resident trainee that if eligible, the traineeship may be renewed or may be certified as completed. The notice shall notify the trainee of the date of expiration, a recital of the renewal fee and late renewal penalty, the date the fee must be received, and a recital that the affidavit form is available to have the traineeship certified as completed, if applicable.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(4)d;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017.

*Amended Eff. January 1, 2009; October 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017.*

21 NCAC 34B .0203 APPLICATION FORM FOR FUNERAL DIRECTOR'S LICENSE
21 NCAC 34B .0204 APPLICATION FORM FOR EMBALMER'S LICENSE
21 NCAC 34B .0205 APPLICATION FORM FOR FUNERAL SERVICE LICENSE

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1); 90-210.25(a)(2); 90-210.25(a)(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; July 1, 1991; September 1, 1979;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

21 NCAC 34B .0206 FINGERPRINT CARDS
21 NCAC 34B .0207 INSTRUCTIONS FOR COMPLETING FINGERPRINT CARD

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.*

21 NCAC 34B .0208 PASSING SCORE

(a) For purposes of G.S. 90-210.25(a)(5), the passing score on all examinations administered by the International Conference of Funeral Service Examining Boards, Inc. shall be such passing score that is established by the International Conference of Funeral Service Examining Boards, Inc. and in effect at the time such examinations are administered.

(b) A score of at least 75 percent on a final examination taken in a pathology course offered through a school that has a mortuary science program accredited by the American Board of Funeral Service Education shall be deemed equivalent to a passing score on the examination of pathology required for licensure as a funeral director, pursuant to G.S. 90-210.25(a)(1)(e)(4).

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3); 90-210.25(a)(5);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
Amended Eff. April 1, 2024.*

21 NCAC 34B .0209 WHEN EXAMINATIONS MAY BE TAKEN

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.*

21 NCAC 34B .0210 REQUEST FOR REVIEW OF EXAMINATION

For the purpose of dealing with a request by an applicant who has failed an examination for a review of his examination, the following procedures shall apply:

- (1) If the examination was prepared by the Board:
 - (a) The applicant shall make the request to the Board orally or in writing.
 - (b) Not later than 10 days following the receipt of such request the Board shall notify the applicant, either orally or in writing, of the date and time the applicant may appear in the offices of the Board to review the examination in the presence of the Board or in the presence of one or more duly designated representatives of the Board.

- (c) Nothing in this Rule shall be construed to give the applicant the right to take from the Board offices any copies of the examination or of the answers thereto.
- (2) If the examination was prepared and graded by the International Conference of Funeral Service Examining Boards, Inc. (ICFSEB):
 - (a) The applicant shall make his request to the ICFSEB in writing.
 - (b) The ICFSEB shall notify the applicant, either orally or in writing, of the date and time the applicant may appear in the offices of the ICFSEB to review the examination in the presence of the ICFSEB or in the presence of one or more duly designated representatives of the ICFSEB.
 - (c) Nothing in this Rule shall be construed to give the applicant the right to take from the ICFSEB offices any copies of the examination or of the answers thereto.

History Note: Authority G.S. 90-210.23(a);
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. November 1, 2004; September 1, 1979;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0211 NATIONAL BOARD CERTIFICATE

- (a) Pursuant to G.S. 90-210.25(a)(5), a National Board Certificate for Arts, certifying the successful completion of the National Board Examination for Arts of the International Conference of Funeral Service Examining Boards Inc., is the equivalent of the Board's entry-level examination in funeral directing.
- (b) Pursuant to G.S. 90-210.25(a)(5), a National Board Certificate for Sciences, certifying the successful completion of the National Board Examination for Sciences of the International Conference of Funeral Service Examining Boards Inc., is the equivalent of that portion of the Board's examination on the topics of embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
- (c) National Board Certificates shall be accepted for three years from the date of issue for eligibility toward licenses issued under G.S. 90-210.25(a)(1), (2), or (3).

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. February 1, 2009; November 1, 2004; September 1, 1979.
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
 Amended Eff. April 1, 2024.

21 NCAC 34B .0212 DISABILITIES OF APPLICANTS FOR EXAMINATIONS

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1), (2), (3);
 Eff. November 1, 1994;
 Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34B .0213 EXPIRATION OF TEST SCORES

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3);
 Eff. February 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
 Repealed Eff. April 1, 2024.

SECTION .0300 - LICENSING

Editor's Note: 21 NCAC 34B .0301 - .0309 was recodified from 21 NCAC 34 .0401 - .0409 Eff. February 7, 1991.

21 NCAC 34B .0301	ISSUANCE OF LICENSE: EXPIRATION
21 NCAC 34B .0302	LICENSE CERTIFICATE FOR PRACTICE OF FUNERAL DIRECTING
21 NCAC 34B .0303	LICENSE CERTIFICATE FOR PRACTICE OF EMBALMING
21 NCAC 34B .0304	LICENSE CERTIFICATE FOR PRACTICE OF FUNERAL SERVICE
21 NCAC 34B .0305	CHANGE OF LICENSE REQUEST

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3),(5); 150B-11(1);
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. November 1, 2004; August 1, 1988;
 Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34B .0306	LICENSE FEES
21 NCAC 34B .0307	REINSTATEMENTS

History Note: Authority G.S. 90-210.23(a); 90-210.25 (a)(1),(2),(3); 150A-11;
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Repealed Eff. September 1, 1979.

21 NCAC 34B .0308 RENEWALS: NOTICES

The Executive Director of the Board shall, on or about December 1 of each year, send by electronic mail to each licensee or permit holder a written notice that the license, permit, or courtesy card shall expire as provided in G.S. 90-210.25 unless renewed. The notice shall contain instructions on how to renew said license, permit, or courtesy card online.

History Note: Authority G.S. 90-210.23(a); 90-210.25
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. November 1, 1994;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
 Amended Eff. March 1, 2021.

21 NCAC 34B .0309 LICENSE RENEWAL FORM

(a) To renew a funeral director, funeral service, or embalmer's license, the licensee annually shall complete and submit to the Board a renewal application. Failure to submit a completed renewal application by February 1 shall cause the licensee's license to be forfeited.

(b) The renewal form shall contain the following:

- (1) The licensee's full name and license number;
- (2) The licensee's physical address of personal residence, mailing address, and phone number(s);
- (3) The licensee's current place of employment, work address, and telephone number;
- (4) Whether the licensee's place of employment changed since the previous renewal application was submitted;
- (5) Whether the licensee is on active or inactive status pursuant to G.S. 90-210.25(2);
- (6) Whether the licensee is requesting to be on active or inactive status pursuant to G.S. 90-210.25(2) for the next year;
- (7) Whether the licensee has been convicted of a felony or misdemeanor crime (excluding traffic infractions) since the previous renewal application was submitted and, if so, a statement providing the jurisdiction, charge, and disposition of each conviction;
- (8) Whether the licensee has had an occupational or business license denied, suspended, or revoked by any local, state, or federal agency since the previous renewal application was submitted and, if so, a statement providing the reason for the denial and the date, location, and circumstances of any violation that led to action against your license, the terms of any discipline imposed by the licensing authority, and whether said terms have been satisfied;

- (9) Whether the licensee has been subject to any investigation for employee misclassification since the previous renewal application was submitted;
- (10) Whether the licensee has received credit for attending at least five continuing education credits of courses approved by the Board since the previous renewal application was submitted and, if so, copies of all continuing education forms showing courses attending that have not been already submitted to the Board;
- (11) If the licensee is claiming an exemption from continuing education requirements, the basis for which the licensee is claiming the exemption;
- (12) The licensee's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that he or she has read the NC Industrial Commission Public Notice Statement; and
- (13) The application fee, as prescribed by G.S. 90-210.28 and 21 NCAC 34A .0201. If the application fee is dishonored by the licensee's drawee bank for any reason, the Board shall suspend the license until the renewal fees and non-sufficient fund charges are paid.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5); 90-210.28;
 Eff. February 1, 1976;
 Readopted Eff. September 27, 1977;
 Amended Eff. November 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
 Amended Eff. April 1, 2021.

21 NCAC 34B .0310 PRACTICE OF FUNERAL SERVICE OR FUNERAL DIRECTING NOT AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED FUNERAL ESTABLISHMENT

(a) A funeral director or funeral service licensee registered to practice under G.S. 90-210.25(a2) shall not use its business office required by G.S. 90-210.25(a2)(2)a. to conduct the practice of funeral service or funeral directing. A funeral director or funeral service licensee shall not hold out to the public that its business office is a funeral establishment and shall not use a business name that misleads the public to believe that its business office is a funeral establishment or operates or maintains a facility that is a funeral establishment.

(b) An applicant to practice under the provisions of G.S. 90-210.25(a2) shall submit a form provided by the Board with an application fee. The applicant shall furnish the name, address, telephone number, and county of location for the applicant and any business organization operating under the laws of North Carolina, the license number of the applicant, the location where the applicant shall shelter remains, the location where the applicant uses as an embalming facility, the name and license numbers of any other embalmers retained by a funeral director to embalm, and any other information the Board deems necessary as required by law. The applicant shall complete a verification before a notary public.

History Note: Authority G.S. 90-210.20(h); 90-210.23(a); 90-210.25(a2)(2)a., b.; 90-210.27A(a), (i);
 Eff. February 1, 2009.

21 NCAC 34B .0311 SPECIAL PROCEDURES FOR LICENSING OF ACTIVE MILITARY PERSONNEL

(a) Definitions. As used in this Rule:

- (1) "Active military person" shall mean any person holding an applicable license or permit from the Board who meets the conditions of G.S. 105-249.2(a) and would be subject to any continuing education requirement, renewal fee, or renewal application to renew or reinstate any permit or license issued by the Board.
- (2) "Active military status" shall mean any active military person who is not practicing funeral service, funeral directing, or embalming because of military service.
- (3) "Active status" shall mean any person holding a license to practice funeral directing, funeral service, or embalming in good standing who has not been approved for an inactive license under the provisions of G.S. 90-210.25(a1).

- (4) "Applicant" shall mean the active military person or any person authorized to conduct business affairs for the active military person under the authority granted by a power of attorney executed under the laws of any state.
- (b) The following provisions shall apply to funeral director, funeral service, and embalmer licenses only:
 - (1) Any active military person wishing to claim active military status shall file a form provided by the Board. The applicant shall furnish the full name of the active military person; license number, address and telephone number of the active military person; date of active military service; anticipated date the active military person will resume practice, if known; and documentation from the branch of service demonstrating entitlement to active military status. The Board shall notify the applicant in writing of its decision on the application and shall place the active military person on active military status upon approving the application.
 - (2) No fees or renewal applications shall be required during the period of active military status. Continuing education shall not be required for any calendar year when active military status is effective. Any calendar year in which continuing education is not required of the active military person shall be credited toward the total years of continuing education required by G.S. 90-210.25(a)(5)e.
 - (3) Active military status shall terminate upon the earlier of return to active status or upon six months after severance from active military duty.
 - (4) Any active military person may claim active military status retroactively within six months from severance from active military duty.
 - (5) Any active military person whose license lapses for failing to timely claim active military status shall be subject to the provisions of reinstatement under G.S. 90-210.25(a)(5)b. and shall not be entitled to any waivers of continuing education, renewal fees, or reinstatement fees.
 - (6) To return to active status, the active military person shall file an application for renewal and renewal fee for the calendar year regardless of the date of application.
- (c) If any funeral establishment, crematory, or preneed establishment ceases operations because the active military person claims active military status, all such licenses or permits shall terminate upon transfer of the active military person to active military status. If the active military person resumes active status, any funeral establishment, preneed establishment, or crematory shall be required to apply for a new license or permit but shall only be required to pay the renewal fee to issue the new license or permit.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5),(a1); 93B-15(b);
Eff. October 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0312 MEMBERS REQUIRED BEFORE LICENSING

Before any new burial association can be licensed, the proposed burial association's sponsor must obtain 800 members within six months of the charter date. If, at the end of six months, it is determined that sufficient progress has been made toward obtaining 800 members, then an additional 90 days may be granted.

History Note: Authority G.S. 58-241; 58-241.8;
Eff. February 1, 1976;
Recodified from 04 NCAC 04 .0301 Eff. January 13, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0313 PROCEDURES FOR PROVISIONAL LICENSURE

(a) Definitions. As used in this Rule:

- (1) "Applicant" shall mean the person submitting an Application for Provisional License on a form made available by the Board on its website at ncbfs.org and providing: his or her contact information; social security number; date and place of birth; sex; education and employment experience; the location where provisional work will be done; whether the applicant currently or has ever been licensed to practice funeral service, funeral directing, or embalming in another jurisdiction; whether the applicant ever has had any occupational or business license denied, suspended, or revoked; whether the applicant ever has been convicted of any felony or

misdemeanor crime other than traffic infractions; whether the applicant has been subject of any investigation for employee misclassification in the preceding two years; and payment of a non-refundable fee pursuant to G.S. 90-210.25(a)(3a)a.

- (2) "Entry-Level Examination" shall mean an examination that is equivalent to the State Board Examination-Arts in Funeral Directing to assess competency in funeral arranging and directing; funeral service marketing and merchandising; funeral service counseling; legal and regulatory compliance; and cemetery and crematory operations pursuant to G.S. 90-210.25(a)(1)(e)(1). The National Board Examination-Arts that is administered by the International Conference of Funeral Service Examining Boards is equivalent to the State Board Examination-Arts in Funeral Directing.
 - (3) "Laws and Rules Examination" shall mean an examination prepared by the Board of funeral practice and related laws of North Carolina, the federal Funeral Rule as expressed in the standards set forth in Funeral Industry Practices, 16 C.F. R. 453 (1984), pursuant to its most recent version, and the administrative rules governing the practice or professional funeral service as expressed in the NC Administrative Code.
 - (4) "Professional Experience" shall mean work providing knowledge, skill, and proficiency resulting from the performance of funeral-related duties and responsibilities; work requiring knowledge attained through academic education beyond high school; work that is intellectual in nature; and work requiring the exercise of independent discretion and judgment.
 - (5) "Provisional Licensee" shall mean any individual satisfying the provisional licensure requirements pursuant to G.S. 90-210.25(a)(3a) and who engages in the practice of professional funeral service under the supervision of a funeral director or funeral service licensee in good standing with the Board for a period not to exceed three years.
 - (6) "Supervision" shall mean oversight and direction from a licensee in funeral directing or funeral service, who is in good standing with the Board, and who has practiced professional funeral service as his or her primary occupation more than 30 hours per week for at least five years.
- (b) The following provisions shall apply to provisional license applicants and licensees only:
- (1) Applicants shall submit with their application for provisional licensure proof of satisfying the education requirements pursuant to G.S. 90-210.25(a)(3a)(d). Such proof shall include certified transcripts from an accredited post-secondary institution, or, if applicable, a certified transcript from a funeral director program accredited by the American Board of Funeral Service Education (ABFSE) or a funeral director program offered at a post-secondary institution that is accredited by ABFSE. Certified transcripts shall come from the educational institution directly to the Board.
 - (2) Applicants not otherwise qualified as a certified trainee or eligible for a certified traineeship shall submit with their application for provisional licensure an employment history on a form provided by the Board on its website at ncbfs.org, which shall supplement the provisional license application and requires a listing of funeral-related work including name and contact information of employer, dates of employment, and duties and responsibilities performed.
 - (3) Prior to licensure as a Funeral Director, provisional licensees shall have attained a passing score of 75 percent on the Entry-Level Examination. Applicants shall have attained a passing score of 75 percent on the Laws and Rules Examination.
 - (4) Applicants shall be subject to a criminal history background check pursuant to the requirements of the North Carolina State Bureau of Investigation and may be approved for licensure in the absence of any disqualifying conditions pursuant to G.S. 93B-8.1. Applicants shall complete forms provided by the Board on its website at ncbfs.org for the electronic submission of fingerprints if North Carolina residents; non-residents shall complete a fingerprint card and application information through a local law enforcement agency.
 - (5) Provisional licensees shall be subject to the same license renewal requirements as licensees in funeral directing, including completion of a renewal application as set forth in Rule .0309 of this Section by December 31st of each year but not later than February 1st of the year immediately following the expiration of the license and submission of a non-refundable renewal fee of two hundred fifty dollars (\$250.00).
 - (6) Provisional licensees shall be subject to the same requirements for continuing education as for licensees in funeral directing including a minimum of five continuing education credits annually and not exceeding two hours annually through online instruction. All continuing education credits shall be awarded only for Board-approved courses of instruction provided through an accredited sponsor or other approved provider, as set forth in Section .0400 of this Subchapter.

History Note: Authority G.S. 90-210.25(a)(3a);
Eff. March 17, 2021.

SECTION .0400 – CONTINUING EDUCATION

Editor's Note: 21 NCAC 34B .0401 - .0405 was recodified from 21 NCAC 34 .0501 - .0505 Eff. February 7, 1991.

21 NCAC 34B .0401 ESTABLISHMENT AND APPROVAL OF COURSES

The Board shall cause at least eight hours of continuing education courses to be offered to the licensees annually, either directly or through other organizations or persons procured for such purpose. The Board shall mail to each licensee for whose benefit the course is offered, at least 15 days prior to the date of enrollment, notice of the course and the amount of any registration fee to be charged.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; November 1, 1994; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0402 REQUIREMENT FOR LICENSE RENEWAL

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0403 REQUIREMENT FOR LICENSE REINSTATEMENT

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Repealed Eff. August 1, 1998.

21 NCAC 34B .0404 CONTINUING EDUCATION CARD

All licensees shall complete a card provided by the Board to certify that the licensee has taken continuing education courses. The form shall require the licensee to furnish the name of the licensee, "in time" and "out time" at the course, the license number, total hours, date, attestation by an authorized official who may be an official of the entity sponsoring the course or a member of the Board or its designated agent, and any other information the Board deems necessary as required by law. The form must be filed with the Board no later than the time when evidence of having taken such courses is required for license renewal or reinstatement.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0405 APPLICATION FORM FOR APPROVAL OF COURSE

Applications for approval of a course of continuing education shall be made on forms provided by the Board. The applicant shall furnish the date, name of the organization or person making the application, description of the course, name and credentials of the instructor, and a statement by the applicant of how the course will aid the licensee in

serving the public. The form must be filed with the Board, when making application, at least 30 days prior to the date of enrollment established for the course.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. September 1, 1979;
Amended Eff. November 1, 2004; November 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0406 APPLICATION FORM FOR APPROVAL OF SPONSOR

Applications for approval of a sponsor of continuing education shall be made on forms provided by the Board. The applicant shall furnish the date, name of the organization or person making the application, description of the sponsor and the types of courses it offers as well as its requirements to be an instructor for its courses, and a statement by the applicant of how its courses will aid the licensee in serving the public. The form must be filed with the Board, when making application, at least 90 days prior to the first course the sponsor intends to offer for CE credit.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0407 DEFINITIONS

For purposes of Section .0400, the following definitions shall apply:

- (1) "Accredited sponsor" shall mean an organization whose continuing education offerings have been accredited by the Board.
- (2) "Approved activity" shall mean a specific, individual continuing education activity presented by an accredited sponsor or presented by other than an accredited sponsor if such activity is approved as a continuing education activity under the Rules in this Section by the Continuing Education Committee of the Board.
- (3) "Continuing education" or "CE" is any educational activity accredited by the Board. CE includes educational activities designed principally to maintain or increase the professional competence of licensees or the understanding of the professional responsibilities of licensees.
- (4) "Continuing Education Committee" shall mean the Continuing Education Committee of the North Carolina Board of Funeral Service.
- (5) "Credit hour" means an increment of time of 50 minutes which may be divided into segments of 25 minutes, but no smaller.
- (6) "Inactive licensee" shall mean a licensee of the North Carolina State Board of Funeral Service who is on inactive status.
- (7) "Licensee" shall include any person who is licensed by the Board to practice funeral directing, embalming, or funeral service in the state of North Carolina and whose license is active.
- (8) "Participatory CE" shall mean courses or segments of courses that encourage the participation of attendees in the educational experience through, for example, the analysis of hypothetical situations, role playing, mock trials, roundtable discussions, or debates.
- (9) "Self-study" shall mean the reading of professional articles, journals, magazines, and books or the watching of programs on the topics of funeral directing, embalming and funeral services that will increase the licensee's professional competence and proficiency as a licensee.
- (10) "Sponsor" is any person or entity presenting or offering to present one or more continuing education programs, whether or not an accredited sponsor.
- (11) "Year" shall mean calendar year.
- (12) "Course" shall mean the instructional content of the material being presented.
- (13) "CE Program" shall mean the date, time, and location of the presentation of a CE course.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. March 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0408 CONTINUING EDUCATION PROGRAM

(a) For licensees required to complete continuing education ("CE") as a prerequisite to annual license renewal, the five hours of approved CE shall meet the following requirements:

- (1) CE courses taken at the direction of the Board as memorialized in a consent order, final agency decision, or taken voluntarily by the licensee to resolve a pending disciplinary matter, shall not be credited toward CE hours needed for annual licensure renewal. If the Board requires licensees to take a particular required course or courses, the Board shall notify licensees no later than October 1 of the year preceding the calendar year in which the course(s) will be required.
- (2) Licensees shall not receive credit toward completed CE hours for taking the same CE course within two years.

(b) A person who has received his or her license within the past 12 months and who currently holds an active license shall receive CE credit toward annual licensure renewal for any CE hours earned after that licensee's mortuary science college graduation provided that the CE hours were earned within the preceding 12 months.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5); 150B-41(c);
Eff. July 1, 2005;
Amended Eff. January 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. January 1, 2023.*

21 NCAC 34B .0409 COURSE ACCREDITATION STANDARDS

(a) The content of a CE activity must have intellectual or practical content designed to maintain or increase the participant's professional competence and proficiency as a licensee or the participant's understanding of the professional responsibilities of a licensee. The activity shall constitute an organized program course of learning dealing with matters directly related to the practice of funeral directing, embalming, or funeral service. The activity shall include an opportunity for the participants to ask questions of the presenter about its content. Courses that cross academic lines, such as insurance seminars, may be considered for approval by the Board. However, the Board must be satisfied that the content of the activity is directly related to preneed or would otherwise enhance funeral directing and funeral service skills.

(b) Credit may be given for continuing education activities where live instruction is used or mechanically or electronically recorded or reproduced material is used, including videotape or satellite transmitted programs. Subject to the limitations set forth in 21 NCAC 34B .0408(a) and 21 NCAC 34B .0414, credit may also be given for continuing education activities on CD-ROM and on a computer website accessed via the Internet.

(c) Continuing education materials shall be prepared, and activities conducted, by an individual or group able to lead the CE activity and to answer questions from the participants about its content. Examples of individuals and groups able to lead the CE activity and to answer questions from the participants about its content include:

- (1) Funeral professionals licensed by the Board or by the authority of another jurisdiction who are actively engaged full time in a capacity consistent with the individual's license designation for at least three years immediately preceding the date of the CE activity.
- (2) Instructors employed by a program or college of mortuary science in a capacity consistent with the courses of study required as a prerequisite to licensing, as defined in G.S. 90-210.25(a)(1)e1., (2)e1., and (3)e1. and 2.
- (3) Instructors employed by academic institutions in a capacity consistent with the instruction of the courses of study required as a prerequisite to licensing, as defined by G.S. 90-210.25(a)(1)e1., (2)e1., and (3)e1. and 2.

(d) Continuing education activities shall be conducted in a setting physically suitable to the educational activity of the program and equipped with suitable writing surfaces and sufficient space for taking notes.

(e) Thorough, high quality, and carefully prepared, written materials must be distributed to all attendees at or before the time the course is presented. As used in this Paragraph, "thorough, high quality, and carefully prepared written materials" means materials that correspond to the content of the CE activity and are free from errors, including written materials printed from a computer website or CD-ROM, but excluding any materials that refer to a product

of a specific manufacturer or to a service offered by a specific provider. The Board may waive the requirement that written materials be provided if written materials would not be suitable or readily available for the CE activity.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. March 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0410 ACCREDITATION OF SPONSORS AND PROGRAMS

(a) Accreditation of Sponsors. An organization desiring accreditation as an accredited sponsor of courses, programs, or other continuing education activities may apply for accredited sponsor status to the Board. The Board shall approve a sponsor as an accredited sponsor if it is satisfied that the sponsor's programs have met the standards set forth in 21 NCAC 34B .0409.

(b) Presumptive Approval for Accredited Sponsors.

- (1) Once an organization is approved as an accredited sponsor, the continuing education programs sponsored by that organization are presumptively approved for credit and no application must be made to the Board for approval. The Board may at any time revoke the accreditation of an accredited sponsor for failure to satisfy the Rules in this Section.
- (2) The Board may evaluate a program presented by an accredited sponsor and, upon a determination that the program does not satisfy the requirements of 21 NCAC 34B .0409, notify the accredited sponsor that any presentation of the same program, the date for which was not included in the announcement required by 21 NCAC 34B .0411(e) below, is not approved for credit. Such notice shall be sent by the Board to the accredited sponsor within 30 days after the receipt of the announcement. The accredited sponsor may request reconsideration of such a decision by submitting a letter of appeal to the Board within 15 days of receipt of the notice of disapproval. The decision by the Board on an appeal is final.

(c) Unaccredited Sponsor Request for Program Approval. Any organization not accredited as an accredited sponsor that desires approval of a course or program shall apply to the Board. The Board shall administer the accreditation of such programs consistent with the provisions of 21 NCAC 34B .0409. Applicants denied approval of a program may request reconsideration of such a decision by submitting a letter of appeal to the Board within 15 days of receipt of the notice of disapproval. The decision by the Board on an appeal is final.

(d) Licensee Request for Program Approval. An active licensee desiring approval of a course or program that has not otherwise been approved shall apply to the Board. Applicants denied approval of a program may request reconsideration of such a decision by submitting a letter of appeal to the Board within 15 days of the receipt of the notice of disapproval. The decision by the Board on an appeal is final.

(e) Program Announcements of Accredited Sponsors. At least 30 days prior to the presentation of a program, an accredited sponsor shall file an announcement, on a form prescribed by the Board, notifying the Board of the dates and locations of presentations of the program, the sponsor's calculation of the CE credit hours for the program, and the cost of the program to attendees.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0411 GENERAL COURSE APPROVAL

(a) Mortuary Science College Courses – Courses covering subjects required by G.S. 90-210.25(a)(1)e1., (2)e1., and (3)e1. and 2 that are offered for academic credit by a mortuary science college approved by the Board or accredited by the American Board of Funeral Service Education shall be approved activities unless the course is taken to obtain a funeral director, embalmer, or funeral service license. Computation of CE credit for such courses shall be as prescribed in 21 NCAC 34B .0415. No more than five CE hours in any year may be earned by such courses except in the cases of an inactive licensee who is seeking to earn enough CE credit to return to active status or an individual whose license has lapsed and who is seeking to reinstate the license. No credit is available for mortuary science college courses attended prior to becoming an active licensee of the North Carolina Board of Funeral Service, except in the case of an inactive licensee who is seeking to earn enough CE credits to return to an active status.

(b) Approval – CE activities shall be approved upon the written application of a sponsor, other than an accredited sponsor, or of an active licensee on an individual program basis. An application for the approval of such CE courses and programs shall meet the following requirements:

- (1) The application and supporting documentation, including one complete set of the written materials to be distributed at the course or program, shall be submitted at least 30 days prior to the date on which the course or program is scheduled.
- (2) The application shall be submitted on a form furnished by the Board. The form shall require the applicant to furnish the name and address of the course sponsor, the title, date, length, and location of the course, and any other information the Board deems necessary as required by law.
- (3) The application shall be accompanied by a course outline or brochure that describes the content, identifies the teachers, lists the time devoted to each topic and shows each date and location at which the course or program will be offered.
- (4) The application shall include a calculation of the total number of CE hours using the method prescribed in 21 NCAC 34B .0415.

(c) Course Quality – The application and written materials provided shall reflect that the program to be offered meets the requirements of 21 NCAC 34B .0409. Written materials consisting merely of an outline without citation or explanatory notations shall not be sufficient for approval. Any sponsor, including an accredited sponsor, who expects to conduct a CE activity for which suitable written materials will not be made available to all attendees may obtain approval for that activity only by application to the Board at least 30 days in advance of the presentation showing why written materials are not suitable or readily available for such a program.

(d) Records – Sponsors, including accredited sponsors, shall within 30 days after the course is concluded:

- (1) furnish to the Board a list in alphabetical order, on electronic media if available, of the names of all North Carolina attendees and their North Carolina Board of Funeral Service license numbers;
- (2) furnish to the Board a complete set of all written materials distributed to attendees at the course or program.

(e) Announcement – Accredited sponsors and other sponsors who have approval for courses may include in their brochures or other course descriptions the information contained in the following illustration:

This course [or seminar or program] has been approved by the North Carolina Board of Funeral Service for continuing education credit in the amount of ____ hours. This course is not sponsored by the Board.

(f) Notice - Sponsors not having approval shall make no representation concerning the approval of the course for CE credit by the Board. The Board shall mail a notice of its decision on CE activity approval requests within 15 days of their receipt. Approval thereof shall be deemed if the notice is not mailed within 30 days. This automatic approval will not operate if the sponsor contributes to the delay by failing to provide all information requested by the Board or if the Board notifies the sponsor that the matter has been tabled and the reason therefore.

(g) Facilities - Sponsors must provide a facility conducive to learning with sufficient space for taking notes. Sponsors must also ensure the following requirements are met:

- (1) Access to the facility shall be controlled so that attendees actually attend the entire program or portion of the program for which they are seeking credit. Attendees who are late or who leave early shall not be given credit for the portion of the program that they missed.
- (2) All licensees who attend a program and desire credit for attendance must present their license pocket card to gain admission to the program.
- (3) The individual or organization conducting the continuing education program must use registration sign in/sign out sheets to ensure attendance by all participants.
- (4) The reading of outside material, such as newspapers and magazines, is prohibited during a CE program.
- (5) Cell phones and other disruptive devices must be turned off or switched to a silent mode of operation during instructional periods of the CE program.
- (6) Persons obtaining CE hours for license reinstatement shall be provided a temporary card, valid for one year from the date of issue, from the Board in order to be allowed entrance to CE programs.

(h) Course Materials - In addition to the requirements of 21 NCAC 34B .0411(d) and (f) above, sponsors, including accredited sponsors, and active licensees seeking credit for an approved activity shall furnish upon request of the Board a copy of all materials presented and distributed at a CE course or program.

(i) Non-funeral service Educational Activities - Approval of courses shall not be given for general and personal educational activities. For example, the following types of courses shall not receive approval:

- (1) courses within the normal college curriculum such as English, history, and social studies;

- (2) courses that deal with sales and advertising only and would not further educate a licensee as to his or her product knowledge and development of funeral procedures and management models designed to increase the level of service provided to the consumer.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. March 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0412 ACCREDITED SPONSORS

In order to receive designation as an accredited sponsor of courses, programs or other continuing education activities under 21 NCAC 34B .0410(a), the application of the sponsor must meet the following requirements:

- (1) The application for accredited sponsor status shall be submitted on a form prescribed by the Board. The form shall require the applicant to furnish the name and address of the sponsor, the contact person within the organization, and any other information the Board deems necessary as required by law.
- (2) The application shall be accompanied by course outlines or brochures that describe the content, identify the instructors, list the time devoted to each topic, show each date and location at which three programs have been sponsored in each of the last three consecutive years, and enclose the actual course materials.
- (3) The application shall include a detailed calculation of the total CE hours specified in each of the programs sponsored by the organization.
- (4) The application shall reflect that the previous programs offered by the organization in continuing education would have met the standards set forth in 21 NCAC 34B .0409.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0413 ACCREDITATION OF PRERECORDED PROGRAMS AND LIVE PROGRAMS BROADCAST TO REMOTE LOCATIONS BY TELEPHONE, SATELLITE, OR VIDEO CONFERENCING EQUIPMENT

- (a) A licensee may receive up to two hours of CE credit each year for attendance at, or participation in, a presentation where prerecorded material is used.
- (b) A licensee may receive credit for participation in a live presentation which is simultaneously broadcast by telephone, satellite, or video conferencing equipment. The licensee may participate in the presentation by listening to or viewing the broadcast from a location that is remote from the origin of the broadcast.
- (c) A licensee attending a prerecorded presentation is entitled to credit hours if:
 - (1) the presentation from which the program is recorded would, if attended by an active licensee, be an accredited course; and
 - (2) all other conditions imposed by the rules in this Subchapter are met.
- (d) A licensee attending a presentation broadcast by telephone, satellite, or video conferencing equipment is entitled to credit if:
 - (1) the live presentation of the program would, if attended by a licensee, be an accredited course;
 - (2) there is a question and answer session with the presenter or presenters subject to the limitations set forth in 21 NCAC 34B .0415(b)(5); and
 - (3) all other conditions imposed by the rules in this Subchapter are met.
- (e) To receive approval for attendance at programs described in Paragraphs (a) and (b) of this Rule, the following conditions must be met:
 - (1) Unless the entire program was produced by an accredited sponsor, the person or organization sponsoring the program must receive advance approval and accreditation from the Board;
 - (2) The person or organization sponsoring the program must have a method for recording and verifying attendance. Attendance at a telephone broadcast may be verified by assigning a personal identification number to a licensee. The person or organization sponsoring the program must

forward a copy of the record of attendance of active licensees to the Board within 30 days after the presentation of the program is completed. Proof of attendance may be made by the verifying person on a form provided by the Board;

- (3) Unless inappropriate for the particular course, detailed papers, manuals, study materials, or written outlines are presented to the persons attending the program which only pertain to the subject matter of the program. Any materials made available to persons attending the original or live program must be made available to those persons attending the prerecorded or broadcast program who desire to receive credit under the rules in this Section; and

- (4) A room suitable for viewing the program and taking notes must be available.

(f) A minimum of five licensees must physically attend the presentation of a prerecorded program in the same location. This requirement does not apply to participation from a remote location in the presentation of a live broadcast by telephone, satellite, or video conferencing equipment.

(g) EXAMPLES:

EXAMPLE (1): Licensee X attends a videotape seminar sponsored by an accredited sponsor. If a person attending the program from which the videotape is made would receive credit, Licensee X is also entitled to receive credit, if the additional conditions under this Rule are also met.

EXAMPLE (2): Licensee Y desires to attend a videotape program. However, the proposed videotape program (a) is not presented by an accredited sponsor, and (b) has not received individual course approval from the Board. Licensee Y shall not receive any credit hours for attending that videotape presentation.

EXAMPLE (3): Licensee Z attends a videotape program. The presentation of the program from which the videotape was made has already been held and approved by the Board for credit. However, no person is present at the videotape program to record attendance. Licensee Z shall not obtain credit for viewing the videotape program unless it is viewed in the presence of a person who is not attending the videotape program for credit and who verifies the attendance of Licensee Z and of other licensees at the program. All other conditions of this Rule must also be met.

EXAMPLE (4): Licensee A listens to a live telephone seminar using the telephone in the conference room of her funeral establishment. To record her attendance, Licensee A was assigned a person identification number (PIN) by the seminar sponsor. Once connected, Licensee A punched in the PIN number on her touch tone phone and her attendance was recorded. The seminar received individual course approval from the Board. Licensee A shall receive credit if the additional conditions under this Rule are also met.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. September 1, 2009; March 1, 2008.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0414 ACCREDITATION OF COMPUTER-BASED CE

(a) Effective for courses attended on or after January 1, 2009, a licensee may receive up to two hours of credit each year for participation in a course on CD-ROM or on-line. A CD-ROM course is an educational seminar on a compact disk that is accessed through the CD-ROM drive of the user's personal computer. An on-line course is an educational seminar available on a provider's website reached via the Internet.

(b) A licensee may apply up to two credit hours of computer-based CE to a CE deficit from a preceding calendar year. A computer-based CE credit hour applied to a deficit from a preceding year will be included in calculating the maximum of two hours of computer-based CE allowed in the preceding calendar year. A licensee may carry over to the next calendar year no more than two credit hours of computer-based CE pursuant to 21 NCAC 34B .0408. A credit hour carried-over pursuant to 21 NCAC 34B .0408 shall not be included in calculating the two hours of computer-based CE allowed in any one calendar year.

(c) To be accredited, a computer-based CE course must meet all of the conditions imposed by the rules in this Subchapter, except where otherwise noted, and be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter or other participants.

(d) The sponsor of an on-line course must have a reliable method for recording and verifying attendance. The sponsor of a CD-ROM course must demonstrate that there is a reliable method for the user or the sponsor to record and verify participation in the course. A participant may log on and off of a computer-based CE course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. A copy of the record of attendance must be forwarded to the Board within 30 days after a licensee completes his or her participation in the course.

(e) After approval of a computer-based CE course, the sponsor may replay the computer-based CE course indefinitely until any change is made to the course content. Any modification to an approved computer-based CE course shall require the sponsor to submit a new application for approval but the sponsor may continue to show the previously approved version of the course.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. January 1, 2009; March 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0415 COMPUTATION OF CREDIT

(a) Computation Formula - CE and professional responsibility hours shall be computed by the following formula:
Sum of the total minutes of actual instruction divided by 50 = Total Hours.

For example, actual instruction totaling 175 minutes would equal 3.5 hours toward CE.

(b) Actual Instruction - Only actual education shall be included in computing the total hours of actual instruction. The following shall not be included:

- (1) introductory remarks;
- (2) breaks;
- (3) business meetings;
- (4) speeches in connection with banquets or other events which are primarily social in nature;
- (5) question and answer sessions at a ratio in excess of 15 minutes per CE hour and programs less than 30 minutes in length provided, however, that the limitation on question and answer sessions shall not limit the length of time that may be devoted to participatory CE.

(c) Teaching - As a contribution to professionalism, credit may be earned for teaching in an approved continuing education activity. Presentations accompanied by written materials approved under this Subchapter shall qualify for CE credit on the basis of three hours of credit for each 50 minutes of presentation. Repeat presentations qualify for one-half of the credits available for the initial presentation. For example, an initial presentation of 50 minutes would qualify for three hours of credit while a subsequent presentation of the same material would qualify the instructor for 1.5 hours of credit.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. December 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

SECTION .0500 - OUT-OF-STATE LICENSEES

Editor's Note: 21 NCAC 34B .0501 - .0510 was recodified from 21 NCAC 34 .0601 - .0610 Eff. February 7, 1991.

21 NCAC 34B .0501 APPLICATION FOR LICENSE

Applications by out-of-state licensees for licenses pursuant to G.S. 90-210(b)(1) shall be made upon forms to be furnished by the Board. The application must be verified by the applicant and filed with the Board.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(1); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34B .0502 APPLICATION FORM AND EQUIVALENT EXAMINATIONS FOR RECIPROCAL LICENSE

(a) Applications by an out-of-state licensee for a North Carolina license pursuant to G.S. 90-210.25(b)(1) shall be made on forms provided by the Board on its website at ncbfs.org. The form shall require the applicant to furnish the applicant's name, address, phone number, email address, social security number, date and place of birth, and sex;

name and address of present employer; whether the applicant has military training or experience in the practice of funeral service; whether the applicant is a military spouse; whether the applicant has had recent experience in the practice of the type of reciprocal license sought for at least two of the five years preceding the date of the application; whether the applicant has any pending complaints against his or her license in any jurisdiction in which he or she is licensed to practice funeral service; educational history; license applied for; name of the jurisdiction where licensed and the kinds of licenses held; whether the applicant ever has had any occupational or business license denied, suspended or revoked; whether the applicant ever has been convicted of any felony or misdemeanor crime other than traffic infractions; whether the applicant has been subject to any investigation for employee misclassification in the preceding two years; and the notarized signature of the applicant.

(b) The form shall require the licensing board of the other jurisdiction(s) to certify that the applicant is licensed and in good standing in that jurisdiction and to furnish the Board with the name of the applicant, licenses held and dates granted, and the name and address of the Board in such other jurisdiction.

(c) The applicant shall provide an employment history to show at least three years of professional practice in the other jurisdiction(s).

(d) Funeral director applicants shall be deemed to have satisfied the examination requirements for reciprocal licensure if they have completed with passing scores the Entry-Level Examination defined in 21 NCAC 34B .0313(a)(2) as a requirement for licensure in the other jurisdiction and the Laws and Rules Examination defined in 21 NCAC 34B .0313(a)(3).

(e) Funeral service applicants shall be deemed to have satisfied the examination requirements for reciprocal licensure if they have completed the National Board Examinations as administered through The International Conference of Funeral Service Examining Boards, or equivalent examinations, as a requirement for licensure in the other jurisdiction and the Laws and Rules Examination defined in 21 NCAC 34B .0313(a)(3).

History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(1); 93B-15.1;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. March 17, 2021.

21 NCAC 34B .0503 AFFIDAVIT OF STATE ENDORSEMENT
21 NCAC 34B .0504 AFFIDAVIT OF STATE ENDORSEMENT
21 NCAC 34B .0505 RECOMMENDATIONS BY LICENSEE FOR RECIPROCAL LICENSURE
21 NCAC 34B .0506 VERIFICATION OF PRACTICE

History Note: Authority G.S. 90-210.23(a); 90-210.25(b); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0507 COURTESY CARDS

Applications by out-of-state licensees for courtesy cards pursuant to G.S. 90-210.25(b)(3) shall be made upon forms to be furnished by the Board. Such cards shall be issued by license category corresponding to the license held by the applicant, shall be non-transferable, and shall be renewable from year to year. A courtesy card shall expire and terminate upon the suspension, revocation, forfeiture, expiration, or other termination of the holder's license issued by the licensing board of the other jurisdiction, or on the 31st day of December, whichever shall first occur. The holder of a courtesy card shall be subject to the provisions of G.S. 90-210.25(e). The application must be verified by the applicant and the licensing board of the other jurisdiction and filed with the Board.

History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(3); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0508 APPLICATION FORM FOR COURTESY CARD

Applications for a courtesy card shall be made on forms provided by the Board. The applicant shall furnish the applicant's photograph, name, address, and biographical data; courtesy card applied for, by license category; name and address of the licensing board where the applicant is licensed; the kind, license number, expiration date of licenses presently held; an agreement that the applicant will obey North Carolina statutes and rules governing funeral service; verification by the applicant; certification by the Secretary or other official of the licensing board of the other jurisdiction that the information concerning the applicant's licensure is correct; and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; August 1, 1988; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0509 COURTESY CARD FORM

History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. August 1, 1988; September 1, 1979;
Repealed Eff. November 1, 1994.

21 NCAC 34B .0510 COURTESY CARD RENEWAL FORM

Applications for annual renewal of a courtesy card shall be made on forms provided by the Board. The form shall require the applicant to furnish the type of license privileges sought, changes to the applicant's name, address, telephone, place of employment, license expiration date, the signature of the applicant, affirmation that the applicant will abide by North Carolina law, verification, and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0600 - FUNERAL ESTABLISHMENTS

Editor's Note: 21 NCAC 34B .0601 - .0615 was recodified from 21 NCAC 34 .0701 - .0715 Eff. February 7, 1991.

**21 NCAC 34B .0601 DISTINCTION BETWEEN ESTABLISHMENT AND CHAPEL
21 NCAC 34B .0602 MANAGER OF ESTABLISHMENT**

History Note: Authority G.S. 90-210.23(a),(e); 90-210.20(h); 90-210.25(d); 150B-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Repealed Eff. August 1, 1988.

**21 NCAC 34B .0603 MANAGER MAY MANAGE TWO ESTABLISHMENTS
21 NCAC 34B .0604 PARTNER OR OFFICER AS MANAGER**

History Note: Authority G.S. 90-210.23(a),(e); 90-210.25(d); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0605 PERMITS: TRANSFER OF OWNERSHIP OF ESTABLISHMENT

Funeral establishment permits shall not be transferable. When the ownership of a funeral establishment changes, or when there has been a transfer of a majority of the common stock of the corporation owning a funeral establishment, a new application for an establishment permit shall be made to the Board within 30 days of said change of ownership or transfer. The applicable fee shall accompany the said application, as in the case of initial applications.

History Note: Authority G.S. 90-210.23(a),(e); 90-210.25(d)(5); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0606 PERMIT FEES

21 NCAC 34B .0607 EXPIRATION AND RENEWAL OF PERMITS

History Note: Authority G.S. 90-210.23(a); 90-210.25(d); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0608 APPLICATION FORM FOR FUNERAL ESTABLISHMENT PERMIT

Applications for a new funeral establishment permit shall be made on forms provided by the Board. The applicant shall furnish the name and address of the establishment; the name or names of the owner or owners; the ownership of the stock if it is owned by a corporation; a description of the preparation room; size of the reposing room; names and license numbers of all part-time and full-time licensees employed by the establishment; the name and license number of the manager; verification by the manager; and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.25(d); 90-210.27A;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. December 1, 2004; August 1, 1988; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0609 FUNERAL ESTABLISHMENT PERMIT FORM

History Note: Authority G.S. 90-210.23(a); 90-210.25(d);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. August 1, 1988;
Repealed Eff. November 1, 1994.

21 NCAC 34B .0610 FUNERAL ESTABLISHMENT PERMIT RENEWAL FORM

All funeral establishments holding a funeral establishment permit shall annually submit a renewal application on forms provided by the Board. The applicant shall furnish the name and address of the establishment; ownership of the establishment; license numbers of any owner, partner, officers of the business entity owning establishment; licensees employed by the funeral establishment; name and license number of the manager of the funeral

establishment; and any other information the Board deems necessary as required by law. The form must be filed no later than February 1 of each year.

History Note: Authority G.S. 90-210.23(a); 90-210.25(d)(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. December 1, 2004; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0611 PART-TIME EMPLOYEES AND INDEPENDENT CONTRACTORS
21 NCAC 34B .0612 PART-TIME AND INDEPENDENT CONTRACTORS AFFIDAVIT

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.25(d); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. November 1, 2004; July 1, 1991; August 1, 1988;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.

21 NCAC 34B .0613 DISCLOSURE STATEMENTS

One copy of each disclosure statement, as required by G.S. 90-210.25(e), shall be kept by the funeral establishment for a period of two years and shall, during said period of time, be subject to inspection by the Board, its inspector or other duly authorized representative.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.25(e); 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0614 FREE AMBULANCE SERVICE AS SOLICITATION

History Note: Authority G.S. 90-210.23(a); 90-210.25(e)(2)c; 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0615 FUNERAL ESTABLISHMENT INSPECTION FORM

The findings of all funeral establishment inspections shall be recorded and filed on report forms provided by the Board. The funeral establishment shall furnish the name and address of the establishment; names of the owner, manager, licensees and resident trainees; verification by the funeral establishment that any violations have been corrected, the date of the verification, and other information the Board deems necessary as required by law. Verifications by an official of the funeral establishment that any violations have been corrected must be received by the Board no later than seven days after the date for compliance.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.24;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; November 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0616 BODY IDENTIFICATION TAGS

Unused body identification tags shall be kept on the premises of each funeral establishment at all times and are subject to inspection by the Board and its authorized agents.

History Note: Authority G.S. 90-210.23(a),(e); 90-210.29A; Eff. September 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0617 PRACTICING DURING DISASTERS

(a) Upon the declaration of a state of emergency, as provided in G.S. 166A-19.20, the Board may waive, for a period not to exceed 120 days following the rescission of the declaration of a state of emergency, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. Only those funeral establishments impacted by and located in a county in which the state of emergency has been declared shall be eligible for a waiver.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

History Note: Authority G.S. 90-210.23(d),(e); 90-210.25(d); 90-210.27A; Eff. September 1, 2017.

21 NCAC 34B .0618 PRACTICING DURING EMERGENCIES

(a) When a funeral establishment experiences an emergency occurrence or imminent threat of damage, injury, or loss of property resulting from a natural or man-made incident, the Board may waive, for a period not to exceed 120 days, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. The funeral establishment may continue to operate if it has provided evidence that the emergency does not pose an immediate threat to human life, an immediate threat of serious physical injury, or an immediate threat of serious adverse health effects.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

History Note: Authority G.S. 90-210.23(d),(e); 90-210.25(d); 90-210.27A; Eff. September 1, 2017.

SECTION .0700 - PREPARATION OF DEAD BODIES

Editor's Note: 21 NCAC 34B .0701 - .0705 was recodified from 21 NCAC 34 .0801 - .0805 Eff. February 7, 1991.

21 NCAC 34B .0701 PREPARATION ROOM: REQUIREMENTS

History Note: Authority G.S. 90-210.23(a),(d),(e); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0702 STORAGE IN PREPARATION ROOM

The only articles and materials which shall be permitted to be stored in the preparation room are supplies, materials and equipment actually maintained for use in embalming.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.27A;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0703 DISPOSAL OF REFUSE: VENTILATION

Every preparation room shall be provided with proper and convenient receptacles for refuse, bandages, cotton and other waste materials and supplies, which shall be properly disposed of at the conclusion of each case, to the end that the public health may thereby be protected. Every preparation room shall comply, with respect to ventilation, with state and local laws, ordinances and regulations. No obnoxious or deleterious odors shall be allowed to remain therein nor to enter into any other part of the premises of the funeral establishment or into any adjoining premises.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.27A;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. July 1, 1991; September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0704 SANITATION IN PREPARATION OF BODIES

In the safeguard of the public health, every person while engaged in the actual preparation of a dead human body shall be attired in a clean and sanitary smock or gown and shall wear protective gloves. When a smock or gown has been worn in the preparation of a body, it shall not be worn again before being laundered. No sheets, linens, materials, or supplies of any kind, which shall have come in contact with a dead human body, shall be used more than once without being laundered. Such materials shall be kept in a covered container until laundered. All instruments and appliances used in the preparation of a body shall be thoroughly cleansed and sterilized immediately at the conclusion of each individual case and stored in an enclosed cabinet or drawer.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.27A;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. September 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0705 EMBALMING MATERIALS

History Note: Authority G.S. 90-210.23(a),(d),(e); 150A-11;

Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Repealed Eff. September 1, 1979.

21 NCAC 34B .0706 REGISTRATION OF EMBALMING FACILITY LOCATED OUTSIDE OF A FUNERAL ESTABLISHMENT

- (a) An embalming facility located outside a funeral establishment shall comply with the requirements of G.S. 90-210.27A(a)(1) through (8) and all other applicable federal, state, or local laws and regulations.
- (b) An embalming facility located outside a funeral establishment shall be registered either to a funeral establishment holding a permit from the Board or to a funeral service or embalmer licensee of the Board. Each embalming facility must be managed by an embalmer or funeral service licensee. A person managing an embalming facility may also manage the funeral establishment location registering the facility.
- (c) Applications to register an embalming facility located outside a funeral establishment shall be made on forms provided by the Board. The applicant shall furnish the address and telephone number of the facility; a description of the preparation room; the names and license numbers of all part-time and full-time licensees employed by the facility; the person or business entity owning the facility; the person managing the facility; a certification that the facility will not be used for any other purpose other than embalming or used for activities requiring a funeral establishment permit; and any other information the Board deems necessary as required by law. The applicant shall verify the contents of the application before a notary public.
- (d) Upon Board approval of the registration, the embalming facility may be used to embalm dead human bodies and shall not be used as a public accommodation. The owner of the facility must obtain a funeral establishment permit under G.S. 90-210.25(d) if the facility is to be held out to the public, used as a public accommodation, or used to engage in any other activity defined as the practice of funeral service under G.S. 90-210.20(k) other than embalming.

History Note: Authority G.S. 90-210.20(f),(h),(k); 90-210.23(a),(e); 90-210.25(d1); 90-210.27A;
Eff. September 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34B .0707 REFRIGERATION

- (a) Any refrigeration unit procured and maintained by a funeral establishment must satisfy the following requirements:
- (1) be capable of storing at least three adult human bodies, each measuring up to seven feet in length and three hundred pounds in weight, in the holding facility;
 - (2) be capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed;
 - (3) shall have sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units;
 - (4) shall have stainless steel, aluminum, or other non-corrosive materials for the remainder of all units; and
 - (5) be subject to inspection by Board inspectors at all times.
- (b) The Board shall allow funeral establishments to procure and maintain one or more temporary refrigeration units. Any such temporary refrigeration unit must satisfy the requirements set forth in Subparagraphs (a)(2)-(5) of this Rule. Any such temporary refrigeration unit not located inside the funeral establishment shall be kept locked at all times when human remains are stored inside.
- (c) Human remains stored in a refrigeration unit, as set forth in Paragraphs (a) and (b) of this Rule, must be kept in a container that complies with G.S. 90-210.121(9)(b)-(f).
- (d) Prior to using a refrigeration unit that is not located on its premises, a funeral establishment shall provide the Board with a written document that sets forth the following:
- (1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;
 - (2) the physical address of the property on which the refrigeration unit is located;
 - (3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Paragraphs (a) and (b) of this Rule;

- (4) certification from both the licensed manager of the funeral establishment and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Paragraphs (a) and (b) of this Rule, acknowledging that:
- (A) the funeral establishment shall use the refrigeration unit for the storage of human remains;
 - (B) the refrigeration unit complies with Paragraphs (a) and (b) of this Rule;
 - (C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;
 - (D) the Board inspectors shall have access to the refrigeration unit at all times; and
 - (E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-210.25(e)(1)(j).

*History Note: Authority G.S. 90-210.23; 90-210.27A(h), (l);
Emergency Adoption Eff. February 19, 2021;
Temporary Adoption Eff. May 28, 2021;
Eff. October 1, 2021.*

SUBCHAPTER 34C - CREMATORIES

SECTION .0100 – GENERAL PROVISIONS

21 NCAC 34C .0101 ELECTION TO CREMATORY AUTHORITY

(a) Definitions. As used in this Rule:

- (1) "Crematory operator" shall have the same meaning as the term "crematory licensee" defined in G.S. 90-210.121(12).
- (2) "Return official envelope" shall mean the envelope in which the crematory operator places a completed ballot for election to the Crematory Authority to return to the Board.
- (3) "Seat subject to election" means the seat held by a member of the Crematory Authority whose term expires December 31 of the calendar year in which the election is held.

(b) The nomination and election of members of the Crematory Authority shall be conducted as follows:

- (1) Every crematory operator with a current North Carolina license shall be eligible to vote. The list of crematory operators with a current North Carolina license at the time ballots are prescribed shall constitute the registration list for elections. The Board shall keep an official list of all crematory operators in its office. The Board shall post a list of crematory operators indicating whether a return official envelope has been returned during each election.
- (2) Nomination of candidates for election shall be made to the Board by a written petition pursuant to 21 NCAC 34A .0103. Petitions for nomination must be filed with the Board between July 1 and August 1 of the calendar year preceding the expiration of the term of the seat subject to election. Any candidate who is nominated may withdraw his or her name after filing written notice with the Board prior to the closing of the polls in any election.
- (3) The following procedures shall apply to ballots for election to the Crematory Authority:
 - (A) The Board shall prescribe ballots and determine the time allowed for voting at its first meeting after nominations have closed. The ballots shall contain a listing of the nominees in alphabetical order; instructions for voting; a method of identification; and other information the Board deems necessary as required by law.
 - (B) At the same meeting where ballots are prescribed, the Board shall designate a day for ballots to be mailed; a deadline for the latest day and time for ballots to be returned; and the day and hour when ballots will be canvassed and counted. The Board shall set the deadline for ballots to be returned to be at least 10 days after the time ballots are mailed.
 - (C) The Board shall mail to each crematory operator a ballot; a return official envelope; a notice designating the latest day and hour for ballots to be received by the Board; a notice

of when ballots will be canvassed and counted; and other information the Board deems necessary as required by law. The return official envelope shall be addressed to the Board; shall bear a serial number; and shall have printed on the left portion of its face the following:

"Serial No. of Envelope _____
Signature of Voter _____
Address of Voter _____

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope)."

- (4) Ballots shall be canvassed publicly at the designated day and hour. Any eligible voter may be present. No ballot shall be canvassed unless it has been delivered in a sealed return official envelope to the Board by hand or by U.S. mail before the latest day and hour designated by the ballot for receipt.
- (5) Ballots shall be counted as follows:
 - (A) All return official envelopes shall be displayed to the persons present. Any person present may challenge the qualification of the voter whose signature appears on the return official envelope or the validity of the return official envelope. Any challenged return official envelope shall be set aside, and the Board may hear the challenge either immediately or after all unchallenged ballots have been counted.
 - (B) After all return official envelopes have been displayed, the Board shall open all unchallenged return official envelopes, extract the ballot without showing its marking as much as possible, and separate each ballot from its return official envelope.
 - (C) After all ballots have been separated, the Board shall display all ballots. No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election; \provided that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choice or choices from the ballot. Any person present may challenge the validity of the ballot only on the grounds of defects appearing on the face of the ballot. The Board may hear the challenge either immediately or after all unchallenged ballots have been counted.
 - (D) After all ballots have been displayed, all unchallenged ballots shall be counted, and all remaining challenges shall be resolved by the Board. The Board shall count the number of votes cast for each candidate and the total number of votes cast. If a candidate dies or withdraws his or her nomination before polls are closed in any election, he or she shall be eliminated from the contest, and any votes cast for him or her shall be disregarded and shall not count toward the total number of votes cast.
- (6) The following procedures shall apply to fill all seats subject to election:
 - (A) To determine a majority of votes cast when there is one seat subject to election, the total number of votes cast for all candidates shall be divided by two, and any candidate receiving a number of votes exceeding one half of the total number of votes cast shall be deemed to have received a majority of votes cast and shall be deemed elected. If no candidate receives a majority of votes cast, the candidate receiving the highest vote total shall be deemed elected.
 - (B) To determine the majority of votes cast when there are two seats subject to election, the total number of votes cast for all candidates shall be divided by four, and any candidate receiving a number of votes exceeding this sum shall be deemed to have received a majority of votes cast. Any candidate receiving a majority of votes cast shall be deemed elected, but if more than two candidates receive a majority of votes cast, the candidates receiving the two highest vote totals shall be deemed elected. If no candidate receives a majority of votes cast, the candidate receiving the highest vote total shall be deemed elected. If one candidate has been deemed elected but one seat remains vacant because no other candidate received a majority of votes cast, the candidate receiving the highest vote total among candidates who did not receive a majority of votes cast shall be deemed elected.
 - (C) In any election where a candidate was deemed elected but failed to receive a majority of votes cast, the candidate who received the next highest vote total but was not elected may file a written petition requesting a second election within ten days after the first election. The second election shall be between the petitioner and the candidate who was deemed

elected but did not receive a majority of votes cast. The procedures in paragraphs (b)(1) through (6) of this Rule shall apply to the second election except where inconsistent with this subparagraph. The candidate receiving the majority of votes cast in the second election shall be deemed elected.

- (D) If there is a tie vote between candidates in any election, the tie shall be resolved by a vote of the Board. If there is a tie after a vote of the Board, the President of the Board may break the tie.
- (E) If, after nominations have closed, there is only one candidate for each seat subject to election, the Board shall declare the candidate or candidates elected without holding an election. If, after nominations have closed, there is no candidate for a seat subject to election or if a candidate receiving a majority of votes cast dies or withdraws after the election but before taking office, the Board shall fill the position by majority vote.
- (7) Each new member shall take office on the first day of his or her term unless the election to the Crematory Authority has not completed by the beginning of the term, in which case the new member shall take office immediately after the election has been completed.
- (8) If a member of the Board is nominated for election to the Crematory Authority and does not withdraw his or her name, he or she shall be disqualified from all matters pertaining to that election, and the remaining members of the Board shall proceed without his or her participation.
- (9) The Board shall keep the voting records required by 21 NCAC 34A .0104 for a period of six months following the election.

History Note: Authority G.S. 90-210.122(c); 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. July 1, 2004;
Temporary Amendment Eff. June 30, 2005;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34C .0102 FORM OF DOCUMENTS

When any provision of Article 13F, Chapter 90, of the North Carolina General Statutes or any rule in this Subchapter requires a crematory or hydrolysis licensee to obtain any death certificate, report, authorization, waiver, statement or other document prior to cremation or hydrolysis, the crematory or hydrolysis licensee may accept the document in the form of the original, a photocopy, or by electronic or facsimile transmission.

History Note: Authority G.S. 90-210.127; 90-210.134(a); 90-210.136(d),(h);
Eff. July 1, 1991;
Amended Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

21 NCAC 34C .0103 APPLICATION FORM FOR CREMATORY OR HYDROLYSIS LICENSE

All applications for a crematory or hydrolysis license shall be made on forms provided by the Board. The application shall state the following information:

- (1) the name of the applicant;
- (2) address;
- (3) type of business entity;
- (4) location of crematory or hydrolysis facility;
- (5) description of crematory or hydrolysis facilities and equipment;
- (6) name and address of each crematory or hydrolysis technician;
- (7) name and address of the crematory or hydrolysis manager; and
- (8) any criminal convictions of the applicant and manager.

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.36(d),(h);
Eff. July 1, 1991;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

21 NCAC 34C .0104 CREMATORY OR HYDROLYSIS LICENSE CERTIFICATE

The Board shall issue each crematory or hydrolysis licensee a certificate to operate a crematory or hydrolysis facility upon a finding that the licensee has complied with the rules of this Chapter.

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.136(d),(h);
Eff. July 1, 1991;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

21 NCAC 34C .0105 CREMATORY OR HYDROLYSIS INSPECTION FORM

History Note: Authority G.S. 90-210.123; 90-210.134(a); 90-210.136(d),(h);
Eff. July 1, 1991;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Repealed Eff. January 1, 2021.

21 NCAC 34C .0106 DEFINITIONS

The following definitions shall apply for purposes of complying with the provisions of Article 13F, Chapter 90, of the North Carolina General Statutes and any rule in this Chapter:

- (1) "Hydrolysis operator" shall have the same meaning as the term "hydrolysis licensee" as defined by G.S. 90-210.136(a)(3).
- (2) "Aquamation" shall have the same meaning as "alkaline hydrolysis" as defined by G.S. 90-210.136(a)(1).
- (3) "Certificate of hydrolysis" means a certificate provided by the hydrolysis manager who performed the hydrolysis that meets the same minimum requirements for a "certificate of cremation" as set forth in G.S. 90-210.121(5).
- (4) "Cremation center" shall have the same meaning as "crematory" or "crematorium" as defined by G.S. 90-210.121(11).
- (5) "Final disposition" of human remains that have been hydrolyzed means the hydrolysis and the ultimate interment, entombment, inurnment, or scattering of the hydrolyzed remains or the return of the hydrolyzed remains by the hydrolysis licensee to the authorizing agent or such agent's designee as provided by Article 13F, Chapter 90, of the North Carolina General Statutes. Upon the written direction of the authorizing agent, hydrolyzed remains may take various forms.
- (6) "Hydrolysis container," as defined by G.S. 90-210.136(a)(2), shall be made of biodegradable material and also shall comply with the provisions of G.S. 90-210.121(9)f.
- (7) "Hydrolysis chamber," "hydrolysis unit," or "hydrolysis vessel" means the enclosed space within which the hydrolysis process occurs. Hydrolysis chambers regulated by Article 13F, Chapter 90, of the North Carolina General Statutes shall be used exclusively for the hydrolysis of human remains.

- (8) "Hydrolyzed remains" means all human remains recovered after the completion of the hydrolysis process, including pulverization, that leaves only bone fragments reduced to unidentifiable dimensions.
- (9) "Hydrolysis facility" or "hydrolysis center" means the building or buildings, or portion of a building or buildings, on a contiguous piece of property that houses the hydrolysis equipment, the holding and processing facilities, the business offices, and any other components of the hydrolysis business.
- (10) "Hydrolysis 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) "Hydrolysis manager" means the person who is responsible for the management and operation of the hydrolysis facility. A hydrolysis manager shall meet the same minimum requirements for a "crematory manager" as set forth in G.S. 90-210.121(13).
- (12) "Hydrolysis society" means any person, firm, corporation, or organization that is affiliated with a hydrolysis licensee licensed under Article 13F, Chapter 90, of the North Carolina General Statutes and provides hydrolysis information to consumers.
- (13) "Hydrolysis technician" means any employee of a hydrolysis licensee who has a certificate confirming that the hydrolysis technician has attended a training course approved by the Board.
- (14) "Resomation" shall have the same meaning as "alkaline hydrolysis" as defined by G.S. 90-210.136(a)(1).

History Note: Authority G.S. 90-210.136;
 Temporary Adoption Eff. May 24, 2019;
 Temporary Adoption Expired Eff. March 13, 2020;
 Readopted Eff. January 1, 2021.

SECTION .0200 - EQUIPMENT AND PROCESSING

21 NCAC 34C .0201 HOLDING FACILITY; CREMATION OR HYDROLYSIS UNIT; PROCESSORS

- (a) Every crematory licensee shall have the following:
 - (1) a holding facility of suitable size to accommodate all human remains which are retained and awaiting cremation;
 - (2) a commercially-manufactured cremation unit, within the crematory facility, made for the cremation of human remains, meeting the following minimum standards:
 - (A) an ash collection pan that is designed for the purpose of removing cremated remains from the cremation unit and to minimize the commingling of cremated remains of one human remains with another;
 - (B) a hearth or floor that has been maintained in accordance with recommended maintenance requirements specified by the machine's manufacturer or other maintenance service representative;
 - (C) a door safety switch to stop the burner operation when the front charging door is opened;
 - (D) a pollution monitoring system to monitor and detect smoke when the density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes; and
 - (E) approval by a testing agency such as Underwriters Laboratory.
 - (3) a commercially-manufactured processor, within the crematory facility, made for the pulverization of cremated or hydrolyzed remains, meeting the following minimum standards:
 - (A) capable of processing cremated or hydrolyzed remains to unidentifiable dimensions;
 - (B) a dust-resistant processing chamber; and
 - (C) an exterior surface made of non-porous, non-corrosive material.
- (b) Every hydrolysis licensee shall have the following:
 - (1) a holding facility of suitable size to accommodate all human remains which are retained and awaiting hydrolysis;
 - (2) a commercially-manufactured hydrolysis unit, within the hydrolysis facility, made for hydrolyzing human remains, and which meets the following minimum standards:

- (A) a collection pan, tray, or other device that is designed for the purpose of removing hydrolyzed remains from the hydrolysis unit and to minimize the commingling of hydrolyzed remains of one human remains with another; and
- (B) approval by a testing company, such as Underwriters Laboratory.
- (3) a commercially-manufactured processor, within the hydrolysis facility, that shall meet the same minimum standards set forth in Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 90-210.121(11); 90-210.129(i),(j), 90-210.124(a); 90-210-136(d),(h); Eff. July 1, 1991; Recodified from Rule .0202 Eff. July 7, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. May 24, 2019; Temporary Amendment Expired Eff. March 13, 2020; Amended Eff. January 1, 2021.

21 NCAC 34C .0202 REFRIGERATION

- (a) Crematory and hydrolysis licensees shall have located on its premises a refrigeration unit that:
 - (1) is capable of storing at least three adult human bodies, each measuring up to seven feet in length and three hundred pounds in weight, in the holding facility;
 - (2) is capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed;
 - (3) has sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units; and
 - (4) has stainless steel, aluminum, or other non-corrosive materials for the remainder of all units.
- (b) A refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule shall satisfy a crematory or hydrolysis licensee's compliance with Paragraph (a) of this Rule if the refrigeration unit is housed in a funeral establishment, crematory, or hydrolysis licensee sharing common ownership with, and located on the same contiguous piece of property as, the crematory or hydrolysis licensee.
- (c) Unembalmed human remains retained in the custody of a crematory or hydrolysis licensee for more than 24 hours prior to cremation or hydrolysis shall be kept in a refrigeration unit. Human remains stored in a refrigeration unit, as set forth in Paragraphs (a) and (c) of this Rule, must be kept in a container that complies with G.S. 90-210.121(9)(a)-(f). The Board shall allow a crematory or hydrolysis licensee to procure and maintain one or more temporary refrigeration units. Any such temporary refrigeration unit must satisfy the requirements set forth in Subparagraphs (a)(1)-(4) of this Rule. Any such temporary refrigeration unit not located inside the crematory shall be kept locked at all times when human remains are stored inside.
- (d) Prior to using a refrigeration unit that is not located on its premises, a crematory or hydrolysis licensee shall provide the Board with a written document that sets forth the following:
 - (1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;
 - (2) the physical address of the property on which the refrigeration unit is located;
 - (3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Subparagraphs (a)(1)-(4) of this Rule;
 - (4) certification from both the manager of the crematory and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule, acknowledging that:
 - (A) the crematory or hydrolysis licensee shall use the refrigeration unit for the storage of human remains;
 - (B) the refrigeration unit complies with Subparagraphs (a)(1)-(4) of this Rule;
 - (C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;
 - (D) the Board inspectors shall have access to the refrigeration unit at all times; and

- (E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-210.25(e)(1)(j).

History Note: Authority G.S. 90-210.121(9),(12); 90-210.123(g); 90-210.134(a); 90-210.136(d),(h);
Eff. July 1, 1991;
Recodified from Rule .0201 Eff. July 7, 1992;
Amended Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021;
Emergency Amendment Eff. February 19, 2021;
Temporary Amendment Eff. May 28, 2021;
Amended Eff. October 1, 2021.

21 NCAC 34C .0203 PULVERIZATION
21 NCAC 34C .0204 CREMATION CONTAINERS

History Note: Authority G.S. 90-210.121(8),(9); 90-210.125(e); 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. January 1, 1995;
Repealed Eff. July 1, 2004.

21 NCAC 34C .0205 LABELS

In addition to the requirements of G.S. 90-210.29A, the crematory or hydrolysis licensee shall attach a typed or printed label to the initial container, urn or other permanent container at the time the cremated or hydrolyzed remains are placed therein. If an inside and outside container are used, then both shall be labelled. The label shall contain the name of the decedent, the date of cremation or hydrolysis, and the name of the crematory or hydrolysis licensee.

History Note: Authority G.S. 90-210.126; 90-210.134(a); 90.210.136(d),(h);
Eff. July 1, 1991;
Amended Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

21 NCAC 34C .0206 CLEANLINESS

All areas of the crematory or hydrolysis licensee facilities devoted to the reception, storage and cremation or hydrolysis of human remains and to the pulverization and delivery of cremated or hydrolyzed remains, and all equipment located therein, shall be kept free of stains, disintegration, debris, and uncontained fluids and subject to inspection by the Board or its agents at all times.

History Note: Authority G.S. 90-210.121(11); 90-210.129(i),(j); 90-210.124(a); 90.210.136(d),(h);
Eff. July 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

**21 NCAC 34C .0207 REMOVAL OF PACEMAKERS OR OTHER IMPLANTED DEVICES;
AUTOPSIED REMAINS; COMMUNICABLE DISEASES**

(a) No person other than an individual who is licensed by the Board as either an embalmer or funeral service licensee shall remove a pacemaker, defibrillator, or any other implanted device or material that must be removed from human remains prior to cremation or hydrolysis as set forth in G.S. 90-210.129(d). Any such device or material that must be removed pursuant to G.S. 90-210.129(d) shall be removed in accordance with the guidelines set by the manufacturer thereof.

(b) No person other than an individual who is licensed by the Board as either an embalmer or funeral service licensee shall handle, treat, or otherwise prepare for cremation or hydrolysis the viscera removed from human remains as the result of an autopsy.

(c) An hydrolysis licensee shall not remove from the outer case required by G.S. 130A-395(b) and 10A NCAC 41A .0212, or to hydrolyze, any decedent who is known or suspected to have been infected with the plague, smallpox, COVID-19, or severe acute respiratory syndrome (SARS), without first obtaining the written consent of the local health director.

*History Note: Authority G.S. 90-210.125; 90-210.129; 90-210.134; 90-210.136(d),(h);
Temporary Adoption Eff. May 24, 2019;
Temporary Adoption Expired Eff. March 13, 2020;
Readopted Eff. January 1, 2021.*

SECTION .0300 - AUTHORIZATIONS, REPORTS, RECORDS

21 NCAC 34C .0301 AUTHORIZATION TO CREMATE

*History Note: Authority G.S. 90-210.124; 90-210.126(a); 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. January 1, 1995;
Repealed Eff. July 1, 2004.*

21 NCAC 34C .0302 WAIVER FORM

All waivers of the waiting period of cremation required by G.S. 90-210.129(e) shall be recorded on forms provided by the Board. The form shall require the official authorized to waive the waiting period for cremation to furnish the statutory basis for the waiver, the signature of the official authorized to waive the waiting period, and any other information the Board deems necessary as required by law.

*History Note: Authority G.S. 90-210.123; 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. August 1, 2004.*

21 NCAC 34C .0303 RECORDS OF CREMATION OR HYDROLYSIS AND DELIVERY

(a) All crematory or hydrolysis licensees shall complete receipts for human remains on Board forms and shall include the following information:

- (1) name of the crematory or hydrolysis licensee;
- (2) first, middle, and last name of the decedent;
- (3) date and time of death;
- (4) date and time the human remains were delivered to the crematory or hydrolysis licensee;
- (5) any affiliation by the person delivering remains with a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2), or crematory;
- (6) any affiliation with the crematory or hydrolysis licensee; and
- (7) first, middle, and last name and signature of the employee or agent of the crematory or hydrolysis licensee who received the human remains.

Every crematory or hydrolysis licensee shall furnish this receipt to the person who delivers the human remains to the crematory or hydrolysis licensee.

(b) All records documenting the release of human remains from a crematory or hydrolysis licensee to the person who receives the cremated or hydrolyzed remains shall be completed on Board forms and shall include the following information:

- (1) name of the crematory or hydrolysis licensee;
- (2) first, middle, and last name of the decedent;
- (3) date and time of release;
- (4) first, middle, and last name of the person who received the cremated or hydrolyzed remains;
- (5) place where cremated or hydrolyzed remains were received;
- (6) any affiliation by the person receiving remains with a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) or other entity; and
- (7) signatures of the person delivering the remains and recipient of remains, and any mailing or handling instructions.

Crematory and hydrolysis licensees must provide evidence by signature or shipping receipt upon delivery of the cremated or hydrolyzed remains.

(c) All records documenting the release of human remains from a funeral establishment or an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) ("unaffiliated practitioner") to the person who receives the cremated or hydrolyzed remains shall be completed on Board forms and shall include the following information:

- (1) name of the funeral establishment or unaffiliated practitioner;
- (2) first, last, and middle name of the decedent;
- (3) date and time of release;
- (4) person to whom the remains were released;
- (5) type of container in which the remains were released;
- (6) signatures of the parties delivering and receiving remains; and
- (7) any shipping or special handling instructions.

Funeral establishments must provide evidence by signature or shipping receipt upon delivery of the cremated or hydrolyzed remains. The provisions of this Paragraph shall not apply when the funeral establishment and crematory or hydrolysis licensee share common ownership and are physically located within one or more buildings on a contiguous piece of property that would qualify the funeral establishment to use "crematory," "crematorium," "cremation center," "hydrolysis facility," or "hydrolysis center" in its operating name; provided, however, that the crematory or hydrolysis licensee shall comply with Paragraphs (a), (b), and (d) or (e) of this Rule.

(d) All records documenting the process of cremation or hydrolysis from the time the remains are received at the crematory or hydrolysis licensee facility until the cremated or hydrolyzed remains are delivered, all crematory or hydrolysis licensees shall keep records on Board forms and shall include the following information:

- (1) first, middle, and last name of the crematory or hydrolysis licensee;
- (2) first, middle, and last name of the decedent;
- (3) description of the cremation or hydrolysis container used;
- (4) time and date the decedent was placed into the cremation or hydrolysis unit;
- (5) first, middle, and last name of person who placed the deceased in the cremation or hydrolysis unit;
- (6) time and date the cremated or hydrolyzed remains were removed from the cremation or hydrolysis unit;
- (7) type of container in which the cremated or hydrolyzed remains were placed;
- (8) time and date the cremated or hydrolyzed remains were processed; and
- (9) first, middle, and last name and signature of the person who processed the cremated or hydrolyzed remains and placed them into a container.

The crematory or hydrolysis licensee shall furnish this information to a funeral establishment, an individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2), authorizing agent, or other person or entity authorized to receive the cremated or hydrolyzed remains from the crematory or hydrolysis licensee.

(e) In lieu of the separate forms required by Paragraphs (a), (b), and (d) of this Rule, a crematory or hydrolysis licensee may use a form prescribed by the Board that combines all information required by Paragraphs (a), (b), and (d) of this Rule.

(f) The crematory or hydrolysis licensee shall retain the completed forms required by this Rule for a period of three years and shall produce all cremation or hydrolysis forms for inspection or copying by the Board or its agents upon request. Unless otherwise permitted by this Rule, the funeral establishment or individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) shall retain a completed copy of each form required by this Rule and shall produce the forms for inspection or copying to the Board or its agents upon request.

History Note: Authority G.S. 90-210.127; 90-210.134(a); 90.210.136(d),(h);

Eff. July 1, 1991;
Amended Eff. September 1, 2009; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

21 NCAC 34C .0304 CREMATION AND DELIVERY FORM

History Note: Authority G.S. 90-210.134(a);
Eff. July 1, 1991;
Repealed Eff. July 1, 2004.

21 NCAC 34C .0305 MONTHLY REPORTS

No later than the tenth day of each month, every crematory licensee shall remit to the Board the per-cremation fees under 21 NCAC 34A .0201(b) for the cremations which the licensee performed during the immediately preceding calendar month. The fees shall be accompanied by a statement signed by an authorized representative of the crematory indicating the name of the crematory, each decedent's name, date of each cremation, the person or other entity for whom each cremation was performed, the number of cremations contained in the report and the total amount of fees remitted with the report.

History Note: Authority G.S. 90-210.132; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. February 1, 2009; July 1, 2004.

21 NCAC 34C .0306 RETENTION OF RECORDS

A copy of all death certificates, cremation or hydrolysis authorizations, waivers, statements, reports and other documents required by G.S. 90-210.120 through G.S. 90-210.134 and by the rules in this Subchapter shall be retained by the crematory or hydrolysis licensee and the funeral establishment or individual licensed to practice funeral service under the provisions of G.S. 90-210.25(a2)(2) for a period of three years and shall, during that period, be subject to inspection by the Board or its agents.

History Note: Authority G.S. 90-210.127; 90-210.134(a); 90.210.136(d),(h);
Eff. July 1, 1991;
Amended Eff. January 1, 2009; July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021.

SUBCHAPTER 34D - PRENEED FUNERAL CONTRACTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 34D .0101 APPROVAL OF CONTRACT FORMS

All preneed funeral contracts shall be transacted on forms prescribed by the Board. The Board may prescribe different forms for standard or inflation-proof contracts or for trust or insurance contracts. Each preneed funeral contract form shall contain the following information:

- (1) Is written in clear, understandable language and is printed in easy-to-read type, size and style on paper not larger than 8 1/2 by 14 inches, with printing on both sides permitted.
- (2) States or provides space for inserting the name, address and preneed funeral establishment license number of the contracting funeral establishment.

- (3) Provides space for inserting the names, addresses and Social Security numbers of the purchaser and contract beneficiary.
- (4) States that a description of the merchandise and services purchased is attached to the seller's and purchaser's copies of the contract and is a part of the agreement. The attachment shall be a form provided by the Board satisfying the requirements of a "statement of goods and services selected" as described in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- (5) Discloses any penalties or restrictions, including geographical restrictions, on the delivery of merchandise and services.
- (6) States whether it is a standard or inflation-proof contract and summarizes, consistent with North Carolina law, the incidents of such type of contract.
- (7) Provides space for inserting the financial transaction.
- (8) Provides space for the purchaser to indicate, by the purchaser's signature or initials, the following:
 - (a) The purchaser's choice of trust-funded or insurance-funded contract.
 - (b) That the purchaser acknowledges that the funeral establishment will retain, and not deposit in trust, a stated percentage (not more than 10%) of the purchaser's payments.
 - (c) The purchaser's choice of revocable or irrevocable contract.
 - (d) That the purchaser acknowledges that the sale was made at the funeral establishment's place of business, so as to negate the cancellation rights connected with an off-premises sale.
- (9) Contains notice, in bold type, of the purchaser's right to cancel an off-premises sale.
- (10) Contains notice, in bold type, that if the purchaser does not receive notification from the Board, within 30 days, that it has received a copy of the contract, the purchaser should notify the Board at its current, stated address and telephone number.
- (11) Explains the parties' rights and obligations, consistent with North Carolina law, with respect to contract revocation, default, the funeral establishment's retention of a portion of the purchase price free of the trust, and the substitution of funeral homes to perform the contract.
- (12) Contains a notice of the existence of the Board's preneed recovery fund.
- (13) Contains, or refers to an attachment containing, all funeral sales disclosures to consumers as required by federal and North Carolina law.
- (14) Provides spaces for the signatures of the parties to the contract, including the signature and preneed sales license number of the preneed sales licensee who sold the contract. The following shall appear, in bold type, beneath the signature of the preneed sales licensee: "Signed and preneed sales license number affixed in presence of Purchaser at time of sale."
- (15) Any other information the Board deems necessary and is required by law.

History Note: Authority G.S. 90-210.62(b); 90-210.69(a),(c)(6);
 Eff. July 1, 1993;
 Amended Eff. January 1, 2009; August 1, 1998;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0102 REFUND OF CONTRACT FEES

The preneed funeral contract fee, paid as required by G.S. 90-210.67(d), shall be refunded by the Board to the payor only in the event that, because the insurance company refuses to insure the proposed preneed funeral contract beneficiary, the preneed funeral contract does not become binding.

History Note: Authority G.S. 90-210.69(a);
 Eff. May 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0103 INSURANCE-FUNDED CONTRACTS

A "preneed funeral contract," as defined in G.S. 90-210.60(5), is created when any person, partnership, corporation or association of individuals engaged in the business of providing funeral services or merchandise is named, with knowledge of being named, as a revocable or irrevocable beneficiary or co-beneficiary or assignee of a "prearrangement insurance policy," as defined in G.S. 90-210.60(4), regardless of whether specific funeral services

or merchandise is selected. This example does not preclude the creation of insurance-funded preneed funeral contracts pursuant to other facts.

History Note: Authority G.S. 90-210.69(a);
Eff. May 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0104 INDICATION OF APPROVAL OF FORMS

History Note: Authority G.S. 90-210.69(a); 90-210.62(b);
Eff. August 2, 1993;
Repealed Eff. November 1, 2004.

21 NCAC 34D .0105 CONTRACT COPIES TO BE FILED

Within 10 days following the sale of a preneed funeral contract, any person selling the contract shall send a copy of it to the Board, accompanying the fee required by G.S. 90-210.67(d).

History Note: Authority G.S. 90-210.69(a); 90-210.62(b); 90-210.67(d); 90-210.68(a);
Eff. August 2, 1993.

21 NCAC 34D .0106 TRANSFER OF TRUST PRENEED CONTRACTS TO ANOTHER JURISDICTION

(a) In order to revoke a preneed funeral contract under G.S. 90-210.65(e)(1), the preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall submit a written request to the Board. The request shall contain a written request to transfer the contract; the domicile of the preneed contract beneficiary at the time of the request; the mailing address of the requesting party, if different from the domicile of the preneed contract beneficiary; and a copy of the new preneed contract executed under the laws of the state of the preneed contract beneficiary's domicile.

(b) Upon finding that the contract may be revoked under G.S. 90-210.65(e)(1), the Board shall order the contract revoked and the funds be transferred to the succeeding funeral establishment under G.S. 90-210.63. A copy of the Board's order shall be served on the preneed contract beneficiary, the contracting funeral establishment, and the financial institution or insurance company holding the preneed funeral funds.

History Note: Authority G.S. 90-210.65(e)(1); 90-210.69(a);
Eff. January 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0200 – LICENSING

21 NCAC 34D .0201 PRENEED FUNERAL ESTABLISHMENT LICENSE

(a) A funeral establishment wishing to apply for a preneed funeral establishment license shall complete a form provided by the Board. The applicant shall submit, in addition to the information required by G.S. 90-210.67, the following information:

- (1) its funeral establishment permit number issued pursuant to G.S. 90-210.25(d);
- (2) type of business entity;
- (3) whether it is authorized to transact business in North Carolina;
- (4) whether it is solvent;
- (5) whether there exist unsatisfied civil judgments against the applicant and copies of any;
- (6) whether the applicant or any of its principals has been denied a license to engage in an occupation or had a license suspended, revoked or placed on probation;
- (7) whether any principal has been convicted of a crime involving fraud or moral turpitude;
- (8) for all applicants required to maintain a surety bond, evidence that the bond is in effect at the time of application; and
- (9) any other information deemed necessary by the Board and required by law.

- (b) The Board may require an applicant to submit additional proof to satisfy the requirements of G.S. 90-210.67.
- (c) The applicant shall submit, with its application, the names, preneed sales license numbers and telephone numbers of all preneed sales licensees who will sell preneed funeral contracts as employees or agents of the applicant. Any additions to or deletions from the list of names shall be reported to the Board, within 10 days of the change, as an amended application on an application form.
- (d) The same Board form shall be used for the original application, annual renewal application and amended application. All applications shall be verified as correct before a notary public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed establishment.
- (e) Preneed funeral establishment licenses shall not be transferable. Upon a transfer of ownership of a funeral establishment, the provisions of 21 NCAC 34B .0605 apply, and a new application for a preneed funeral establishment license shall be made to the Board within 30 days of the transfer. The application fee shall accompany the application, as in the case of initial applications.
- (f) The license certificate shall be conspicuously displayed in the funeral establishment at the address to which it is issued.

*History Note: Authority G.S. 90-210.67(a),(b); 90-210.69(a);
Eff. May 1, 1993;
Amended Eff. February 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

21 NCAC 34D .0202 PRENEED SALES LICENSE

- (a) Individuals who hold either an active funeral director's license or an active funeral service license issued by the Board and who have taken three or more hours of continuing education on preneed statutes and rules taught by Board staff within the preceding three calendar years are eligible for initial licensure as a preneed sales license upon application by a funeral establishment holding an active preneed establishment permit, as set forth in Paragraph (d) of this Rule.
- (b) Only individuals who hold an active preneed sales license issued by the Board or resident trainees in funeral service or funeral directing registered with the Board as allowed by 21 NCAC 34B .0103 are permitted to engage in the following preneed funeral planning activities:
 - (1) discuss with consumers written materials, including price lists and photographs, descriptive of the funeral services, funeral merchandise, the preneed funeral plan, or funeral contract being offered;
 - (2) explain the various types of funeral ceremonies and services and the qualities and characteristics of various kinds of funeral merchandise;
 - (3) sell, on a preneed basis, funeral services and merchandise;
 - (4) record, on any form or otherwise, specific items of funeral services and merchandise selected on a preneed basis;
 - (5) make funeral arrangements on a preneed basis; and
 - (6) sign preneed contracts; provided, however, that the resident trainee and his or her licensed supervisor comply with 21 NCAC 34B .0103(e) when doing so.
- (c) No preneed sales license is required for the sale of an insurance policy for which no funeral establishment or its representative is listed as the beneficiary or assignee of said policy. In connection with such a sale, the salesperson shall not be deemed to have engaged in preneed funeral planning if the salesperson shows only price lists of funeral services and merchandise to permit a prospective purchaser to make an informed decision as to the amount of insurance desired.
- (d) An applicant shall apply for, renew, or surrender a preneed sales license in accordance with the following provisions:
 - (1) A funeral establishment holding an active preneed establishment permit shall apply for, or renew, a preneed sales license by submitting the following to the Board on behalf of the applicant for a preneed sales license:
 - (A) the applicant's name, address, email address, and telephone number;
 - (B) the applicant's funeral director's or funeral service license number;
 - (C) the name, address, and preneed establishment permit number of the preneed funeral establishment licensee or licensees on whose behalf the applicant will sell preneed funeral contracts;

- (D) the applicant's employment or agency relationship with the preneed establishment licensee or licensees;
 - (E) the initial or renewal application fee required by 21 NCAC 34A .0201(c) for each preneed sales licensee;
 - (F) the date on which the applicant has taken the continuing education course required by Paragraph (a) of this Rule; and
 - (G) the applicant's signature and attestation that he or she has read and will comply with the statutes and rules governing the practice of preneed funeral service.
- (2) Either the preneed sales licensee or the preneed funeral establishment on whose behalf the preneed sales licensee is engaged in preneed funeral planning activities may surrender a preneed sales license by submitting notification of such surrender in writing to the Board.
- (e) If a preneed sales licensee proposes to engage in preneed funeral planning activities on behalf of multiple preneed funeral establishment licensees that are not wholly owned by or affiliated with common ownership, the preneed sales licensee shall submit the following to the Board:
- (1) the date on which the preneed sales licensee will begin engaging in preneed funeral planning activities for multiple preneed funeral establishment licensees;
 - (2) the date on which the preneed sales licensee will stop engaging in preneed funeral planning activities for multiple preneed funeral establishment licensees, if known;
 - (3) the name, license number, and signature of the preneed sales licensee;
 - (4) the name and signature of the licensed manager of each preneed funeral establishment licensee for whom the preneed sales licensee will engage in preneed funeral planning activities; and
 - (5) an attestation from each of the individuals identified in Subparagraphs (3) and (4) of this Paragraph that:
 - (A) he or she consents to the preneed sales licensee engaging in preneed funeral planning activities on behalf of the identified preneed funeral establishment licensees; and
 - (B) the preneed sales licensee and the preneed funeral establishment licensee on whose behalf the preneed funeral planning activities are to be conducted shall comply with the statutes and rules governing preneed funeral planning activities.
- (f) The Board shall issue to each preneed sales licensee a pocket card as certification of the preneed sales license. The preneed sales licensee shall carry the card while engaging in preneed funeral planning.
- (g) The preneed sales licensee shall sign and affix his or her preneed sales license number to each preneed funeral contract, which he or she sells, in the presence of the purchaser of the contract at the time of sale.

History Note: Authority G.S. 90-210.25(a)(4); 90-210.60(8); 90-210.67(a),(c); 90-210.69(a), (c); Eff. July 1, 1993; Amended Eff. January 1, 1996; June 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Amended Eff. January 1, 2023.

21 NCAC 34D .0203 SURETY BONDS

- (a) Any applicant for a new preneed funeral establishment license or any preneed licensee required to maintain a surety bond under G.S. 90-210.67(b) shall submit a copy of the bond with its initial application and with each renewal application. The bond shall cover all insurance premiums paid under a preneed insurance policy and all trust payments under a preneed funeral trust. The bond shall name the Board as trustee and shall be issued by a bonding company licensed to do business in this State. The Board shall recognize all surety bond forms approved by the N.C. Department of Insurance.
- (b) Any preneed establishment licensee required to obtain a bond may petition the Board to repeal the requirement one year after obtaining the bond. The preneed establishment licensee shall establish that the firm is solvent. For purposes of this paragraph, solvency shall be defined as assets in excess of liabilities; provided, however, that goodwill shall not be considered an asset and that unperformed preneed funeral contracts shall be treated as both an asset and a liability of equal value. A preneed establishment may demonstrate solvency by submitting a balance sheet prepared by a certified public accountant that is no more than 90 days old or through other financial evidence generally recognized as valid by certified public accountants.

(c) All petitions must be filed on a form provided by the Board. The petition form shall be verified before a notary public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed establishment and shall require the petitioner to furnish the following information:

- (1) the name of the preneed establishment;
- (2) certifications that the firm is solvent, has no unsatisfied civil judgments against it, and has not paid a claim on the bond; and
- (3) any other information that the Board deems necessary to determine solvency or to process the petition and that is required by law.

History Note: Authority G.S. 90-210.67(b); 90-210.69(a);
Eff. October 1, 2010.

SECTION .0300 - OPERATIONS

21 NCAC 34D .0301 RECORD AND BOOKKEEPING REQUIREMENTS

(a) Each preneed funeral establishment licensee shall maintain a file containing:

- (1) a copy of each of its license applications, including applications for license renewals;
- (2) copies of all preneed examination reports; and
- (3) copies of all annual reports to the Board.

(b) Each such licensee shall maintain files containing all preneed funeral contracts purchased. The files shall be maintained separately for outstanding contracts and for matured or cancelled contracts. The outstanding contract file shall include a copy of each preneed contract filed alphabetically or numerically. The matured or cancelled contract file shall contain a copy of each preneed contract, together with a copy of the certificate of performance, the preneed statement of funeral goods and services and the at-need statement of funeral goods and services, and shall be filed either chronologically or alphabetically by year.

(c) Each such licensee shall maintain the following records:

- (1) a contract register listing the purchaser's name and final disposition of the contract;
- (2) a separate cash journal or separate cash receipt book designated for preneed, showing all preneed payments collected;
- (3) an individual ledger for each contract purchaser showing the purchaser's and beneficiary's names, amount of the contract, amount paid on the contract, amount retained free of trust pursuant to G.S. 90-210.61(a)(2), deposits to trust, withdrawals from trust as permitted by law and the reasons therefor, interest on deposits, total amount of the trust, and amounts paid to insurance companies for insurance-funded contracts;
- (4) copies of bank statements and deposit slips from financial institutions in which trust funds are deposited, certificate of deposit records, including both principal and interest transactions and trust accountings; and
- (5) copies of applications for insurance, insurance policies, beneficiary designation documents and instruments of assignment.

(d) When two or more preneed funeral establishment licensees are wholly owned by the same entity, all of the copies and records required to be maintained by Paragraphs (a) and (b) of this Rule may be maintained at one address of the licensee, or they may be divided among and maintained at various addresses of the licensees, in their discretion.

(e) The copies required to be maintained by Paragraph (a) of this Rule shall be retained a minimum of ten years following their origination. The copies and records required to be maintained by Paragraphs (b) and (c) of this Rule shall be retained a minimum of ten years following the substitution of a different funeral establishment to perform the preneed funeral contract, the revocation of the preneed funeral contract or the death of the contract beneficiary, whichever occurs first.

(f) Individual ledgers and records of the depository financial institutions shall be balanced at least annually to ensure accuracy.

History Note: Authority G.S. 90-210.68(a); 90-210.69(a);
Eff. May 1, 1993;
Amended Eff. November 1, 2004; January 1, 1996; August 2, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0302 ANNUAL REPORT

Each preneed funeral establishment licensee shall file an annual report with the Board. The report shall include the following:

- (1) the total number of standard and inflation-proof trust-funded and insurance-funded preneed funeral contracts maintained by the licensee;
- (2) the number of contracts sold in the reporting period;
- (3) the number of contracts that expired, including contracts performed, revoked and transferred, in the reporting period;
- (4) the total year-end balance of all preneed trust accounts maintained at each financial institution;
- (5) the total year-end balance of all insurance-funded preneed contracts written with each insurance company;
- (6) for each preneed contract sold, whether the preneed contract is active, performed, cancelled, or lapsed; and
- (7) for each active preneed contract, the current insurance policy value or trust account balance.

The annual report shall be certified as correct by the location manager registered under G.S. 90-210.25(d)(2)a. or by a corporate officer of the preneed establishment licensee. The annual report shall be filed not later than March 31 each year by each firm holding a preneed establishment license at any time during the preceding year ending December 31.

History Note: Authority G.S. 90-210.69(a); 90-210.68(a);
Eff. May 1, 1993;
Amended Eff. September 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. October 1, 2021.

21 NCAC 34D .0303 CERTIFICATE OF PERFORMANCE

(a) The certificate of performance as required by G.S. 90-210.64(a) shall be a form provided by the Board and shall require the following information: the names, addresses and preneed funeral establishment license numbers of the performing funeral establishment and the contracting funeral establishment; the name of the deceased beneficiary of the preneed funeral contract; the date of death and the county where the death certificate was or will be filed; the invoice amount; certification that the contract was or was not performed in whole or in part; the name and address of the financial institution where the preneed trust funds are deposited and the trust account or certificate number; the name and address of the insurance company that issued the prearrangement insurance policy and the policy number; and the amount and the date of the payment by the financial institution or insurance company and to whom paid.

(b) The form shall be completed by each funeral establishment performing any services or providing any merchandise pursuant to the preneed funeral contract, or, if none are performed or provided, by the contracting funeral establishment. The form shall be presented to the financial institution or insurance company for payment. Within 10 days following its receipt of payment, any funeral establishment that is required to complete the form shall file a copy with the Board.

History Note: Authority G.S. 90-210.64(a); 90-210.68; 90-210.69(a);
Eff. May 1, 1993;
Amended Eff. February 1, 2009; November 1, 2004; August 1, 1998; November 1, 1994.

21 NCAC 34D .0304 TRANSFER OF TRUST FUNDS

When, pursuant to G.S. 90-210.68(b), a preneed licensee directs a transfer of preneed funds to a substitute financial institution, the financial institution which is a party to the preneed funeral contract shall make the transfer directly and solely to the substitute financial institution and not mediately to the preneed licensee. The notification to the Board as required by G.S. 90-210.68(b) shall be made on a form provided by the Board, which shall indicate the transfer of the funds by the financial institution and their acceptance by the substitute financial institution and the agreement of the substitute financial institution to be bound by the preneed funeral contract and, if the contract is revocable, certification that the licensee has notified the purchaser of the intended transfer.

History Note: Authority G.S. 90-210.69(a); 90-210.68(b);

Eff. May 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0400 - PRENEED RECOVERY FUND

21 NCAC 34D .0401 DEFINITIONS

For the purposes of this section, the following definitions shall apply:

- (1) "Fund" shall mean the preneed recovery fund as established by G.S. 90-210.66.
- (2) "Applicant" shall mean a person who has suffered a reimbursable loss pursuant to G.S. 90-210.66.
- (3) "Reimbursable losses" are only those losses of money which meet the requirements of G.S. 90-210.66 and in which, as determined by the Board, the applicant has exhausted all viable means to collect the applicant's losses and has complied with this section. Reimbursable losses shall not include losses of spouses, children, parents, grandparents, siblings, partners, associates, employers and employees of the person or business entity causing the losses.

History Note: Authority G.S. 90-210.69(a); 90-210.66(c), (d), (f), (g);
Eff. May 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0402 APPLICATION FOR REIMBURSEMENT

(a) The Board shall furnish a form of application for reimbursement which shall require the following information:

- (1) The name and address of the applicant.
- (2) The name and address of the licensee under G.S. 90, Article 13D, who caused the alleged loss.
- (3) The amount of the alleged loss for which application for reimbursement is made.
- (4) A copy of any preneed funeral contract which was the basis of the alleged loss.
- (5) The date or period of time during which the loss was incurred.
- (6) A statement of facts relative to the application.
- (7) All supporting documents, including copies of court proceedings and other papers indicating the efforts of the applicant to obtain reimbursement from the licensee, insurance companies or others.
- (8) A documentation of any receipt of funds in partial payment of the loss.
- (9) Any other information the Board deems necessary as required by law.

(b) The application form shall contain the following statement in boldface type: "The North Carolina General Assembly in G.S. 90-210.66 established the preneed recovery fund and directed the North Carolina Board of Funeral Service to provide for its funding and administration. The establishment of the fund did not create or acknowledge any legal responsibility on the part of the Board for the acts, or failure to act, of persons, firms or corporations licensed by it. All reimbursements of losses from the fund shall be a matter of privilege in the sole discretion of the Board and not a matter of right. No applicant or member of the public shall have any right in the fund as a third-party beneficiary or otherwise."

(c) An application shall be filed in the office of the Board.

History Note: Authority G.S. 90-210.66(a), (c), (d), (f), (g); 90-210.69(a);
Eff. May 1, 1993;
Amended Eff. November 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0403 PROCESSING APPLICATIONS

(a) The Board in making investigation of all applications filed for reimbursement from the preneed recovery fund may require the attendance of and examine under oath all persons, including the alleged defalcating licensee, whose testimony it may require. A determination of the application shall be made by a majority vote of those present at a Board meeting at which a quorum is present. The Board may afford the applicant a reconsideration of the application; otherwise, a rejection is final, and no further consideration shall be given by the Board to the application or to another application based upon the same alleged facts.

(b) The Board shall determine the amount of loss, if any, for which the applicant shall be reimbursed from the fund. In making such determination, the Board's considerations shall include:

- (1) The negligence, if any, of the applicant which contributed to the loss.
- (2) The hardship which the applicant suffered because of the loss.
- (3) The total amount of reimbursable losses of applicants on account of any one licensee or association of licensees.
- (4) The total amount of previous reimbursable losses for which total reimbursement has not been made and the total assets of the fund.
- (5) The total amount of insurance available to compensate the applicant for the loss.

(c) The Board may allow further reimbursements in cases in which a loss has not been fully reimbursed.

(d) Before receiving a payment from the fund, the person who is to receive such payment or his or her legal representative shall execute and deliver to the Board a written agreement stating that in the event the reimbursed applicant or his or her estate ever receives any restitution from the licensee or from any other source, the reimbursed applicant or his or her estate shall repay the fund the restitution received or the amount of reimbursement from the fund, whichever is less.

History Note: Authority G.S. 90-210.66(a), (c), (d), (g); 90-210.69(a);
Eff. May 1, 1993;
Amended Eff. November 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

21 NCAC 34D .0404 SUBROGATION

In pursuing a subrogation claim as authorized by G.S. 90-210.66(h), the Board may require the reimbursed applicant to execute a subrogation agreement, providing for, among other things, that the action may be brought in the name of the applicant. Upon commencement of an action by the Board pursuant to its subrogation rights, it shall notify the reimbursed applicant at his or her last known address in order that the applicant may join in the action if desired. Any amounts recovered by the Board in excess of the amount to which the fund is subrogated, less the Board's actual costs of recovery, shall be paid to or retained by the reimbursed applicant as the case may be.

History Note: Authority G.S. 90-210.69(a); 90-210.66(d);
Eff. May 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.