

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0110

DEADLINE FOR RECEIPT: Thursday, October 8, 2020

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

So that I'm clear – G.S. 90-210.23(e) states:

e. All registered resident trainees shall electronically report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The Board may set and collect a late fee not to exceed fifty dollars (\$50.00) for each work report filed after the date the report is due. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:

1. For funeral director trainees, the conduct of any funerals during the relevant time period,
2. For embalming trainees, the embalming of any bodies during the relevant time period,
3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.

Is this Rule requiring the submission of two separate forms to accomplish this mandate?

In (a), line 4, what is an "active" resident trainee?

On lines 4 and 6, where you refer to a "report" should this be a "work report" to be consistent with the rest of the Rule?

On lines 4 and 36, I take it the contents of the forms are what are set forth in (a)(1) through (7) and (d)(1) through (5)?

In (a)(3), line 19, since you've already established on line 5 that this is a report for the preceding month, consider stating "hours worked during that month"

In (a)(5), line 21, what do you mean by "description"?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 24, 2020

In (b), line 27, what is an “incomplete” report or a report that is “not complete”? One that does not contain the information required by (a)(1) through (7)? Will this also include the information required by the report in (d)?

On line 27, as well as in (c), line 30, consider replacing “date on which it is due” with “due date”

In (c), line 30, I recommend deleting “Additionally” and just stating “Following”

And so that I’m clear – the Board will only have issues with untimely reports, as opposed to missed reports or incomplete reports?

On lines 33-34, you are stating you will revoke the traineeship. However, G.S. 90-210.23(g) states:

g. The Board may suspend, revoke, or refuse to issue or renew a certificate of resident traineeship for violation of any provision of this Article or place a trainee on probation for any violation of this Article or rules adopted by the Board. The Board may determine the length of any suspension, revocation, refusal to issue or renew, or probation and impose conditions on probation and reinstatement as the Board deems appropriate.

The way that I read the law is to state that while the Board can place a trainee on probation for violation of a Board rule, it can only revoke the certificate for violation of a statute. What authority are you relying upon for this sentence?

In (d), line 35, consider replacing “must” with “shall”

In (d)(2), Page 2, line 1, replace “on which” with “when”

In (e), line 5, consider replacing “must” with “shall”.

In (f), line 6, replace “must” with “shall”

I suggest making (f) into two sentences. End the first sentence on line 7 after “Board.” Then state “During this time, the reports and information shall be...”

In the History Note, please separate the serial citations with semicolons, so it reads “G.S. 90-210.23(a); 90-210.23(d); 90-210.23(f); ...”

And why are you citing to G.S. 90-210.67 and 210.69?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 24, 2020

21 NCAC 34B .0110 is amended as published in 34:24 NCR 2383-2384 as follows:

21 NCAC 34B .0110 ~~REPORTS ON WORK~~ REPORTS AND CHECKLISTS

~~(a) The Active resident trainee trainees shall submit a report to the Board every month on a form provided by the Board. Board no later than the 10th day of the calendar month that immediately follows the month during which the work was performed. On the report, the resident trainee shall provide: The resident trainee shall furnish the name of the trainee; the reporting period for the work report; the name and address of the funeral establishment where the resident trainee is serving; a description of the work performed during the preceding month; and any other information the Board deems necessary as required by law. The form shall be signed by the resident trainee and must be certified as correct by the licensee under whom the trainee served during the period and by the manager of the funeral establishment. The names of the deceased persons, and the names of the purchasers of preneed funeral contracts, on whose cases the trainee assisted and reported during traineeship must be retained by the trainee until his traineeship requirement has been fulfilled, and during such time such information shall be subject to inspection by the Board or its authorized agent. Such reports must be filed in the office of the Board not later than the 10th day of the calendar month which immediately follows the completion of each one month period of resident traineeship. Failure to submit such reports when due shall be sufficient cause for suspension or revocation of the certificate of resident traineeship.~~

(1) The trainee's name and signature;

(2) The month during which the work was performed;

(3) The number of hours worked during the preceding month;

(4) The name and address of the funeral establishment where the resident trainee is working;

(5) A description of the work performed during the preceding 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 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 date on which it is due 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 date on which it is due. Additionally, 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 must 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;

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

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

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

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10 *History Note: Authority G.S. 90-210.23(a),(d),(f); 90-210.25(a)(4)e.,(4)g; 90-210.67(a); 90-210.69(a);*
11 *Eff. February 1, 1976;*
12 *Readopted Eff. September 27, 1977;*
13 *Amended Eff. November 1, 2004; June 1, 1994; August 1, 1988; September 1, 1979;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
15 *~~2017.~~ 2017;*
16 *Amended Eff. November 1, 2020.*