

21 NCAC 34A .0201 is readopted as published in 33:20 NCR 2056 as follows:

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 ~~crematories~~ crematory and hydrolysis licensees shall be as follows:

1	License	
2	Application	\$400.00
3	Annual renewal	\$150.00
4	Late renewal fee	\$ 75.00
5	Crematory <u>or hydrolysis</u> reinspection fee	\$100.00
6	Per-cremation <u>or per hydrolysis</u> fee	\$ 10.00
7	Late filing or payment fee for each cremation <u>or hydrolysis</u>	\$ 10.00
8	Late filing fee for cremation <u>or hydrolysis</u> report, per month	\$ 75.00
9	Crematory <u>or Hydrolysis</u> Manager Permit	
10	Application	\$150.00
11	Annual renewal	\$ 40.00
12	(c) Fees for preneed funeral contract regulation shall be as follows:	
13	Preneed funeral establishment license	
14	Application	\$150.00
15	Annual renewal	\$150.00
16	Late renewal fee	\$100.00
17	Reinspection fee	\$100.00
18	Preneed sales license	
19	Application	\$ 20.00
20	Annual renewal	\$ 20.00
21	Late renewal fee	\$ 25.00
22	Preneed contract filings	
23	Filing fee for each contract	\$ 20.00
24	Late filing or payment fee for each contract	\$ 25.00
25	Late filing fee for each certificate of performance	\$ 25.00
26	Late filing fee for annual report	\$150.00
27	(d) Fees for Transportation Permits <u>shall be as follows:</u>	
28	Application	\$125.00
29	Annual renewal	\$ 75.00
30	Late fee	\$ 50.00

31 (e) All fees remitted to the Board are non-refundable.

32

33 *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-*

34 *210.132*

35 *Eff. September 1, 1979;*

36 *Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;*

37 *Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;*

1 *Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;*
2 *Temporary Amendment Eff. October 1, 1997;*
3 *Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;*
4 *Readopted Eff. December 1, 2019.*

Burgos, Alexander N

Subject: FW: [External] Withdrawal of Rules

From: Amy Mauldin <AMauldin@ncbfs.org>
Sent: Tuesday, October 22, 2019 5:04 PM
To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>
Cc: Stephen E. Davis <sdavis@ncbfs.org>
Subject: [External] Withdrawal of Rules

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Amanda,

We would like to withdraw the following Rules and resubmit them at a later date:

21 NCAC 34B.0310
21 NCAC 34C.0305
21 NCAC 34D.0105
21 NCAC 34D.0203
21 NCAC 34D.0303

If you have any questions, please do not hesitate to contact me.

Thanks,

Amy D. Mauldin
Assistant Director
NC Board of Funeral Service
1033 Wade Avenue, Suite 108
Raleigh, NC 27605
www.ncbfs.org
Phone: (919) 743-5646
Fax: (919) 733-8271

Electronic messages sent to or from this account may be subject to public inspection and copying under Chapter 132 of the N.C. General Statutes. Opinions expressed by Board Staff in this correspondence or any attachments herto have not necessarily been reviewed, approved, or otherwise adopted by the Board, nor are they binding upon the Board. The purpose of such opinions is to help licensees of the Board comply with the Board's laws and rules, based solely on the facts provided by Board Staff. Please be advised that these opinions are subject to change. If you disagree with the Board Staff's opinion, you may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the N.C. General Statutes.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 17, 2019

Stephen Davis, Rulemaking Coordinator
Board of Funeral Service

Sent via email only: sdavis@ncfbs.org

Re: Objection to Rule 21 NCAC 34A .0201

Extension of the Period of Review of 21 NCAC 34B .0310; 34C .0305; 34D .0105, .0203, and .0303

Dear Mr. Davis:

At its meeting today, the Rules Review Commission objected to Rule 21 NCAC 34A .0201 in accordance with G.S. 150B-21.10 for failure to comply with the Administrative Procedure Act and ambiguity. Specifically, the Commission found that the agency erroneously published in the NC Register an incorrect version of the Rule that would increase fees without giving adequate notice of the change. Further, as the agency filed two different versions of the Rule for review, it is unclear what changes were intended within this Rule.

Please respond to the objection in accordance with the provisions of G.S. 150B-21.12.

In addition, the Rules Review Commission extended the period of review for 21 NCAC 34B .0310; 34C .0305; and 34D .0105, .0203, and .0303 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the Requests for Technical Changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

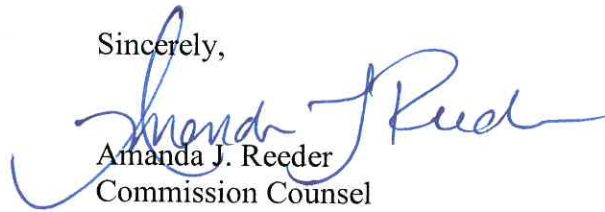
Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amanda J. Reeder", is written over the typed name and title.

Amanda J. Reeder
Commission Counsel

cc: Amy Maudlin, Board of Funeral Service

Burgos, Alexander N

Subject: FW: [External] Rules

From: Amy Mauldin <AMauldin@ncbfs.org>
Sent: Tuesday, October 15, 2019 11:03 AM
To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>
Cc: Stephen E. Davis <sdavis@ncbfs.org>
Subject: RE: [External] Rules

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Amanda – thank you so much for your help this morning.

We would like to request an extension for all of our Rules with the exception of 21 NCAC 34A.0201.

Please let me know if you need anything further.

Sincerely,

Amy D. Mauldin
Assistant Director
NC Board of Funeral Service
1033 Wade Avenue, Suite 108
Raleigh, NC 27605
www.ncbfs.org
Phone: (919) 743-5646
Fax: (919) 733-8271

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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34A .0201

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☒ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for failure to comply with the APA, as it appears that the agency proposed to increase the fees in Subparagraphs (c) relating to preneed sales license applications and annual renewal post-publication in the NC Register. Staff is also concerned that the Notice of Text was not sufficient to inform the regulated public that other existing fees in the Rule were being increased. Further, based upon the different texts of the Rule presented for RRC review, it is unclear exactly what fees the agency proposes to charge.

This Rule is a readoption; the agency was required to readopt by September 30, 2019 and it did so. As part of the readoption process, the agency published this Rule in the April 15, 2019 NC Register. At that time, the agency stated in its Notice of Text (attached on Page 7 of this rollup):

It should be noted that, although substantive changes are proposed to 21 NCAC 34A .0201 – Fees AND OTHER PAYMENTS, these changes do not alter the existing fee amounts, but rather simply update existing fee structures to reflect the licensing of hydrolysis facilities and operators, as authorized by House Bill 529, codified as G.S. 90-210.136.

The Rule as published in the Register did not show any changes to the fees charged in the Rule. It simply added a reference to Hydrolysis in Paragraph (b) and that the fees were nonrefundable in Paragraph (e). However, when staff reviewed this Rule, staff realized that the agency had made changes to the fees without showing them as being changed in the Register publication. For example, as currently codified, the fee for an application for an establishment permit is \$250. (See

Amanda J. Reeder
Commission Counsel

the current rule on Page 3 of this rollup). However, as published in the Register, the agency stated that it was \$350 and did not show this increase as a change. When the Rule was filed for RRC review, the electronic version of the Rule showed a change from \$250 to \$350. The physical version of the Rule did not show a change, and stated the fee is \$250. (Copies of the physical and electronic versions of the Rule as submitted for RRC review are attached to Pages 9 and 12 of this rollup.) Because different versions of the same rule were submitted, it is unclear what the agency is proposing to charge, and therefore, staff believes this Rule is ambiguous as submitted.

Staff has concerns that the Notice of Text's statement that the fees were not being changed in this readoption did not give the regulated public sufficient notice that the fees were possibly being increased, depending upon the version of the Rule submitted by the Board it is intending to have become effective.

In addition, in the electronic copy of the Rule filed with RRC for review, after publication, the agency increased the fees for the application and annual renewal of preneed sales licenses from \$20 to \$30 each. Staff notes that pursuant to G.S. 90-210.67(c), the fee can be up to \$50 each, so staff is not concerned regarding the statutory authority for the amount. However, staff believes that increasing these fees by \$10 post-publication is a substantial change pursuant to G.S. 150B-21.2(h).

Please note, staff does not dispute that the agency has statutory authority to increase the fees to the levels proposed in the different versions of the Rule. Staff's concerns regarding the fee amounts are solely related to compliance with the APA and clarity and recommends objection based upon those grounds.

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	
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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
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Total fee, embalmer and funeral director, when both are held by same person	\$ 100.00
Funeral service	\$ 100.00
Inactive status	\$ 30.00
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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 crematories shall be as follows:

License	
Application	\$400.00
Annual renewal	\$150.00
Late renewal fee	\$ 75.00
Crematory reinspection fee	\$100.00
Per-cremation fee	\$ 10.00
Late filing or payment fee for each cremation	\$ 10.00
Late filing fee for cremation report, per month	\$ 75.00
Crematory 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

Amanda J. Reeder
Commission Counsel

1	Preneed contract filings	
2	Filing fee for each contract	\$ 20.00
3	Late filing or payment fee for each contract	\$ 25.00
4	Late filing fee for each certificate of performance	\$ 25.00
5	Late filing fee for annual report	\$150.00
6	(d) Fees for Transportation Permits	
7	Application	\$125.00
8	Annual renewal	\$ 75.00
9	Late fee	\$ 50.00

10
 11 *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);*
 12 *Eff. September 1, 1979;*
 13 *Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;*
 14 *Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;*
 15 *Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;*
 16 *Temporary Amendment Eff. October 1, 1997;*
 17 *Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;*
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NORTH CAROLINA REGISTER

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April 15, 2019

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PUBLISHED BY

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Molly Masich, Codifier of Rules
Dana McGhee, Publications Coordinator
Lindsay Woy, Editorial Assistant
Cathy Matthews-Thayer, Editorial Assistant*

Certification of Nutrition Specialists' website, which is hereby incorporated by reference including subsequent amendments or editions of reference material. Copies of this standard may be obtained at no charge from the BCNS's website at: <https://nutritionspecialists.org/cns-tools/recertification>; or

- (4) Verification of current certification as a Diplomate, American Clinical Board of Nutrition by the ACBN, and verification of compliance with ACBN's continuing education requirements. The continuing education standards required to maintain certification are listed on the American Clinical Board of Nutrition's website, which is hereby incorporated by reference including subsequent amendments or editions of reference material. Copies of this standard may be obtained at no charge from the ACBN's website at: <https://www.acbn.org/policiesprocedures.pdf>.

(h) ~~The Board shall furnish a A renewal license shall be furnished~~ to each licensee who meets all renewal requirements by the expiration date.

(i) The Board shall renew a license upon the payment of a late fee within 60 days of the expiration ~~date of March 31, date.~~ If the license has been expired for 60 days or less, the license may be renewed by ~~returning submitting the online license renewal form form, with all appropriate the renewal and late fees fee, and~~ verification of current certification as a Registered Dietitian Nutritionist, Certified Nutrition Specialist, Diplomate, American Clinical Board of Nutrition, or, if following the requirements of Subparagraph (g)(2) of this Rule, continuing education documentation and documentation to the Board, postmarked on or before the end of the 60-day grace period.

Authority G.S. 90-356; 90-362; 90-363.

SECTION .0300 - DIETETIC/NUTRITION STUDENTS OR TRAINEES

21 NCAC 17.0303 SUPERVISION

~~(a) A planned, continuous program in clinical practice pursuant to G.S. 90-357(3)b.2. shall designate a licensed dietitian/nutritionist who shall supervise a student or trainee; and~~

- (1) ~~shall meet the qualifications of the current standards of education as referenced in the most current edition of the "Eligibility Requirements and Accreditation Standards for Dietetic Internship Programs (DI)" which is hereby incorporated by reference including any subsequent amendments and editions of the referenced material. Copies of this manual are available at no charge through the ADA's website at: <http://www.eatright.org/CADE/content.aspx?id=57>; and~~
- (2) ~~shall meet his/her employment qualifications of the sponsoring institution, if any.~~

~~(b) In accordance with the current standards of education referenced in this Rule, a Program Director shall:~~

- (1) ~~provide student/trainee advisement, evaluation, counseling and supervision;~~
- (2) ~~provide academic or supervised practice program assessment, planning, implementation and evaluation;~~
- (3) ~~inform student(s)/trainee(s) of laws, regulations and standards affecting the practice of dietetics/nutrition, including the Dietetics/Nutrition Practice Act and its Rules; and~~
- (4) ~~advise student(s)/trainee(s) on meeting the requirements to be licensed to practice dietetics/nutrition.~~

For purposes of G.S. 90-368(2), "direct supervision" means the supervising practitioner:

- (1) discusses and recommends, with the student or trainee, nutrition care services undertaken by the student or trainee, which are appropriate to the level of nutrition care;
- (2) is available for consultation on nutrition care activities being performed by the student or trainee, either through on-site or through electronic communication;
- (3) shall be available to render assistance when requested by the student or trainee or the patient or client, or shall have arranged for another practitioner to be available in the absence of the supervising practitioner;
- (4) personally observes, evaluates, and approves the acts or functions of the student or trainee supervised; and
- (5) shall maintain responsibility for the nutrition care activities performed by the student or trainee. For patients or clients receiving medical nutrition therapy in NC, the supervising practitioner shall be licensed in the State to provide the medical nutrition therapy he or she is supervising. For patients or clients outside of NC, the supervising practitioner shall be lawfully allowed to provide the nutrition care activities in the state where the patients or clients are located.

Authority G.S. 90-356(2); 90-357; 90-357.5; 90-368(2).

CHAPTER 34 – BOARD OF FUNERAL SERVICE

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Board of Funeral Service intends to readopt with substantive changes the rules cited as 21 NCAC 34A .0201; 34B .0310; 34C .0305; 34D. 0105, .0203 and .0303.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncbfs.org

Proposed Effective Date: September 1, 2019

Public Hearing:

Date: May 8, 2019

Time: 9:30 a.m.

Location: 1033 Wade Avenue, Suite 108, Raleigh, NC 27605

Reason for Proposed Action: Pursuant to G.S. 150B-21.3A(c)(2)g., all six rules proposed for readoption were determined to be necessary with substantive public interest as part of the periodic review of this agency's rules and, therefore, are subject to readoption. Pursuant to G.S. 150B-21.3A(d)(2), these rules are required to be readopted by the North Carolina Board of Funeral Service (the "Board") no later than September 30, 2019.

The substantive changes being proposed, among other things, reflect recent legislative changes as enacted by the passage of House Bill 529, "An Act Amending the Laws Pertaining to the Practice of Funeral Service" (S.L. 2018-78). In addition, the proposed changes reflect evolving technology and administrative practices of the Board staff to improve the efficiency with which the Board's regulations are administered.

It should be noted that, although substantive changes are proposed to 21 NCAC 34A .0201 – Fees AND OTHER PAYMENTS, these changes do not alter the existing fee amounts, but rather simply update existing fee structures to reflect the licensing of hydrolysis facilities and operators, as authorized by House Bill 529, codified as G.S. 90-210.136.

Comments may be submitted to: Catherine E. Lee, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605, email clee@ncbfs.org

Comment period ends: June 14, 2019

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SUBCHAPTER 34A - BOARD FUNCTIONS

SECTION .0200 - FEES AND OTHER PAYMENTS

21 NCAC 34A .0201 FEES AND OTHER PAYMENTS

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

		Fee currently in rule
Establishment permit		
Application	\$350.00	\$250.00
Annual renewal	\$250.00	\$200.00
Late renewal fee	\$150.00	\$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
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Annual renewal		
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Total fee, embalmer and funeral director, when both are held by same person		\$100.00
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Chapel registration		
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Annual renewal	\$150.00	
Late renewal fee	\$75.00	
Crematory <u>or hydrolysis</u> reinspection fee	\$100.00	
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Annual renewal	\$40.00	
(c) Fees for preneed funeral contract regulation shall be as follows:		
Preneed funeral establishment license		
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Late renewal fee	\$100.00	
Reinspection fee	\$100.00	
Preneed sales license		
Application	\$20.00	
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Preneed contract filings		
Filing fee for each contract	\$20.00	
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Late filing fee for each certificate of performance	\$25.00	
Late filing fee for annual report	\$150.00	
(d) Fees for Transportation Permits <u>shall be as follows:</u>		
Application	\$125.00	
Annual renewal	\$75.00	
Late fee	\$50.00	
(e) <u>All fees remitted to the Board are non-refundable.</u>		

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); 90-210.134(a); 90-210.136.

SUBCHAPTER 34B - FUNERAL SERVICE

SECTION .0300 - LICENSING

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

(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.~~ Applications for an unaffiliated practice permit, pursuant to G.S. 90-210.25(a2), shall be made on forms provided by the Board, including the following information and documentation:

- (1) the full name and the applicant's Board-issued funeral directing or funeral service license number;
- (2) the applicant's physical address and, if different, mailing address;
- (3) the applicant's telephone number and facsimile number;
- (4) the name of the individual or entity that owns the unaffiliated practice;
- (5) the ownership percentages of each individual owner, partner, limited liability company member, or corporate officer;

21 NCAC 34A .0201 is readopted as published in 33:20 NCR 2056 follows:

SECTION .0200 - FEES AND OTHER PAYMENTS

21 NCAC 34A .0201 FEES AND OTHER PAYMENTS

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

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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 ~~crematories~~ crematory and hydrolysis licensees shall be as follows:

1	License	
2	Application	\$400.00
3	Annual renewal	\$150.00
4	Late renewal fee	\$ 75.00
5	Crematory <u>or hydrolysis</u> reinspection fee	\$100.00
6	Per-cremation <u>or per hydrolysis</u> fee	\$ 10.00
7	Late filing or payment fee for each cremation <u>or hydrolysis</u>	\$ 10.00
8	Late filing fee for cremation <u>or hydrolysis</u> report report, per month	\$ 75.00
9	Crematory <u>or Hydrolysis</u> Manager Permit	
10	Application	\$150.00
11	Annual renewal	\$ 40.00
12	(c) Fees for preneed funeral contract regulation shall be as follows:	
13	Preneed funeral establishment license	
14	Application	\$350.00
15	Annual renewal	\$250.00
16	Late renewal fee	\$100.00
17	Reinspection fee	\$100.00
18	Preneed sales license	
19	Application	\$ 20.00
20	Annual renewal	\$ 20.00
21	Late renewal fee	\$ 25.00
22	Preneed contract filings	
23	Filing fee for each contract	\$ 20.00
24	Late filing or payment fee for each contract	\$ 25.00
25	Late filing fee for each certificate of performance	\$ 25.00
26	Late filing fee for annual report	\$150.00
27	(d) Fees for Transportation Permits <u>shall be as follows:</u>	
28	Application	\$125.00
29	Annual renewal	\$ 75.00
30	Late fee	\$ 50.00

31 (e) All fees remitted to the Board are non-refundable.

32

33 *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-*
34 *210.28; 90-210.134(a); 90-210.136;*
35 *Eff. September 1, 1979;*
36 *Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;*
37 *Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;*

1 *Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;*
2 *Temporary Amendment Eff. October 1, 1997;*
3 *Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;*
4 *Readopted Eff. November 1, 2019.*

21 NCAC 34A .0201 is readopted as published in 33:20 NCR2056 as follows:

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	\$250.00 350.00
Annual renewal	\$200.00 250.00
Late renewal fee	\$100.00 150.00
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 crematories shall be as follows:

1	License	
2	Application	\$400.00
3	Annual renewal	\$150.00
4	Late renewal fee	\$ 75.00
5	Crematory reinspection fee	\$100.00
6	Per-cremation fee	\$ 10.00
7	Late filing or payment fee for each cremation	\$ 10.00
8	Late filing fee for cremation report, per month	\$ 75.00
9	Crematory Manager Permit	
10	Application	\$150.00
11	Annual renewal	\$ 40.00
12	(c) Fees for preneed funeral contract regulation shall be as follows:	
13	Preneed funeral establishment license	
14	Application	\$150.00 350.00
15	Annual renewal	\$150.00 250.00
16	Late renewal fee	\$100.00
17	Reinspection fee	\$100.00
18	Preneed sales license	
19	Application	\$ 20.00 30.00 Increased after Publication
20	Annual renewal	\$ 20.00 30.00
21	Late renewal fee	\$ 25.00
22	Preneed contract filings	
23	Filing fee for each contract	\$ 20.00
24	Late filing or payment fee for each contract	\$ 25.00
25	Late filing fee for each certificate of performance	\$ 25.00
26	Late filing fee for annual report	\$150.00
27	(d) Fees for Transportation Permits <u>shall be as follows:</u>	
28	Application	\$125.00
29	Annual renewal	\$ 75.00
30	Late fee	\$ 50.00
31	(e) <u>All fees remitted to the Board are non-refundable.</u>	
32		
33	<i>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); <u>90-</u></i>	
34	<i><u>210.28; 90-210.134(a)</u></i>	
35	<i>Eff. September 1, 1979;</i>	
36	<i>Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;</i>	
37	<i>Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;</i>	

1 *Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;*
2 *Temporary Amendment Eff. October 1, 1997;*
3 *Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;*
4 *Readopted Eff. November 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34A .0201

DEADLINE FOR RECEIPT: Friday, October 11, 2019

PLEASE NOTE: *This request may extend to 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:

On the Submission for Permanent Rule form, Box 2, please correct the spelling of the name of the Rule.

Also on the Form, Box 7, did you get a consultation? I ask because the rule did not previously address hydrolysis permits. I see that the Board is within its statutory authority to set the fee pursuant to G.S. 90-210.132; however G.S. 12-3.1 requires that any establishment of a fee in rule be subject to the consultation. Was the Board exempted from this requirement? In addition, if you are changing the other fees, then a consultation is required for those, as well. Please note, if the consultation is required, the RRC can approve the rule, but the rule will not become effective until the consultation requirement has been fulfilled. (See G.S. 150B-21.3(c1))

The physical copy of the Rule and the electronic copy of the Rule that you submitted does not match. For instance, you did not change any fees in the paper copy, but did insert "hydrolysis licensees" in (b). In the electronic copy, you raised fees and did not include "hydrolysis" in (b). Please submit conforming versions of the Rule in both electronic and physical format.

In (b) of the physical copy, Page 2, line 8, remove the extra "report" after "hydrolysis." As you published this correctly, you do not need to show it as a change; simply do it.

In (e), line 31, what authority are you relying upon for this? I know some of the Board's statutes state this, but not all of them.

In the History Note, line 34, you are not adding G.S. 90-210.28, as it's already in the History Note.

Also on line 34, why are you adding G.S. 90-210.136?

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: October 2, 2019

21 NCAC 34A .0201 is readopted as published in 33:20 NCR2056 as follows:

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 <u>\$350.00</u>
Annual renewal	\$200.00 <u>\$250.00</u>
Late renewal fee	\$100.00 <u>\$150.00</u>
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 crematories shall be as follows:

1	License	
2	Application	\$400.00
3	Annual renewal	\$150.00
4	Late renewal fee	\$ 75.00
5	Crematory reinspection fee	\$100.00
6	Per-cremation fee	\$ 10.00
7	Late filing or payment fee for each cremation	\$ 10.00
8	Late filing fee for cremation report, per month	\$ 75.00
9	Crematory Manager Permit	
10	Application	\$150.00
11	Annual renewal	\$ 40.00
12	(c) Fees for preneed funeral contract regulation shall be as follows:	
13	Preneed funeral establishment license	
14	Application	\$150.00 <u>\$350.00</u>
15	Annual renewal	\$150.00 <u>\$250.00</u>
16	Late renewal fee	\$100.00
17	Reinspection fee	\$100.00
18	Preneed sales license	
19	Application	\$ 20.00 <u>30.00</u>
20	Annual renewal	\$ 20.00 <u>30.00</u>
21	Late renewal fee	\$ 25.00
22	Preneed contract filings	
23	Filing fee for each contract	\$ 20.00
24	Late filing or payment fee for each contract	\$ 25.00
25	Late filing fee for each certificate of performance	\$ 25.00
26	Late filing fee for annual report	\$150.00
27	(d) Fees for Transportation Permits <u>shall be as follows:</u>	
28	Application	\$125.00
29	Annual renewal	\$ 75.00
30	Late fee	\$ 50.00

31 (e) All fees remitted to the Board are non-refundable.

32

33 *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-*

34 *210.28; 90-210.134(a)*

35 *Eff. September 1, 1979;*

36 *Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;*

37 *Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;*

1 *Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;*
2 *Temporary Amendment Eff. October 1, 1997;*
3 *Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;*
4 *Readopted Eff. November 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0310

DEADLINE FOR RECEIPT: Friday, October 11, 2019

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:

On the Submission for Permanent Rule form:

- *Box 2, please provide only the new name of the Rule. Please note, you do not need to provide the old name or strike through it; just state the new name in its entirety.*
- *Box 11, please have the rulemaking coordinator sign the form.*

In (a), line 11, are the contents of the forms what is listed in (a)(1) through (21)?

And are these forms available on a website? If so, why not include that information here?

In (a)(1), what do you mean by "full" name? And is it the applicant's full name?

In (a)(10), lines 27-28, I do not see that this statute exists. What did you intend to cite to?

In (a)(12), line 31, did you intend to cite to Rule 34A .0201?

In (a)(16), line 36, delete the period after "practice" and just state "practice;" As this was published correctly in the Register, do not show this as a change; simply do it.

In (a)(20), Page 2, line 6, what is this certificate? Who issues it?

In (c), can't they embalm in the deceased's residence per G.S. 90-210.25(d1)?

In (e), line 20, define "normal" and whose business hours – the Board's or the licensee's? Are you relying upon the language in G.S. 90-210.23(d) here? If so, state that in the Rule.

On line 21, define "shortly"

In (f), when will this request be made? During inspection or investigation?

In the History Note, do not cite to G.S. 90-210.20, as that is not rulemaking authority. Please note the same question for G.S. 90-210.27A(g). And why are you citing to G.S. 90-210.25(e)(1)?

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: October 2, 2019

21 NCAC 34B .0310 is readopted as published in 33:20 NCR 2056 as follows:

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

(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.~~Applications for an unaffiliated practice permit, pursuant to G.S. 90-210.25(a2), shall be made on forms provided by the Board, including the following information and documentation:

- (1) the full name and the applicant's Board-issued funeral directing or funeral service license number;
- (2) the applicant's physical address and, if different, mailing address;
- (3) the applicant's telephone number and facsimile number;
- (4) the name of the individual or entity that owns the unaffiliated practice;
- (5) the ownership percentages of each individual owner, partner, limited liability company member, or corporate officer;
- (6) the name and address of the funeral establishment or embalming facility where embalming will occur;
- (7) the address of the location where the business records of the unaffiliated practice will be maintained;
- (8) the name and address of the location where sheltering of human remains will occur prior to moving remains to the location where funeral services will be held;
- (9) the names, licensure, and employment information for any other licensees who will be employed by the unaffiliated practice;
- (10) a "yes" or "no" response to the question asking whether the applicant has been, within the previous two years, the subject of any investigation for employee misclassification, as defined by G.S. 143-762(a)(5);
- (11) if the unaffiliated practice is owned by a corporation or limited liability company, proof showing that the entity is in good standing with the North Carolina Department of the Secretary of State;
- (12) the new application fee charged to funeral establishments, pursuant to 21 NCAC 34A .0202;
- (13) a copy of the General Price List intended for use by the unaffiliated practice;
- (14) a copy of the Casket Price List intended for use by the unaffiliated practice;
- (15) a copy of the Outer Burial Container Price List intended for use by the unaffiliated practice;
- (16) a copy of the Statement of Funeral Goods and Services Selected intended for use by the unaffiliated practice.;
- (17) if the unaffiliated practice is owned by a partnership, a copy of the partnership agreement;

1 (18) if the unaffiliated practice is owned by a corporation, a copy of the Articles of Incorporation of the
2 owning entity;

3 (19) if the unaffiliated practice is owned by a limited liability company, a copy of the Articles of
4 Organization of the owning entity;

5 (20) if the unaffiliated practice will conduct business in a different name than that of its owning entity,
6 a copy of the Certificate of Assumed Name; and

7 (21) verification by the applicant.

8 (b) ~~An applicant to practice under the provisions of G.S. 90-210.25(a2) shall submit a form provided by the Board~~
9 ~~with an application fee. The applicant shall furnish the name, address, telephone number, and county of location for~~
10 ~~the applicant and any business organization operating under the laws of North Carolina, the license number of the~~
11 ~~applicant, the location where the applicant shall shelter remains, the location where the applicant uses as an embalming~~
12 ~~facility, the name and license numbers of any other embalmers retained by a funeral director to embalm, and any other~~
13 ~~information the Board deems necessary as required by law. The applicant shall complete a verification before a notary~~
14 ~~public.~~An unaffiliated practice shall not hold itself out to the public as a funeral establishment.

15 (c) An unaffiliated practice shall not embalm or cause to be embalmed a dead human body in any location other than
16 the preparation room of a funeral establishment or embalming facility licensed by the Board.

17 (d) An unaffiliated practice shall not repose a dead human body, or conduct a funeral visitation or ceremony, in any
18 location other than one that meets the requirements for a chapel, as set forth in G.S. 90-210.20(c1) and 90-210.27A(g).

19 (e) The records of an unaffiliated practice and each location at which the practice of funeral service or embalming is
20 performed on behalf of the unaffiliated practice shall be subject to inspection by inspectors of the Board during normal
21 hours of operation and periods shortly before or after normal hours of operation.

22 (f) Upon request by the Board, an unaffiliated practice shall furnish information related to the unaffiliated practice.

23
24 History Note: Authority G.S. 90-210.20(c1), (g), (h); 90-210.23(a); 90-210.25(a2)(2)a., b.; 90-210.25(e)(1); 90-
25 210.27A(a), (c), (g), (i);
26 Eff. February 1, 2009;
27 Readopted Eff. November 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34C .0305

DEADLINE FOR RECEIPT: Friday, October 11, 2019

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:

In (a), line 11, I take it the contents of this form are what is set forth in Paragraph (b)? If so, why not state "on the form set forth in this Rule."?

Also so that I'm clear – this report is not the same as the Standard Cremation Authorization form referenced in G.S. 90-210.134(a), correct?

On line 13, I suggest stating "forms may be submitted electronically or by facsimile, mail, or hand-delivery" And while I see the address for the Board is in Rule 34A .0101, does your regulated public know how to submit this electronically?

In (b)(4), line 19, do not use "and/or" in a Rule. If you mean "the individual or the entity or both" then use "or" here.

In (b)(5), what are "authorizing agents"? Does your regulated public know?

In (c), line 23, and (d), lines 25 and 26, so that I'm clear – you are requiring multiple monthly reports, such that multiple fees and late fees will be assessed?

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: October 2, 2019

21 NCAC 34C .0305 is readopted as published in 33:20 NCR 2056 as follows:

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.~~

(a) Each crematory licensee shall submit a monthly cremation report on forms prescribed by the Board. Monthly cremation reports shall be accompanied by the per-cremation fee set forth in 21 NCAC 34A .0201(b). Monthly cremation reports may be submitted electronically. The Board also will accept monthly cremation reports submitted by facsimile, mail, or hand-delivery.

(b) The monthly cremation report form shall require crematory licensees to furnish the following information:

- (1) the name and permit number of the crematory licensee;
- (2) the name of each decedent for which a cremation was performed;
- (3) the date of each decedent's death and cremation;
- (4) the name of the individual and/or entity on whose behalf the cremation was performed;
- (5) the names of all authorizing agents and their relationships to the decedent;
- (6) the total number of cremations performed in the preceding month; and
- (7) the signature of the crematory manager.

(c) Both the report and fees shall be received by the Board on or before the 10th calendar day in the month that immediately follows the month for which cremations are being reported.

(d) A crematory licensee that fails to timely submit a monthly cremation report and the required fees shall pay the late fees set forth in 21 NCAC 34 .0201(b).

*History Note: Authority G.S. 90-210.132; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. February 1, 2009; July 1, 2004.
Readopted Eff. November 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34D .0105

DEADLINE FOR RECEIPT: Friday, October 11, 2019

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:

On the Submission for Permanent Rule form, Box 2, please provide the full new name of the Rule. Please note, you do not need to provide the old name or strike through it; just state the new name in its entirety.

In (a), line 6, I suggest replacing "must" with "shall"

On line 7, this is not the correct way to change "accompanying" to "accompanied" In addition, you are deleting "G.S. 90-210.67(d)." and not showing it here. These changes were published correctly in the Register; please be sure to use that publication here and make changes to that.

On line 7, do not cite to G.S. 90-210.67(d). That statute does not set the fee; the rule does that.

In (b), line 8, I suggest replacing "must" with "shall"

Also on line 8, what is "appropriate" here? Does your regulated public know?

On lines 8-9, is this approval done in accordance with Rule 34D .0101?

In (d), line 15, delete "and where"

Why do you need the language on lines 18-20? It seems redundant due to the language on lines 17-18. I suggest deleting it.

In the History Note, I do not think you need to cite to G.S. 90-210.67 for this Rule.

And please put the citations in numerical order.

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: October 2, 2019

21 NCAC 34D .0105 is readopted as published in 33:20 NCR 2056 as follows:

21 NCAC 34D .0105 PRENEED FUNERAL CONTRACT COPIES TO BE FILED SUBMITTED TO BOARD; AMENDMENTS

(a) Within 10 days following the sale execution of a preneed funeral contract or amendment to an existing preneed funeral contract, any person selling the preneed sales licensee must submit a copy of the contract shall send a copy of it to the Board, accompanying by the filing fee required by set forth in G.S. 90-210.67(d) and 21 NCAC 34A .0201.

(b) All preneed funeral contract amendments must be submitted on the appropriate Board-approved preneed funeral contract amendment form.

(c) The following restrictions shall apply to preneed funeral contract amendments:

(1) an existing irrevocable preneed funeral contract cannot be amended by a subsequently-filed revocable preneed funeral contract; and

(2) an existing irrevocable inflation-proof preneed funeral contract cannot be amended by a subsequently-filed standard preneed funeral contract.

(d) When and where additional preneed funeral funds are deposited into an existing preneed funeral trust account or an existing prearrangement insurance policy or product, and the additional funds do not alter the preneed statement of funeral goods and services selected, the additional deposit of funds shall not constitute an amendment to an existing preneed funeral contract for purposes of this Rule. The preneed funeral establishment or preneed sales licensee shall not be required to file a preneed funeral contract amendment form for additional preneed funeral funds deposited in accordance with this Paragraph.

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.

Readopted Eff. November 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34D .0203

DEADLINE FOR RECEIPT: Friday, October 11, 2019

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:

In (a), line 10, I know you are reciting statute. However, I recommend you state "... maintains its licensed facility or has submitted an application for licensure to the Board, or obtain a ..."

In (b), line 24, replace "Subsection" with "Paragraph" In addition, simply state "five" and do not add "(5)" As you published this correctly in the Register, you do not need to show it as a change; simply do it.

In (c), line 33, please state "has continuously maintained" and I take it your regulated public knows what continuously is here – without break?

On line 34, what do you mean by "thereof"? Do you mean employed by or associated with the establishment?

On line 35, are the contents of the forms prescribed by the Board what is in (c)(1) through (6)? If so, state that.

In (c)(6), Page 2, line 14, replace "subsection" with "Subparagraph" Again, this was published correctly in the Register, so you will not show it as a change, but will simply change it.

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: October 2, 2019

21 NCAC 34D .0203 is readopted as published in 33:20 NCR 2056 as follows:

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.~~ Prior to the issuance of a preneed establishment permit, an applicant shall either deposit fifty thousand (\$50,000) with the clerk of superior court in the county where the preneed establishment maintains its facility that is licensed or has submitted an application for licensure to the Board or shall obtain a surety bond meeting the following requirements:

(1) the bond shall be in an amount not less than fifty thousand dollars (\$50,000.00);

(2) the bond shall name the Board as the obligee;

(3) the bond shall name the preneed funeral establishment and its owners as principals; and

(4) the bond shall be issued by a bonding company licensed to conduct business as surety in this State.

(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.~~ The following preneed funeral establishment permit holders shall maintain a surety bond meeting the criteria set forth in subsection (a) of this Rule for five (5) following licensure:

(1) any preneed funeral establishment that failed to renew its permit on or before February 1 of any year within the preceding five years;

(2) any preneed funeral establishment whose permit was suspended, revoked, or placed on probation within the preceding five years; and

(3) any preneed funeral establishment for which a bond claim has ever been paid.

(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:~~ A preneed establishment that continuously has maintained bond coverage for a period of at least one year and that never has had a bond claim paid on its behalf or on behalf of any individual thereof, may apply to the Board for a waiver of the requirement that it continue to maintain a surety bond. The waiver application shall be made on forms prescribed by the Board. The applicant shall furnish the following information and documentation:

(1) the name of the ~~and~~ preneed funeral establishment permit number of the applicant;

- 1 (2) ~~certifications that the firm is solvent, has no unsatisfied civil judgments against it, and has not paid~~
2 ~~a claim on the bond; and~~ a balance sheet showing the preneed funeral establishment's assets,
3 liabilities, and equity prepared by a Certified Public Accountant no more than 60 days prior to the
4 date of the application;
- 5 (3) ~~any other information that the Board deems necessary to determine solvency or to process the~~
6 ~~petition and that is required by law.~~ a profit and loss statement showing the preneed funeral
7 establishment's revenues and expenses prepared by a Certified Public Accountant no more than 60
8 days preceding the date of the application;
- 9 (4) a list of each individual and entity that will agree to be held jointly and severally liable, in lieu of a
10 surety, if a reimbursable claim is paid by the Board's Preneed Recovery Fund on behalf of the
11 preneed funeral establishment;
- 12 (5) copies of the declarations page for each insurance policy providing liability coverage to the preneed
13 funeral establishment, to the extent this coverage exists; and
- 14 (6) verification by each individual named in subsection (c)(4) of this Rule.
- 15 (d) The Board shall refuse to grant any waiver request unless it is first shown that the applicant's current assets
16 exceed its current liabilities in an amount not less than fifty thousand dollars (\$50,000.00).

17

18 History Note: Authority G.S. 90-210.67(b); 90-210.69(a);
19 Eff. October 1, 2010.
20 Readopted Eff. November 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34D .0303

DEADLINE FOR RECEIPT: Friday, October 11, 2019

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:

On the Submission for Permanent Rule form, Box 2, please provide the full new name of the Rule. Please note, you do not need to provide the old name or strike through it; just state the new name in its entirety.

In (a), line 4, what are the contents of the form? If it is what is contained in (a)(1) through (15), why not state that? You could replace "and" on line 4 with "that"

In (a)(3), line 15, what is the "full" name?

In (a)(5), line 17, I take it this assigned number is known to the licensee?

On line 35, since you are removing all language, this Paragraph no longer exists and "(b)" needs to be stricken. As this was published correctly in the Register, you do not need to show it as a change; simply do it.

On Page 2, line 3, this is now "(b)" and again, this was published correctly in the Register.

On line 3, I understand that you are relying upon statute. However, why not delete "timely" and state "A preneed licensee that fails to submit a certificate of performance to the Board in the timeframe set by G.S. 90-210.64(a) shall pay the late fee set forth in 21 NCAC 34A .0201(c)."

In the History Note, why are you citing to G.S. 90-210.68?

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: October 2, 2019

21 NCAC 34D .0303 is readopted as published in 33:20 NCR 2056 as follows:

21 NCAC 34D .0303 CERTIFICATES OF PERFORMANCE OF PRENEED FUNERAL CONTRACTS

(a) The certificate of performance as required by G.S. 90-210.64(a) shall be on 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.~~

(1) the name, permit number, and contact information of the performing funeral establishment;

(2) the name, permit number, and contact information of the contracting preneed funeral establishment, if different;

(3) the full name and the last four digits of the social security number of the decedent;

(4) the date the preneed funeral contract was executed;

(5) the preneed funeral contract number assigned by the Board;

(6) the date of the decedent's death;

(7) the county and state of death;

(8) the contract amount of the goods and services provided at the time of death;

(9) a statement that one of the following scenarios applies:

(i) the performing funeral establishment performed the preneed funeral contract in its entirety;

(ii) the preneed funeral contract was revoked or transferred after the death of the decedent and either the contracting preneed funeral establishment provided some services prior to the revocation or transfer or the contracting preneed funeral establishment provided no services prior to the revocation or transfer;

(10) the name and location of each financial institution or insurance company where preneed funeral funds were held;

(11) each account and insurance policy number from which preneed funeral funds were paid;

(12) the date on which any preneed funeral funds were paid, the amount paid, and to whom;

(13) if the preneed funeral contract was an inflation-proof preneed funeral contract, a calculation showing the proper distribution for cash advance goods or services provided;

(14) if a refund was owed, the date paid and the check number of the check remitting the refund; and

(15) the date and signature of the licensee completing the form.

(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~~

1 ~~days following its receipt of payment, any funeral establishment that is required to complete the form shall file a copy~~
2 ~~with the Board~~

3 (c) A preneed licensee that fails to timely submit a certificate of performance to the Board, pursuant to G.S. 90-
4 210.64(a), shall pay the late fees set forth in 21 NCAC 34A .0201(c).

5
6 *History Note: Authority G.S. 90-210.64(a); 90-210.68; 90-210.69(a);*

7 *Eff. May 1, 1993;*

8 *Amended Eff. February 1, 2009; November 1, 2004; August 1, 1998; November 1, 1994.*

9 *Readopted Eff. November 1, 2019.*