

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0617

DEADLINE FOR RECEIPT: Monday, August 7, 2017

PLEASE 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

For the history note, please provide a full history note as follows:

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

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

21 NCAC 34B .0617 is adopted as published in 31:19 NCR 1874 as follows:

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.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0618

DEADLINE FOR RECEIPT: Monday, August 7, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 17, replace "must" with "shall" Please note that the formatting requirements of [26 NCAC 02C .0405\(b\)\(1\)](#) will change the underlining of this Rule. The only struck through or underlined language should be as follows:

~~must~~ shall

Here is an example:

<http://www.ncoah.com/rules/examples/Permanent%20Adoption%20with%20changes%20for%20Publication%20in%20the%20NCAC.pdf>

Line 22, should the term "initial" be before "waiver request" like on line 21 of Rule 21 NCAC 34B .0617? Please review and if appropriate, update accordingly to be consistent. If "initial" is added, based on formatting requirements, please underline to reflect a change since publication.

For the history note, please provide a full history note as follows:

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

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

21 NCAC 34B .0618 is adopted as published in 31:19 NCR 1874 as follows:

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 must 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 waiver request; and

(3) the circumstances surrounding the funeral establishment's request for additional time.

Authority G.S. 90-210.23(d), (e); 90-210.25(d); 90-210.27A.