

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 34D .0202 - Request for Changes - November 2025
Attachments: 21 NCAC 34D .0202 (rev 2025 1104).docx; Request for Changes - 21 NCAC 34D .0202 (FINAL).docx

From: Catherine Lee <CLee@ncbfs.org>
Sent: Wednesday, November 5, 2025 3:14 PM
To: Amy Acord Elston <aelston@ncbfs.org>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: 21 NCAC 34D .0202 - Request for Changes - November 2025

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Mr. Miller –

Thank you for the opportunity to respond to the Request for Changes received by the NC Board of Funeral Service with regard to 21 NCAC 34D .0202. Please see the attached. If you have any questions, you are welcome to contact me directly.

Thank you.

Catherine E. Lee
General Counsel
North Carolina Board of Funeral Service
1033 Wade Ave, Ste 108
Raleigh, NC 27605
Telephone: (919) 341-2639

From: Amy Acord Elston <aelston@ncbfs.org>
Sent: Wednesday, October 29, 2025 12:55 PM
To: Catherine Lee <CLee@ncbfs.org>
Subject: FW: 21 NCAC 34D .0202 - Request for Changes - November 2025

21 NCAC 34D .0202 is amended with changes as published in 40:02 NCR 252-254 as follows:

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~~ two 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;

- 1 (D) the applicant's employment or agency relationship with the preneed establishment licensee
2 or licensees;
- 3 (E) the initial or renewal application fee required by 21 NCAC 34A .0201(c) for each preneed
4 sales licensee;
- 5 (F) the date on which the applicant has taken the continuing education course required by
6 Paragraph (a) of this Rule; and
- 7 (G) the applicant's signature and attestation that he or she has read and will comply with the
8 statutes and rules governing the practice of preneed funeral service.
- 9 (2) Either the preneed sales licensee or the preneed funeral establishment on whose behalf the preneed
10 sales licensee is engaged in preneed funeral planning activities may surrender a preneed sales license
11 by submitting notification of such surrender in writing to the Board.
- 12 (e) If a preneed sales licensee proposes to engage in preneed funeral planning activities on behalf of multiple preneed
13 funeral establishment licensees that are not wholly owned by or affiliated with common ownership, the preneed sales
14 licensee shall submit the following to the Board:
- 15 (1) the date on which the preneed sales licensee will begin engaging in preneed funeral planning
16 activities for multiple preneed funeral establishment licensees;
- 17 (2) the date on which the preneed sales licensee will stop engaging in preneed funeral planning activities
18 for multiple preneed funeral establishment licensees, if known;
- 19 (3) the name, license number, and signature of the preneed sales licensee;
- 20 (4) the name and signature of the licensed manager of each preneed funeral establishment licensee for
21 whom the preneed sales licensee will engage in preneed funeral planning activities; and
- 22 (5) an attestation from each of the individuals identified in Subparagraphs (3) and (4) of this Paragraph
23 that:
- 24 (A) he or she consents to the preneed sales licensee engaging in preneed funeral planning
25 activities on behalf of the identified preneed funeral establishment licensees; and
- 26 (B) the preneed sales licensee and the preneed funeral establishment licensee on whose behalf
27 the preneed funeral planning activities are to be conducted shall comply with the statutes
28 and rules governing preneed funeral planning activities.
- 29 (f) The Board shall issue to each preneed sales licensee a pocket card as certification of the preneed sales license. The
30 preneed sales licensee shall carry the card while engaging in preneed funeral planning.
- 31 (g) The preneed sales licensee shall sign and affix his or her preneed sales license number to each preneed funeral
32 contract, which he or she sells, in the presence of the purchaser of the contract at the time of ~~sale.~~ sale, which may
33 occur in person or via an electronic communication platform that allows the licensee and purchaser to hear and see
34 each other in real time.

35
36 *History Note: Authority G.S. 90-210.25(a)(4); 90-210.60(8); 90-210.67(a),(c); 90-210.69(a), (c);*
37 *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. December 1, 2025; January 1, 2023.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34D .0202

DEADLINE FOR RECEIPT: November 7, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 2, (e): § 90-210.67 states, “A preneed sales licensee may sell preneed funeral contracts, prearrangement insurance policies, and make funded funeral prearrangements only on behalf of one preneed funeral establishment licensee; provided, however, the preneed sales licensee may sell preneed funeral contracts, prearrangement insurance policies, and make funeral prearrangements for any number of licensed preneed funeral establishments that are wholly owned by or affiliated with, through common ownership or contract, the same entity; provided further, in the event the preneed sales licensee engages in selling prearrangement insurance policies, they shall meet the licensing requirements of the Commissioner of Insurance.” Thus, wouldn’t the statute preclude a licensee from engaging in preneed funeral planning activities on behalf of multiple preneed funeral establishment licensees that are not wholly owned by or affiliated with common ownership? I did not see any exception to this in the statutes.

GS 90-210.67(a) provides that a preneed sales licensee may engage in the sale of preneed funeral contracts for multiple funeral establishments that are affiliated with each other by contract. Paragraph (e) of this Rule provides the information that a preneed sales licensee must submit to the Board to establish this contractual relationship.

Page 2, (e): Is there a timing requirement related to the submission of this information? Does it need to be submitted prior to engaging in such activity? The rule does not specify.

As currently written, Paragraph (e) of this Rule provides that the preneed licensee shall submit the required information if he or she 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. As such, the only timing requirement is that such submission be made prior to engaging in such preneed funeral contract sales.

Christopher S. Miller
Commission Counsel

Date submitted to agency: October 29, 2025

Page 2, (g): Could a contract be sold online or over the phone? If so, how would the licensee meet the requirement to sign or affix his or her number “in the presence of the purchaser ... at the time of sale”?

Contracts may be sold in person or via an electronic communication platform that allows the licensee and purchaser to hear and see each other in real time. We have revised the rule accordingly for clarity.

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

Christopher S. Miller
Commission Counsel

Date submitted to agency: October 29, 2025

21 NCAC 34D .0202 is amended with changes as published in 40:02 NCR 252-254 as follows:

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~~ two 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.

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- (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.

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- (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.~~ sale, which may occur in person or via an electronic communication platform that allows the licensee and purchaser to hear and see each other in real time.

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. December 1, 2025; January 1, 2023.

Burgos, Alexander N

From: Amy Acord Elston <aelston@ncbfs.org>
Sent: Wednesday, October 29, 2025 12:56 PM
To: Miller, Christopher S
Cc: Burgos, Alexander N
Subject: [External] RE: 21 NCAC 34D .0202 - Request for Changes - November 2025

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Good afternoon,

I have forwarded this to our General Counsel for a response.

Thanks,

Amy Acord Elston

Amy Acord Elston
Executive Director
NCBFS
1033 Wade Ave., Ste. 108
Raleigh, NC 27605
www.ncbfs.org

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Wednesday, October 29, 2025 12:40 PM
To: Amy Acord Elston <aelston@ncbfs.org>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: 21 NCAC 34D .0202 - Request for Changes - November 2025

Good morning,

I'm the attorney who reviewed the Rule submitted by the State Board of Funeral Service for the November 2025 RRC meeting. The RRC will formally review this Rule at its meeting on Thursday, November 20, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, and the revised Rule, to me via email, no later than 5 p.m. on November 7, 2025.

Please let me know if you have any questions or concerns.

Thanks,

Chris Miller

Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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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.

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 hereto 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.