

21 NCAC 34A .0201 is proposed for readoption with substantive changes 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	\$350.00
Annual renewal	\$250.00
Late renewal fee	\$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~~ 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 shall be as follows:

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 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. Aug. 20,*
5 *2017.*

1 21 NCAC 34B .0310 is proposed for readoption with substantive changes as follows:

2
3 **21 NCAC 34B .0310** ~~**PRACTICE OF FUNERAL SERVICE OR FUNERAL DIRECTING NOT AS AN**~~
4 ~~**OWNER, EMPLOYEE OR AGENT OF A LICENSED FUNERAL**~~
5 ~~**ESTABLISHMENT**~~ **UNAFFILIATED PRACTICE PERMIT**

6 (a) ~~A funeral director or funeral service licensee registered to practice under G.S. 90-210.25(a2) shall not use its~~
7 ~~business office required by G.S. 90-210.25(a2)(2)a. to conduct the practice of funeral service or funeral directing. A~~
8 ~~funeral director or funeral service licensee shall not hold out to the public that its business office is a funeral~~
9 ~~establishment and shall not use a business name that misleads the public to believe that its business office is a funeral~~
10 ~~establishment or operates or maintains a facility that is a funeral establishment. Applications for an unaffiliated practice~~
11 ~~permit, pursuant to G.S. 90-210.25(a2), shall be made on forms provided by the Board, including the following~~
12 ~~information and documentation:~~

- 13 (1) the full name and the applicant's Board-issued funeral directing or funeral service license number;
- 14 (2) the applicant's physical address and, if different, mailing address;
- 15 (3) the applicant's telephone number and facsimile number;
- 16 (4) the name of the individual or entity that owns the unaffiliated practice;
- 17 (5) the ownership percentages of each individual owner, partner, limited liability company member,
18 or corporate officer;
- 19 (6) the name and address of the funeral establishment or embalming facility where embalming will
20 occur;
- 21 (7) the address of the location where the business records of the unaffiliated practice will be maintained;
- 22 (8) the name and address of the location where sheltering of human remains will occur prior to moving
23 remains to the location where funeral services will be held;
- 24 (9) the names, licensure, and employment information for any other licensees who will be employed
25 by the unaffiliated practice;
- 26 (10) a "yes" or "no" response to the question asking whether the applicant has been, within the previous
27 two years, the subject of any investigation for employee misclassification, as defined by G.S. 143-
28 762(a)(5);
- 29 (11) if the unaffiliated practice is owned by a corporation or limited liability company, proof showing
30 that the entity is in good standing with the North Carolina Department of the Secretary of State;
- 31 (12) the new application fee charged to funeral establishments, pursuant to 21 NCAC 34A .0202;
- 32 (13) a copy of the General Price List intended for use by the unaffiliated practice;
- 33 (14) a copy of the Casket Price List intended for use by the unaffiliated practice;
- 34 (15) a copy of the Outer Burial Container Price List intended for use by the unaffiliated practice;
- 35 (16) a copy of the Statement of Funeral Goods and Services Selected intended for use by the unaffiliated
36 practice;
- 37 (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) The records of an unaffiliated practice and each location at which the practice of funeral service or embalming is
18 performed on behalf of the unaffiliated practice shall be subject to inspection by inspectors of the Board during normal
19 hours of operation and periods shortly before or after normal hours of operation.

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

21
22 *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-*
23 *210.27A(a), (c), (g), (i);*

24 *Eff. February 1, 2009;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. August 20, 2017.*

1 21 NCAC 34C .0305 is proposed for readoption with substantive changes as follows:

2
3 **21 NCAC 34C .0305 MONTHLY REPORTS**

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

10
11 (a) Each crematory and hydrolysis licensee shall submit a monthly report on forms prescribed by the Board. Monthly
12 reports shall be accompanied by the per-cremation or per-hydrolysis fee set forth in 21 NCAC 34A .0201(b). Monthly
13 reports may be submitted electronically. The Board also will accept monthly reports submitted by facsimile, mail, or
14 hand-delivery.

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

- 16 (1) the name and permit number of the crematory or hydrolysis licensee;
17 (2) the name of each decedent for which a cremation or hydrolysis was performed;
18 (3) the date of each decedent's death and cremation or hydrolysis;
19 (4) the name of the individual and/or entity on whose behalf the cremation or hydrolysis was performed;
20 (5) the name of at least one authorizing agent and the relationship to the decedent;
21 (6) the total number of cremations and hydrolyses performed in the preceding month; and
22 (7) the signature of the crematory or hydrolysis manager.

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

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

27
28
29 *History Note: Authority G.S. 90-210.132; 90-210.134(a); 90-210.136(d), (h);*

30 *Eff. July 1, 1991;*

31 *Amended Eff. February 1, 2009; July 1, 2004.*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. August 20, 2017.*

1 21 NCAC 34D .0105 is proposed for readoption with substantive changes as follows:

2
3 **21 NCAC 34D .0105 PRENEED FUNERAL CONTRACT COPIES TO BE FILED SUBMITTED TO**
4 **BOARD; AMENDMENTS**

5 (a) Within 10 days following the ~~sale~~ execution of a preneed funeral contract or amendment to an existing preneed
6 funeral contract, ~~any person selling the~~ preneed sales licensee must submit a copy of the contract ~~shall send a copy of~~
7 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.

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

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

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

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

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

21
22 *History Note: Authority G.S. 90-210.69(a); 90-210.62(b); 90-210.67(d); 90-210.68(a);*

23 *Eff. August 2, 1993.*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. August 20,*
25 *2017.*

1 21 NCAC 34D .0203 is proposed for readoption with substantive changes as follows:

2
3 **21 NCAC 34D .0203 SURETY BONDS**

4 ~~(a) Any applicant for a new preneed funeral establishment license or any preneed licensee required to maintain a~~
5 ~~surety bond under G.S. 90-210.67(b) shall submit a copy of the bond with its initial application and with each renewal~~
6 ~~application. The bond shall cover all insurance premiums paid under a preneed insurance policy and all trust payments~~
7 ~~under a preneed funeral trust. The bond shall name the Board as trustee and shall be issued by a bonding company~~
8 ~~licensed to do business in this State. The Board shall recognize all surety bond forms approved by the N.C. Department~~
9 ~~of Insurance. Prior to the issuance of a preneed establishment permit, an applicant shall either deposit fifty thousand~~
10 ~~(\$50,000) with the clerk of superior court in the county where the preneed establishment maintains its facility that is~~
11 ~~licensed or has submitted an application for licensure to the Board or shall obtain a surety bond meeting the following~~
12 ~~requirements:~~

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

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

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

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

17 ~~(b) Any preneed establishment licensee required to obtain a bond may petition the Board to repeal the requirement~~
18 ~~one year after obtaining the bond. The preneed establishment licensee shall establish that the firm is solvent. For~~
19 ~~purposes of this paragraph, solvency shall be defined as assets in excess of liabilities; provided, however, that goodwill~~
20 ~~shall not be considered an asset and that unperformed preneed funeral contracts shall be treated as both an asset and a~~
21 ~~liability of equal value. A preneed establishment may demonstrate solvency by submitting a balance sheet prepared~~
22 ~~by a certified public accountant that is no more than 90 days old or through other financial evidence generally~~
23 ~~recognized as valid by certified public accountants. The following preneed funeral establishment permit holders shall~~
24 ~~maintain a surety bond meeting the criteria set forth in subsection (a) of this Rule for five (5) years following licensure:~~

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

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

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

30 ~~(c) All petitions must be filed on a form provided by the Board. The petition form shall be verified before a notary~~
31 ~~public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed~~
32 ~~establishment and shall require the petitioner to furnish the following information: A preneed establishment that~~
33 ~~continuously has maintained bond coverage for a period of at least one year and that never has had a bond claim paid~~
34 ~~on its behalf or on behalf of any individual thereof, may apply to the Board for a waiver of the requirement that it~~
35 ~~continue to maintain a surety bond. The waiver application shall be made on forms prescribed by the Board. The~~
36 ~~applicant shall furnish the following information and documentation:~~

37 (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 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. August 20, 2017.*

1 21 NCAC 34D .0303 is proposed for readoption with substantive changes as follows:

2
3 **21 NCAC 34D .0303 CERTIFICATES OF PERFORMANCE OF PRENEED FUNERAL CONTRACTS**

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

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

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

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

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

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

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

19 (7) the county and state of death;

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

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

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

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

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

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

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

31 (13) if the preneed funeral contract was an inflation-proof preneed funeral contract, a calculation showing
32 the proper distribution for cash advance goods or services provided or any goods or services
33 modified pursuant to G.S. 90-210.63A(c);

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

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

36 (b) ~~The form shall be completed by each funeral establishment performing any services or providing any merchandise~~
37 ~~pursuant to the preneed funeral contract, or, if none are performed or provided, by the contracting funeral~~

1 ~~establishment. The form shall be presented to the financial institution or insurance company for payment. Within 10~~
2 ~~days following its receipt of payment, any funeral establishment that is required to complete the form shall file a copy~~
3 ~~with the Board~~

4 (c) Any licensee of the Board that is required to file a certificate of performance pursuant to G.S. 90-210.64(a) that
5 fails to timely submit a certificate of performance to the Board shall pay the late fees set forth in 21 NCAC 34A
6 .0201(c).

7
8 *History Note: Authority G.S. 90-210.64(a); 90-210.68; 90-210.69(a);*

9 *Eff. May 1, 1993;*

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

11 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. August 20, 2017.*