

A COMPLIANCE GUIDE:  
UNDERSTANDING THE LAWS AND RULES  
GOVERNING THE PRACTICE OF FUNERAL SERVICE  
IN THE STATE OF NORTH CAROLINA



*Practical guidelines to assist consumers and providers  
with understanding the laws and rules governing  
the practice of funeral service in North Carolina.*

Issued By

THE NORTH CAROLINA BOARD OF FUNERAL SERVICE

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# PREFACE

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The North Carolina General Assembly has recognized that the practice of funeral service affects the public health, safety, and welfare. In doing so, it created the North Carolina Board of Funeral Service (the “Board”) to regulate the practice of funeral service and preneed funeral contract sales in this State.

To that end, the Board has recognized a need for licensees to have access to information which would better help them understand and, therefore, comply with those statutes and rules governing their profession. As a result, the Board authorized its staff to produce this comprehensive Compliance Guide as a means to answer some of the more frequent compliance questions received from licensees and consumers alike.

Also, in addition to burial and cremation, [N.C. Gen. Stat. § 90-210.136](#) made it permissible for the Board’s licensees to offer alkaline hydrolysis as a method of human disposition effective October 1, 2018.

By law, hydrolysis licensees are to be licensed in the same manner as crematory licensees. Similarly, hydrolysis authorizations and procedures are to be governed in accordance with those statutes and rules regulating cremation in this State.

That said, **Crematory and hydrolysis licenses are issued as two (2) separate business license types by the Board.** Any reference made to a “crematory/hydrolysis licensee” or “cremation/hydrolysis” is made for simplicity purposes and is in no way meant to be interpreted as meaning a single license is issued to permit both activities by the holder thereof. A crematory/hydrolysis licensee cannot offer *funeral* services or merchandise to the general public, however, it would be permissible for such licensee to offer “direct” cremation/hydrolysis, a cremation/hydrolysis container, and an initial container and/or an urn.

This Guide is offered simply as that – a guide. It is intended to help licensees and those they serve find answers to those frequently asked questions concerning the laws and rules regulating the practice of funeral service in this State. **This Guide is not all inclusive. It is not intended to be viewed as a replacement to or, as a substitution for, the law as it written and enacted.**

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## CHAPTER 8

### PRENEED FUNERAL CONTRACTS

Chapter 8 is currently under development. Individuals with questions concerning the Board's preneed program should contact the Board's Preneed Program Manager, Paul Richardson, at 919-733-9380 or [prichardson@ncbfs.org](mailto:prichardson@ncbfs.org).

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## CHAPTER 9

### EMBALMER, FUNERAL DIRECTOR, AND FUNERAL SERVICE LICENSEES – OBTAINING LICENSURE AND RENEWALS –

Chapter 9 is currently under development. Individuals with questions on how to obtain licensure as an embalmer, funeral director, or funeral service licensee should contact the Board's Assistant Director, Amy Mauldin, at 919-733-9380 or [amauldin@ncbfs.org](mailto:amauldin@ncbfs.org).

Those licensees or program sponsors with questions concerning continuing education should contact the Board's Director of Continuing Education, Alice Knowles, at 919-733-9380 or [aknowles@ncbfs.org](mailto:aknowles@ncbfs.org).

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## CHAPTER 10

### RESIDENT TRAINEES – REGISTRATION, REPORTING, AND CERTIFICATION

Chapter 10 is currently under development. Individuals with questions related to traineeship registration, monthly reporting, and/or certification should contact the Board's Assistant Director, Amy Mauldin, at 919-733-9380 or [amauldin@ncbfs.org](mailto:amauldin@ncbfs.org).

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## CHAPTER 11

### OBTAINING TRANSPORTER PERMITS

Chapter 11 is currently under development. Individuals with questions on how to obtain a transporter permit should contact the Executive Director, Stephen Davis, at 919-733-9380 or [sdavis@ncbfs.org](mailto:sdavis@ncbfs.org).

## CHAPTER 1

### LICENSURE REQUIREMENTS

#### SECTION 1: AN OVERVIEW – BUSINESSES & INDIVIDUALS REGULATED BY THE BOARD

##### Subsection A: Businesses

A license or permit is required in order for any person or entity to operate one or more of the following businesses in this State:

- **Funeral establishments:** [N.C. Gen. Stat. § 90-210.25\(f\)](#)
- **Unaffiliated practitioners:** [N.C. Gen. Stat. § 90-210.25\(a2\)\(2\)](#)
- **Chapels:** [N.C. Gen. Stat. § 90-210.27A\(g\)](#) \*
- **Preneed funeral establishments:** [N.C. Gen. Stat. § 90-210.67\(a\)](#) \*
- **Crematories:** [N.C. Gen. Stat. § 90-210.123\(a\)](#)
- **Hydrolysis facilities:** [N.C. Gen. Stat. § 90-210.136\(b\)](#)
- **Embalming facilities:** [N.C. Gen. Stat. § 90-210.25\(d1\)](#)
- **Mutual burial associations:** [N.C. Gen. Stat. § 90-210.84](#) \*\*

\* Only funeral establishments holding a valid permit issued by the Board are eligible to register a chapel or as a preneed funeral establishment.

\*\* [21 NCAC 34B .0312](#) prevents any mutual burial association from being licensed unless it has obtained 800 members within six (6) months of its charter date.

## Subsection B: Individuals

### - ***Embalming, funeral directing, funeral service***

[N.C. Gen. Stat. § 90-210.25\(f\)](#) and [90-210.67\(d\)](#) make it unlawful for any individual to practice or to hold himself or herself out as personally practicing the art of embalming or funeral directing or to practice funeral service or to sell preneed funeral contracts without being properly licensed by the Board.

### - ***Employment requirements, unaffiliated practitioners***

In order to practice funeral directing or funeral service, [N.C. Gen. Stat. § 90-210.25\(a2\)](#) requires that such a licensee must:

- Own, be employed by, or otherwise an agent of a licensed funeral establishment;
- Be employed by a college of mortuary science; or
- Apply for and obtain licensure from the Board as an unaffiliated practitioner, as permitted by N.C. Gen. Stat. § 90-210.25(a2)(2). Such a licensee must also:
  - (1) Maintain all of his or her business records at a location made known to and available for inspection by the Board;
  - (2) Comply with all rules and regulations imposed on funeral establishments by the Federal Trade Commission and 16 C.F.R. § 453; and
  - (3) Pay an application/renewal fee equivalent to those imposed on funeral establishments.
  - (4) Obtain and maintain a professional liability insurance policy with a minimum of one million dollars (\$1,000,000) in coverage within 30 days of the licensee's initial registration. The licensee is also responsible for notifying the Board within 30 days of any change in the insurer or cancellation or suspension of the policy.



- ***Resident trainees***

[21 NCAC 34B .0103](#) sets the parameters under which a duly registered resident trainee may “assist” in the practice of funeral service according to his or her respective registration type, i.e. embalming, funeral director, or funeral service. The rule also permits resident trainees to assist in preneed funeral sales, when those sales are conducted under the supervision of a preneed sales licensee.

- When the trainee assists in the practice of funeral service at the funeral establishment’s place of business, an appropriately licensed individual of the Board must also be on the premises to supervise the trainee’s activity.
- If the trainee assists in the practice of funeral service away from the funeral establishment’s place of business, such activities must be performed in the presence of an appropriately licensed employee of the funeral establishment.
- **A funeral director, funeral service licensee, or preneed sales licensee must be present in the same room whenever a resident trainee negotiates any contract or accepts any initial payment for funeral services.**
- **A licensee of the Board must review any contract negotiated by a resident trainee with the purchaser and obtain the purchaser’s signature in the licensee’s presence.**
- **Only work performed under the supervision of the trainee’s registered supervisor may be counted toward the number of cases required in order to receive certification, as discussed at greater length in Chapter 10.**

- ***Students enrolled in an accredited mortuary science program***

[N.C. Gen. Stat. § 90-210.29\(a\)](#) permits students who are enrolled in a duly accredited college of mortuary science located within North Carolina to engage in the practice of funeral service; provided, however, any practice thereof must be a part of his or her academic training, e.g. embalming clinicals.

Any such practice shall be conducted under the supervision of an instructor of mortuary science who is also a licensee of the Board or, another licensee designated by the mortuary science college who has been registered with the Board.

## SECTION 2: EMPLOYMENT DUTIES AND ACTIVITIES THAT REQUIRE INDIVIDUALS TO BE LICENSED BY THE BOARD

### Subsection A: Funeral providers

#### - ***Funeral establishments, unaffiliated practitioners***

The Federal Trade Commission's "Funeral Rule" or, [16 C.F.R. § 453](#), offers the following definitions pertinent to this Guide.

- *"Funeral Goods" are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.*
- *"Funeral Services" are any services which may be used to:*
  - (1) *Care for and prepare deceased human bodies for burial, cremation or final disposition; and*
  - (2) *arrange, supervise or conduct the funeral ceremony or final disposition of deceased human bodies.*
- *A "Funeral Provider" is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.*

Also, [N.C. Gen. Stat. § 90-210.20\(i\)](#) defines the "practice of funeral service" as "engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, burial[,] [cremation, or hydrolysis], or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. 'Practice of funeral service' also means engaging in making arrangements for funeral service, selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies."

It is Board staff's opinion that funeral establishments and unaffiliated practitioners in this State meet the criteria set forth in 16 C.F.R. § 453 to be classified as funeral providers and, therefore, are hereinafter collectively referred to as such.

- ***The owner***

[N.C. Gen. Stat. § 90-210.27A\(e\)](#) requires that all funeral providers have a licensee in the ownership structure, as follows:

- Sole proprietorship: The individual owner must be licensed as a funeral director or funeral service licensee.
- Partnership: At least one partner must be licensed as a funeral director or funeral service licensee.
- Corporation: The president, vice-president, or chairman of the board of directors must be licensed as a funeral director or funeral service licensee.
- Limited liability company: At least one member must be licensed as a funeral director or funeral service licensee.

The licensee required by N.C. Gen. Stat. § 90-210.27A(e) is required to be **actively engaged** in the day to day operation of the funeral provider's business. In order to provide clarity, the Board issued [Declaratory Ruling No. D16-001](#) in March 2016. The Ruling essentially set some parameters for those funeral providers with multiple facilities licensed within its jurisdiction by offering the Board's position on how many locations one funeral director or funeral service licensee could be "actively engaged" in.

- ***The manager***

[N.C. Gen. Stat. § 90-210.25\(d\)\(2\)\(a\)](#) stipulates that a funeral provider must name a manager. The individual must be licensed to practice funeral directing or funeral service in this State. He or she must be the person in charge of overseeing the funeral provider's daily operation. This includes any other licensed or non-licensed owners, employees, or other agents of the funeral provider.

One of the manager's primary responsibilities is to ensure that each and every task or service considered to be within the "practice of funeral service" is conducted by an individual who is appropriately licensed. This task can be especially difficult when the funeral establishment is owned by, or predominantly owned by, one or more non-licensed individuals. **The manager must always be aware of his or her duty to responsibly manage each aspect of the funeral provider's day to day operation, including the activity of any non-licensed owner(s).**

## Subsection B: Activity guide – licensure is/is not required

### - *At-need activities requiring licensed staff*

To better assist managers and licensees comply with the law, Board staff has compiled the following list of specific activities it feels would require that an individual be licensed either as an embalmer or a funeral director, or as a funeral service licensee, to perform on an at-need basis. The type of licensure required is indicated within the brackets following the listed activity. Activities permissible for resident trainees or students to assist in are so indicated.

- Obtaining written permission to embalm.

Licensees are encouraged to review the Federal Trade Commission's "*Complying with the Funeral Rule*" for additional information concerning when funeral provider staff must present the various price lists. This and other information related to the Federal Trade Commission can be found in Chapter 7.

*[embalmer, funeral director, or funeral service licensee]*

- Embalming, including but not limited to the following acts:
  - (1) Arterial/cavity injection and/or external treatment(s).
  - (2) Restorative art treatment(s).
  - (3) Arranging a decedent's hair and/or make-up for pay if not duly licensed by another occupational licensing board that would allow the individual to engage in such services for profit. (Family, friends, or religious groups who do so privately and without pay are excluded.)
  - (4) Bathing, dressing, and casketing for pay. (Family, friends, or religious groups who do so privately and without pay are excluded.)\*

*[embalmer, funeral service licensee, respectively registered and supervised, or properly registered and supervised student of mortuary science completing embalming clinicals]*

- Attesting to information contained on a cremation or hydrolysis authorization form.

*[funeral director or funeral service licensee]*

- Showing physical, photographic, or digital displays of funeral merchandise – e.g. caskets, outer burial containers, urns, clothing, any other miscellaneous funeral or cremation/hydrolysis related merchandise.

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Offering to describe the physical characteristics and properties of funeral merchandise – e.g. material, gasketed vs. non-gasketed, etc.

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Describing service options available – e.g. viewing/visitation, funeral ceremony, memorial service, graveside service, etc.

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Making arrangements for services – e.g. viewing/visitation, funeral ceremony, memorial service, graveside service, etc.

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Selling any service or merchandise item from the general price list, casket price list, or outer burial container price list, or any other funeral merchandise or cash advance or sales tax items.

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Signing statement of goods and services selected required by the Funeral Rule and N.C. Gen. Stat. § 90-210.25(e)(2).

*[funeral director or funeral service licensee]*

- Obtaining information for the death certificate and/or other state or federal governmental agency forms. \*\*

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Obtaining information for the obituary notice(s). \*\*

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

- Supervising and directing any service for which the funeral provider is under contract with the person(s) making arrangements to conduct. \*\*\*

*[funeral director, funeral service licensee, or respectively registered and supervised trainee]*

\* Note: Non-licensed funeral provider staff may support and/or assist in performing these activities; provided, however, an embalmer or a funeral service licensee must not allow the conduct thereof to go unsupervised.

\*\* Note: In situations where a licensee otherwise obtained all information required for state and federal governmental agency forms, but the person(s) responsible for making arrangements needs to confirm one or more items required at a future time; it would be permissible for a non-licensed staff member to take that information by phone or in person, in the event a licensee is unavailable when the information is received.

\*\*\* Note: A funeral director or funeral service licensee must be present to conduct any funeral service, memorial service, graveside service, or immediate burial for which the funeral provider was contracted to provide. This applies even when those services are included with packages such as forwarding or receiving remains. The licensee's duty to be present ceases when all services (e.g. funeral, committal, graveside, or memorial service) for which the funeral provider was contracted to perform have concluded; provided, however, a funeral provider employee must remain until one of the following occurs, whichever is applicable:

- (1) the casket or other container has been placed in the grave, if no outer burial container has been purchased/supplied;
- (2) the casket or other container has been placed in the outer burial container, regardless of who supplied the container; or
- (3) the casket or other container has been placed in the mausoleum.

- ***At-need activities acceptable for non-licensed staff and unsupervised trainees***

The following list is comprised of typical activities conducted by funeral providers that would **not** require a licensee to personally perform.

- Responding to a request to remove a decedent from the place of death into the funeral provider's custody.

- Confirming that the decedent's remains are authorized for release from the institution or certifying authority – e.g. hospital or medical examiner.
- Transportation of decedent's remains while employed by a funeral provider.
- Distribution of price lists.
- Making appointment(s) for the person(s) responsible for making arrangements to meet with a licensee of the funeral provider.
- Typing, reviewing, transmitting obituary information to media outlet(s).
- Assisting family with the arrangement of photographs and in the preparation of print and electronic publications such as memorial folders, funeral programs, and memorial videos.
- Coordinating with third parties to secure services.
- Assisting family & visitors during visitation to assure their well-being.
- Assisting family to and from funeral or memorial service and burial; provided, however, a funeral director or funeral service licensee must be in direct supervision of the service being conducted.
- Assisting pallbearers, ministers, musicians, etc. at the funeral or memorial service and/or burial; provided, however, a funeral director or funeral service licensee must be in direct supervision of the service being conducted.
- Assisting the public at funeral or memorial service, including traffic control and seating; provided, however, a funeral director or funeral service licensee must be in direct supervision of the service being conducted.
- Obtaining verbal permission to embalm from the person(s) responsible for making arrangements.

Licensees are encouraged to review the Federal Trade Commission's "*Complying with the Funeral Rule*" for additional information concerning when funeral provider staff must present the general price list. This and other information related to the Federal Trade Commission can be found in Chapter 7.

- ***Preneed activities requiring licensed staff***

[N.C. Gen. Stat. § 90-210.67\(a\)](#) restricts the sale of preneed funeral contracts to those entities holding a valid funeral establishment permit issued by the Board. As such preneed funeral establishment licenses are not issued to unaffiliated practitioners or crematory/hydrolysis licensees.

Additionally, [N.C. Gen. Stat. § 90-210.67\(a\)](#) requires any individual who wishes to sell preneed funeral contracts to also obtain a preneed sales license. [21 NCAC 34D .0202](#) clarifies this by stating that in order to obtain a preneed sales license, an individual must first be licensed as a funeral director or funeral service licensee.

That being said, it is Board staff's opinion that **the following activities must be conducted by the preneed sales licensee when done on a preneed basis.**

- Obtaining written permission to embalm. [Trainees excluded]
- Showing physical, photographic, or digital displays of funeral merchandise – e.g. caskets, outer burial containers, urns, clothing, any other miscellaneous funeral or cremation/hydrolysis related merchandise.
- Offering to describe the physical characteristics and properties of funeral merchandise – e.g. material, gasketed vs. non-gasketed, etc.
- Describing service options available – e.g. viewing/visitation, funeral ceremony, memorial service, graveside service, etc.
- Making arrangements for services – e.g. viewing/visitation, funeral ceremony, memorial service, graveside service, etc.
- Selling any service or merchandise item from the general price list, casket price list, or outer burial container price list, or any other funeral merchandise or cash advance or sales tax items.
- Signing preneed funeral contract. [Trainees excluded]
- Signing the preneed statement of goods and services selected. [Trainees excluded]
- Obtaining information for the death certificate and/or other state or federal governmental agency forms.



- Obtaining information for the obituary notice(s).

- ***Preneed activities acceptable for non-licensed insurance agents and/or other staff***

Persons who are **not** licensed by the Board as a preneed sales licensee, including those persons otherwise licensed by the North Carolina Department of Insurance, **can only**:

- Distribute price lists, as required by 16 C.F.R. § 453.
- Sell insurance products.

### **Subsection C: Crematory and hydrolysis Licensees**

- ***The manager***

Per [G.S § 90-210.121\(13\)](#), the crematory/hydrolysis manager is the person “responsible for the management and operation of the [crematory/hydrolysis licensee].” In order to become a crematory/hydrolysis manager, an individual must meet the following criteria:

- Be licensed as a funeral director or funeral service licensee who is also certified as a crematory/hydrolysis technician; or
- Obtain a crematory/hydrolysis manager permit issued by the Board. In order to receive a crematory/hydrolysis manager permit, an individual must:
  - (1) be at least 18 years of age;
  - (2) be of good moral character; and
  - (3) be qualified as a crematory/hydrolysis technician.

- ***The cremation/hydrolysis process***

[N.C. Gen. Stat. § 90-210.123\(g\)\(15\)](#) requires that each cremation/hydrolysis be performed by an individual who is licensed as either an embalmer or a funeral director or as a funeral service licensee or, an individual who is certified as a crematory/hydrolysis technician.

- ***Removal staff***

Crematory/hydrolysis staff responsible for the transporting human remains to the crematory/hydrolysis facility must obtain a transporter permit as hereinafter set forth in subsection D.

**Subsection D: Transporters of human remains**

Unless specifically exempted by law, [N.C. Gen. Stat. § 90-210.25\(c\)\(4\)](#) requires any individual who transports a decedent's remains within this State to apply for and receive a transporter permit from the Board.

- ***Exempt entities/individuals:***

- Entities or individuals licensed in this State as funeral providers and the employees thereof. This exclusion does not apply to individual employees of crematory/hydrolysis licensees.
- Entities or individuals holding similar licensure in another jurisdiction and the employees thereof.
- Employees of common carriers.
- Employees of the State and its agencies and employees of local governments and their agencies.
- Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers while acting within the scope of their employment.
- Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
- State and county medical examiners and their investigators.
- Any individual transporting cremated/hydrolyzed remains.
- Any individual transporting or removing the remains of his or her immediate family or next of kin.

- Any individual who has exhibited special care and concern for the decedent.

**Subsection E: Mutual burial associations**

Lastly, with the president and secretary-treasurer being excluded, [N.C. Gen. Stat. § 90-210.82](#) requires any person soliciting members on behalf of a mutual burial association to be licensed by the Board.

## CHAPTER 2

### OBTAINING LICENSURE – FUNERAL PROVIDERS

#### SECTION 1: FUNERAL ESTABLISHMENTS

[N.C. Gen. Stat. § 90-210.20\(h\)](#) defines a “funeral establishment” to be “every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the practice of funeral service.”

#### **Subsection A: Physical requirements**

For the purposes of complying with the Board’s governing statutes and rules, [N.C. Gen. Stat. § 90-210.25\(d\)\(5\)](#) clarifies that “funeral establishment” means “one or more structures on a contiguous piece of property.” Also, [N.C. Gen. Stat. § 90-210.25\(d\)\(1\)](#) requires each funeral establishment operated at or within a specific location to register separately.

#### **- *Preparation, reposing rooms***

- [N.C. Gen. Stat. § 90-210.27A\(a\)](#) requires each funeral establishment to contain a preparation room that:
  - (1) Is strictly private.
  - (2) Has a sign on the door(s) indicating that the room is private.
  - (3) Is of suitable size to use for embalming.
  - (4) Contains at least one table suitable for embalming.
  - (5) Contains a sanitary waste receptacle.
  - (6) Contains an instrument sterilizer.
  - (7) Otherwise contains only those other supplies and/or equipment actually maintained for use in embalming, per [21 NCAC 34B .0702](#).

- (8) Has wall-to-wall floor covering made of easily cleaned material.
- (9) Has a properly functioning ventilation system to maintain nonhazardous level of airborne contamination.
- (10) Is always kept in sanitary condition.
- (11) Is always subject to inspection by the Board's inspectors.
- (12) Contains a repose room of suitable size to accommodate a casket and visitors.
- (13) Complies with all public health laws and rules and those rules adopted by the Board.

- ***Storage, refrigeration***

- [N.C. Gen. Stat. § 90-210.27A\(k\) and \(l\)](#) requires each funeral establishment to ensure:
  - (1) All human remains are stored in a facility licensed by the Board at all times when the remains are not in transit to a gravesite, church, or other facility or residence for the purpose of a visitation or funeral service.
  - (2) Unembalmed human remains retained in the custody of a funeral establishment for more than 24 hours are kept in a refrigeration unit.

- ***Applicable rules***

- [21 NCAC 34B .0616](#) requires each funeral establishment to maintain one or more of the identification tags required by [N.C. Gen. Stat. § 90-210.29A](#) on-site at all times.
- [21 NCAC 34B .0703](#) requires:
  - (1) Containers for biohazardous waste to be maintained, utilized, and disposed of in accordance with public health laws.
  - (2) Preparation rooms to comply with all state and local laws regulating ventilation.
  - (3) No obnoxious or deleterious odors are to be allowed to remain in the preparation room or to enter into the funeral establishment or in any adjoining premises.

- [21 NCAC 34B .0704](#) requires:
  - (1) A clean and sanitary smock or gown and gloves must be worn by anyone engaged in the preparation of a dead human body.
  - (2) Each smock or gown must be laundered between uses.
  - (3) Each sheet, linen, or supply of any kind which has come in contact with a dead human body must be laundered after each use.
  - (4) Soiled smocks, gowns and/or other linens must be placed in a covered container until laundered.
  - (5) Instruments and appliances must be thoroughly cleansed and sterilized immediately at the conclusion of each individual case.
  - (6) Sterilized instruments must be stored in an enclosed cabinet or drawer.

***Subsection B: Practicing during emergencies***

- ***Statutory provisions***

[N.C. Gen. Stat. § 90-210.27A\(a1\)](#) allows the Board to suspend the preparation room requirements heretofore set forth in subsection A for a funeral establishment damaged or destroyed by fire, weather, or other natural disaster, for up to 180 days, provided that the establishment complies with all other laws of the Division of Health Services and of the municipality or county where the establishment is located.

- ***Applicable rules***

- [21 NCAC 34B .0617](#) provides the guidelines for which the Board may suspend an establishment's preparation room requirements upon the declaration of an emergency, as provided in [N.C. Gen. Stat. § 166A-19.20](#). In order to request such a waiver, complete a [Request for Temporary Waiver, per 21 NCAC 34B .0617](#) form and submit it to: [legal@ncbfs.org](mailto:legal@ncbfs.org).
- [21 NCAC 34B .0618](#) provides the guidelines for which the Board may suspend an establishment's preparation room requirements in the event a funeral establishment experiences an emergency occurrence or imminent threat of danger, or loss of property, resulting from a natural or man-made incident. In order to request such a waiver,

complete a [Request for Temporary Waiver, per 21 NCAC 34B .0618](#) form and submit it to: [legal@ncbfs.org](mailto:legal@ncbfs.org).

### ***Subsection C: Obtaining licensure***

#### ***- How to apply***

Those wishing to apply for licensure as a funeral establishment may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of two hundred fifty dollars (\$250) can be paid online [here](#). An inspection must be conducted prior to beginning operations.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. No permit number will be issued until your inspector has received each required item included on the New Funeral Establishment Application Check-List found [here](#).

#### ***- Changes of ownership***

Per [N.C. Gen. Stat. § 90-210.25\(d\)\(5\)](#) and [21 NCAC 34B .0605](#), funeral establishment permits are not transferrable and, therefore, an application for a new funeral establishment permit must be submitted to the Board within 30 days of an ownership change. The application fee of \$250 must be received with the application. An inspection must be conducted.

N.C. Gen. Stat. § 90-210.25(d)(5) also clarifies that a change to the legal structure owning a funeral establishment shall constitute a change of ownership only when there is a change of a majority of the funeral establishment's owners, partners, members, operators, or officers.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. An application for licensure can be found [here](#). No permit number will be issued until your inspector has received each required item included on the New Funeral Establishment Application Check-List can be found [here](#).

#### ***- Location changes***

In the event a funeral establishment moves its operations to a new facility, an application for location change must be submitted to the Board. No application fee is required. The application may be completed [here](#). After the application has been printed and signed, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). An inspection must be conducted.

Additional items may be applicable. Your inspector will assist you with determining whether a certificate of occupancy or other similar items required for a new funeral establishment inspection must be submitted to the Board. The New Funeral Establishment Application Check-List can be found [here](#).

### ***Subsection D: Ancillary permits***

#### ***Part 1: Preneed funeral establishment licenses***

While the topic will be discussed at greater length in Chapter 8, [N.C. Gen. Stat. § 90-210.67\(a\) and \(b\)](#) require any funeral establishment wishing to engage in the sale of preneed funeral contracts, as defined by [N.C. Gen. Stat. § 90-210.60\(5\)](#), to obtain a preneed funeral establishment license.

##### ***- How to apply***

Those wishing to apply for licensure as a preneed funeral establishment may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of one hundred fifty dollars (\$150) can be paid online [here](#).

No permit number will be issued until your inspector has received each required item included on the New Preneed Funeral Establishment License Application Check-List found [here](#).

##### ***- Surety bonds***

[N.C. Gen. Stat. § 90-210.67\(b\)](#) requires newly licensed preneed funeral establishments to obtain and maintain a surety bond for no less than fifty thousand dollars (\$50,000) for a minimum of two (2) years.

However, the Board may decide to reduce an establishment's bond term to one (1) year, upon receipt of a completed petition for bond waiver from the establishment, per [21 NCAC 34D .0203\(b\) and \(c\)](#). Furthermore, the Board may, in its discretion, require an establishment to maintain a surety bond for five (5) years, particularly in the event that a claim is paid from the bond.

The form to name the Board as trustee of any such bond, as required by [21 NCAC 34D .0203\(a\)](#), can be found [here](#).



- ***Preneed sales licensees***

Each applicant for licensure as a preneed funeral establishment will need to submit a Form Schedule A listing each individual preneed sales licensee, as required by [N.C. Gen. Stat. § 90-210.67\(a\) and \(c\)](#). The Schedule A form can be completed [here](#). Once completed, it can be emailed to [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org) along with the preneed funeral establishment application. The individual preneed sales license fee of twenty dollars (\$20) per license can be paid online [here](#).

- ***Changes of ownership***

[N.C. Gen. Stat. § 90-210.68](#) requires any preneed funeral establishment licensee undergoing a change of ownership to notify the Board at least 30 days prior to the effective date. This duty to report is also applicable to the successor preneed funeral establishment, if applicable.

Per [21 NCAC 34D .0201](#), preneed funeral establishment licenses are not transferrable. Applications for a new preneed funeral establishment permit and any individual preneed sales licensees must be submitted to the Board within 30 days of an ownership change.

The new preneed funeral establishment application fee of one hundred fifty dollars (\$150) must be received with the application. A fee in the amount of twenty dollars (\$20) for each preneed sales licensee must also be submitted. An application for licensure can be found [here](#). The Form Schedule A needed to register any individual preneed sales licensees can be found [here](#). No permit number will be issued until your inspector has received each required item included on the New Preneed Funeral Establishment License Application Check-List found [here](#).

A preneed examination is required if one has not been conducted within twelve (12) months immediately preceding the ownership change.

**Part 2:           Chapels**

[N.C. Gen. Stat. § 90-210.20\(c1\)](#) defines “chapel” as “a chapel or other facility separate from the funeral establishment premises for the primary purpose of reposing of dead human bodies, visitation or funeral ceremony that is owned, operated, or maintained by a funeral establishment.”

[N.C. Gen. Stat. § 90-210.27A\(g\)](#) allows any funeral establishment holding a valid permit to operate a maximum of two (2) chapels within a 50-mile radius from its facility. The funeral establishment may use the chapel(s) to make arrangements for funeral services and sell funeral

merchandise; provided, however, any such merchandise must be displayed by photograph, video, or computer-based presentation.

In the event a chapel is used to make funeral arrangements or to sell funeral merchandise, as permitted by law, any such use must be incidental to and not interfere with the reposing of dead human bodies, visitation, or funeral ceremony.

- ***Restrictions***

A funeral establishment which operates a chapel is **prohibited from:**

- Representing the chapel facility to be a funeral establishment.
- Using the word “funeral” in its name, sign, or in any form of advertising.
- Displaying any caskets or other funeral merchandise on the chapel premises.
- Maintaining a preparation room on the chapel premises.

- ***How to apply***

A funeral establishment wishing to apply for a chapel permit may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of one hundred fifty dollars (\$150) can be paid online [here](#). An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. No permit number will be issued until your inspector has received each required item included on the New Chapel Application Check-List found [here](#).

- ***Changes of ownership***

Since a chapel permit is an ancillary permit of the funeral establishment to which it is issued, the permit is not transferrable and, therefore, any change in ownership would require a new permit application and fee. An inspection would also be required.

Please note that no inspection will be conducted/scheduled until the application fee has been received by Board staff. The application needed to apply for licensure can be found

[here](#). No permit number will be issued until your inspector has received each required item included on the New Chapel Application Check-List found [here](#).

- ***Location changes***

Any change in the location where a funeral establishment intends to operate a chapel must be reported to the Board and an inspection of the new facility must be conducted. In order to schedule an inspection for a location change, please follow the instructions for applying for a new chapel permit; provided, however, no new application fee would be required.

## SECTION 2: UNAFFILIATED PRACTITIONERS

- ***Statutory provisions***

As discussed in Chapter 1, [N.C. Gen. Stat. § 90-210.25\(a2\)\(2\)](#), allows a funeral director or funeral service licensee to practice the profession of funeral service without being an owner, employee or other agent of a funeral establishment. Any such applicant must still meet the same licensure requirements for funeral establishments; provided, however, he or she would not be subject to the provisions of [N.C. Gen. Stat. § 90-210.27A\(a\) and \(c\)](#).

- ***Special considerations***

[N.C. Gen. Stat. § 90-210.27A\(k\) and \(l\)](#) requires:

- All human remains to be stored in a facility licensed by the Board at all times when the remains are not in transit to a gravesite, church, or other facility or residence for the purpose of a visitation or funeral service.
- Unembalmed human remains retained in the custody of a funeral establishment for more than 24 hours to be kept in a refrigeration unit.

- ***Restrictions***

[21 NCAC 34B .0310\(a\)](#) specifically prohibits an unaffiliated practitioner from representing that his or her business office is a funeral establishment and restricts the use of a trade name that could mislead the public to believe that he or she operated a funeral establishment.

N.C. Gen. Stat. §§ [90-210.20\(c1\)](#); [90-210.27A\(g\)](#); and [90-210.67\(a\)](#) establish chapels and preneed funeral establishment licenses as ancillary permits reserved solely to duly licensed funeral establishments.

As such, unaffiliated practitioners are not eligible to maintain a chapel or to engage in the sale of preneed funeral contracts. He or she can perform existing preneed funeral contracts on an at-need basis **but, should file the certificate of performance or provide the contracting preneed funeral establishment with the information needed in order for it do so.**

- ***How to apply***

An individual wishing to apply for licensure as an unaffiliated practitioner may complete the application [here](#). After the application has been printed and signed in front of a notary, it may be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of two hundred fifty dollars (\$250) can be paid online [here](#). An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. No permit number will be issued until your inspector has received each item included on the New Unaffiliated Practitioner Permit Application Check-List found [here](#).

### SECTION 3: EMBALMING FACILITIES

- ***Statutory provisions***

[N.C. Gen. Stat. § 90-210.25\(d1\)](#) allows for the registration of embalming facilities on premises separate from a funeral establishment. [21 NCAC 34B .0706](#) requires, among other things, that any such facility comply with the requirements of [N.C. Gen. Stat. § 90-210.27A\(a\)\(1\) through \(8\)](#) and all other applicable federal, state, or local laws and regulations.

- ***How to apply***

Those wishing to apply for licensure as an embalming facility may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). An inspection is required.

No permit number will be issued until your inspector has received each required item included on the New Embalming Facility Application Check-List found [here](#).

- ***Location changes***

Any change in the location where an embalming facility is operated must be reported to the Board and an inspection of the new facility must be conducted. In order to schedule an inspection for a location change, please follow the instructions for applying for a new embalming facility permit.

Additional items may be applicable. Your inspector will assist you with determining whether a certificate of occupancy or other items similar items required for a new embalming facility inspection will be required. The New Embalming Facility Application Check-List can be found [here](#).

## CHAPTER 3

### OBTAINING LICENSURE – CREMATORY AND HYDROLYSIS LICENSEES

#### SECTION 1: CREMATORY LICENSEES

##### ***Subsection A: General provisions***

###### ***- Crematory / crematorium***

[N.C. Gen. Stat. § 90-210.121\(11\)](#) defines a "crematory" or "crematorium" to be "the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business."

Further, "a crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board."

###### ***- Crematory licensee***

[N.C. Gen. Stat. § 90-210.121\(12\)](#) defines a "crematory licensee" to be "the individual[s] or legal entity that is licensed by the Board to operate a crematory and perform cremations.

[N.C. Gen. Stat. § 90-210.123\(f\)](#) prohibits any "person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity" from cremating any human remains unless cremation occurs in a crematory licensed by the Board.

##### ***Subsection B: Physical requirements***

###### ***- Construction***

[N.C. Gen. Stat. § 90-210.123\(b\)](#) states that "[a] crematory may be constructed on or adjacent to any funeral establishment or cemetery or any other location; provided, however, the crematory must be constructed in a manner which is "consistent with local zoning and environmental regulations."

- ***Cremation chamber***

Each crematory must house a “cremation chamber” or, “the enclosed space within which the cremation process takes place”, as defined by [N.C. Gen. Stat. § 90-210.121\(8\)](#), that is used exclusively for the cremation of human remains.

Further, each cremation chamber must meet the following specifications required by [21 NCAC 34C .0201](#).

- The cremation chamber must be a commercially-manufactured cremation unit.
- It must be located within the crematory.
- It must be made specifically for the cremation of human remains.
- It must be manufactured to include the following components:
  - (1) An ash collection pan to minimize commingling of cremated remains of one human remains with another;
  - (2) A hearth or floor without depressions so as to minimize commingling of cremated remains of one human remains with another;
  - (3) A door safety switch to stop the burner operation when the front charging door is opened;
  - (4) A pollution monitoring system to monitor and detect smoke when the density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes; and
  - (5) Approval by Underwriters Laboratory or a comparable testing agency.

- ***Holding and processing facility***

Also, [N.C. Gen. Stat. § 90-210.121\(16\)](#) mandates that each crematory house a “holding and processing facility,” which it defines to be “an area or areas [within the crematory] that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation[.]”

Further, each holding and processing facility must:

- Comply with all applicable public health and environmental laws;
- Preserve the health and safety of the crematory technician and other personnel of the crematory;
- Be secure from access by anyone other than authorized persons, and
- Must be of suitable size to accommodate all human remains which are retained and awaiting cremation, per [21 NCAC 34C .0201](#).

- ***Commercially manufactured processor***

The crematory must contain a commercially-manufactured processor, located within the crematory, made specifically for the pulverization of cremated remains, and meeting of the following minimum standards:

- Capable of consistently processing cremated remains to unidentifiable dimensions.
- A dust-resistant processing chamber.
- An exterior surface made of easily cleaned, non-corrosive material.

- ***Refrigeration***

[21 NCAC 34C .0202](#) requires unembalmed remains kept in the custody of a crematory licensee for more than 24 hours to be refrigerated. Accordingly, the rule also requires each crematory to have a refrigeration unit that meets the following minimum standards:

- Be capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed.
- Contain flooring made of sealed concrete, stainless or galvanized steel, aluminum, or other easily cleaned material.
- Have an interior (i.e. walls, ceiling, shelves, etc.) made of stainless steel, aluminum, or other non-corrosive and easily cleaned materials.



- ***Cleanliness***

[21 NCAC 34C .0206](#) requires all areas and equipment located within the crematory and devoted to the reception, storage, cremation, pulverization, and delivery of cremated remains to be kept in sanitary condition, in good repair, and subject to inspection by the Board or its agents at all times.

### ***Subsection C: Obtaining licensure***

- ***How to apply***

Those wishing to apply for licensure as a crematory licensee may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of four hundred dollars (\$400) can be paid online [here](#). An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. No permit number will be issued until your inspector has received each required item included on the New Crematory Licensee Application Check-List found [here](#).

- ***Changes of ownership***

Per [N.C. Gen. Stat. § 90-210.123\(e\)](#), crematory licenses are not transferrable. An application for licensure as a new crematory licensee application must be submitted to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business. The application fee of four hundred dollars (\$400) must be received with the application. An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. An application to apply for licensure can be found [here](#). No permit number will be issued until your inspector has received each required item included on the New Crematory Licensee Application Check-List found [here](#).

- ***Location changes***

Any change in the location where a crematory licensee intends to operate must be reported to the Board and an inspection of the new facility must be conducted. In order to schedule an inspection for a location change, please follow the instructions for applying for a new crematory license; provided, however, no new application fee would be required.

### ***Subsection D: Ancillary permits***

Crematory licensees are not permitted to hold ancillary permits such as preneed funeral establishment licenses or chapel permits.

## SECTION 2: HYDROLYSIS LICENSEES

### ***Subsection A: Overview***

#### ***- Method of disposition established***

[N.C. Gen. Stat. § 90-210.136](#) made alkaline hydrolysis an acceptable method of final disposition in North Carolina effective October 1, 2018 and, among other things, provided definitions to include:

- *Alkaline hydrolysis.* – *The technical process using water, heat, and other chemicals to destroy, dissolve, or reduce human remains to simpler or essential elements.*
- *Hydrolysis licensee.* – *A person or entity licensed to hydrolyze human remains and perform hydrolysis.*
- *Liquid waste.* – *Any liquid remaining after hydrolysis that does not contain any trace elements of human tissue.*

#### ***- Licensing and regulation***

[N.C. Gen. Stat. § 90-210.136\(c\)](#) stipulates that “a license for the hydrolysis of human remains shall have the same requirements and fees as for the licensing of crematories under [Article 13F, or the North Carolina Crematory Act,] [and] [t]he hydrolysis of human remains shall be conducted in compliance with all requirements for cremation[.]”

Accordingly, it is Board staff’s opinion that hydrolysis licensees and the agents thereof are subject to Article 13F of the General Statutes and, therefore, are also subject to the requirements of [21 NCAC 34C .0102 through .0306](#); provided, however, the provisions of 21 NCAC 34C .0201(2)(b), (c) and (d) would not apply (i.e.: a hearth floor without depressions; a door safety switch to stop burner; and a pollution monitoring system to detect smoke density).

It is also Board staff's opinion that the words "alkaline hydrolysis", "hydrolysis", "hydrolyze", "hydrolyzing", "hydrolyzed", "hydrolysis facility", and/or "hydrolysis licensee" must be used interchangeably with "cremate", "cremation", "cremating", "cremated", "crematory" and/or "crematory licensee" for the purposes of applying the Board's governing statutes and rules.

Finally, N.C. Gen. Stat. § 90-210.136(b) prohibits "[any] person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or other entity [from hydrolyzing] human remains without first obtaining a license from the Board."

### ***Subsection B: Physical requirements***

#### ***- Construction***

- [N.C. Gen. Stat. § 90-210.121\(11\)](#) defines a "[hydrolysis facility]" to be "the building or buildings or portion of a building on a single site that houses the [hydrolysis] equipment, the holding and processing facilities, the business office, and other parts of the [hydrolysis] business."
- [N.C. Gen. Stat. § 90-210.123\(b\)](#) states that "[a] [hydrolysis facility] may be constructed on or adjacent to any funeral establishment or cemetery or any other location; provided, however, the [hydrolysis facility] must be constructed in a manner which is "consistent with local zoning and environmental regulations."
- A hydrolysis facility must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.
- N.C. Gen. Stat. § 90-210.136(e) stipulates that the disposal of liquid waste must be subject to all applicable health and environmental laws and regulations.

#### ***- Hydrolysis Chamber***

Each hydrolysis facility must house a "[hydrolysis] chamber" or, "the enclosed space within which the [hydrolysis] process takes place", as defined by [N.C. Gen. Stat. § 90-210.121\(8\)](#), that is used exclusively for the hydrolysis of human remains.

Further, each hydrolysis chamber must meet the following specifications required by [21 NCAC 34C .0201](#).

- The hydrolysis chamber must be a commercially-manufactured hydrolysis unit.

- It must be located within the hydrolysis facility.
- It must be made specifically for the hydrolysis of human remains.
- It must be manufactured to include the following components:
  - (1) An ash collection pan to minimize commingling of hydrolyzed remains of one human remains with another; and
  - (2) Approval by Underwriters Laboratory or a comparable testing agency.

- ***Holding and processing facility***

[N.C. Gen. Stat. § 90-210.121\(16\)](#) mandates that each hydrolysis facility house a “holding and processing facility”, which it defines to be “an area or areas [within the hydrolysis facility] that are designated for the retention of human remains prior to, and the retention and processing of [hydrolyzed] remains after, [hydrolysis][.]”

Further, each holding and processing facility must:

- Comply with all applicable public health and environmental laws;
- Preserve the health and safety of the hydrolysis technician and other personnel of the hydrolysis facility;
- Be secure from access by anyone other than authorized persons; and
- Must be of suitable size to accommodate all human remains which are retained and awaiting hydrolysis, per [21 NCAC 34C .0201](#)

- ***Commercially manufactured processor***

The hydrolysis facility must contain a commercially-manufactured processor, located within the hydrolysis facility, made specifically for the pulverization of hydrolyzed remains, and meeting of the following minimum standards:

- Capable of consistently processing hydrolyzed remains to unidentifiable dimensions.
- A dust-resistant processing chamber.

- An exterior surface made of easily cleaned, non-corrosive material.

- **Refrigeration**

[21 NCAC 34C .0202](#) requires unembalmed remains kept in the custody of a hydrolysis licensee for more than 24 hours to be refrigerated. Accordingly, the rule also requires each hydrolysis facility to have a refrigeration unit that meets the following minimum standards:

- Be capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed.
- Contain flooring made of sealed concrete, stainless or galvanized steel, aluminum, or other easily cleaned material.
- Have an interior (i.e. walls, ceiling, shelves, etc.) made of stainless steel, aluminum, or other non-corrosive and easily cleaned materials.

- **Cleanliness**

[21 NCAC 34C .0206](#) requires all areas and equipment located within the hydrolysis facility and devoted to the reception, storage, hydrolysis, pulverization, and delivery of hydrolyzed remains to be kept in sanitary condition, in good repair, and subject to inspection by the Board or its agents at all times.

### **Subsection C: Obtaining licensure**

- **How to apply**

Those wishing to apply for licensure as a hydrolysis licensee may complete the application [here](#). After the application has been printed and signed in front of a notary, it can be emailed to: [permitapplications@ncbfs.org](mailto:permitapplications@ncbfs.org). The application fee of four hundred dollars (\$400) can be paid online [here](#). An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. No permit number will be issued until your inspector has received each required item included on the New Hydrolysis Licensee Application Check-List found [here](#).

- ***Changes of ownership***

Per [N.C. Gen. Stat. § 90-210.123\(e\)](#), hydrolysis licenses are not transferrable. An application for licensure as a new hydrolysis licensee application must be submitted to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business. The application fee of four hundred dollars (\$400) must be received with the application. An inspection is required.

Please note that no inspection will be conducted/scheduled until the application and fee have been received by Board staff. An application for licensure can be found [here](#). No permit number will be issued until your inspector has received each required item included on the New Hydrolysis Licensee Application Check-List found [here](#).

- ***Location changes***

Any change in the location where a hydrolysis licensee intends to operate must be reported to the Board and an inspection of the new facility must be conducted. In order to schedule an inspection for a location change, please follow the instructions for applying for a new hydrolysis licensee license; provided, however, no new application fee would be required.

***Subsection D: Ancillary permits***

Hydrolysis licensees are not permitted to hold ancillary permits such as preneed funeral establishment licenses or chapel permits.

## CHAPTER 4

### TRANSPORTATION, STORAGE, AND VITAL RECORDS; STATE FUNDS FOR DECEASED MIGRANT WORKERS AND VICTIMS COMPENSATION

#### SECTION 1: DISCLAIMERS

##### ***Subsection A: Forms required by other agencies***

There are various forms that must be filed with the registrar in the county where death occurred. The content of these forms is not produced by nor is it regulated by the Board.

The Board does, however, have authority to take disciplinary action against any individual or business licensee failing to comply with those laws and rules which require a licensee to file certain vital records and, to provide truthful and accurate information when doing so.

This Chapter is meant to serve only as a point of reference for those forms most often filed when a death occurs. If you have any questions relative the specific information required to appear on a particular form, you should contact your local registrar or, in some instances, the medical examiner.

##### ***Subsection B: Special compensation funds***

Under certain special circumstances there are state funds designated to assist the survivors of: (i) deceased migrant workers with transportation costs associated with repatriation of the decedent to his or her nation of citizenship; and (ii) decedents whose death occurred as a result of criminal conduct.

The Board has no role in the governance of these programs. The references contained herein are intended solely for purpose of providing a point of reference to the Board's licensees and to the consumers of funeral, cremation, and hydrolysis services in this State.

## SECTION 2: REMOVAL FROM PLACE OF DEATH

### ***Subsection A: Transportation***

#### ***- Licensure, proper employment, or permit required***

As discussed in Chapter 1, [N.C. Gen. Stat. § 90-210.25\(c\)](#) requires individuals who transport human remains within this State permit to apply for and receive a permit from the Board.

The following persons are exempt from this requirement:

- Entities or individuals licensed in this State as funeral providers and the employees thereof.
- Entities or individuals holding similar licensure in another jurisdiction and the employees thereof.
- Employees of common carriers.
- Employees of the State and its agencies and employees of local governments and their agencies.

#### ***- Transportation in open cargo area prohibited***

[N.C. Gen. Stat. § 90-210.25\(c\)\(9\)](#) prohibits the transportation of human remains in the open cargo area or passenger area of a vehicle in which they may be viewed by the public.

The decedent must be either:

- Covered and placed securely on a stretcher in the removal vehicle; or
- Placed in a casket or a container designed for common carrier transportation.

The following persons are exempt from this restriction:

- Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers while acting within the scope of their employment.



- Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
- State and county medical examiners and their investigators.
- Any individual transporting cremated/hydrolyzed remains.
- Any individual transporting or removing the remains of his or her immediate family or next of kin.
- Any individual who has exhibited special care and concern for the decedent.

***Subsection B: Communicable diseases***

- ***Physician reporting requirements***

[N.C. Gen. Stat. § 130A-395](#); and [10A NCAC 41A .0212](#) state that a physician licensed to practice in this State must provide written notification to all individuals handling a decedent's body if the decedent was known to have any of the following:

- Small pox;
- Plague;
- HIV infection;
- Hepatis B;
- Rabies;
- Severe acute respiratory syndrome (SARS); or
- Jakob-Creutzfeldt Disease

Any person handling the body of a decedent who was known to have HIV infection, hepatitis B infection, Jakob-Creutzfeldt Disease, or rabies must be provided with written notification to observe blood and body fluid precautions.

In the event death did not occur at a health care facility, the attending physician is required to verbally notify the funeral provider or crematory/hydrolysis licensee staff of any applicable restrictions and/or precautions stated above.

- ***Embalming restrictions***

- **It is not permissible to embalm a decedent who was infected, or reasonably suspected to be infected, with smallpox, plague, or severe acute respiratory syndrome (SARS).**
- For either, the body must be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred.
- The case shall not be reopened except with the consent of the local health director. While cremation is permitted, the statutes and administrative code remain silent on the topic of hydrolysis, as of the date of this publication.

***Subsection B: Licensee's duty to assure certifier of death***

Prior to removing a decedent's remains from the place of death, [10A NCAC 41H .0506](#) requires the representative of the funeral provider or crematory/hydrolysis licensee to either:

- Obtain assurance from the attending physician that death is due to natural causes and that the physician will assume responsibility for signing the death certificate; or
- Notify the medical examiner if the case comes within his or her jurisdiction and receive authorization from him or her to remove the body.

**SECTION 3: IDENTIFICATION OF REMAINS PRIOR TO INTERMENT OR ENTOMBMENT**

[N.C. Gen. Stat. § 90-210.29A](#) requires the funeral provider, other entity, or individual responsible for final disposition to properly identify all human remains, using a durable tag made of non-corrosive material, prior to interment or entombment. Unused identification tags must be kept at each funeral establishment's facility, per [21 NCAC 34B .0616](#).

When placed upon a decedent's remains, the identification tag must contain the following information:

- The decedent's name;
- The decedent's date of death;
- The decedent's social security number;
- The county and state of the decedent's death; and
- The site of the decedent's interment or entombment.
- If the decedent was cremated/hydrolyzed, the tag must be placed inside of the initial container or urn containing the cremated/hydrolyzed remains of the decedent.

#### SECTION 4: REFRIGERATION

##### ***Subsection A: Funeral providers***

Effective October 1, 2018, [N.C. Gen. Stat. § 90-210.27A\(l\)](#) requires unembalmed remains retained in the custody of a funeral provider in excess of 24 hours to be refrigerated.

##### ***Subsection B: Crematory and hydrolysis licensees***

[21 NCAC 34C .0202](#) mandates that unembalmed remains retained in the custody of a crematory/hydrolysis licensee in excess of 24 hours prior to cremation/hydrolysis must be refrigerated.

#### SECTION 5: NOTIFICATION OF DEATH

Per [N.C. Gen. Stat. § 130A-112](#), the funeral provider or crematory/hydrolysis licensee who first assumed custody of a decedent's body is required to submit a notification of death to the local registrar within 24 hours of taking custody. This requirement applies to a decedent of any age and fetal remains of 20 weeks completed gestation or more.

The form must be submitted for each decedent regardless of whether the death will be certified by an attending physician or by a medical examiner.

## SECTION 6: THE DEATH CERTIFICATE

[N.C. Gen. Stat. § 130A-115](#) mandates that a death certificate be filed within five days for each death occurring within North Carolina. It is to be filed in the county where death occurred or, if not known, the county where the decedent's body was found.

The funeral provider or crematory/hydrolysis licensee who first assumed custody of the decedent's body is responsible for filing the death certificate.

### ***Subsection A: Attending physicians***

For those deaths to be certified by an attending physician, medical certification must be completed and signed by the physician in charge of the decedent's care. If the attending physician is unavailable or has given his or her approval, the following persons may certify the decedent's death:

- an associate physician;
- a physician's assistant,
- a nurse practitioner;
- the chief medical officer of the hospital or facility in which death occurred; or
- a physician who performed an autopsy upon the decedent under the following circumstances: the individual has access to the medical history of the deceased; the individual has viewed the deceased at or after death; and the death is due to natural causes.

[10A NCAC 41H .0503](#) states that the physician who last treated the decedent is responsible for completing the medical certification, unless he or she has reason to believe that the cause of death is unrelated to the decedent's previous diagnosis and treatment.

If the attending physician is unavailable, the death certificate must be signed by the physician who pronounced death (if he or she can reasonably determine the cause) or by an associate physician on call for the attending when the decedent's medical records are available, and the cause of death can be easily ascertained.

### ***Subsection B: Medical examiners***

#### ***- Jurisdiction***

N.C. Gen. Stat. § 130A-115(c) stipulates that any death falling within the jurisdiction of the medical examiner, as set forth in [N.C. Gen. Stat. § 130A-383](#), must be certified by a medical examiner.

#### ***- Duties of the licensee***

- It is the responsibility of the funeral provider or the crematory/hydrolysis licensee to ensure that the medical examiner in the county of death has been notified if the decedent's death occurred:
  - (1) due to violence;
  - (2) due to poisoning;
  - (3) as the result of an accident;
  - (4) as the result of suicide;
  - (5) as the result of homicide;
  - (6) suddenly and the decedent had been in apparent good health;
  - (7) while the decedent was unattended by a physician;
  - (8) while the decedent was incarcerated in a jail or prison; or
  - (9) under suspicious, unusual or unnatural circumstance.
- The funeral provider or crematory/hydrolysis licensee is not permitted to disturb the decedent's body at the scene of such a death until authorized to do so by the medical examiner.

If by chance, no medical examiner is available, the law does allow for the appropriate law enforcement agency to grant permission to remove the decedent's body after determining that its presence would risk its own integrity or that it would provide a hazard to the safety of others.

### ***Subsection C: Acceptance of incomplete death certificates***

In the event a funeral provider or crematory/hydrolysis licensee is unable to obtain the decedent's personal information within the statutory time period, [10 NCAC 41H .0502](#) requires the Licensee's representative to file the death certificate completed with all available information. Any missing information must be supplied to the local registrar within 30 days.

This exception exists for personal information only. No certificate will be accepted without proper medical certification and the signature of the attending physician or medical examiner, whichever is applicable.

## SECTION 7: SPECIAL CONSIDERATIONS

### ***Subsection A: Unattended deaths***

[N.C. Gen. Stat. § 130A-115\(e\)](#) requires the funeral provider or crematory licensee/hydrolysis licensee to notifying the medical examiner in any case where a death or fetal death has occurred without medical attendance.

### ***Subsection B: Embalming, earth burial, burial at sea, cremation and hydrolysis***

#### ***- Medical examiner's permission needed***

When a licensee knows or has reason to know that a decedent's death should fall under the medical examiner's jurisdiction, [N.C. Gen. Stat. § 130A-388](#) prohibits him or her from embalming or otherwise disposing of the decedent's body until permission to do so has been received from the medical examiner.

Furthermore, the statute and [10A NCAC 44 .0501](#) prohibit any decedent from being buried at sea or cremated/hydrolyzed until a medical examiner has granted permission to do so.

#### ***- Medical examiner cases***

When the decedent's death was certified by the medical examiner, this permission will be granted on the death certificate form.

- **Form DHHS 1181, Deaths certified by an attending physician**

For deaths certified by an attending physician, a licensee could be required to obtain a medical examiner's authorization or, [Form DHHS 1181](#).

Note: As of the date of this publication, there is no Form DHHS 1881 equivalent specifically designated for the purpose of a medical examiner authorizing a decedent's remains to be buried at sea or hydrolyzed.

As such, it is Board staff's opinion that a funeral provider and/or hydrolysis licensee would be in compliance with the Board's governing statutes and rules to accept a medical examiner's authorization for burial at sea or hydrolysis that was signed by the medical examiner with appropriate jurisdiction; provided, however, such authorization must meet the same content requirements as [Form DHHS 1181](#).

At which point burial at sea and/or hydrolysis become(s) specifically addressed by way of respective DHHS form(s), all funeral providers and hydrolysis licensees doing business in this State shall be subject to that/those requirement(s).

- Exemptions to this requirement are as follows:
  - (1) Deaths falling under the jurisdiction of a medical examiner.
  - (2) Persons less than 24 hours of age.
  - (3) Inpatients (not ER patients) in a licensed hospital.
  - (4) Patients in a licensed nursing home (not rest home).
  - (5) Persons who die under the care of a licensed Hospice.
  - (6) Persons who died in another state and that state has given written authorization for burial at sea or cremation/hydrolysis.
  - (7) Persons who died in another state and that state has given written authorization for cremation/hydrolysis.
  - (8) Persons who died in another state whose death would not have required Form DHHS 1181 had the death occurred in this State.

- When Form DHHS 1181 is required, the medical examiner is entitled to collect a fee not to exceed fifty dollars (\$50.00).

### ***Subsection C: Burial-transit permits***

#### ***- Deaths occurring within North Carolina***

[N.C. Gen. Stat. § 130A-113](#) and [N.C. Gen. Stat. § 90-210.25\(c\)\(2\)](#) prohibit a decedent's remains from being removed from this State without being accompanied by a burial-transit permit.

- Death certified by a medical examiner

The medical examiner will issue a burial-transit permits for all deaths occurring under his or her jurisdiction. The permit is included as a part of the medical examiner's certification of death.

- Deaths certified by an attending physician

Upon receipt of the notification of death, the local registrar will be responsible for issuing burial-transit permits for those decedents whose death did not occur under the jurisdiction of the medical examiner.

#### ***- Out-of-state deaths***

[N.C. Gen. Stat. § 130A-113](#) requires any decedent being brought into this State to be accompanied by a burial-transit or disposal permit issued under the law of the state in which death or disinterment occurred.

Any time a decedent's remains are brought into this State and a licensee of the Board has a reason to believe that the death was not investigated properly or if there is not an adequate certificate of death, [N.C. Gen. Stat. § 130A-384](#) states that the death must be reported to the medical examiner in the county where the body is located or to the Office of the Chief Medical Examiner.

### ***Subsection D: Deceased migrant workers and their dependents***

[N.C. Gen. Stat. § 130A-418](#) states that a licensee having knowledge of the death of a migrant worker or a worker's dependent is required to report the death to the department of social services in the county where the body is located "without delay".



Any information regarding the deceased including identity, place of employment, permanent residence, and the name, address and telephone number of any relative/interested person must also be reported.

If the person cannot be identified within a reasonable period of time, or is unclaimed for 10 days after death, the body must be offered to the Commission of Anatomy. A licensee can notify the Commission of any unclaimed / abandoned body by contacting one of its members: <https://www.ocme.dhhs.nc.gov/coa/membership.shtml> .

In some instances, the decedent's family may be entitled to a sum not to exceed two hundred dollars (\$200.00) to defray the cost of transporting the decedent's remains to his or her legal residence.

***Subsection E: Compensation for crime victims***

If a decedent's death was "proximately caused by criminally injurious conduct," [N.C. Gen. Stat. § 15B-2\(1\)](#) includes expenses related to the decedent's final disposition as "allowable expenses". The maximum amount payable to a dependent is five thousand dollars (\$5,000) and this amount cannot be applied to cover costs associated with flowers, gravestones, or other items not directly related to the disposition.

Claims may be filed the Victim Compensation Fund by completing an application and submitting it to the North Carolina Department of Public Safety:

<https://www.ncdps.gov/dps-services/victim-services/crime-victim-compensation/claims-and-application>

## CHAPTER 5

### AUTHORITY TO AUTHORIZE FINAL DISPOSITION

[N.C. Gen. Stat. § 130A-420](#) provides both consumers and licensees with a detailed list of those individuals, by order of priority, who have the authority to authorize the final disposition of a decedent's human remains in this State.

#### SECTION 1: THE FIRST PERSON

As it pertains to rights of final disposition, North Carolina first places that authority with the individual whose remains are to be disposed of. Any individual at least 18 years of age has the first priority right to make arrangements for his or her final disposition while still living, per [N.C. Gen. Stat. § 130A-420\(a\); \(a1\)](#).

##### ***Subsection A: Self authorization***

An individual can authorize his or her own disposition specifying his or her disposition wishes, in writing, through one of the following:

- A preneed funeral contract purchased through a preneed funeral establishment licensee.
- A health care power of attorney.
- A will.
- A written statement other than a will that is both signed by the individual and witnessed by two persons who are at least 18 years of age.

##### ***Subsection B: Delegation of authority***

An individual can delegate his or her own disposition rights to another individual as follows:

- Executing a preneed funeral contract purchased through a preneed funeral establishment licensee and naming his or her delegate therein.
- Executing a health care power of attorney that names his or her delegate.

- Executing a written will that names his or her delegate.
- Executing a written statement other than a will that names his or her delegate and is both signed by the individual and witnessed by two persons who are least 18 years of age.
- Under certain circumstances, an active service member can name his or her delegate by utilizing United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form.

***Subsection C: Guardian of the person***

Unless specifically prohibited by the order of appointment, [N.C. Gen. Stat. § 130A-420\(a2\)](#) grants a guardian of the person the authority to direct the final disposition of the ward by executing a preneed funeral contract. These rights do not survive the death of the ward.

**SECTION 2: FAMILY MEMBERS**

***Subsection A: Right of superiority***

In the event an individual has not exercised his or her own right of disposition prior to death, [N.C. Gen. Stat. § 130A-420\(b\)\(1\) through \(5\)](#) grants that right to the following competent individuals by order of priority:

- The surviving spouse.
- A majority of the surviving children over 18 years of age, who can be located after reasonable efforts.
- The surviving parents.
- A majority of the surviving siblings over 18 years of age, who can be located after reasonable efforts.
- A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.

### ***Subsection B: Special considerations***

#### ***- Preneed funeral contracts***

There is no provision in N.C. Gen. Stat. § 130A-420 that would give any family member the right to cancel or modify a preneed funeral contract that was executed by the decedent in any manner allowable to him or her.

#### ***- Incompetency***

The law provides for any individual with disposition rights who is incompetent at the time of the decedent's death to be treated as if he or she preceded the decedent in death. [N.C. Gen. Stat. § 130A-420\(b\)](#) allows an attending physician to certify the incompetency of the individual and states that the certification will be applicable for this one purpose, only.

#### ***- Reasonable efforts***

Sometimes it becomes necessary to locate a majority of those individuals who have a right of disposition (e.g. children, siblings, or other degrees of kinship).

In these situations, Board staff recommends that licensees seek information pertaining to any such individual(s) by:

- Placing death notices in a publication where he or she was last known to reside;
- Placing a death notice on the licensee's website or social media presence; and/or
- Utilizing internet / social media searches.

Board staff also recommends that the licensee keeps a record of each such attempt made.

### SECTION 3: OTHER INDIVIDUALS WHO MAY BE ABLE TO AUTHORIZE DISPOSITION

In the event no family member comes forward to make final disposition arrangements or, if the decedent has no surviving family members, [N.C. Gen. Stat. §§ 130A-420\(b\)\(6\) through \(9\)](#) grants that authority to the following competent persons listed by order of priority:

- A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the disposition.
- In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent.
- In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of the institution.
- In the absence of any of the persons described [above], any person willing to assume responsibility for the disposition of the body.

## SECTION 4: COMMON QUESTIONS

### **Question 1: What do I do if I have an abandoned/unclaimed body (next-of-kin unknown)?**

*I have exhausted all reasonable efforts and found no one willing to assume responsibility for the decedent's final disposition. What can I do now?*

- [N.C. Gen. Stat. § 130A-420\(b1\)](#) states that any person who does not exercise his or her right to dispose of a decedent's body within 10 days from the date of death has been deemed to have waived his or her right to authorize the disposition or to contest it.
- Any funeral provider or crematory/hydrolysis licensee in possession of an abandoned body must notify the Commission of Anatomy. Per [N.C. Gen. Stat. § 130A-415\(j\)](#), a decedent's body will be deemed abandoned if each of the following apply:
  - (1) The funeral provider or crematory/hydrolysis licensee has made reasonable efforts to contact any relatives or other individuals who may wish to arrange for final disposition.
  - (2) The body has remained unclaimed for 10 days or the right to authorize final disposition has been waived per N.C. Gen. Stat. § 130A-420(b1), as referenced above.
  - (3) Any person who has expressed an interest in arranging for final disposition has ceased communicating with the funeral provider or crematory/hydrolysis licensee for a period of five (5) days.
- In order to notify the Commission of Anatomy, a licensee must contact one of its members. A list of current members can be found at: <https://www.ocme.dhhs.nc.gov/coa/membership.shtml>.
- The rules governing the acceptance of unclaimed bodies by the Commission of Anatomy can be reviewed [here](#).

**Question 2: What do I do if the decedent's next-of-kin has ceased communicating?**

*When my staff came to have custody of the decedent's body, one or more members of the decedent's family was in communication with my firm. Since that time, they have ceased all forms of communication with me and/or my staff. What can I do now?*

- [N.C. Gen. Stat. § 130A-420\(b1\)](#) states that any person who does not exercise his or her right to dispose of a decedent's body within **five (5) days of notification** or 10 days from the date of death, "**whichever is earlier**", has been deemed to have waived his or her right to authorize the disposition or to contest it.
- Any funeral provider or crematory/hydrolysis licensee in possession of an abandoned body must notify the Commission of Anatomy. Per [N.C. Gen. Stat. § 130A-415\(j\)](#), a decedent's body will be deemed abandoned if each of the following apply:
  - (1) The funeral provider or crematory/hydrolysis licensee has made reasonable efforts to contact any relatives or other individuals who may wish to arrange for final disposition.
  - (2) The body has remained unclaimed for 10 days or the right to authorize final disposition has been waived per N.C. Gen. Stat. § 130A-420(b1), as referenced above.
  - (3) Any person who has expressed an interest in arranging for final disposition has ceased communicating with the funeral provider or crematory/hydrolysis licensee for a period of five (5) days.
- In order to notify the Commission of Anatomy, a licensee must contact one of its members. A list of current members can be found at: <https://www.ocme.dhhs.nc.gov/coa/membership.shtml>.
- The rules governing the acceptance of unclaimed bodies by the Commission of Anatomy can be reviewed [here](#).

**Question 3: What do I do if the Commission of Anatomy doesn't respond or request delivery?**

*I have contacted the Commission of Anatomy and have either not heard back from them and/or they declined the decedent's remains. What can I do now?*

- If the Commission fails to respond to a licensee's notification within two (2) days or, if the Commission declines to take possession of the decedent's remains, [N.C. Gen. Stat. § 130A-415\(k\)](#) states that a representative of the funeral provider or crematory/hydrolysis licensee must notify the director of social services in the county where the decedent's body is located.
- The director of social services will require that the funeral provider or crematory/hydrolysis licensee submit a sworn statement that affirms each of the following:
  - (1) the body is an abandoned body;
  - (2) the licensee has made reasonable attempts to locate the next of kin or any other individual who may have been willing to assume responsibility for the decedent's disposition; and
  - (3) the Commission of Anatomy has failed to request or has declined delivery of the decedent's remains.
- Once the director of social services has been provided with the sworn statement, N.C. Gen. Stat. §§ [130A-415\(k\)](#) and [130A-420\(b1\)](#) each stipulate that it will then become the responsibility of the director of social services to promptly arrange for the final disposition of the decedent's body.



## CHAPTER 6

### CREMATION AND HYDROLYSIS

#### SECTION 1: CERTIFICATION OF DEATH

No cremation/hydrolysis may occur until the decedent's death has been properly certified by an attending physician, medical examiner, or appropriate out-of-state authority.

##### ***Subsection A: In-state deaths***

###### ***- Attending physicians***

- Death Certificate

For any death occurring in this State and certified by an attending physician or his or her legally authorized supervisee, [N.C. Gen. Stat. § 90-210.129\(a\)](#) requires the death certificate to contain the certifier's signature and the following information about the decedent:

- (1) Name;
- (2) Date of death;
- (3) Date of birth;
- (4) Sex;
- (5) Place of death;
- (6) Facility name (if not institution, street and number);
- (7) County of death;
- (8) City of death; and
- (9) Time of death (if known).

- Medical examiner's authorization / Form DHHS 1181

It is not permissible for any decedent to be cremated/hydrolyzed until a medical examiner has granted permission to do so. Unless the circumstances surrounding the decedent's death are specifically exempted, a licensee would be required to obtain a medical examiner's authorization as heretofore set forth in Chapter 4, Section 7.

- **Medical examiners**

- [N.C. Gen. Stat. § 90-210.129](#) requires the death certificate to be signed by the medical examiner.
- Each of the nine (9) items relative the decedent that are required to appear on a death certificate certified by an attending physician.
- The "Burial / Cremation Permit" section completed by the medical examiner.

**Subsection B: Out-of-state deaths**

- **Burial-transit permit, death certificate, or other authorization**

- [N.C. Gen. Stat. § 90-210.129\(c1\)](#) requires, as a prerequisite to cremation, the funeral provider or crematory/hydrolysis licensee to be in possession of a copy of the burial-transit permit issued by the other jurisdiction and one of the following:
  - (1) A death certificate from the other jurisdiction that contains the signature of the certifier and each of the nine (9) items relative the decedent that would have been required had death occurred in this State.
  - (2) Any document or certificate required to authorize cremation/hydrolysis in the jurisdiction where death occurred that is signed by a physician, medical examiner, or other authorized person and that contains each of the nine (9) items relative the decedent that would have been required had the death occurred in this State.
- Neither of these provisions waive the jurisdiction of the medical examiner, as discussed in Chapter 4.

- **Medical examiners, Form DHHS 1181**

- A crematory/hydrolysis licensee would need to comply with those guidelines heretofore set forth in Chapter 4, Section 7.

SECTION 2: AUTHORIZATION FOR CREMATION / HYDROLYSIS

**Subsection A: Cremation or hydrolysis authorization form**

[N.C. Gen. Stat. § 90-210.125\(a\)](#) prohibits a crematory/hydrolysis licensee from performing a cremation/hydrolysis in this State without first obtaining proper authorization. A cremation or hydrolysis authorization form must contain each of the following items:

- The identity of the human remains.
- Confirmation that the human remains are the individual so named.
- The decedent's time of death (if known).
- The decedent's date of death.
- If applicable, the name of the funeral provider obtaining the authorization.
- If applicable, the address of the funeral provider obtaining the authorization.
- If applicable, the name of the licensee affiliated with the funeral provider that obtained the cremation/hydrolysis authorization.
- The name of the crematory/hydrolysis licensee to be in receipt of the decedent's remains for the purposes of cremation/hydrolysis.
- The address of the crematory/hydrolysis licensee to be in receipt of the human remains for the purpose of cremation/hydrolysis.
- A representation that the authorizing agent has the right to authorize the cremation/hydrolysis of the decedent.

- A representation that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent.
- In the event that there is another living person who does have a superior priority right to that of the authorizing agent, a representation that the authorizing agent has made all reasonable efforts to contact such person, has been unable to do so, and has no reason to believe that such person would object to the cremation/hydrolysis of the decedent.
- A representation that the authorizing agent has either disclosed the location of all living persons with an equal right to that of the authorizing agent or does not know the location of any other living person with an equal right to that of the authorizing agent.
- Express authorization for the crematory/hydrolysis licensee to cremate/hydrolyze the decedent's remains.
- Express authorization to process or pulverize the cremated/hydrolyzed remains.
- For cremation, a representation that the decedent's remains do not contain a pacemaker that has not been approved for cremation by its manufacturer or properly regulating agency.
  - Unless otherwise specified by the manufacturer of the hydrolysis chamber, [N.C. Gen. Stat. § 90-210.136\(g\)](#) permits the hydrolyzation of human remains without first removing a pacemaker unless the manufacturer of the hydrolysis equipment specifically indicates otherwise.
- For cremation, a representation that the decedent's remains not contain any other implant or material, excluding pacemakers, that may be potentially hazardous to the person performing the cremation.
  - [N.C. Gen. Stat. § 90-210.136\(g\)](#) permits the hydrolyzation of human remains without first removing implants or other materials that might otherwise have to be removed prior to cremation; provided, however, hydrolysis licensees must comply with any other laws and rules governing the handling of any hazardous material and must do so in accordance with those guidelines set by the proper regulating authority.
- The name of the person authorized to receive the cremated/hydrolyzed remains from the crematory/hydrolysis licensee.
- Per [N.C. Gen. Stat. § 90-210.130\(a\)](#), the manner in which final disposition of the cremated/hydrolyzed remains is to take place, if known.

- Per [N.C. Gen. Stat. § 90-210.130\(b\)](#), if the cremation or hydrolysis authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form shall indicate that the cremated/hydrolyzed remains will be held by the crematory/hydrolysis Licensee for 30 days prior to disposal, unless they are received from the crematory/hydrolysis licensee prior to that time, in person, by the authorizing agent or his or her designee.
- When a funeral provider is involved, a representation by the funeral director/funeral service licensee warranting to the crematory/hydrolysis licensee that the human remains being delivered are the human remains identified on the cremation or hydrolysis authorization form with any other documentation required by this State, any county, or any municipality. \*
- A representation that the funeral director/funeral service licensee or when no funeral provider is involved, the representative of a crematory/hydrolysis licensee, shall not be responsible for any of the representations made by the authorizing agent, unless such individual has actual knowledge to the contrary, except for the following, which are considered to be representations of the individual: \*
  - (1) the identity of the decedent;
  - (2) the decedent's date of death;
  - (3) the decedent's time of death;
  - (4) the name of the funeral provider;
  - (5) the address of the funeral provider;
  - (6) the name of the crematory/hydrolysis Licensee;
  - (7) the address of the crematory/hydrolysis licensee;
  - (8) any representations made concerning the presence of a pacemaker;
  - (9) any representations made concerning the presence of any other potentially hazardous implanted device or material.

- If applicable, the signature of the funeral director/funeral service licensee of the funeral provider who obtained the authorization form.\*
- If no funeral provider is involved, the signature of a representative of the crematory/hydrolysis licensee that obtained the authorization form.\*
- The name of the authorizing agent and each of the following:
  - (1) his or her address;
  - (2) the relationship between him or her and the decedent;
  - (3) the date that he or she signed the authorization form;
  - (4) the time of day that he or she signed the authorization form; and
  - (5) his or her signature attesting to the accuracy of all representations contained on the cremation or hydrolysis authorization form, except:
    - a. the name and address of the crematory/hydrolysis licensee that will perform the cremation/hydrolysis, and
    - b. the accuracy of any representation(s) made relative the presence of a pacemaker or other implanted device or material that may be hazardous, unless he or she has actual knowledge to the contrary.
- For preneed, any additional item specifically required for preneed cremation or hydrolysis authorization forms, as discussed below under “Authorizing Agent – Preneed”.

\*Note: For the purposes of N.C. Gen. Stat. § 90-210.125(b), the funeral director/funeral service licensee or, when no funeral provider is involved, the representative of the crematory/hydrolysis licensee, is not “witnessing” the signature of the authorizing agent. He or she is attesting to the accuracy of certain information contained on an at-need cremation or hydrolysis authorization form.

Accordingly, a funeral director/funeral service licensee or the representative of crematory/hydrolysis licensee should not complete the licensee’s or representative’s signature requirement for a preneed cremation or hydrolysis authorization form until the individual to be cremated/hydrolyzed is deceased.

It is acceptable, however, for a licensee/representative to sign as one of the two witnesses required by N.C. Gen. Stat. § 90-210.126(a) for preneed cremation or hydrolysis authorization forms.

***Subsection B: Authorizing agent (preneed)***

N.C. Gen. Stat. §§ [90-210.124\(a\)](#) and [130A-420\(a\); \(a1\)](#) each permit an individual to serve as his or her own authorizing agent or to delegate that authority to another individual. He or she may do so in the following order:

- Pursuant to a preneed funeral contract.\*\*
- Pursuant to a health care power of attorney which conveys a right of disposition.
- Pursuant to a written will.
- Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.
- An active service member may delegate his or her right to dispose of his or her own body by completing United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form. A delegation made in this manner is conditional but would take precedent over any of the other methods listed above if death occurred under one of the applicable circumstances.
- Unless expressly prohibited by the order of appointment, a guardian of the person may execute a preneed funeral contract and cremation or hydrolysis authorization form on behalf of the ward.

\*\*While N.C. Gen. Stat. § 130A-420(a) provides for an individual to authorize his or her own disposition through a “preneed funeral contract”, N.C. Gen. Stat. § 90-210.62(b) requires that all preneed funeral contracts must be in writing and on forms approved by the Board.

Current preneed contract forms do not contain language that would allow the purchaser to authorize his or her own cremation/hydrolysis. Accordingly, it would be necessary for an individual wishing to authorize his or her own cremation/hydrolysis to also complete the applicable authorization form. Any such authorization would be required to meet the minimum requirements set forth in N.C. Gen. Stat. §§ 90-210.125 and 90-210.126.

### ***Subsection C: Special provisions for preneed authorizations***

- ***Two witnesses required***

Per [N.C. Gen. Stat. § 90-210.126\(a\)](#), a cremation or hydrolysis authorization form executed on a preneed basis is treated as if it were “a written statement other than a will” allowed by [N.C. Gen. Stat. § 130A-420\(a\)\(4\) or \(a1\)\(1\)](#) and, therefore, must be signed by two witnesses who are at least 18 years old.

- ***Preneed funeral contracts and unfunded pre-arrangements***

[N.C. Gen. Stat. § 90-210.126\(e\)](#) requires any preneed funeral contract sold by a preneed funeral establishment, or unfunded pre-arrangements made with any funeral provider, that includes a preneed cremation or hydrolysis authorization form, to specify the final disposition of the cremated/hydrolyzed remains, pursuant to N.C. Gen. Stat. § 90-210.130.

- ***Religious conflicts***

When executing a preneed cremation or hydrolysis authorization form, [N.C. Gen. Stat. § 90-210.125\(13\)](#) permits an individual to specify any of his or her own religious practices that may conflict with the law. The funeral provider or crematory/hydrolysis Licensee will observe those practices except where they interfere with cremation/hydrolysis at a licensed facility or the required documentation and recordkeeping.

- ***Survivors designated to change arrangements***

N.C. Gen. Stat. §§ [90-210.125\(13\)](#) and [90-210.126\(b\)](#) require any preneed cremation or hydrolysis form executed by an individual as the individual’s own authorizing agent to also contain the following disclosures, which is to be completed by the authorizing agent:

- *// I do not wish to allow any of my survivors the option of canceling my cremation [or hydrolysis] and selecting alternative arrangements, regardless of whether my survivors deem such a change to be appropriate.*
- *// I wish to allow only the survivors whom I have designated below the option of canceling my cremation [or hydrolysis] and selecting alternative arrangements or continuing to honor my wishes for cremation [or hydrolysis] and purchasing services and merchandise if they deem such a change to be appropriate.*



Unless modifications were specifically allowed by the deceased authorizing agent as referenced above, [N.C. Gen. Stat. § 90-210.126\(c\)](#) requires any person arranging for final disposition who has knowledge of the existence of a preneed cremation or hydrolysis authorization form, to use the person's best efforts to ensure that the decedent's remains are cremated/hydrolyzed and stipulates that the final disposition of the cremated/hydrolyzed remains be in accordance with the instructions contained on the cremation or hydrolysis authorization form.

- ***Authorizing agent must notify intended provider***

In the event an individual executes a preneed cremation or hydrolysis authorization form, [N.C. Gen. Stat. § 90-210.126\(a\)](#) requires him or her to provide a copy of the authorization to the intended funeral provider or crematory/hydrolysis licensee and retain a copy of the form.

- ***Right to transfer or cancel preneed cremation authorization***

[N.C. Gen. Stat. § 90-210.126\(a\)](#) allows any person to transfer or cancel his or her preneed cremation/hydrolysis authorization at any time prior to his or her death by destroying the executed authorization form and providing written notice to the funeral provider or crematory/hydrolysis licensee.\*

\*This method of transfer or cancellation would only be absolute when referencing an unfunded pre-arranged / preneed authorization form and not a preneed funeral contract purchased through a preneed funeral establishment. Additional statutes and/or rules governing the transfer or cancellation of preneed funeral contracts may be applicable when a pre-arranged / preneed authorization form was executed as a part of a preneed funeral contract.

- ***Licensee's obligation to cremate / hydrolyze***

If a crematory/hydrolysis license is in possession of a completed cremation or hydrolysis authorization form, executed on a preneed basis, and the licensee is in possession of the designated human remains, [N. C. Gen. § 90-210.126\(d\)](#) requires the licensee to cremate/hydrolyze the human remains and dispose of the human remains according to the instructions contained on the authorization form.

#### ***Subsection D: Authorizing agent (at-need)***

- ***Designee named to authorize cremation / hydrolysis***

[N.C. Gen. Stat. § 90-210.124\(a\)\(1\)](#) states that when an individual has delegated his or her right to dispose of his or her own body, or authorized his or her own cremation/hydrolysis, in a manner consistent with N.C. Gen. Stat. §§ [130A-420\(a1\)](#) and [90-210.124\(a\)](#), the individual or institution designated by that individual shall act as the authorizing agent for that individual at-need.

- ***Right of superiority in the absence of named designee***

If a decedent has left no written authorization for his or her own cremation/hydrolysis, N.C. Gen. Stat. §§ [130A-420\(b\)](#) and [90-210.124\(2\)](#) list the following competent persons that may act as authorizing agent:

- The surviving spouse.
- A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.
- The surviving parents.
- A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.
- A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.
- A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation/hydrolysis and disposition.
- In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.
- In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged

with making arrangements for the final disposition of the decedent, a representative of such institution may serve as the authorizing agent in the absence of any of the above.

- In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.
- For situations involving abandoned bodies or abandoned bodies or, when the individual(s) with a right to authorize cremation/hydrolysis has ceased communicating with the licensee, those procedures heretofore set forth in Chapter 5, Section 4 must be adhered to.

### SECTION 3: CREMATION / HYDROLYSIS PROCEDURES

#### ***Subsection A: 24 hour waiting period***

[N.C. Gen. Stat. § 90-210.129](#) prohibits any cremation/hydrolysis from taking place until at least 24 hours after the time of death unless the waiting period is waived in writing by the medical examiner, health director, or attending physician where the death occurred.

Such a waiver is only permitted in cases where the decedent was infected with an infectious, contagious, or communicable and dangerous disease as listed by the Commission for Public Health, or [10 NCAC 41A .0101](#).

Per [21 NCAC 34C .0302](#), any such waiver must be completed on Board forms BFS [55A](#) or [55B](#) and used for cremation or hydrolysis, respectively.

#### ***Subsection B: Pacemakers, defibrillators, other implanted devices or materials***

##### ***- Cremation***

[N.C. Gen. Stat. § 90-210.129\(d\)](#) specifically allows for the cremation of some pacemakers which have been approved for cremation by the pacemaker's manufacturer or proper regulating agency. These pacemakers are more commonly known as "leadless" pacemakers.

The funeral provider or crematory licensee would still be responsible for ensuring that pacemakers containing leads, defibrillators, and/or other hazardous implanted device or material were removed from the decedent. Any hazardous material removed must be handled in accordance with the guidelines set by the proper regulating authority.

- **Hydrolysis**

[N.C. Gen. Stat. § 90-210.136\(g\)](#) provides that no pacemaker, defibrillator, and/or other implanted device or material would have to be removed from a decedent's remains prior to hydrolysis unless otherwise directed by the manufacturer of the hydrolysis chamber; provided, however, any hazardous material should be handled in accordance with guidelines set by the proper regulating authority.

**Subsection C: Containers**

**Part 1: Cremation**

- **Cremation containers**

[N.C. Gen. Stat. § 90-210.129\(g\)](#) requires that human remains be cremated only while enclosed in a cremation container.

Further, [N.C. Gen. Stat. § 90-210.121\(9\)](#) requires human remains to either be transported to the crematory licensee in a cremation container placed or therein upon arrival and prior to storage or cremation. Cremation containers must meet the following minimum requirements:

- Composed of easily combustible materials;
- Provide for the complete covering for the human remains;
- Resistant to leakage or spillage;
- Be rigid enough to handle with ease;
- Provide protection of health, safety, and personal integrity of crematory personnel; and
- Be easily identifiable to include:
  - (1) The decedent's name;
  - (2) The decedent's date of death;
  - (3) The decedent's sex; and
  - (4) The decedent's age at death.

- **Caskets**

[N.C. Gen. Stat. § 90-210.128\(a\)](#) strictly prohibits crematory licensees from refusing to accept delivery of or refusing to cremate any human remains simply because they are not contained within a casket.

- **Urns**

[N.C. Gen. Stat. § 90-210.128\(b\)](#) strictly prohibits crematory licensees from requiring that any cremated remains be placed in an urn or other receptacle designed to permanently encase the hydrolyzed remains.

## **Part 2: Hydrolysis**

- **Hydrolysis containers**

“Hydrolysis container” is defined by [N.C. Gen. Stat. § 90-210.136\(a\)\(2\)](#) as “[a] container, other than a casket, designed to enclose human remains and made of suitable material to be easily destroyed during hydrolysis and to resist leakage and spillage [and] [...] may be a cremation container or any other container that meets [these requirements].”

That said, N.C. Gen. Stat. § 90-210.136(c) states in part, “[t]he hydrolysis of human remains shall be conducted in compliance with all requirements for cremation[.]”

As such, it is Board staff’s opinion that in addition to the requirements set forth in N.C. Gen. Stat. § 90-210.136(a)(2), a hydrolysis container must also meet the same minimum requirements for a cremation container as heretofore set forth in Part 1 of this subsection and, that human remains must be hydrolyzed only while enclosed in a hydrolysis container.

- **Caskets**

It is Board staff’s opinion that the provisions of N.C. Gen. Stat. § 90-210.128(a) would also apply to hydrolysis licensees and, therefore, any such licensee is strictly prohibited from refusing to accept delivery of or refusing to hydrolyze any human remains simply because they are not contained within a casket.

- **Urns**

It is Board staff’s opinion that the provisions of N.C. Gen. Stat. § 90-210.128(b) would also apply to hydrolysis licensees and, therefore, any such licensee is strictly prohibited from

requiring that any hydrolyzed remains be placed in an urn or other receptacle designed to permanently encase the hydrolyzed remains.

***Subsection D: Simultaneous cremation / hydrolysis***

[N.C. Gen. Stat. § 90-210.129\(h\)](#) prohibits the simultaneous cremation/hydrolysis of the human remains of more than one person; provided, however, the following human remains may be cremated simultaneously with the express written direction of the authorizing agent:

- The human remains of multiple fetuses from the same mother and the same birth.
- The human remains of multiple persons up to age one year old from the same mother and the same birth.

***Subsection E: Fetal remains***

- ***Greater than 20 weeks gestation***

- Fetal death report

[N.C. Gen. Stat. § 130A-114](#) requires that a fetal death report be issued prior to the cremation/hydrolysis of any fetal remains of 20 weeks gestation or more. Accordingly, [N.C. Gen. Stat. § 90-210.129\(p\)](#) requires the crematory/hydrolysis licensee to receive a copy of the fetal death report prior to cremation.

- When fetal death occurs in a medical facility, the attending physician or his or her legally authorized designee is responsible for completing the form and filing it with the local registrar.
- When fetal death occurs outside of a medical facility, the physician in attendance at or immediately after the delivery is responsible for completing and filing the report. If the fetal death was attended by a person authorized to attend childbirth, the supervising physician is responsible for preparing and filing the report.

- ***Less than 20 weeks gestation***

For fetal remains of less than 20 weeks gestation, [N.C. Gen. Stat. § 90-210.129\(o\)](#) requires that a completed Board form BFS [56F1](#) or [56F2](#) be signed by the attending physician, or other person legally authorized to certify a certificate of death, and received prior to cremation or hydrolysis, respectively.

### ***Subsection F: Amputated body parts***

For amputated body parts, [N.C. Gen. Stat. § 90-210.129\(q\)](#) requires that a completed Board form BFS [56E1](#) or [56E2](#) be signed by the attending physician, or other person legally authorized to certify a certificate of death, and received prior to cremation or hydrolysis, respectively.

### ***Subsection G: Handling and disposition of cremated/hydrolyzed remains***

#### ***- Unauthorized persons in view of cremation/hydrolysis area***

[N.C. Gen. Stat. § 90-210.129\(f\)](#) prohibits any unauthorized person from being permitted in view of the cremation chamber or in the holding and processing facility while any cremated/hydrolyzed remains are being removed from the cremation/hydrolysis chamber, processed, or pulverized.

Relatives of the deceased and their invitees, the authoring agent and his or her invitees, medical examiners, Inspectors of the Board, and law enforcement officers in the execution of their duties are also authorized to be in the crematory area, subject to any rules adopted by the crematory governing the safety of such individuals.

#### ***- Removal from cremation/hydrolysis chamber***

[N.C. Gen. Stat. § 90-210.129\(g\)](#) stipulates that crematory/hydrolysis licensee staff must use all reasonable efforts possible to remove all recoverable cremated/hydrolyzed remains from the cremation/hydrolysis chamber.

#### ***- Processing and pulverization***

Per [N.C. Gen. Stat. § 90-210.129\(g\)](#), the cremated/hydrolyzed remains must be separated from any foreign residue or any foreign material other than bone fragments. Following this separation, the cremated/hydrolyzed remains must then be processed by pulverization and reduced to unidentifiable particles.

Furthermore, the statute stipulates that any foreign residue or material separated from the cremated remains must be disposed of by the crematory/hydrolysis licensee.

#### ***- Certificate of cremation/hydrolysis***

Per [N.C. Gen. Stat. § 90-210.127\(e\)](#), the crematory/hydrolysis licensee must issue a certificate of cremation/hydrolysis upon the completion of each cremation/hydrolysis.

[N.C. Gen. Stat. § 90-210.121\(5\)](#) stipulates that each cremation/hydrolysis certification must contain the following information:

- Name of decedent;
- Date of cremation/hydrolysis;
- Name and address and crematory/hydrolysis licensee; and
- Signature crematory/hydrolysis licensee manager or person acting as such.

- **Packaging**

[N.C. Gen. Stat. § 90-210.129\(l\) and \(m\)](#) provide crematory/hydrolysis licensees with certain guidelines that govern how cremated/hydrolyzed remains are to be placed in an initial container or urn, as follows:

- *The cremated [or hydrolyzed] remains with proper identification shall be placed in an initial container or the urn selected or provided by the authorizing agent. The initial container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent[.]*
- *If the cremated [or hydrolyzed] remains are greater than the dimensions of an initial container or urn, the excess cremated [or hydrolyzed] remains shall be returned to the authorizing agent or its representative in a separate container or urn.*

- **Labels**

When cremated/hydrolyzed remains are placed into an initial container, urn, or other permanent container by a crematory/hydrolysis licensee, [21 NCAC 34C .0205](#) requires the licensee to attach thereto, a typed or printed label containing the following information:

- Name of the decedent;
- Date of cremation; and
- Name of crematory.

If an inner and outer container are used, the crematory/hydrolysis licensee must label both containers.



- **Shipping**

If shipped, [N.C. Gen. Stat. § 90-210.129\(n\)](#) stipulates that the initial container or urn be packed securely and in a suitable shipping container meeting the carrier's minimum requirements.

The statute further mandates that cremated/hydrolyzed remains be shipped only to the address stated on the authorization form and in a manner that can be traced while requiring the signature of the person accepting delivery, unless otherwise authorized in writing by the authorizing agent.

**Subsection H: Monthly cremation/hydrolysis reports, fees**

- [N.C. Gen. Stat. § 90-210.132\(a\)](#) allows the Board to collect and require the following:
  - (1) A monthly cremation or hydrolysis report;
  - (2) A late fee for each crematory or hydrolysis report filed late;
  - (3) A per cremation or hydrolysis fee; and
  - (4) A late fee, per cremation or hydrolysis.
- [21 NCAC 34A .0201\(b\)](#) sets those fees at the following rates:
  - (1) A late filing fee for cremation or hydrolysis report, per month, of seventy-five dollars (\$75);
  - (2) A per-cremation or hydrolysis fee of ten dollars (\$10); and
  - (3) A late filing or payment fee for each cremation or hydrolysis of ten dollars (\$10).
- [21 NCAC 34C .0305](#) mandates that the per-cremation and/or hydrolysis fees must be paid on a calendar month basis, with the fees for any given month being due and payable no later than the 10<sup>th</sup> day of the next calendar month.

- The rule also requires that the crematory/hydrolysis licensee submit a cremation or hydrolysis report to the Board. The report must contain the follow minimum information:
  - (1) Crematory/hydrolysis licensee name;
  - (2) Each decedent’s name;
  - (3) Date of each cremation/hydrolysis;
  - (4) The name of the person or other entity on whose behalf the cremation/hydrolysis was performed;
  - (5) The total number of cremations/hydrolyses contained in the report; and
  - (6) The total amount of fees remitted with the report.
- A sample monthly crematory report can be found [here](#).
- A sample monthly hydrolysis report [here](#).

Note: If an entity is licensed as both a crematory licensee and a hydrolysis licensee, separate monthly reports must be filed for each license held.

#### SECTION 4: FINAL DISPOSITION OF CREMATED/HYDROLYZED REMAINS

For this section, you will simply find a hyperlink to the entire statute its corresponding bullet point is excerpted from. As Board staff is unable to provide legal advice, any questions concerning rights or liability would best be directed to an attorney of your choosing.

- [N.C. Gen. Stat. § 90-210.130\(f\)](#)
  - *Cremated [or hydrolyzed] remains may be scattered over uninhabited public land, over a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner[.] [If such scattering is to occur on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory {or hydrolysis} licensee with the written consent of the property owner][.]. A person may utilize a boat or airplane to perform such scattering. Cremated [or hydrolyzed] remains shall be removed from their closed container before they are scattered.*

- [N.C. Gen. Stat. § 90-210.130\(c\)](#)
  - *In addition to the disposal of cremated [or hydrolyzed] remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public land, the sea, or other public waterways[,] [subject to health and environmental standards], cremated [or hydrolyzed] remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated [or hydrolyzed] remains are to be disposed of by the crematory [or hydrolysis] licensee on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory [or hydrolysis] licensee with the written consent of the property owner.*
  
- [N.C. Gen. Stat. § 90-210.130\(d\)\(1\) and \(2\)](#)
  - *Except with the express written permission of the authorizing agent, no person may:*
    - (1) *Dispose of or scatter cremated [or hydrolyzed] remains in such a manner or in such a location that the cremated [or hydrolyzed] remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated [or hydrolyzed] remains at sea or by air from individual closed containers or to the scattering of cremated [or hydrolyzed] remains in an area located in a dedicated cemetery and used exclusively for such purposes.*
    - (2) *Place cremated [or hydrolyzed] remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated [or hydrolyzed] remains of members of the same family in a common closed container designed for the cremated [or hydrolyzed] remains of more than one person with the written consent of the family.*
  
- [N.C. Gen. Stat. § 90-210.130\(b\)](#)
  - *The authorizing agent is responsible for the disposition of the cremated [or hydrolyzed] remains. If, after a period of 30 days from the date of cremation [or hydrolysis], the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated [or hydrolyzed] remains, the crematory [or hydrolysis] licensee or the person in possession of the cremated [or hydrolyzed] remains may release the cremated [or hydrolyzed] remains to another family member upon written notification to the authorizing agent delivered by certified mail or dispose of the cremated [hydrolyzed] remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory [or hydrolysis] licensee for all reasonable*

*expenses incurred in disposing of the cremated [or hydrolyzed] remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition.*

## SECTION 5: RECORDKEEPING REQUIREMENTS

### ***Subsection A: Retention and inspection***

[N.C. Gen. Stat. § 90-210.127\(c\), \(d\), & \(f\)](#) stipulate that each crematory/hydrolysis licensee maintains all Board required records at its place of business and keep them readily available for Board Inspectors for a period of three (3) years.

### ***Subsection B: Forms subject to retention and inspection***

#### ***Part 1: Summary of required forms, Sections 1 – 3***

Each form required for cremation/hydrolysis, as heretofore discussed in Sections 1 through 3 this Chapter, can either be categorized as a mandatory form or, as one that is discretionary. Any discretionary form must still contain the minimum information required by the statute(s) or rule(s) governing it.

Below, is a list of the forms covered up to this point that are required to be maintained and subject to inspection. In parentheses and, beside each form reference, you will find a notation as to whether the form is mandated or discretionary.

- Death certificate (mandated)
- DHHS 1181 or other medical examiner’s authorization, as applicable
- Burial-transit permit (mandated)
  - Required as a precursor for cremation/hydrolysis for out-of-state deaths
- For out-of- state deaths, a special permit authorizing disposition, if applicable (mandated)
  - If issued by the jurisdiction of death when a death certificate will not be provided in a timely manner.

- Cremation or hydrolysis authorization form, as follows:
  - (1) For cremation, Form BFS 59 (discretionary)
  - (2) For hydrolysis, Form BFS 59A (discretionary)
  
- Waiver of 24 hour waiting period form, as follows:
  - (1) For cremation, Form BFS 55A (mandatory)
  - (2) For hydrolysis, Form BFS 55B (mandatory)
  
- For fetal deaths occurring at 20 weeks gestation or greater, a fetal death report. (mandatory)
  
- For fetal deaths occurring at **less than 20 weeks gestation**, a confirmation of fetal death, as follows:
  - (1) For cremation, Form BFS 56F1 (mandatory)
  - (2) For hydrolysis, Form BFS 56F2 (mandatory)
  
- For amputated body parts, a physician's authorization, as follows:
  - (1) For cremation, Form BFS 56E1 (mandatory)
  - (2) For hydrolysis, Form BFS 56E2 (mandatory)
  
- Certificate of cremation/hydrolysis (discretionary)
  
- Label(s) for attachment to initial container(s), urn(s), or other permanent containers (discretionary)
  
- Monthly cremation or hydrolysis reports (discretionary)

**Part 2:       Receipts of delivery**

[N.C. Gen. Stat. § 90-210.127\(a\), \(b\)](#), and [21 NCAC 34C .0303](#) set forth a series of Board prescribed forms designed to track the human remains from the time they are received by a crematory/hydrolysis licensee until they are returned to the authorizing agent, his or her designee, or shipped per his or her instruction.

The law and rule exist, in part, to offer the means by which licensees can comply with other statutory provisions that require such receipts and records of delivery to be documented by the crematory/hydrolysis licensee and/or funeral provider.

The forms, commonly referred to as “the 56 Series,” can be detailed as follows:

- [Form BFS 56A1](#)       (must use 56A1 or 56G1)

- **Satisfies statute / rule:**

[N.C. Gen. Stat. § 90-210.127\(a\)](#) and [21 NCAC 34C .0303\(a\)](#)

- **Purpose:** To document receipt of a decedent’s human remains into the custody of a crematory licensee.

- [Form BFS 56A2](#)       (must use 56A2 or 56G2)

- **Satisfies statute / rule:**

[N.C. Gen. Stat. § 90-210.127\(a\)](#) and [21 NCAC 34C .0303\(a\)](#)

- **Purpose:** To document receipt of a decedent’s human remains into the custody of a hydrolysis licensee.

- [Form BFS 56B1](#) (must use 56B1 or 56G1)
  - **Satisfies statute / rule:**  
[21 NCAC 34C .0303\(d\)](#)
  - **Purpose:** To track the decedent's remains through the entire cremation process.
  
- [Form BFS 56B2](#) (must use 56B2 or 56G2)
  - **Satisfies statute / rule:**  
[21 NCAC 34C .0303\(d\)](#)
  - **Purpose:** To track the decedent's remains through the entire hydrolysis process.
  
- [Form BFS 56C1](#) (must use 56C1 or 56G1)
  - **Satisfies statute / rule:**  
[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130\(b\) & \(e\)](#),  
[N.C. Gen. Stat. § 90-210.127\(b\)](#), and [21 NCAC 34C .0303\(b\)](#)
  - **Purpose:** To document the delivery of a decedent's cremated remains from the custody of a crematory licensee to the funeral provider or as otherwise directed by the authorizing agent(s).

- [Form BFS 56C2](#) (must use 56C2 or 56G2)
  - **Satisfies statute / rule:**  
[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130 \(b\) & \(e\)](#),  
[N.C. Gen. Stat. § 90-210.127\(b\)](#), and [21 NCAC 34C .0303\(b\)](#)
  - **Purpose:** To document the delivery of a decedent's hydrolyzed remains from the custody of a hydrolysis licensee or as otherwise directed by the authorizing agent(s).
  
- [Form BFS 56G1](#)
  - **Satisfies statute / rule:**  
[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130\(b\) & \(e\)](#),  
[N.C. Gen. Stat. § 90-210.127\(a\) & \(b\)](#), and [21 NCAC 34C .0303\(a\), \(b\), \(d\), & \(e\)](#)
  - **Purpose:** Provides crematory licensee with a consolidated version of BFS Forms 56A1, 56B1, and 56C1.
  
- [Form BFS 56G2](#)
  - **Satisfies statute / rule:**  
[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130\(b\) & \(e\)](#),  
[N.C. Gen. Stat. § 90-210.127\(a\) & \(b\)](#), and [21 NCAC 34C .0303\(a\), \(b\), \(d\), & \(e\)](#)
  - **Purpose:** Provides hydrolysis licensee with a consolidated version of BFS Forms 56A1, 56B1, and 56C1.



- [Form BFS 56D1](#) (mandatory)

- **Satisfies statute / rule:**

[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130\(b\) & \(e\)](#),

[N.C. Gen. Stat. § 90-210.127\(b\)](#), and [21 NCAC 34C .0303\(b\)](#)

- **Purpose:** To document the delivery of a decedent's cremated remains from the custody of a funeral provider, per instruction of the authorizing agent(s).

Note: Under current rule, this form is to be completed by all funeral providers without regard to whether the funeral provider is also a crematory licensee.

- [Form BFS 56D2](#) (mandatory)

- **Satisfies statute / rule:**

[N.C. Gen. Stat. § 90-210.129\(n\)](#), [N.C. Gen. Stat. § 90-210.130\(b\) & \(e\)](#),

[N.C. Gen. Stat. § 90-210.127\(b\)](#), and [21 NCAC 34C .0303\(b\)](#)

- **Purpose:** To document the delivery of a decedent's hydrolyzed remains from the custody of a funeral provider, per instruction of the authorizing agent(s).

Note: Under current rule, this form is to be completed by all funeral providers without regard to whether the funeral provider is also a hydrolysis licensee.

Lastly, [N.C. Gen. Stat. § 90-210.127\(d\)](#) requires the crematory/hydrolysis licensee to maintain a written record of all cremated/hydrolyzed remains that the licensee has disposed of according to the instructions of the authorizing agent, as set forth on a preneed cremation or hydrolysis authorization form.

It is Board staff's opinion that the record required by N.C. Gen. Stat. § 90-210.127(d) should be kept in the form of a journal, or other continuous record, that is maintained separate from and in addition to BFS Forms 56 C1, C2, G1, G2, D1, and/or D2. The form of this journal or similar recording method at the discretion of the crematory/hydrolysis licensee.

## SECTION 6: LIMITATIONS OF LIABILITY, CREMATORY/HYDROLYSIS LICENSEE RIGHTS

For this section, you will simply find a hyperlink to the entire statute its corresponding bullet point is excerpted from. As Board staff is unable to provide legal advice, any questions concerning rights or liability would best be directed to an attorney of your choosing.

- [N.C. Gen. Stat. § 90-210.125\(b\)](#)

- *An authorizing agent signing a [cremation or hydrolysis] authorization form shall be personally and individually liable for all damages occasioned thereby and resulting therefrom.*

- [N.C. Gen. Stat. § 90-210.125\(c\)](#)

- *A [crematory/hydrolysis licensee] shall have the legal right to [cremate/hydrolyze] human remains upon the receipt of a [cremation or hydrolysis] authorization form signed by an authorizing agent.*
- *There shall be no liability for a [crematory/hydrolysis licensee] that cremates/hydrolyzes] human remains pursuant to such authorization, or that releases or disposes of the [cremated/hydrolyzed] remains pursuant to such authorization, except for such [crematory/hydrolysis licensee's] gross negligence, provided that the [crematory/hydrolysis licensee] performs such functions in compliance with the provisions of th[e] [Board's governing statutes].*
- *There shall be no liability for a [funeral provider] or licensee thereof that causes a [crematory/hydrolysis licensee] to cremate human remains pursuant to such authorization, except for gross negligence, provided that the [funeral provider] and licensee thereof and [crematory/hydrolysis licensee] perform their respective functions in compliance with the provisions of th[e] [Board's governing statutes].*

- [N.C. Gen. Stat. § 90-210.125\(d\)](#)

- *After the authorizing agent has executed a [cremation or hydrolysis] authorization form and prior to the commencement of the [cremation/hydrolysis], the authorizing agent may revoke the authorization and instruct the [crematory/hydrolysis licensee] to cancel the [cremation/hydrolysis] and to release or deliver the human remains to another [crematory/hydrolysis licensee or funeral provider].*

- *Such instructions shall be provided to the [crematory/hydrolysis licensee] in writing. A [crematory/hydrolysis licensee] shall honor any instructions given to it by an [authorizing agent], provided that it receives such instructions prior to commencement of the [cremation/hydrolysis] of the human remains.*
- [N.C. Gen. Stat. § 90-210.126\(d\)](#)
    - *A crematory [or hydrolysis] licensee that complies with the preneed cremation [or hydrolysis] authorization form under these circumstances may do so without any liability. A [funeral provider] or licensee thereof that causes a crematory [or hydrolysis] licensee to act in accordance with the preneed cremation [or hydrolysis] authorization form under these circumstances may do so without any liability.*
- [N.C. Gen. Stat. § 90-210.126\(e\)](#)
    - *[With regard to preneed cremation or hydrolysis authorizations forms][,] [i]n the event that no different or inconsistent instructions are provided to the crematory [or hydrolysis] licensee by the authorizing agent at the time of death, the crematory [or hydrolysis] licensee shall be authorized to release or dispose of the cremated [or hydrolyzed] remains as indicated in the preneed agreement. Upon compliance with the terms of the preneed agreement, the crematory [or hydrolysis] licensee, and any [funeral provider] or licensee thereof who caused the crematory [or hydrolysis] licensee to act in compliance with the terms of the preneed agreement, shall be discharged from any legal obligation concerning such cremated remains.*
- [N.C. Gen. Stat. § 90-210.129\(k\)](#)
    - *Nothing in this Article shall require a crematory [or hydrolysis] licensee to perform a cremation [or hydrolysis] that is impossible or impractical to perform.*
- [N.C. Gen. Stat. § 90-210.130\(b\)](#)
    - *Upon [disposing of a decedent's cremated/hydrolyzed remains, or releasing them to one or more individuals in a manner consistent with the law], the crematory [or hydrolysis] licensee or person in possession of the cremated [or hydrolyzed] remains shall be discharged from any legal obligation or liability concerning such cremated [or hydrolyzed] remains.*

- [N.C. Gen. Stat. § 90-210.131](#)

- *Any person signing a [cremation or hydrolysis] authorization form as authorizing agent shall be deemed to warrant the truthfulness of any facts set forth in the [cremation or hydrolysis] authorization form, including the identity of the deceased whose remains are sought to be [cremated/hydrolyzed] and that person's authority to order such [cremation/hydrolysis].*
- *A [crematory/hydrolysis licensee] shall have authority to [cremate/hydrolyze] human remains only upon the receipt of a [cremation or hydrolysis] authorization form signed by an authorizing agent.*
- *There shall be no liability of a [crematory/hydrolysis licensee] that [cremates/hydrolyzes] human remains pursuant to such authorization or that releases or disposes of the [cremated/hydrolyzed] remains pursuant to such authorization.*
- *A [crematory/hydrolysis licensee] and [funeral provider] or licensee thereof who causes the [crematory/hydrolysis licensee] to act shall have no liability for the final disposition or manner in which the [cremated/hydrolyzed] remains are handled after the [cremated/hydrolyzed] remains are released in accordance with the directions of the authorizing agent.*
- *A [crematory/hydrolysis licensee] shall not be responsible or liable for any valuables delivered to the [crematory/hydrolysis licensee] with human remains.*
- *A [crematory/hydrolysis licensee] shall not be liable for refusing to accept a body or to perform a [cremation/hydrolysis] until it receives a court order or other suitable confirmation that a dispute has been settled if:*
  - (1) It is aware of any dispute concerning the [cremation/hydrolysis] of human remains;*
  - (2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or*
  - (3) For any other lawful reason.*
- *If a [crematory/hydrolysis licensee] is aware of any dispute concerning the release or disposition of the [cremated/hydrolyzed] remains, the [crematory/hydrolysis licensee] may refuse to release the [cremated/hydrolyzed] remains until the dispute has been*

*resolved or the [crematory/hydrolysis licensee] has been provided with a court order authorizing the release or disposition of the [cremated/hydrolyzed] remains.*

- *A [crematory/hydrolysis licensee] shall not be liable for refusing to release or dispose of [cremated/hydrolyzed] remains in accordance with th[e] [Board's governing statutes].*
- *A [crematory/hydrolysis licensee] may charge a reasonable storage fee if the dispute is not resolved within 30 days after it is received by the [crematory/hydrolysis licensee].*

- [N.C. Gen. Stat. § 90-210.133\(a\)](#)

- *A [crematory/hydrolysis licensee] may adopt reasonable rules consistent with th[e] [Board's governing statutes] for the management and operation of a [crematory/hydrolysis licensee]. Nothing in this subsection may be construed to prevent a [crematory/hydrolysis licensee] from adopting rules which are more stringent than the provisions of th[e] [Board's governing statutes].*

- [N.C. Gen. Stat. § 90-210.134\(a\)](#)

- *The Board may develop a Standard [Cremation or Hydrolysis] Authorization Form and procedures for its execution that shall be used by the [crematory/hydrolysis licensee] subject to th[e] [Board's governing statutes] unless a [crematory/hydrolysis licensee] has its own form approved by the Board.*
- *A [crematory/hydrolysis licensee] that uses its own approved [cremation or hydrolysis] authorization form must have the [cremation or hydrolysis] authorization form reapproved if changed or after amendments are made to th[e] [Board's governing statutes] or the rules adopted by the Board related to [cremation or hydrolysis] authorization forms.*

- [N.C. Gen. Stat. § 90-210.135](#)

- *No person, firm, or corporation licensed as a [crematory/hydrolysis Licensee] under the [Board's governing statutes] may operate a [cremation/hydrolysis] society without first registering the name of the [cremation/hydrolysis] society with the Board.*

## CHAPTER 7

### THE ARRANGEMENT CONFERENCE

#### → PRICING, STATEMENT OF GOODS AND SERVICES SELECTED →

#### SECTION 1: BOARD REQUIREMENTS

##### ***Subsection A: Merchandise***

When and where a funeral provider presents a selection of funeral merchandise to the public to be used in connection with a service that is to be provided by the funeral provider, [N.C. Gen. Stat. § 90-210.25\(e\)\(2\)](#) requires that a price card be directly associated with each item of merchandise.

The price card must contain:

- The price of the merchandise; and
- If included in package pricing, the price of the service using the merchandise and listing the services and other merchandise included in the package price, if any.

##### ***Subsection B: Statement of goods and services selected***

###### ***- Arrangement conference and signature***

[N.C. Gen. Stat. § 90-210.25\(e\)\(2\)](#) requires a funeral director of funeral service licensee to provide the person(s) responsible for making funeral arrangements with a statement of goods and services selected.

- The statement must:
  - (1) Show the total price of the services, merchandise, and cash advance items selected at the time the contract was negotiated.
  - (2) Disclose the dollar amount of any fee(s) that will be charged by a finance company for expediting payment of life insurance proceeds to the funeral provider that will be passed on to the person(s) responsible for making the arrangements.

- (3) Be signed by the funeral director or funeral service licensee.
- (4) Be presented to the person(s) responsible for making funeral arrangements at the time such arrangements are made and prior to rendering the service and providing the merchandise.
- (5) Contain the following written disclosure:

“This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e).”

- ***Retention of records***

[21 NCAC 34B .0613](#) requires funeral providers to retain a copy of each statement of goods and services for a period of two (2) years.

***Subsection C: Assignment of insurance proceeds***

[N.C. Gen. Stat. § 90-210.25\(e\)\(1\)\(o\)](#) grants the Board authority to take disciplinary action against funeral providers or their licensee representatives who fail to refund any insurance proceeds received in excess of the funeral contract price within 30 days from the receipt thereof. This does not include any amounts a preneed funeral establishment would be entitled to receive under the terms of an inflation-proof preneed funeral contract.

***Subsection D: Failure to provide goods and services paid for***

[N.C. Gen. Stat. § 90-210.25\(e\)\(1\)\(p\)](#) grants the Board authority to take disciplinary action against funeral providers or their licensee representatives for any failure to provide, within a reasonable time, either the goods and services contracted for or a refund for the price of the goods and services paid for but not fulfilled.

## SECTION 2: THE FEDERAL TRADE COMMISSION

***Subsection A: Who must comply?***

As discussed in Chapter 2, Section 2 A, all funeral providers doing business in this State must comply with the Federal Trade Commission’s (the “Commission”) [16 C.F.R. § 453 - Funeral Industry Practices](#) (the “Funeral Rule”).

Furthermore, [N.C. Gen. Stat. §§ 90-210.26\(e\)](#) and [90-210.25\(e\)\(1\)\(j\)](#) empower the Board to enforce compliance with the standards set forth in the Funeral Rule, as amended from time to time, and to take disciplinary action against any funeral provider who is found to have failed to comply therewith.

***Subsection B: How to comply***

An electronic copy of the Commission’s publication, “Complying with the Funeral Rule”, is available on the Board’s website and at the following link:

<https://www.ftc.gov/tips-advice/business-center/guidance/complying-funeral-rule>

***Subsection C: Board staff compliance opinions***

Board staff does not speak for, nor does it offer opinions on behalf of, the Commission. Board staff can only offer licensees of the Board compliance opinions based on whether it feels a particular activity would or would not be in compliance with the Board’s governing statutes and rules.

***Section D: Commission staff advisory opinions***

At various times since its enactment, Commission staff has issued advisory opinions to certain individuals and/or entities seeking guidance pertaining to compliance with the Funeral Rule. Those advisory opinions are available on the Board’s website and can be accessed through the Board’s website and at the following link:

<https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/funeral-industry-practices-rule>