

1 21 NCAC 34A .0204 is adopted as published in 34:19 NCR 1780-1783 as follows:

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3 **21 NCAC 34A .0204 PETITION FOR PREDETERMINATION**

4 (a) General. An individual seeking predetermination pursuant to G.S. 93B-8.1(b6) and this Rule may file with the  
5 Board a petition form located on the Board’s website, www.ncbfs.org.

6 (b) Petition Procedure. The petition form shall include all of the following information:

- 7 (1) The person’s name;
- 8 (2) The last four digits of the person’s social security number;
- 9 (3) The person’s current residential address;
- 10 (4) The person’s current mailing address;
- 11 (5) A nationwide criminal history record report from a reporting service designated by the Board, the  
12 cost of which shall be borne by the petitioner;
- 13 (6) For each crime identified in the criminal history record report, the following information:
  - 14 (A) Whether the crime was a felony or misdemeanor;
  - 15 (B) The date that the crime occurred;
  - 16 (C) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
  - 17 (D) The age of the person at the time of the crime;
  - 18 (E) The circumstances surrounding the commission of the crime;
  - 19 (F) The sentence imposed for the crime;
  - 20 (G) The period of time during which the person was incarcerated for the crime, if any;
  - 21 (H) The period of time during which the person was on probation or parole for the crime, if  
22 any;
  - 23 (I) Any documentation related to the person’s rehabilitation or employment since the date of  
24 the crime, if any;
  - 25 (J) Whether the person has undergone any rehabilitative drug or alcohol treatment since the  
26 date of the crime;
  - 27 (K) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A  
28 173.2; and
  - 29 (L) Any affidavits or other written documents, including character references, for the person;  
30 and
- 31 (7) An affirmation under oath that the person has read the statutes and rules governing the practice of  
32 funeral service and that the information contained in the petition is true and accurate.

33 Incomplete petitions shall not be considered by the Board. If incomplete petitions received by the Board are not made  
34 complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was  
35 made.

1 (c) Petition Fee. A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee  
2 may be paid by certified bank check or money order made payable to the North Carolina Board of Funeral Service.  
3 Cash shall not be accepted.

4 (d) Delegation of Authority for Predetermination. The Board delegates authority for rendering predeterminations  
5 under this Rule to a committee of the Board that is tasked with reviewing disciplinary matters.

6  
7 *History Note: Authority G.S. 90-210.25; 93B-8.1;*  
8 *Eff. August 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0313

**DEADLINE FOR RECEIPT: Friday, July 10, 2020**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

*In (a), line 4, why do you need "Definitions."?*

*In (a)(1), line 6, how is this "approved by the Board"? How does one obtain this form? Is there a website you can provide here?*

*And is the information required by the form what is set forth on line 6?*

*In (a)(2), line 8, how is this approved by the Board? Is this in Rule or law?*

*On line 9, is the term "Examination-Arts" or is there an errant hyphen?*

*So that I'm clear – the entry-level examination includes testing on legal and regulatory compliance and is separate from the laws and rules examination in (a)(3)?*

*On line 11, I do not see a citation to G.S. 90-210.25(a)(1)e1. Did you mean 90-210.25(a)(1)(e)(1)?*

*In (a)(3), line 12, how is this approved by the Board? Is the method set forth in Rule or law?*

*On line 14, this is not how you incorporate by reference outside standards using G.S. 150B-21.6. However, I take it you are using this language to comply with statutory language in G.S. 90-210.25?*

*In (a)(4), lines 18-19, define "advanced and relevant"*

*On line 19, what is "formal" here? Wouldn't just saying "academic" suffice?*

*On line 19, replace "which" after "work" with "that"*

*On line 20, define "predominantly" and "consistent"*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 29, 2020

*In (a)(5), line 24, “approved” by whom and based upon what? Please note the same question for (a)(6), line 26.*

*In (a)(6), line 27, define “full-time”*

*In (b), line 33, how is this approved by the Board? Based upon what?*

*On lines 33-34, you allow a program accredited by ABFSE. However, the statute only allows:*

d. Possesses an undergraduate degree in any field, an Associate of Applied Science degree in any field, or a diploma in funeral directing from a Board-approved curriculum at an accredited college of mortuary science.

*Is the Board approving any curriculum approved by the ABFSE through this Rule? If so, I think that can be clarified.*

*On line 35, consider replacing “must” with “shall”*

*On Page 2, line 1, insert a comma after “form”*

*On line 2, delete “which”*

*In (b)(3), line 5, why is it “State Board Examination-Arts” and not the “entry-level examination” as the term is defined in (a)(2)? Please note the same question on terminology for the exam on lines 7-8, as the term is defined in (a)(3) does not have “NC” in it.*

*And on lines 6 and 8, how is this approved by the Board? How does the regulated public know?*

*In (b)(4), lines 11-12, what part of SL 2019-91 are you referring to? Can you not point to a codified statute?*

*On line 15, “prescribed and approved by the Board” in what Rule?*

*In (b)(5), line 16, I suggest you delete “for” before “licensees”*

*On line 17, insert a comma after “directing”*

*On line 17, approved by the Board how? And what does it contain? Is this in another rule or law? Is it the form in 21 NCAC 34B .0309?*

*On line 18, why do you state “by December 31<sup>st</sup> of each year but not later than February 1<sup>st</sup> of the years immediately following...”? Rule .0309 only refers to February 1, and it appears that February 1 is the deadline. Why not just cite to that?*

*In (b)(6), line 22, so that I’m clear – you refer to a “minimum” of five continuing education hours, which is how it is written in statute. You are allowing individuals to take more than five, but not requiring it, correct?*

*On line 25, “accredited” and “approved” by whom? How is this known? Is this what is addressed in Section .0400 of this Subchapter?*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 29, 2020

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 29, 2020

1 21 NCAC 34B .0313 is adopted with changes as published in 34:19 NCR 1780-1783 as follows:

2  
3 **21 NCAC 34B .0313 PROCEDURES FOR PROVISIONAL LICENSURE**

4 (a) Definitions. As used in this Rule:

- 5 (1) “Applicant” shall mean the person submitting an Application for Provisional License on a form  
6 approved by the Board and providing information on age, education, and employment experience,  
7 and payment of a non-refundable fee pursuant to G.S. 90-210.25(a)(3a)a.
- 8 (2) “Entry-level Examination” shall mean a Board-approved examination equivalent to the State Board  
9 Examination-Arts in Funeral Directing to assess competency in funeral arranging and directing;  
10 funeral service marketing and merchandising; funeral service counseling; legal and regulatory  
11 compliance; and cemetery and crematory operations pursuant to G.S. 90-210.25(a)(1)e1.
- 12 (3) “Laws and Rules Examination” shall mean a Board-approved examination of funeral practice and  
13 related laws of North Carolina, the federal Funeral Rule as expressed in the standards set forth in  
14 Funeral Industry Practices, 16 C.F. R. §453 (1984), pursuant to its most recent version, and the  
15 administrative rules governing the practice or professional funeral service as expressed in the NC  
16 Administrative Code.
- 17 (4) “Professional Experience” shall mean work providing knowledge, skill, and proficiency resulting  
18 from the performance of funeral-related duties and responsibilities; work requiring advanced and  
19 relevant knowledge attained through formal academic education beyond high school; work which  
20 is predominantly intellectual in nature; and work requiring the consistent exercise of independent  
21 discretion and judgment.
- 22 (5) “Provisional Licensee” shall mean any individual satisfying the provisional licensure requirements  
23 pursuant to G.S. 90-210(3a) and who engages in the practice of professional funeral service under  
24 the supervision of an approved funeral director or funeral service licensee for a period not to exceed  
25 three years.
- 26 (6) “Supervision” shall mean oversight and direction from an approved licensee in funeral directing or  
27 funeral service, who is in good standing with the Board, and who has practiced full-time professional  
28 funeral service for at least five years.

29 (b) The following provisions shall apply to provisional license applicants and licensees only:

- 30 (1) Applicants shall submit with their application for provisional licensure proof of satisfying  
31 the education requirements pursuant to G.S. 90-210.25(a)(3a)(d). Such proof shall include  
32 certified transcripts from an accredited post-secondary institution, or, if applicable, a  
33 certified transcript from a Board-approved funeral director program or a funeral director  
34 program accredited by the American Board of Funeral Service Education (ABFSE).  
35 Certified transcripts must come from the educational institution directly to the Board.
- 36 (2) Applicants not otherwise qualified as a certified trainee or eligible for a certified traineeship  
37 shall submit with their application for provisional licensure an employment history on a

1 Board-approved form which shall supplement the provisional license application and  
2 which requires a listing of funeral-related work including name and contact information of  
3 employer, dates of employment, and duties and responsibilities performed.

4 (3) Prior to licensure as a Funeral Director, provisional licensees [Applicants] shall have  
5 attained a passing score of seventy-five percent (75%) on the State Board Examination-  
6 Arts prepared and administered by a Board-approved testing organization. Applicants  
7 shall have attained a passing score of seventy-five percent (75%) on the NC Laws and  
8 Rules examination prepared and administered by a Board-approved testing organization.

9 (4) Applicants shall be subject to a criminal history background check pursuant to the  
10 requirements of the North Carolina State Bureau of Investigation and may be approved for  
11 licensure in the absence of any disqualifying conditions pursuant to the provisions of SL  
12 2019-91. Applicants shall complete Board-approved forms for the electronic submission  
13 of fingerprints if North Carolina residents; non-residents shall complete a fingerprint card  
14 and application information through a local law enforcement agency using forms  
15 prescribed and approved by the Board.

16 (5) Provisional licensees shall be subject to the same license renewal requirements as for  
17 licensees in funeral directing including completion of a Board-approved renewal  
18 application by December 31<sup>st</sup> of each year but not later than February 1<sup>st</sup> of the year  
19 immediately following the expiration of the license and submission of a non-refundable  
20 renewal fee of \$250.00.

21 (6) Provisional licensees shall be subject to the same requirements for continuing education as  
22 for licensees in funeral directing including a minimum of five continuing education credits  
23 annually and not exceeding two hours annually through online instruction. All continuing  
24 education credits shall be awarded only for Board-approved courses of instruction provided  
25 through an accredited sponsor or other approved provider.

26  
27 *History Note:* Authority G.S. 90-210.25(a)(3a);  
28 Eff. August 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Service

RULE CITATION: 21 NCAC 34B .0502

**DEADLINE FOR RECEIPT: Friday, July 10, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

*On line 6, how are these forms provided? Should there be a link to a website here?*

*On line 7, define "biographical data"*

*On lines 8 and 12, what do you mean by "verification"? Like a verified complaint?*

*On lines 9 and 13, what is "any other information the Board deems necessary as required by law"? How will the Board determine what is necessary? Will this determination be made on a case-by-case basis depending upon the applicant and jurisdiction? If so, I suggest you state that.*

*On line 23, what authority are you relying upon to require the entry-level examination? G.S. 90-210.25(b)(1)(b) states:*

b. The applicant has demonstrated knowledge of the laws and rules governing the profession in North Carolina through achieving a passing score on the laws and rules exam administered on behalf of the Board.

*That statute speaks to one exam, which is defined in Rule .0313. I do not see that you have authority to require two examinations.*

*On line 27, how will the other testing agencies be approved by the Board?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 29, 2020

1 21 NCAC 34B .0502 is amended with changes as published in 34:19 NCR 1780-1783 as follows:

2  
3 **21 NCAC 34B .0502 APPLICATION FORM AND EQUIVALENT EXAMINATIONS FOR**  
4 **RECIPROCAL LICENSE BY OUT-OF-STATE LICENSEES**

5 Applications by an out-of-state licensee for a North Carolina license pursuant to G.S. 90-210.25(b)(1) shall be made  
6 on forms provided by the Board. The form shall require the applicant to furnish the applicant's ~~photograph~~, name,  
7 address, and biographical data; license applied for; name of the jurisdiction where licensed and the kinds of licenses  
8 held; ~~length of continuous practice in the other jurisdiction where the applicant is licensed~~; verification by the  
9 applicant; and any other information the Board deems necessary as required by law. The form shall require the  
10 licensing board of the other ~~jurisdiction~~ jurisdiction(s) to certify that the applicant is licensed and in good standing in  
11 that jurisdiction and to furnish the Board with the name of the applicant, licenses held and dates granted, the name and  
12 address of the Board in such other jurisdiction, verification by the Secretary or other official of such other board, and  
13 any other information the Board deems necessary as required by law. ~~An affidavit that the~~ The applicant shall provide  
14 an employment history to show at least three years of professional practice in the other jurisdiction(s). has continuously  
15 practiced the profession in the other jurisdiction for at least three years immediately preceding an application for a  
16 North Carolina license shall be required. The affiant shall be personally acquainted with the applicant and shall furnish  
17 the name and address of the affiant, the name of the applicant, the length of time the affiant has known the applicant,  
18 the length of the applicant's continuous practice, verification, and any other information the Board deems necessary  
19 as required by law. Information pertaining to the applicant's length of practice is not required if the applicant is licensed  
20 in a jurisdiction having licensing requirements substantially similar to those of North Carolina. Three affidavits of the  
21 moral character of the applicant submitted by three persons, in compliance with G.S. 90-210.26, must accompany the  
22 application. Funeral director applicants shall be deemed to have satisfied the examination requirements for reciprocal  
23 licensure if they have completed with passing scores an entry-level examination for funeral directing and an  
24 examination of the laws and rules pursuant to [their] North Carolina jurisdiction. Funeral service applicants shall be  
25 deemed to have satisfied the examination requirements for reciprocal licensure if they have completed the National  
26 Board Examinations as administered through The International Conference of Funeral Service Examining Boards or  
27 other agency approved by the Board.

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29 *History Note: Authority G.S. 90-210.23(a); 90-210.25(b)(1);*  
30 *Eff. February 1, 1976;*  
31 *Readopted Eff. September 27, 1977;*  
32 *Amended Eff. November 1, 2004; September 1, 1979;*  
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*  
34 *2017- 2017;*  
35 *Amended Eff. August 1, 2020.*