

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Services

RULE CITATION: 21 NCAC 34A .0119

DEADLINE FOR RECEIPT: Tuesday, September 7, 2021

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 (e), please just confirm that the disciplinary costs will not exceed \$2,500.00, as provided by G.S. 90-210.23(d1).

In the History Note, please remove G.S. 150B-11, as this has been repealed.

In the History Note, why are G.S. 150B-23, 150B-27, and 150B-32(a) included as authority? These are in Article 3 of 150B, but Paragraphs (a) and (d) reference statutes included in Article 3A. Please revise the History Note as needed.

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

Amber May
Commission Counsel
Date submitted to agency: August 24, 2021

1 21 NCAC 34A .0119 is adopted as published in 35:18 NCR 2062-2063 as follows:

2
3 **21 NCAC 34A. 0119 LICENSE RENEWAL FORM**

4 (a) Immediately upon the conclusion of a disciplinary proceeding conducted pursuant to G.S. 150B-38 and upon an
5 adopted motion by the Board, the Board shall deliberate on whether an applicant, licensee, or permit holder involved
6 has violated a statute or rule for which the Board has the authority to enforce, and what disciplinary action, if any,
7 should be taken against the applicant, licensee, or permit holder.

8 (b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion
9 of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity
10 to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days, unless
11 additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. For purposes
12 of this Rule, "good cause" shall mean the length of the hearing, the complexity of the issues involved, and the
13 availability of the parties.

14 (c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the
15 conclusion of the disciplinary proceeding, the Board shall provide the parties an opportunity to submit proposed
16 findings of fact and conclusions of law to the Board's office within 15 days, unless additional time is allowed by the
17 Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set
18 forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed
19 findings of fact and conclusions of law.

20 (d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board
21 shall make a written final agency decision in accordance with G.S. 150B-42.

22 (e) Disciplinary costs shall be assessed against an applicant, licensee, or permit holder in a written final agency
23 decision that results in disciplinary action following a show cause hearing, as set forth in G.S. 90-210.23(d1). For
24 purposes of this Rule, "disciplinary costs" are actual costs incurred by the Board to prosecute the case, including per
25 diems and expenses paid to Board members and witnesses, costs for a court reporter and transcripts, and costs
26 associated with preparing exhibits.

27
28 *History Note: Authority G.S. 90-210.23(a), (d); 90-210.23(d1); 150B-11; 150B-23; 150B-27; 150B-32(a);*
29 *150B-34; 150B-36; 150B-38(h); 150B-42;*
30 *Eff. February 1, 1976;*
31 *Readopted Eff. September 27, 1977;*
32 *Repealed Eff. July 1, 1988- 1988;*
33 *Eff. October 1, 2021 (Codifier approved request from agency to reuse rule number).*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Services

RULE CITATION: 21 NCAC 34B .0707

DEADLINE FOR RECEIPT: Tuesday, September 7, 2021

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 (b), what are considered to be "temporary refrigeration units"?

Please add "and" at the end of (d)(4)(D).

Please update the history note to include the effective dates of the emergency and temporary adoptions of this Rule.

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

Amber May
Commission Counsel
Date submitted to agency: August 24, 2021

1 21 NCAC 34B .0707 is adopted as published in 35:23 NCR 2541-2543 as follows:

2
3 **21 NCAC 34B .0707 REFRIGERATION**

4 (a) Any refrigeration unit procured and maintained by a funeral establishment must satisfy the following requirements:

- 5 (1) be capable of storing at least three adult human bodies, each measuring up to seven feet in length
- 6 and three hundred pounds in weight, in the holding facility;
- 7 (2) be capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the
- 8 maximum number of bodies for which it is designed;
- 9 (3) shall have sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units;
- 10 (4) shall have stainless steel, aluminum, or other non-corrosive materials for the remainder of all units;
- 11 and
- 12 (5) be subject to inspection by Board inspectors at all times.

13 (b) The Board shall allow funeral establishments to procure and maintain one or more temporary refrigeration units.
14 Any such temporary refrigeration unit must satisfy the requirements set forth in Subparagraphs (a)(2)-(5) of this Rule.
15 Any such temporary refrigeration unit not located inside the funeral establishment shall be kept locked at all times
16 when human remains are stored inside.

17 (c) Human remains stored in a refrigeration unit, as set forth in Paragraphs (a) and (b) of this Rule, must be kept in a
18 container that complies with G.S. 90-210.121(9)(b)-(f).

19 (d) Prior to using a refrigeration unit that is not located on its premises, a funeral establishment shall provide the
20 Board with a written document that sets forth the following:

- 21 (1) the name, contact information, and license number, if applicable, of the entity that owns the property
- 22 on which the refrigeration unit is located;
- 23 (2) the physical address of the property on which the refrigeration unit is located;
- 24 (3) the name, contact information, and license number, if applicable, of the entity responsible for
- 25 maintaining the refrigeration unit that meets the requirements of Paragraphs (a) and (b) of this Rule;
- 26 (4) certification from both the licensed manager of the funeral establishment and an officer, owner,
- 27 member, or partner of the entity responsible for maintaining the refrigeration unit in compliance
- 28 with Paragraphs (a) and (b) of this Rule, acknowledging that:
 - 29 (A) the funeral establishment shall use the refrigeration unit for the storage of human remains;
 - 30 (B) the refrigeration unit complies with Paragraphs (a) and (b) of this Rule;
 - 31 (C) a log documenting the chain of possession of human remains shall be maintained, which
 - 32 sets forth the name of the decedent, the funeral establishment or other entity for whom the
 - 33 human remains are being stored, and the date and time that human remains are placed
 - 34 inside and removed from the refrigeration unit;
 - 35 (D) the Board inspectors shall have access to the refrigeration unit at all times;

1 (E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant
2 with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-
3 210.25(e)(1)(j).

4
5 *History Note:* Authority G.S. 90-210.23; 90-210.27A(h), (l);
6 Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Services

RULE CITATION: 21 NCAC 34C .0202

DEADLINE FOR RECEIPT: Tuesday, September 7, 2021

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 (c), line 24, what are considered to be “temporary refrigeration units”?

Please add “and” at the end of (d)(4)(D).

Please update the history note to include the effective dates of the emergency and temporary adoptions of this Rule in 2021.

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

Amber May
Commission Counsel
Date submitted to agency: August 24, 2021

1 21 NCAC 34C .0202 is amended as published in 35:23 NCR 2541-2543 as follows:

2
3 **21 NCAC 34C .0202 REFRIGERATION**

4 (a) Crematory and hydrolysis licensees shall have located on its premises a refrigeration unit that: capable of storing
5 at least three adult human bodies, each measuring up to seven feet in length and three hundred pounds in weight, in
6 the holding facility. Each refrigeration unit required by this Rule shall be capable of maintaining an interior
7 temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed; shall
8 be a sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units; and shall be stainless
9 steel, aluminum, or other non-corrosive materials for the remainder of all units.

10 (1) is capable of storing at least three adult human bodies, each measuring up to seven feet in length
11 and three hundred pounds in weight, in the holding facility;

12 (2) is capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the
13 maximum number of bodies for which it is designed;

14 (3) has sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units; and

15 (4) has stainless steel, aluminum, or other non-corrosive materials for the remainder of all units.

16 (b) A refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule shall satisfy a crematory or
17 hydrolysis licensee's compliance with Paragraph (a) of this Rule if the refrigeration unit is housed in a funeral
18 establishment, crematory, or hydrolysis licensee sharing common ownership with, and located on the same contiguous
19 piece of property as, the crematory or hydrolysis licensee.

20 (b)(c) Unembalmed human remains retained in the custody of a crematory or hydrolysis licensee for more than 24
21 hours prior to cremation or hydrolysis shall be kept in a refrigeration unit. Human remains stored in a refrigeration
22 unit, as set forth in Paragraphs (a) and (c) of this Rule, must be kept in a container that complies with G.S. 90-
23 210.121(9)(a)-(f). The Board shall allow a crematory or hydrolysis licensee to procure and maintain one or more
24 temporary refrigeration units. Any such temporary refrigeration unit must satisfy the requirements set forth in
25 Subparagraphs (a)(1)-(4) of this Rule. Any such temporary refrigeration unit not located inside the crematory shall
26 be kept locked at all times when human remains are stored inside.

27 (d) Prior to using a refrigeration unit that is not located on its premises, a crematory or hydrolysis licensee shall
28 provide the Board with a written document that sets forth the following:

29 (1) the name, contact information, and license number, if applicable, of the entity that owns the property
30 on which the refrigeration unit is located;

31 (2) the physical address of the property on which the refrigeration unit is located;

32 (3) the name, contact information, and license number, if applicable, of the entity responsible for
33 maintaining the refrigeration unit that meets the requirements of Subparagraphs (a)(1)-(4) of this
34 Rule;

35 (4) certification from both the manager of the crematory and an officer, owner, member, or partner of
36 the entity responsible for maintaining the refrigeration unit in compliance with Subparagraphs
37 (a)(1)-(4) of this Rule, acknowledging that:

1 (A) the crematory or hydrolysis licensee shall use the refrigeration unit for the storage of human
2 remains;

3 (B) the refrigeration unit complies with Subparagraphs (a)(1)-(4) of this Rule;

4 (C) a log documenting the chain of possession of human remains shall be maintained, which
5 sets forth the name of the decedent, the funeral establishment or other entity for whom the
6 human remains are being stored, and the date and time that human remains are placed
7 inside and removed from the refrigeration unit;

8 (D) the Board inspectors shall have access to the refrigeration unit at all times;

9 (E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant
10 with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-
11 210.25(e)(1)(j).

12 ~~(e) The provisions of this Rule shall not be construed to require a crematory facility and hydrolysis facility that share~~
13 ~~common ownership and are located on a single contiguous piece of property to maintain more than one refrigeration~~
14 ~~unit.~~

15
16 *History Note:* *Authority G.S. 90-210.121(9),(12); 90-210.123(g); 90-210.134(a); 90-210.136(d),(h);*

17 *Eff. July 1, 1991;*

18 *Recodified from Rule .0201 Eff. July 7, 1992;*

19 *Amended Eff. July 1, 2004;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
21 *2017;*

22 *Temporary Amendment Eff. May 24, 2019;*

23 *Temporary Amendment Expired Eff. March 13, 2020;*

24 *Amended Eff. October 1, 2021; ~~January 1, 2021~~; 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Funeral Services

RULE CITATION: 21 NCAC 34D .0302

DEADLINE FOR RECEIPT: Tuesday, September 7, 2021

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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)(3), please change "which" to "that" in "which expired"

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

Amber May
Commission Counsel
Date submitted to agency: August 24, 2021

1 21 NCAC 34D .0302 is amended as published in 35:18 NCR 2062-2063 as follows:

2

3 **21 NCAC 34D .0302 ANNUAL REPORT**

4 Each preneed funeral establishment licensee shall file an annual report with the Board. The report shall include the
5 following:

- 6 (1) the total number of standard and inflation-proof trust-funded and insurance-funded preneed funeral
7 contracts maintained by the licensee;
- 8 (2) the number of contracts sold in the reporting period;
- 9 (3) the number of contracts which expired, including contracts performed, revoked and transferred, in
10 the reporting period;
- 11 (4) the total year-end balance of all preneed trust accounts maintained at each financial institution;
- 12 (5) the total year-end balance of all insurance-funded preneed contracts written with each insurance
13 company;
- 14 (6) for each preneed contract sold, whether the preneed contract is active, performed, cancelled, or
15 lapsed; and
- 16 (7) for each active preneed contract, the current insurance policy value or trust account balance.

17 The annual report shall be ~~verified~~ certified as correct ~~before a notary public~~ by the location manager registered under
18 G.S. 90-210.25(d)(2)a. or by a corporate officer of the preneed establishment licensee. The annual report shall be filed
19 not later than March 31 each year by each firm holding a preneed establishment license at any time during the
20 preceding year ending December 31.

21

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

23 *Eff. May 1, 1993;*

24 *Amended Eff. September 1, 2009;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
26 *~~2017.~~ 2017;*

27 *Amended Eff. October 1, 2021.*