

## **21 NCAC 34A .0124 SOLICITATION**

(a) Definitions. As used in this Rule:

- (1) "Licensee" shall mean a person licensed by the Board as a funeral service, funeral director, or embalmer.
- (2) "Real-time communication" shall mean any in-person, live telephone, or real-time electronic contact.
- (3) "Solicit" shall mean engaging in the act of solicitation.
- (4) "Solicitation," shall mean any uninvited, intentional contact with an individual for the purpose of procuring the right to provide funeral services or merchandise, either immediately or at a future date when financial gain is a significant motive.

(b) All licensees of the Board must comply with the following in order to avoid committing solicitation as prohibited by G.S. 90-210.25(e)(1)d:

- (1) A licensee of the Board shall not solicit professional employment from a prospective customer by real-time communication when a significant motive for the licensee's doing so is the licensee's pecuniary gain, unless the person contacted:
  - (A) is a licensee; or
  - (B) has a family, close personal, or prior professional relationship with the licensee.
- (2) A licensee shall not solicit professional employment from a prospective customer by real-time communication or by written, recorded or electronic communication that is not a real-time communication even when allowed by Parts (b)(1)(A) or (b)(1)(B) of this Rule if:
  - (A) the prospective customer has made known to the licensee a desire not to be solicited by the licensee; or
  - (B) the solicitation involves coercion, duress, harassment, compulsion, intimidation, or threats.
- (3) Every written, recorded or electronic communication that is not a real-time communication from a licensee soliciting professional employment from a prospective customer known to be in need of funeral services for an imminent or recent death shall include the words "This is an advertisement for funeral services" on the outside envelope, if a written communication sent by mail, and at the beginning of the body of a written or electronic communication in print as large or larger than the licensee's or licensee's business name, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in Parts (b)(1)(A) or (b)(1)(B) of this Rule.

(c) A licensee shall violate this Rule whenever any agent, employee, or assistant of the licensee violates Subparagraphs (b)(1), (b)(2), or (b)(3) of this Rule with the knowledge, direction, or consent of the licensee.

*History Note: Authority G.S. 90-210.23(a); 90-210.25(e)(1)d;*  
*Eff. April 1, 1987;*  
*Recodified from 21 NCAC 34 .0126 Eff. February 7, 1991;*  
*Amended Eff. February 1, 2009; July 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*