

**Note from the Codifier:** The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

## TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Notice** is hereby given in accordance with G.S. 150B-21.1 that the Commission for Public Health intends to adopt the rules cited as 10A NCAC 41A .0212.

**Codifier of Rules** approved this rule as an emergency rule effective September 25, 2020 and received for publication the following notice and proposed temporary rule on September 15, 2020.

### Public Hearing:

**Date:** September 30, 2020

**Time:** 10:00 a.m.

**Location:** This public hearing will be held by teleconference at (919) 715-0769 (no access code).

**Reason for Proposed Temporary Action:** COVID-19, a novel coronavirus, was identified as the cause of an emerging infectious disease outbreak in December 2019 in Wuhan, Hubei Province, China. This novel coronavirus causes respiratory illness ranging in severity from mild illness to death. As of September 13, 2020, over 28,600,000 confirmed cases and 900,000 deaths had been reported from 216 countries, including the United States. The first U.S. case was reported in a traveler returning from Wuhan on January 21, 2020 in Washington State. As of September 13, over 6,400,000 cases and 190,000 deaths had been reported in the U.S., and over 180,000 cases and 3,000 deaths had been reported in North Carolina. The North Carolina Division of Public Health is working closely with the Centers for Disease Control and Prevention (CDC) to monitor and respond to this pandemic in North Carolina.

On June 18, 2020, the NC Commission for Public Health received a petition for rulemaking from the North Carolina Board of Funeral Service, requesting that the Commission consider amending rule 10A NCAC 41A .0212 to set out the proper precautions to prevent infection in the handling and transportation of the bodies of persons infected with COVID-19 and require notification of those precautions. Pursuant to G.S. 150B-20, the Commission fully considered and granted the petition at its meeting on August 5, 2020. However, the Commission did not approve the proposed rule language submitted with the petition and directed agency staff to revise the proposed rule language for consideration at a special meeting on September 15, 2020.

Notice of this decision was provided in writing to the North Carolina Board of Funeral Service on August 5, 2020. On September 15, 2020, the Commission adopted an amendment to the rule under emergency procedures and approved proceeding with rulemaking under temporary procedures. It is imperative that this rule be quickly amended to address the need identified by the North Carolina Board of Funeral Service for communicable disease control measures to mitigate the risk of disease transmission in the handling and transportation of the bodies of persons infected with COVID-19. Adoption of this temporary rule is required due to the serious and unforeseen threat to public health posed by this infectious disease.

**Comment Procedures:** Comments from the public shall be directed to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@lists.ncmail.net. The comment period begins September 15, 2020 and ends October 16, 2020.

## CHAPTER 41 - EPIDEMIOLOGY HEALTH

### SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL

#### SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

##### 10A NCAC 41A .0212 HANDLING AND TRANSPORTATION OF BODIES

(a) Persons handling the body of any person who has died shall comply with the standard precautions for all patient care published by the United States Centers for Disease Control and Prevention, which are hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.cdc.gov/infectioncontrol/basics/standard-precautions.html>.

~~(a)~~(b) It shall be the duty of the ~~physician~~ physician, physician assistant, or nurse practitioner attending to any person who dies and is known to be infected with HIV, plague, ~~or~~ hepatitis B, or COVID-19 or any person who dies and is known or reasonably suspected to be infected with smallpox, rabies, severe acute respiratory syndrome (SARS), or Jakob-Creutzfeldt to provide ~~written~~ written, verbal, or electronic notification to all individuals handling the body of the proper precautions to prevent infection. This ~~written~~ written, verbal, or electronic notification shall be provided to the funeral service director, funeral service worker, or body transporter personnel at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the ~~attending physician~~ physician, physician assistant, or nurse practitioner shall notify the funeral service director, funeral service worker, or body transporter personnel verbally of the precautions required as soon as the ~~physician~~ physician, physician assistant, or nurse practitioner becomes aware of the death. These precautions are noted in Paragraphs ~~(b)~~(d), (e), and ~~(e)~~(f) of this Rule. The duty to notify shall be considered met if performed by one of the following individuals: the physician, physician assistant, or nurse practitioner attending to the person who died or a designated representative of the physician, physician assistant, or nurse practitioner.

(c) It shall also be the duty of a medical examiner with jurisdiction pursuant to G.S. 130A-383 over the body of any person who dies and is known to be infected with COVID-19 to provide written, verbal, or electronic notification to the funeral service director, funeral service worker, or body transporter at the time the body is removed from medical examiner custody of the proper precautions to prevent infection. These precautions are noted in Paragraph (f) of this Rule. The duty to notify shall be considered met if performed by a designated representative of the medical examiner.

~~(b)~~(d) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe acute respiratory syndrome (SARS) or any person who died and is known to be infected with plague shall not be embalmed. The body shall 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. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation.

~~(e)~~(e) Persons handling the body of any person who died and is known to be infected with HIV or hepatitis B or any person who died and is known or reasonably suspected to be infected with Jakob-Creutzfeldt or rabies shall be provided ~~written~~ written, verbal, or electronic notification to observe blood and body fluid precautions.

(f) Persons handling the body of any person who died and is known to be infected with COVID-19 shall be provided written, verbal, or electronic notification to observe the COVID-19 guidance for funeral home workers published by the United States Centers for Disease Control and Prevention, which is hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at: <https://www.cdc.gov/coronavirus/2019-ncov/community/funeral-faqs.html>.

*Authority G.S. 130A-144; 130A-146.*