



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

Commission for Public Health

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK T. BENTON • Assistant Secretary for Public Health

Division of Public Health

MEMORANDUM

DATE: September 15, 2020

TO: Interested Parties

FROM: Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health and Director of Regulatory and Legal Affairs, Division of Public Health

RE: Notification of Emergency and Proposed Temporary Rule Actions:
10A NCAC 41A .0212

The Commission for Public Health (CPH) has adopted an amendment to 10A NCAC 41A .0212 under emergency procedures and simultaneously proposed to amend 10A NCAC 41A .0212 under temporary procedures. G.S. § 150B-21.1 requires a rulemaking body to notify certain individuals of its intent to adopt temporary rules and the date, time, and location of the public hearing on the rules.

These rule actions establish control measures to prevent infection in the handling and transportation of the bodies of persons infected with COVID-19. 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, CPH received a petition for rulemaking from the North Carolina Board of Funeral Service, requesting that CPH 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, CPH fully considered and granted the petition at its meeting on August 5, 2020 and took action on these rules at a special meeting on September 15, 2020.

It is imperative that 10A NCAC 41A .0212 be quickly amended to address the need 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. An emergency rule was adopted on September 15, 2020 to establish these control measures while temporary and eventually permanent rules are pursued. Immediate adoption is required due to the serious and unforeseen threat posed by this infectious disease.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

The public hearing on the temporary rule is scheduled for Wednesday, September 30, 2020 at 10:00 a.m. by teleconference at (919) 715-0769 (no access code).

CPH is accepting public comments on the temporary rule from September 15, 2020 – October 16, 2020. You may submit comments by email to cphcomment@lists.ncmail.net or by mail to Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health, 1931 Mail Service Center, Raleigh, NC 27699-1931. Comments will also be accepted at the public hearing. The emergency rule and proposed temporary rule are attached to this memorandum and available at <https://cph.publichealth.nc.gov/>.

If you have technical questions related to this memorandum or the rules, please contact Dr. Zack Moore, Epidemiology Section Chief, Division of Public Health at (919) 546-1725.

cc: Dr. Ronald May, Chair, Commission for Public Health
Mr. Mark Benton, Assistant Secretary, Division of Public Health
Dr. Zack Moore, Epidemiology Section Chief, Division of Public Health
Ms. Kirsten Leloudis, Program Manager, Regulatory and Legal Affairs, Division of Public Health

1 10A NCAC 41A .0212 is amended under emergency procedures as follows:

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3 **10A NCAC 41A .0212 HANDLING AND TRANSPORTATION OF BODIES**

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

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

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

26 ~~(b)~~(d) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe
27 acute respiratory syndrome (SARS) or any person who died and is known to be infected with plague shall not be
28 embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of
29 odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other
30 premises where the death occurred. This case shall not be reopened except with the consent of the local health director.
31 Nothing in this Paragraph shall prohibit cremation.

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

35 (f) Persons handling the body of any person who died and is known to be infected with COVID-19 shall be provided
36 written, verbal, or electronic notification to observe the COVID-19 guidance for funeral home workers published by
37 the United States Centers for Disease Control and Prevention, which is hereby incorporated by reference, including

1 any subsequent amendments or editions, and available free of charge at: [https://www.cdc.gov/coronavirus/2019-](https://www.cdc.gov/coronavirus/2019-ncov/community/funeral-faqs.html)
2 [ncov/community/funeral-faqs.html](https://www.cdc.gov/coronavirus/2019-ncov/community/funeral-faqs.html).

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4 *History Note: Authority G.S. 130A-144; 130A-146;*
5 *Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*
6 *Eff. March 1, 1988;*
7 *Recodified from 15A NCAC 19A .0204 Eff. June 11, 1991;*
8 *Temporary Amendment Eff. November 1, 2003;*
9 *Amended Eff. April 1, 2004;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
11 *~~2018.~~ 2018;*
12 *Emergency Amendment Eff. September 25, 2020.*

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1 10A NCAC 41A .0212 is proposed for amendment under temporary procedures as follows:

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