

SUBCHAPTER 28E - ADVANCE CARE DIRECTIVES FOR CLIENTS

SECTION .0100 - RIGHT TO NATURAL DEATH

10A NCAC 28E .0101 SCOPE

These Rules set forth the right of an individual to control decisions relating to his medical care, including the right to a peaceful and natural death, as set forth in G.S. 90-321. These Rules apply to the Division's four psychiatric hospitals, the N.C. Special Care Center, the three Alcohol and Drug Abuse Treatment Centers, and the five Mental Retardation Centers, hereafter referred to as Division facilities.

History Note: Authority G.S. 32A-15; 90-320; 143B-147;
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0102 DEFINITIONS

(a) The definitions contained in this Rule, and the terms defined in G.S. 90-321 shall apply to the rules in this Subchapter.

(b) As used in these Rules, the following terms have the meanings specified:

- (1) "Advance care directive" means any indication made in writing by a client in which the client makes provision or directions as to who will make health care decisions should the client become incapable of doing so; whether in such cases extraordinary means of sustaining life should be employed; or both.
- (2) "Capable client" means a client who has the ability to make and communicate health care decisions, as confirmed by the client's attending physician.
- (3) "Division" means the term as defined in G.S. 122C-3.

History Note: Authority G.S. 32A-15; 32A-16; 90-320; 90-321; 143B-147;
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0103 ADVANCE CARE DIRECTIVES

The Division shall honor advance care directives made by clients prior to admission or made by capable clients after admission. Division facilities shall decline to honor any advance care directive which does not conform with the requirements set forth by G.S. 32A-25 (for a health care power of attorney) or G.S. 90-321 (for a living will).

History Note: Authority G.S. 32A-15; 90-320; 90-321; 90-322; 143B-147;
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0104 NATURAL DEATH IN ABSENCE OF DIRECTIVE

Clients in division facilities retain the right to die with dignity even where they have made no advance care directive, or have made a directive which does not comply with statutory requirements. In the absence of an advance care directive, the Division shall maintain strict compliance with the procedure established by G.S. 90-322 for determination of when, and under what conditions, extraordinary means or artificial nutrition or hydration may be withheld or withdrawn.

History Note: Authority G.S. 90-320; 90-322; 143B-147;
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.