

CHAPTER 39 - ADULT HEALTH
SUBCHAPTER 39A - CHRONIC DISEASE
SECTION .0100 - MIGRANT HEALTH

10A NCAC 39A .0101	RESERVED FOR FUTURE CODIFICATION
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History Note: Authority G.S. 130A-223; Sec. 329, Public Health Services Act, 95 Stat. 569(42 U.S.C. 259b); (42 U.S.C. 254b); 42 C.F.R. 56.302(f);
Eff. January 1, 1983;
Amended Eff. June 1, 2004; April 1, 1999; April 1, 1995; October 1, 1990; September 1, 1990; January 1, 1986;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39A .0108	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .0109	COVERED SERVICES
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10A NCAC 39A .0111	PAYMENT LIMITATIONS

History Note: Authority G.S. 130A-223; Sec. 329, 95 Stat 569;
Eff. January 1, 1983;
Temporary Amendment Eff. July 6, 1992 for a period of 180 days to Expire on January 2, 1993;
Amended Eff. October 1, 2006; June 1, 2004; April 1, 1995; October 1, 1992; October 1, 1990; January 1, 1986;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0200 - HOME HEALTH SERVICES

10A NCAC 39A .0201	GENERAL
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10A NCAC 39A .0203	REIMBURSEMENT FUNDS
10A NCAC 39A .0204	PATIENT FINANCIAL ELIGIBILITY
10A NCAC 39A .0205	COVERED SERVICES
10A NCAC 39A .0206	BILLING THE PROGRAM
10A NCAC 39A .0207	RATES OF REIMBURSEMENT
10A NCAC 39A .0208	REIMBURSEMENT FUNDS: THIRD PARTY PAYORS
10A NCAC 39A .0209	MONITORING
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History Note: Authority G.S. 130A-5(3); 130A-223;
Eff. July 1, 1983;
Amended Eff. October 1, 1990; September 1, 1990; January 1, 1986; July 1, 1985;
Repealed Eff. July 1, 2014.

10A NCAC 39A .0211	SPECIAL PROVISION
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History Note: Authority G.S. 130A-5(3); 130A-223;

Eff. August 1, 1991;
Repealed Eff. July 1, 2014.

SECTION .0300 - CHRONIC RENAL DISEASE CONTROL PROGRAM

- 10A NCAC 39A .0301 GENERAL**
- 10A NCAC 39A .0302 MEDICAL ELIGIBILITY**
- 10A NCAC 39A .0303 FINANCIAL ELIGIBILITY**
- 10A NCAC 39A .0304 APPLICATION PROCESS**
- 10A NCAC 39A .0305 CLAIMS FOR REIMBURSEMENT**
- 10A NCAC 39A .0306 COVERED SERVICES**
- 10A NCAC 39A .0307 CONSULTATIVE SERVICES**
- 10A NCAC 39A .0308 ASSISTANCE AGREEMENTS**

History Note: Authority G.S. 130A-220;
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. September 1, 1990; January 1, 1986; July 1, 1985; July 1, 1984; July 1, 1983; April 1, 1982; July 1, 1981; March 31, 1980;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39A .0309 VENDOR REQUIREMENTS

History Note: Authority G.S. 130A-220;
Eff. March 31, 1980;
Amended Eff. September 1, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39A .0310 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .0311 APPEALS PROCEDURE

History Note: Authority G.S. 130A-220;
Eff. March 31, 1980;
Amended Eff. September 1, 1990; February 1, 1987; July 1, 1984;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0400 - RESERVED FOR FUTURE CODIFICATION

SECTION .0500 - ADULT HEALTH PROMOTION AND DISEASE PREVENTION PROGRAM

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- 10A NCAC 39A .0502 DEFINITIONS**
- 10A NCAC 39A .0503 ROLE OF THE PROGRAM**
- 10A NCAC 39A .0504 PROVIDER ELIGIBILITY**
- 10A NCAC 39A .0505 APPLICATIONS FOR PROGRAM FUNDS**
- 10A NCAC 39A .0506 MONITORING AND REPORTING PROGRAM PERFORMANCE**
- 10A NCAC 39A .0507 USE OF PROGRAM FUNDS**
- 10A NCAC 39A .0508 CLIENT AND THIRD PARTY FEES**

History Note: Authority G.S. 130A-223;
Eff. January 1, 1985;
Amended Eff. September 1, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0600 - MEDICATION ASSISTANCE PROGRAM FOR THE DISABLED

- 10A NCAC 39A .0601 GENERAL**
- 10A NCAC 39A .0602 CLIENT ELIGIBILITY**
- 10A NCAC 39A .0603 FINANCIAL ASSISTANCE PAYMENTS**

History Note: Authority S.L. 1985, c. 791, s. 19(a);
Temporary Rule Eff. October 29, 1985 for a Period of 120 Days to Expire on February 26, 1986;
Eff. February 26, 1986;
Temporary Amendment Eff. October 21, 1987, for a Period of 180 Days to Expire on April 17, 1988;
Amended Eff. September 1, 1990; May 1, 1988;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

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- 10A NCAC 39A .0701 GENERAL**
- 10A NCAC 39A .0702 DEFINITIONS**
- 10A NCAC 39A .0703 ELIGIBLE PROVIDERS**
- 10A NCAC 39A .0704 FINANCIAL ELIGIBILITY**
- 10A NCAC 39A .0705 MEDICAL ELIGIBILITY**
- 10A NCAC 39A .0706 BILLING THE DEMONSTRATION PROGRAM**
- 10A NCAC 39A .0707 RATES OF REIMBURSEMENT**
- 10A NCAC 39A .0708 REIMBURSEMENT FUNDS: THIRD PARTY PAYORS**
- 10A NCAC 39A .0709 MONITORING**
- 10A NCAC 39A .0710 AUDITS**
- 10A NCAC 39A .0711 SPECIAL PROVISIONS**

History Note: Authority G.S. 130A-223; Sec. 395, 101 STAT. 979 (42 U.S.C. 280c);
Temporary Rule Eff. March 20, 1989 for a Period of 180 Days to Expire on September 16, 1989;
Eff. August 1, 1989;
Amended Eff. August 1, 1991; September 1, 1990; February 1, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0800 - HOME AND COMMUNITY-BASED HIV HEALTH SERVICES PROGRAM

- 10A NCAC 39A .0801 GENERAL**
- 10A NCAC 39A .0802 DEFINITIONS**
- 10A NCAC 39A .0803 ELIGIBLE PROVIDERS**
- 10A NCAC 39A .0804 FINANCIAL ELIGIBILITY**
- 10A NCAC 39A .0805 MEDICAL ELIGIBILITY**
- 10A NCAC 39A .0806 BILLING THE HIV HEALTH SERVICES PROGRAM**
- 10A NCAC 39A .0807 RATES OF REIMBURSEMENT**
- 10A NCAC 39A .0808 REIMBURSEMENT FUNDS: THIRD PARTY PAYORS**
- 10A NCAC 39A .0809 MONITORING**
- 10A NCAC 39A .0810 AUDITS**

History Note: Authority G.S. 130A-223;
Temporary Adoption Eff. January 7, 1991 for a period of 180 Days to Expire on July 6, 1991;
ARRC Objection Lodged January 18, 1991;
Eff. May 1, 1991;
Repealed Eff. July 1, 2014.

SECTION .0900 - RYAN WHITE HIV CARE PROGRAM

10A NCAC 39A .0901	GENERAL
10A NCAC 39A .0902	DEFINITIONS
10A NCAC 39A .0903	ELIGIBLE PROVIDERS
10A NCAC 39A .0904	APPLICATIONS FOR RWCP CARE CONSORTIUM FUNDS
10A NCAC 39A .0905	FINANCIAL ELIGIBILITY
10A NCAC 39A .0906	MEDICAL ELIGIBILITY
10A NCAC 39A .0907	BILLING THE RYAN WHITE HIV CARE PROGRAM
10A NCAC 39A .0908	LIMITATIONS ON FEE CHARGES
10A NCAC 39A .0909	RATES OF REIMBURSEMENT
10A NCAC 39A .0910	REIMBURSEMENT FUNDS: THIRD PARTY PAYORS
10A NCAC 39A .0911	MONITORING
10A NCAC 39A .0912	AUDITS

History Note: Authority G.S. 130A-223;
 Eff. December 1, 1991;
 Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39A .0912 AUDITS

Agency financial and statistical records, patient records, and any other pertinent information may be audited by the state as part of the overall monitoring and evaluation effort.

History Note: Authority G.S. 130A-223;
 Eff. December 1, 1991.

SECTION .1000 - HIV MEDICATIONS PROGRAM

10A NCAC 39A .1001 GENERAL

Persons diagnosed by a medical provider to have HIV disease or HIV seropositivity, and who qualify financially pursuant to 15A NCAC 245 .0202, shall be eligible to have medications paid for through the HIV Medications Program in accordance with the rules of this Section.

History Note: Authority G.S. 130A-5(3);
 Eff. October 1, 1990;
 Transferred and Recodified from 15A NCAC 19A .0701 Eff. August 10, 1992;
 Temporary Amendment Eff. July 1, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
 Amended Eff. January 1, 1996;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39A .1002 COVERED MEDICATIONS

(a) Medications covered by the HIV Medication Program shall be specified on a formulary established by the Program based upon the following factors: the medical needs of persons living with HIV disease, the cost effectiveness of the drugs, the availability of generic or other less costly alternatives, and the need to maximize the benefits to patients using finite Program dollars. The covered medications include: antiretroviral medications used to treat HIV infection in accordance with FDA approved indications included in the official product labeling and other FDA approved medications as approved by the program, used for the prevention and treatment of the side effects of and opportunistic infections related to a diagnosis of HIV disease, or to treat the side effects and toxicities of the other covered medications.

(b) Other medications shall be approved by the program based on:

- (1) the expert input and recommendations received from a panel of physicians in North Carolina working directly with the HIV infected community, including physicians at the tertiary care centers, in community practice, in research, and represented on the AIDS Care Advisory Committee; and
- (2) an evaluation of the availability of adequate financial resources.

(c) A list of medications on the HIV Medications Program formulary shall be made available upon request by the Purchase of Medical Care Services or the Division of Public Health – AIDS Drug Assistance Program, 1902 Mail Service Center, Raleigh, NC 27699-1902. Additionally, as medications are added to the program, announcements shall be made through the monthly

newsletter distributed by the Purchase of Medical Care Services to participating pharmacies and through announcements mailed to HIV care consortia, tertiary care centers and other agencies serving HIV infected individuals by the Division of Public Health.

History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Temporary Amendment Eff. July 1, 2005;
Amended Eff. November 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39A .1003 MEDICAL ELIGIBILITY

A person who is determined by a physician to be infected with the human immunodeficiency virus is medically eligible.

History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39A .1004 FINANCIAL ELIGIBILITY

Financial eligibility shall be determined in accordance with 15A NCAC 45A .0200.

History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39A .1005 APPLICATION PROCESS

(a) Applications for assistance must be submitted and shall be processed in accordance with 10A NCAC 45A. All necessary forms may be obtained from the Purchase of Medical Care Services, Office of the Controller, Department of Health and Human Services, 1904 Mail Service Center, Raleigh, N.C. 27699-1904.

(b) Applications must be renewed at least annually for the fiscal year beginning July 1, and ending June 30.

History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Temporary amendment Eff. July 1, 2005;
Amended Eff. April 1, 2006; January 1, 2006; October 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39A .1006 PROGRAM OPERATIONS

Medications provided to eligible clients through this HIV Medication Program shall be dispensed and provided by a pharmacy (or pharmacies) under contract with the Program.

History Note: Authority G.S. 130A-5(3);
Temporary Adoption Eff. July 1, 2005;
Eff. November 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

SECTION .1100 - CANCER DIAGNOSTIC AND TREATMENT PROGRAM

10A NCAC 39A .1101	GENERAL
10A NCAC 39A .1102	DEFINITIONS
10A NCAC 39A .1103	LIMITATIONS ON DAYS OF SERVICE
10A NCAC 39A .1104	COVERED SERVICES
10A NCAC 39A .1105	FINANCIAL ELIGIBILITY
10A NCAC 39A .1106	MEDICAL ELIGIBILITY
10A NCAC 39A .1107	PATIENT APPLICATION PROCESS
10A NCAC 39A .1108	REIMBURSEMENT PROCESS

*History Note: Authority G.S. 130A-205; 130A-220; Sec. 301 & 317, Public Health Services Act, as amended;
Temporary Adoption Eff. December 1, 1992 for a period of 180 days or until the permanent rule becomes
effective, whichever is sooner;
Eff. April 1, 1993;
Amended Eff. August 1, 2000; August 1, 1995; January 1, 1995;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.*

10A NCAC 39A .1109 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1110 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1111 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1112 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1113 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1114 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1115 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1116 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1117 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1118 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1119 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1120 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1121 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1122 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1123 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1124 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1125 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1126 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1127 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1128 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1129 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1130 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1131 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1132 RESERVED FOR FUTURE CODIFICATION

10A NCAC 39A .1133	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1134	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1135	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1136	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1137	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1138	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1139	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1140	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1141	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1142	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1143	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1144	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1145	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1146	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1147	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1148	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1149	RESERVED FOR FUTURE CODIFICATION
10A NCAC 39A .1150	REPORTING OF CANCER
10A NCAC 39A .1151	CANCER REGISTRY

History Note: Authority G.S. 130A-205; 130A-209;
Temporary Adoption Eff. December 1, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. April 1, 1993;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .1200 - BREAST AND CERVICAL CANCER SCREENING AND FOLLOW-UP PROGRAM

10A NCAC 39A .1201	GENERAL
10A NCAC 39A .1202	DEFINITIONS
10A NCAC 39A .1203	FINANCIAL ELIGIBILITY
10A NCAC 39A .1204	MEDICAL ELIGIBILITY
10A NCAC 39A .1205	PARTICIPATING PROVIDERS
10A NCAC 39A .1206	PATIENT APPLICATION PROCESS
10A NCAC 39A .1207	APPLICATIONS FOR PROGRAM FUNDS
10A NCAC 39A .1208	USE OF PROGRAM FUNDS
10A NCAC 39A .1209	QUALITY ASSURANCE

History Note: Authority G.S. 130A-205; Sec. 301 & 317, Public Health Services Act, as amended;
Temporary Adoption Eff. December 1, 1992 for a Period of 180 Days or until the permanent rule becomes effective, whichever is sooner;
Eff. April 1, 1993;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .1300 - PRESCRIPTION DRUG ASSISTANCE PROGRAM

10A NCAC 39A .1301	GENERAL
10A NCAC 39A .1302	DEFINITIONS
10A NCAC 39A .1303	FINANCIAL ELIGIBILITY
10A NCAC 39A .1304	LIMITATIONS
10A NCAC 39A .1305	APPLICATION PROCESS
10A NCAC 39A .1306	COVERED SERVICES
10A NCAC 39A .1307	REIMBURSEMENT

History Note: Authority S.L. 1999, c. 237, s. 11.1.(a);
Temporary Adoption Eff. February 10, 2000;
Eff. April 1, 2001;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SUBCHAPTER 39B - COMMISSION OF ANATOMY

10A NCAC 39B .0101 BODIES TO BE DISTRIBUTED BY THE COMMISSION

- (a) All interests in and rights to dead bodies not claimed for burial within 10 days of death and received by the Commission shall vest in the Commission. A medical school may receive and store an unclaimed body at the direction of the Commission. The medical school has no right to the body until allocated to the medical school by the Commission.
- (b) All interests in and rights to dead bodies donated to the Commission and accepted by the Commission of Anatomy shall vest in the Commission. A medical school may receive and store a donated body at the direction of the Commission. The medical school has no right to the body until allocated to the medical school by the Commission.
- (c) The Commission has no right to bodies donated to specified donee institutions or persons other than those bodies specifically donated to the Commission.
- (d) The attending physician, acting as donee of the gift of an entire body according to the provisions of G.S. 130A-406(c), may at his discretion transfer the gift to the Commission in the absence of expressed indication that the donor desired otherwise.

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Amended Eff. July 1, 1985;
Transferred and Recodified from 10 NCAC 08I .0004 Eff. April 4, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0102 TRANSFER AND STORAGE OF UNCLAIMED BODIES

- (a) The person, institution, or agency having charge or control of an unclaimed body shall notify a member of the Commission. If the Commission member agrees to accept the body, the notifying person, institution, or agency, with the concurrence of the Commission member, shall request a funeral home or other suitable carrier to transfer the body to a medical school. If a commission member cannot be reached, the person, institution, or agency shall contact the nearest medical school to arrange for refrigerated storage of the body until a commission member can be reached.
- (b) The Commission may decline to accept an unclaimed body that is for any reason unsuitable for anatomical study.
- (c) If the body is determined by a commission member to be unacceptable for anatomical study, the person, institution, or agency having charge or control of the body shall make arrangements for the final disposition of the body.
- (d) The body remains in the legal custody of the person, institution, or agency having charge or control of the body until after the expiration of the time required by G.S. 130A-415 following death.

- (e) During the 10 days allowed for determination that a body is unclaimed, the body shall be stored in the nearest refrigerated facility that can provide such storage. The person, institution, or agency having charge or control of the body shall, with the assistance of a member of the Commission, make arrangements for transfer and storage of the body.
- (f) During the period of storage, the person, institution, or agency having legal custody of the body retains responsibility for making reasonable efforts to notify any interested person of the deceased's death.
- (g) If the body is claimed, the storage facility shall be directed in writing by the person, institution, or agency having charge or control of the body to release it, with the claimant or his or her representative being identified.
- (h) If the stored body is not claimed for burial, the medical school receiving it as allocated by the Commission shall pay all reasonable fees for transfer for storage. If the stored body is claimed, the claimant shall pay such fees.

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Amended Eff. July 1, 1985;
Transferred and Recodified from 10 NCAC 08I .0005 Eff. April 4, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0103 AUTOPSY OF UNCLAIMED BODY

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Amended Eff. July 1, 1985;
Transferred and Recodified from 10 NCAC 8I .0006 Eff. April 4, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39B .0104 TRANSFER OF DONATED BODY

- (a) If a body has been donated to the Commission, the next of kin or a responsible representative shall ascertain from a member of the Commission in the nearest medical school whether the body can be accepted.
- (b) Unless the estate or one or more members of the family agree to bear the costs, the medical school receiving a body donated to the Commission shall pay all reasonable fees for services rendered in delivery of that body to the medical school.

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Transferred and Recodified from 10 NCAC 08I .0007 Eff. April 4, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0105 AUTOPSY OF DONATED BODY

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Amended Eff. July 1, 1985;
Transferred and Recodified from 10 NCAC 8I .0008 Eff. April 4, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39B .0106 FUNERAL SERVICES FOR DONATED BODY

- (a) A funeral service with the body present is not precluded by donation. The body may be transferred to a medical school after the service. If there is a funeral service with the body present, the medical school receiving the body shall pay the transportation costs only.
- (b) A memorial service with the body absent may be preferred. If a memorial service is conducted, the medical school receiving the body will pay reasonable fees for removal, authorized embalming, and transportation.

History Note: Authority G.S. 130A-416;
Eff. November 1, 1977;
Transferred and Recodified from 10 NCAC 08I .0010 Eff. April 4, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0107 DONATED ORGANS

Any member of the Commission may accept or decline to accept a body donated to the Commission from which donated organs or tissues have been removed.

History Note: *Authority G.S. 130A-416;*
Eff. November 1, 1977;
Transferred and Recodified from 10 NCAC 08I .0009 Eff. April 4, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0108 EMBALMING

History Note: *Authority G.S. 130A-416;*
Eff. November 1, 1977;
Transferred and Recodified from 10 NCAC 8I .0011 Eff. April 4, 1990;
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39B .0109 TRANSPORTATION

10A NCAC 39B .0110 DISTRIBUTION OF BODIES IN THE CUSTODY OF THE COMMISSION

History Note: *Authority G.S. 130A-416;*
Eff. November 1, 1977;
Transferred and Recodified from 10 NCAC 8I .0012 Eff. April 4, 1990 (.0109);
Transferred and Recodified from 10 NCAC 8I .0013 Eff. April 4, 1990 (.0110);
Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39B .0111 FORENSIC ANTHROPOLOGY STUDIES

(a) For the purposes of this Subchapter, "Forensic Anthropology Program" means a university program in a field of study using anthropological techniques of osteological (bone) analysis to assist in the identification of a crime victim, a victim of a mass disaster, or a body that is unidentifiable by standard methods of identification.

(b) The Commission of Anatomy may distribute a body to a forensic anthropology program if the conditions in Paragraphs

(c) and (d) have been met and the body falls under one of the following categories:

- (1) the body is an unclaimed body that the chairman of the Commission of Anatomy has determined to be unsuitable for medical studies; or
- (2) the body has been bequeathed or donated to the Commission of Anatomy for forensic anthropology studies.

(c) The chairman of the Commission of Anatomy, or his or her delegate, shall do the following before distributing a body to a forensic anthropology program:

- (1) determine that a body is suitable for forensic anthropology studies;
- (2) direct the person, institution or agency having control of the body to hold the body until it can be established that a forensic anthropology program will accept the body and pay all expenses for the removal, storage, transportation and preparation of the body;
- (3) notify the person, institution or agency having control of the body that the Commission has accepted the body for a forensic anthropology program and that the forensic anthropology program will contact them concerning removal of the body;
- (4) Assign an identifying number to the body that shall be inscribed on the skeletonized remains kept by the forensic anthropology program;
- (5) notify the forensic anthropology program that a body has been accepted for distribution to that program;
- (6) for unclaimed bodies, notify the county director of social services that the body has been accepted by the Commission for a forensic anthropology program; and
- (7) keep a record of all transactions, including the name, sex, age, and date of death of the deceased, who has custody of the body, where the body is being stored, and when custody of the body will be transferred to the forensic anthropology program.

(d) After the director of a forensic anthropology program, or his or her delegate, agrees to accept a body that has been approved by the Commission for distribution to that program, the director shall do the following:

- (1) for unclaimed bodies, assume custody of the body after the ten-day waiting period required by G.S. 130A-415;

- (2) arrange transportation for the body to the forensic anthropology program in a leakproof, airtight container at least equivalent to a Ziegler case;
 - (3) attach a document to the body container that clearly states:
 - (A) the destination of the body,
 - (B) that the body is being transported for a forensic anthropology program,
 - (C) that during transportation the body is under the jurisdiction of the Commission of Anatomy, and
 - (D) that the Chairman of the Commission of Anatomy, or his or her delegate, should be contacted at (919) 966-1134 or 966-4131 if any problems arise during transportation;
 - (4) keep records of the dates of transportation of the body and the names of the transporters;
 - (5) obtain all necessary documents, to be maintained in a permanent record, including but not limited to the notification of death, the death certificate, the burial transit permit, and copies of the bequeathal or donation forms;
 - (6) provide a quarterly report to the Chairman of the Commission of Anatomy containing the name, sex, age, and date of death of the deceased and the identifying number assigned to the skeletal remains by the Commission for all bodies received by the program; and
 - (7) follow all other applicable Rules in this Subchapter.
- (e) A Forensic Anthropology program which initially agrees to accept a body but later refuses to accept the body, shall pay all costs incurred by the Commission of Anatomy for that body.
- (f) Skeletal remains of bodies obtained from the Commission shall not be sold. If skeletal remains reach a point where they are no longer useful, they will be cremated and returned to the chairman of the Commission of Anatomy for final disposition. Skeletal or cremated remains of bodies obtained from the Commission may not be reclaimed by or returned to relatives or other interested parties.

History Note: Authority G.S. 130A-405; 130A-415; 130A-416; 143B-204;
 Eff. February 1, 1988;
 Transferred and Recodified from 10 NCAC 08I .0017 Eff. April 4, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0112 PAYMENT OF COSTS OF DISTRIBUTION

History Note: Authority G.S. 130A-416;
 Eff. November 1, 1977;
 Transferred and Recodified from 10 NCAC 8I .0014 Eff. April 4, 1990;
 Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

10A NCAC 39B .0113 FINAL DISPOSITION OF REMAINS

The remains of any body studied or determined to be unacceptable for study after acceptance by the Commission shall be cremated and returned to the family or an agent of the family if it is the wish of the donor or the family. The medical school to which the body was allocated by the commission shall bear the costs of cremation, of a plain container, and of delivery. If directed by the donor or family, or if there is no claimant for the body, the medical school shall make final disposition of the remains.

History Note: Authority G.S. 130A-416;
 Eff. November 1, 1977;
 Transferred and Recodified from 10 NCAC 08I .0015 Eff. April 4, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39B .0114 FORMS

History Note: Authority G.S. 130A-405; 130A-415; 130A-416; 143B-204;
 Eff. November 1, 1977;
 Amended Eff. February 1, 1988;
 Transferred and Recodified from 10 NCAC 8I .0016 Eff. April 4, 1990;
 Expired Eff. January 1, 2017 pursuant to G.S. 150B-21.3A.

SUBCHAPTER 39C – SMOKING PROHIBITED IN RESTAURANTS AND BARS

SECTION .0100 - GENERAL

10A NCAC 39C .0101 GENERAL PROVISIONS

- (a) The purpose of the rules in this subchapter is to implement Part 1C of Article 23 of Chapter 130A of the General Statutes.
- (b) The definitions in G.S.130A-492 apply throughout this Subchapter. In addition, throughout this Subchapter, "Division" means North Carolina Department of Health and Human Services, Division of Public Health.

History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39C .0102 EXEMPTION OF CIGAR BARS

- (a) Cigar bars shall file an affidavit with the Division within thirty days after the end of each quarter stating the establishment meets the statutory requirements set forth for cigar bars by G.S. 130A-492 and G.S. 130A-496. Affidavits shall be sent to the:
Chief, Regulatory and Legal Affairs
N. C. Department of Health and Human Services
Division of Public Health
1931 Mail Service Center
Raleigh, NC 27699-1931.
- (b) Affidavits submitted in 2010 and each year thereafter shall be post-marked:
- (1) By January 31st for the quarter ending December 31st.
 - (2) By April 30th for the quarter ending March 31st.
 - (3) By July 31st for the quarter ending June 30th.
 - (4) By October 31st for the quarter ending September 30th.
- (c) Within sixty days after receiving the affidavit the Division shall provide written documentation to the cigar bar on its exemption status under G.S. 130A-496.

History Note: Authority G.S. 130A-492; 130A-496; 130A-497(f);
Eff. January 2, 2010;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39C .0103 POSTING SIGNS

The signs required to be posted in restaurants and bars by G.S. 130A-497 shall:

- (1) Be posted at each public entrance at a height and location easily seen.
- (2) Be at least 24 square inches in size (for example, 4 by 6 inches).
- (3) Be in legible font type.
- (4) Display:
 - (a) The Division's toll-free complaint line telephone number.
 - (b) "G.S.130A-497".
 - (c) "www.smokefree.nc.gov".

History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

10A NCAC 39C .0104 CLARIFICATION OF THE DEFINITION OF ENCLOSED AREA

- (a) An area is enclosed if it has
- (1) a roof or other overhead covering and
 - (2) permanent or temporary walls or side coverings on three or more sides that make up 55 percent or more of the total combined perimeter surface area.
- (b) A roof, overhead covering, wall or side covering includes any permanent or temporary physical barrier or retractable divider. Examples of materials for a roof, overhead covering, wall or side covering include wood, metal, canvas, tarp, cloth,

glass, tent material, plastic, vinyl sheeting, fabric shades, lattice, awning material, polyurethane sheeting or any other similar material. Walls or side coverings do not include mesh screening which is 0.011 gauge with an 18 by 16 mesh count or more open mesh size.

(c) An opening means a door, a window or any other aperture that is open to the outdoors.

(d) If the openings in an unenclosed area are covered, such that the area at that time meets the definition of being enclosed pursuant to Paragraph (a) of this Rule, then smoking must be prohibited in the area while the openings are so covered.

(e) If windows or doors form any part of the partition between an enclosed area and an unenclosed area that is used for smoking, these openings shall be closed at all times during the operation of the establishment except for ingress and egress to prevent migration of smoke into the enclosed area.

(f) Nothing in this Rule prohibits a restaurant or bar owner from making an unenclosed area smoke-free.

(g) Local health department environmental health staff shall assess compliance with this rule during the next required inspection following the effective date of this rule and subsequently as necessary.

(h) Required plan review for new restaurants and restaurants undergoing a change in ownership shall include review for compliance with this Rule.

History Note: Authority G.S. 130A-497;

Eff. August 1, 2014;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.