"ACCIDENT" OR "ACCIDENTAL MEANS" ISSUE--EFFECT OF DISEASED CONDITION.[1]

Where it is contended that the [injury] [death] of the [plaintiff] [plaintiff's deceased] was caused by disease, the following rules apply:[2]

When an accident has caused a diseased condition, which together with the accident resulted in the [injury] [death], the accident alone is to be considered the cause of the [injury] [death]. That is, the [injury] [death] is by accidental means.

When, at the time of the accident, the insured was suffering from some disease, but the disease had no causal connection with the [injury] [death] resulting from the accident, the accident alone is to be considered the cause of_the [injury] [death]. That is, the [injury] [death] is by accidental means.

However, when at the time of the accident there was an existing disease, which, together with the accident, resulted in the [injury] [death], the accident cannot be considered as the sole cause or as the cause independent of all other causes. That is, the [injury] [death] is not by accidental means.

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[1]These rules normally will be relevant in cases with policy language involving "accidental means," see N.C.P.I. Civil 870.20 , or "accident," see N.C.P.I. Civil 870.25.

[2]*See Horn v. Protective Life Ins. Co., 265 N.C. 157, 143 S.E.2d 70 (1965) (quoting Penn v. Standard Life Ins. Co.*, 160 N.C. 399, 76 S.E. 262 (1912)); *Skillman v Phoenix Mut. Life Ins. Co., 258 N.C. 1, 127 S.E.2d 789 (1962); Harris v. Provident Life & Accident Ins. Co.*, 193 N.C. 485, 137 S.E. 430 (1927); *see also Williams v. Pilot Life Ins. Co.*, 288 N.C. 338, 218 S.E.2d 368 (1975) (finding sufficient evidence that insured suffered an accidental fall, not the result of a pre-existing disease, and that her death was a direct result of the fall).