

1 10A NCAC 13G .0705 is readopted with changes as published in 37:18 NCR 1874-1882 as follows:

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3 **10A NCAC 13G .0705 DISCHARGE OF RESIDENTS**

4 ~~(a) The discharge of a resident initiated by the facility shall be according to conditions and procedures specified in~~
5 ~~Paragraphs (a) through (g) of this Rule. The discharge of a resident initiated by the facility involves the termination~~
6 ~~of residency by the facility resulting in the resident's move to another location and the facility not holding the bed for~~
7 ~~the resident based on the facility's bed hold policy.~~

8 ~~(b) The discharge of a resident shall be based on one of the following reasons:~~

- 9 (1) ~~the discharge is necessary for the resident's welfare and the resident's needs cannot be met in the~~
10 ~~facility as documented by the resident's physician, physician assistant or nurse practitioner;~~
11 (2) ~~the resident's health has improved sufficiently so the resident no longer needs the services provided~~
12 ~~by the facility as documented by the resident's physician, physician assistant or nurse practitioner;~~
13 (3) ~~the safety of other individuals in the facility is endangered;~~
14 (4) ~~the health of other individuals in the facility is endangered as documented by a physician, physician~~
15 ~~assistant or nurse practitioner;~~
16 (5) ~~failure to pay the costs of services and accommodations by the payment due date according to the~~
17 ~~resident contract after receiving written notice of warning of discharge for failure to pay; or~~
18 (6) ~~the discharge is mandated under G.S. 131D-2(a1).~~

19 ~~(c) The notices of discharge and appeal rights as required in Paragraph (e) of this Rule shall be made by the facility~~
20 ~~at least 30 days before the resident is discharged except that notices may be made as soon as practicable when:~~

- 21 (1) ~~the resident's health or safety is endangered and the resident's urgent medical needs cannot be met~~
22 ~~in the facility under Subparagraph (b)(1) of this Rule; or~~
23 (2) ~~reasons under Subparagraphs (b)(2), (b)(3), and (b)(4) of this Rule exist.~~

24 ~~(d) The reason for discharge shall be documented in the resident's record. Documentation shall include one or more~~
25 ~~of the following as applicable to the reasons under Paragraph (b) of this Rule:~~

- 26 (1) ~~documentation by physician, physician assistant or nurse practitioner as required in Paragraph (b)~~
27 ~~of this Rule;~~
28 (2) ~~the condition or circumstance that endangers the health or safety of the resident being discharged or~~
29 ~~endangers the health or safety of individuals in the facility, and the facility's action taken to address~~
30 ~~the problem prior to pursuing discharge of the resident;~~
31 (3) ~~written notices of warning of discharge for failure to pay the costs of services and accommodations;~~
32 ~~or~~
33 (4) ~~the specific health need or condition of the resident that the facility determined could not be met in~~
34 ~~the facility pursuant to G.S. 131D-2(a1)(4) and as disclosed in the resident contract signed upon the~~
35 ~~resident's admission to the facility.~~

36 ~~(e) The facility shall assure the following requirements for written notice are met before discharging a resident:~~

1 ~~(1) The Adult Care Home Notice of Discharge with the Adult Care Home Hearing Request Form shall~~
 2 ~~be hand delivered, with receipt requested, to the resident on the same day the Adult Care Home~~
 3 ~~Notice of Discharge is dated. These forms may be obtained at no cost from the Division of Medical~~
 4 ~~Assistance, 2505 Mail Service Center, Raleigh, NC 27699-2505.~~

5 ~~(2) A copy of the Adult Care Home Notice of Discharge with a copy of the Adult Care Home Hearing~~
 6 ~~Request Form shall be hand delivered, with receipt requested, or sent by certified mail to the~~
 7 ~~resident's responsible person or legal representative on the same day the Adult Care Home Notice~~
 8 ~~of Discharge is dated.~~

9 ~~(3) Failure to use and simultaneously provide the specific forms according to Subparagraphs (e)(1) and~~
 10 ~~(e)(2) of this Rule shall invalidate the discharge. Failure to use the latest version of these forms~~
 11 ~~shall not invalidate the discharge unless the facility has been previously notified of a change in the~~
 12 ~~forms and been provided a copy of the latest forms by the Department of Health and Human~~
 13 ~~Services.~~

14 ~~(4) A copy of the completed Adult Care Home Notice of Discharge, the Adult Care Home Hearing~~
 15 ~~Request Form as completed by the facility prior to giving to the resident and a copy of the receipt~~
 16 ~~of hand delivery or the notification of certified mail delivery shall be maintained in the resident's~~
 17 ~~record.~~

18 ~~(f) The facility shall provide sufficient preparation and orientation to residents to ensure a safe and orderly discharge~~
 19 ~~from the facility as evidenced by:~~

20 ~~(1) notifying staff in the county department of social services responsible for placement services;~~

21 ~~(2) explaining to the resident and responsible person or legal representative why the discharge is~~
 22 ~~necessary;~~

23 ~~(3) informing the resident and responsible person or legal representative about an appropriate discharge~~
 24 ~~destination; and~~

25 ~~(4) offering the following material to the caregiver with whom the resident is to be placed and providing~~
 26 ~~this material as requested prior to or upon discharge of the resident:~~

27 ~~(A) a copy of the resident's most current FL 2;~~

28 ~~(B) a copy of the resident's most current assessment and care plan;~~

29 ~~(C) a copy of the resident's current physician orders;~~

30 ~~(D) a list of the resident's current medications;~~

31 ~~(E) the resident's current medications; and~~

32 ~~(F) a record of the resident's vaccinations and TB screening.~~

33 ~~(5) providing written notice of the name, address and telephone number of the following, if not provided~~
 34 ~~on the discharge notice required in Paragraph (e) of this Rule:~~

35 ~~(A) the regional long term care ombudsman; and~~

36 ~~(B) the protection and advocacy agency established under federal law for persons with~~
 37 ~~disabilities.~~

1 ~~(g) If an appeal hearing is requested:~~

2 ~~(1) — the facility shall provide to the resident or legal representative or the resident and the responsible~~
 3 ~~person, and the Hearing Unit copies of all documents and records that the facility intends to use at~~
 4 ~~the hearing at least five working days prior to the scheduled hearing; and~~

5 ~~(2) — the facility shall not discharge the resident before the final decision resulting from the appeal has~~
 6 ~~been rendered, except in those cases of discharge specified in Paragraph (c) of this Rule.~~

7 ~~(h) If a discharge is initiated by the resident or responsible person, the administrator may require up to a 14 day~~
 8 ~~written notice from the resident or responsible person which means the resident or responsible person may be charged~~
 9 ~~for the days of the required notice if notice is not given or if notice is given and the resident leaves before the end of~~
 10 ~~the required notice period. Exceptions to the required notice are cases in which a delay in discharge or transfer would~~
 11 ~~jeopardize the health or safety of the resident or others in the facility. The facility's requirement for a notice from the~~
 12 ~~resident or responsible person shall be established in the resident contract or the house rules provided to the resident~~
 13 ~~or responsible person upon admission.~~

14 ~~(i) The discharge requirements in this Rule do not apply when a resident is transferred to an acute inpatient facility~~
 15 ~~for mental or physical health evaluation or treatment and the adult care facility's bed hold policy applies based on the~~
 16 ~~expected return of the resident. If the facility decides to discharge a resident who has been transferred to an acute~~
 17 ~~inpatient facility and there has been no physician documented level of care change for the resident, the discharge~~
 18 ~~requirements in this Rule apply.~~

19 ~~(a) The discharge of a resident initiated by the facility shall be according to conditions and procedures specified in~~
 20 ~~Paragraphs (a) through (j) of this Rule. The discharge of a resident initiated by the facility involves the termination~~
 21 ~~of residency by the facility resulting in the resident's move to another location and the facility not holding the bed for~~
 22 ~~the resident based on the facility's bed hold policy.~~

23 ~~(b) The discharge of a resident initiated by the facility at the direction of the administrator or their designee shall be~~
 24 ~~based on one of the following reasons under G.S. 131D-4.8: reasons:~~

25 ~~(1) the discharge is necessary to protect the welfare of the resident and the facility cannot meet the needs~~
 26 ~~of the resident, as documented by the resident's physician, physician assistant, or nurse~~
 27 ~~practitioner; practitioner in the resident's record;~~

28 ~~(2) the health of the resident has improved sufficiently so that the resident is no longer in need of the~~
 29 ~~services provided by the facility, as documented by the resident's physician, physician assistant, or~~
 30 ~~nurse practitioner; practitioner in the resident's record;~~

31 ~~(3) the safety of the resident or other individuals in the facility is endangered; endangered as~~
 32 ~~determined by the facility at the direction of the administrator or their designee in consultation with~~
 33 ~~the resident's physician, physician assistant, or nurse practitioner;~~

34 ~~(4) the health of the resident or other individuals in the facility is endangered as documented by a~~
 35 ~~physician, physician assistant, or nurse practitioner; practitioner in the resident's record;~~

1 (5) the resident has failed to pay the costs of services and accommodations by the payment due date
 2 according to the resident’s contract after receiving written notice of warning of discharge for failure
 3 to pay; or

4 ~~[(6) — the discharge is mandated under G.S. 131D-2.2(a).]~~

5 (c) The ~~[facility]~~ facility administrator or their designee, shall assure the following requirements for written notice
 6 are met before discharging a resident:

7 (1) The Adult Care Home Notice of Discharge with the Adult Care Home Hearing Request Form shall
 8 be **completed and** hand delivered, with receipt requested, to the resident on the same day the Adult
 9 Care Home Notice of Discharge is dated. These forms may be obtained at no cost from the Division
 10 of Health Benefits, on the internet website <https://policies.ncdhhs.gov/divisional/health-benefits-nc->
 11 medicaid/forms. **The Adult Care Home Notice of Discharge shall include the following:**

12 (A) the date of notice;

13 (B) the date of transfer or discharge;

14 (C) the reason for the notice;

15 (D) the name of responsible person or contact person notified;

16 (E) the planned discharge location;

17 (F) the appeal rights;

18 (G) the contact information for the long-term care ombudsman; and

19 (H) the signature and date of the administrator.

20 (2) A copy of the **completed** Adult Care Home Notice of Discharge ~~[with a copy of the]~~ **and** Adult Care
 21 Home Hearing Request Form shall be hand delivered, with receipt requested, or sent by certified
 22 mail to the resident's responsible person or legal representative and the individual identified upon
 23 admission to receive a discharge notice on behalf of the resident on the same day the Adult Care
 24 Home Notice of Discharge is dated. **For the purposes of this Rule “responsible person” means a**
 25 **person chosen by the resident to act on their behalf to support the resident in decision-making; access**
 26 **to medical, social, or other personal information of the resident; manage financial matters; or receive**
 27 **notifications. The Adult Care Home Hearing Request Form shall include the following:**

28 (A) the name of the resident;

29 (B) the name of the facility;

30 (C) the date of transfer or discharge;

31 (D) the date of scheduled transfer or discharge;

32 (E) the selection of how the hearing is to be conducted;

33 (F) the name of the person requesting the hearing; and

34 (G) for the person requesting the hearing, their relationship to the resident, address, telephone
 35 number, their signature, and date of the request.

36 (3) Provide the following material in accordance with the Health Insurance Portability and
 37 Accountability Act of 1996 (HIPAA) to the resident and the resident’s legal ~~[representative].~~

1 representative and the individual identified upon admission to receive a copy the discharge notice
 2 on behalf of the resident:

3 (A) a copy of the resident's most current [FL-2; FL-2 form required in Rule .0703 of this
 4 Subchapter:

5 (B) a copy of the resident's current physician's orders, including medication order;

6 (4) Failure to use and simultaneously provide the specific forms according to Subparagraphs (c)(1) and
 7 (c)(2) of this Rule shall invalidate the discharge. [Failure to use the latest version of these forms
 8 shall not invalidate the discharge.]

9 (5) A copy of the completed Adult Care Home Notice of Discharge, the Adult Care Home Hearing
 10 Request Form as completed by the facility administrator or their designee prior to giving to the
 11 resident and a copy of the receipt of hand delivery or the notification of certified mail delivery shall
 12 be maintained in the resident's record.

13 (d) The notices of discharge and appeal rights as required in Paragraph (c) of this Rule shall be made by the facility
 14 administrator or their designee, at least 30 days before the resident is discharged except that notices may be made as
 15 soon as practicable when:

16 (1) the [resident's health or safety is endangered and the resident's urgent medical needs cannot be met
 17 in the facility] discharge is necessary to protect the welfare of the resident and the facility cannot
 18 meet the needs of the resident under Subparagraph (b)(1) of this Rule; or

19 (2) reasons under Subparagraphs [(b)(2); (b)(3); (b)(3) and (b)(4) of this Rule exist.

20 (e) The following shall be documented in the resident record and shall be made available upon request to potential
 21 discharge [locations; locations pursuant to the HIPAA Standards for Privacy of Individually Identifiable Health
 22 Information which is hereby incorporated by reference, including any amendments and subsequent editions, and can
 23 be found at no cost at [https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-](https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-individually-identifiable-health-information)
 24 individually-identifiable-health-information:

25 (1) The reason for discharge to include one or more of the following as applicable to the reasons under
 26 Paragraph (b) of this Rule:

27 (A) documentation by physician, physician assistant or nurse practitioner as required in
 28 Paragraph (b) of this Rule;

29 (B) the condition or circumstance that endangers the health or safety of the resident being
 30 discharged or endangers the health or safety of individuals in the facility, and the facility's
 31 taken to address the problem prior to pursuing discharge of the resident;

32 (C) written notices of warning of discharge for failure to pay the costs of services and
 33 accommodations; or

34 (D) the specific health need or condition of the resident that the facility determined could not
 35 be met in the facility pursuant to G.S. 131D-2.2(a)(4) and as disclosed in the resident
 36 contract signed upon the resident's admission to the facility; and

1 (2) any known ~~[intervention]~~ involvement of law enforcement with the resident due to threatening
2 behavior or violence toward self or others.

3 (f) The facility administrator or their designee shall document contacts with possible discharge locations and
4 responses and make available this documentation, upon request, to the resident, legal representative, the individual
5 identified upon admission to receive a discharge notice on behalf of the resident and the adult care home resident
6 discharge team if convened. For the purposes of this rule, “the individual identified upon admission to receive a
7 discharge notice on behalf of the resident” may be the same person as the resident’s legal representative or responsible
8 person as identified in the resident’s record.

9 (g) The facility administrator or their designee shall provide sufficient preparation and orientation to residents to
10 ensure a safe and orderly discharge from the facility as evidenced by:

11 (1) explaining to the resident and responsible person or legal representative and the individual identified
12 upon admission to receive a copy of the discharge notice on behalf of the resident why the discharge
13 is necessary;

14 (2) informing the resident and responsible person or legal representative and the individual identified
15 upon admission to receive a copy of the discharge notice on behalf of the resident about an
16 appropriate discharge ~~destination;~~ destination that is capable of meeting the needs of the resident;
17 and

18 (A) If at the time of the discharge notice the discharge destination is unknown or ~~[is not~~
19 ~~appropriate for]~~ is not capable of meeting the needs of the resident, the facility
20 administrator or their designee, shall contact the local adult care home resident discharge
21 team as defined in G.S. 131D-4.8(e) to assist with placement; and

22 (B) The ~~[facility]~~ facility, at the direction of the administrator or their designee, shall inform
23 the ~~[resident and]~~ resident, the resident’s legal ~~[representative]~~ representative, the
24 individual identified upon admission to receive a copy of the discharge notice on behalf of
25 the resident, and the responsible person of their right to request the Regional Long-Term
26 Care Ombudsman to serve as a member of the adult care home resident discharge ~~[team;~~
27 team; and

28 (3) offering the following material to the ~~[caregiver]~~ resident, the resident’s legal representative, or the
29 facility [with whom] where the resident is to be placed and providing this material as requested prior
30 to or upon discharge of the resident:

31 (A) a copy of the resident's most current ~~[FL-2;]~~ FL-2 form required in Rule .0703 of this
32 Subchapter;

33 (B) a copy of the resident's most current assessment and care plan;

34 (C) a list of referrals to licensed health professionals, including mental health;

35 (D) a copy of the resident's current physician orders;

36 (E) a list of the resident's current medications;

37 (F) the resident's current medications; and

1 (G) a record of the resident's vaccinations and TB screening;
 2 (4) providing written notice of the name, address and telephone number of the following, if not provided
 3 on the discharge notice required in Paragraph (c) of this Rule:

4 (A) the regional long-term care ombudsman; and

5 (B) Disability Rights North Carolina, the protection and advocacy agency established under
 6 federal law for persons with disabilities.

7 (5) providing the resident, responsible [party] person, or legal [representative] representative, and the
 8 individual identified upon admission who received a copy of the discharge notice on behalf of the
 9 resident with the discharge location as determined by the adult care home resident discharge team,
 10 if convened, at or before the discharge hearing, if the location is known to the facility.

11 (h) If an appeal hearing is requested:

12 (1) the facility administrator or their designee shall provide to the resident or legal representative or the
 13 resident and the responsible [person, and] person, the Hearing Unit copies of all documents and
 14 records that the facility intends to use at the hearing at least five working days prior to the scheduled
 15 hearing; and

16 (2) the facility administrator or their designee shall not discharge the resident before the final decision
 17 resulting from the appeal has been rendered, except in those cases of discharge specified in
 18 Paragraph (d) of this Rule.

19 (i) If a discharge is initiated by the [resident] resident, the resident's legal representative, or responsible person, the
 20 administrator may require up to a 14-day written notice from the [resident] resident, the resident's legal representative,
 21 or responsible person which means the resident [or responsible person] may be charged for the days of the required
 22 notice if notice is not given or if notice is given and the resident leaves before the end of the required notice period.
 23 Exceptions to the required notice are cases in which a delay in discharge or transfer would jeopardize the health or
 24 safety of the resident or others in the facility. The facility's requirement for a notice from the [resident] resident, the
 25 resident's legal representative, or responsible person shall be established in the resident contract [or the house rules]
 26 provided to the resident or responsible person upon admission.

27 (j) The discharge requirements in this Rule do not apply when a resident is transferred to an acute inpatient facility
 28 for mental or physical health evaluation or treatment and the adult care facility's bed hold policy applies based on the
 29 expected return of the resident. If the facility administrator or their designee decides to discharge a resident who has
 30 been transferred to an acute inpatient facility and there has been no physician-documented level of care change for the
 31 resident, the discharge requirements in this Rule apply.

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 33 *History Note:* Authority G.S. 131D-2.1; 131D-2.16; 131D-4.8; 131D-4.5; 131D-21; 143B-165;
 34 Temporary Adoption Eff. January 1, 2000; December 1, 1999;
 35 Eff. April 1, 2001;
 36 Temporary Amendment Eff. July 1, 2003;
 37 Amended Eff. July 1, 2004. 2004;

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Readopted Eff. [~~October 1, 2023.~~] April 1, 2024.