

1 10A NCAC 13G .0705 is proposed for readoption with substantive changes as follows:

2  
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 shall be based on one of the following reasons under G.S.~~  
 24 ~~131D-4.8:~~

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 practitioner;~~

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

30 ~~(3) the safety of the resident or other individuals in the facility is endangered;~~

31 ~~(4) the health of the resident or other individuals in the facility is endangered as documented by a~~  
 32 ~~physician, physician assistant, or nurse practitioner;~~

33 ~~(5) the resident has failed to pay the costs of services and accommodations by the payment due date~~  
 34 ~~according to the resident's contract after receiving written notice of warning of discharge for failure~~  
 35 ~~to pay; or~~

36 ~~(6) the discharge is mandated under G.S. 131D-2.2(a).~~

37 ~~(c) 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 Health  
4       Benefits, on the internet website [6       \(2\) A copy of the Adult Care Home Notice of Discharge with a copy of the Adult Care Home Hearing  
7       Request Form shall be hand delivered, with receipt requested, or sent by certified mail to the  
8       resident's responsible person or legal representative and the individual identified upon admission to  
9       receive a discharge notice on behalf of the resident on the same day the Adult Care Home Notice of  
10       Discharge is dated.](https://policies.ncdhhs.gov/divisional/health-benefits-nc-</a></u><br/>5       <u>medicaid/forms.</u></p></div><div data-bbox=)

11       (3) Provide the following material in accordance with the Health Insurance Portability and  
12       Accountability Act of 1996 (HIPAA) to the resident and the resident's legal representative:

13       (A) a copy of the resident's most current FL-2;

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

15       (4) Failure to use and simultaneously provide the specific forms according to Subparagraphs (c)(1) and  
16       (c)(2) of this Rule shall invalidate the discharge. Failure to use the latest version of these forms shall  
17       not invalidate the discharge.

18       (5) A copy of the completed Adult Care Home Notice of Discharge, the Adult Care Home Hearing  
19       Request Form as completed by the facility prior to giving to the resident and a copy of the receipt  
20       of hand delivery or the notification of certified mail delivery shall be maintained in the resident's  
21       record.

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

24       (1) the resident's health or safety is endangered and the resident's urgent medical needs cannot be met  
25       in the facility under Subparagraph (b)(1) of this Rule; or

26       (2) reasons under Subparagraphs (b)(2), (b)(3), and (b)(4) of this Rule exist.

27       (e) The following shall be documented in the resident record and shall be made available upon request to potential  
28       discharge locations:

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

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

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

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

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

4           (2) any known intervention of law enforcement with the resident due to threatening behavior or violence  
5           toward self or others.

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

12 (g) The facility shall provide sufficient preparation and orientation to residents to ensure a safe and orderly discharge  
13 from the facility as evidenced by:

14           (1) explaining to 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 why the discharge  
16           is necessary;

17           (2) informing the resident and responsible person or legal representative and the individual identified  
18           upon admission to receive a copy of the discharge notice on behalf of the resident about an  
19           appropriate discharge destination; and

20           (A) If at the time of the discharge notice the discharge destination is unknown or is not  
21           appropriate for the resident, the facility shall contact the local adult care home resident  
22           discharge team to assist with placement; and

23           (B) The facility shall inform the resident and the resident's legal representative of their right to  
24           request the Regional Long-Term Care Ombudsman to serve as a member of the adult care  
25           home resident discharge team; and

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

28           (A) a copy of the resident's most current FL-2;

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

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

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

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

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

34           (G) a record of the resident's vaccinations and TB screening;

35           (4) providing written notice of the name, address and telephone number of the following, if not provided  
36           on the discharge notice required in Paragraph (c) of this Rule:

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

1 (B) the protection and advocacy agency established under federal law for persons with  
2 disabilities.

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

7 (h) If an appeal hearing is requested:

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

11 (2) the facility shall not discharge the resident before the final decision resulting from the appeal has  
12 been rendered, except in those cases of discharge specified in Paragraph (d) of this Rule.

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

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

25  
26 *History Note: Authority G.S. 131D-2.1; 131D-2.16; 131D-4.8; 131D-4.5; 131D-21; 143B-165;*

27 *Temporary Adoption Eff. January 1, 2000; December 1, 1999;*

28 *Eff. April 1, 2001;*

29 *Temporary Amendment Eff. July 1, 2003;*

30 *Amended Eff. July 1, 2004. 2004;*

31 *Readopted Eff. October 1, 2023.*