

10A NCAC 14A .0301 is proposed for readoption with substantive changes as follows:

10A NCAC 14A .0301 DEFINITIONS

The following definitions ~~will~~ apply throughout this Subchapter:

(1) ~~"Agency" means the Hearing Officer and his office in the Division of Health Service Regulation, Department of Health and Human Services.~~

(2) ~~"Dismissal" means the dismissal of a request for a hearing if:~~

(a) ~~the applicant withdraws the request in writing; or~~

(b) ~~the applicant fails to appear at a scheduled hearing without good cause.~~

(3) ~~"Division" means the North Carolina Division of Health Service Regulation of the Department of Health and Human Services.~~

(4)(1) "Facility" means a nursing facility which meets the requirements of the Social Security Act as is defined in 42 CFR 483.5, 483.5 which is herein incorporated by reference, including subsequent amendments and editions. The Code of Federal Regulations may be accessed free of charge at http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08.

~~(5)(2)~~ "Hearing Officer" means the person at the Hearing Unit designated to preside over hearings between residents and nursing facility providers regarding transfers and discharges.

(3) "Hearing Unit" means the Chief Hearing Officer and his or her staff in the Division of Medical Assistance of the Department of Health and Human Services.

~~(6)(4)~~ "Notice" means a written notification of transfer or ~~discharge~~ discharge, as required by 42 CFR 483.15 (c), by the facility to the resident and ~~either an immediate family member, if known, or if an immediate family member is not known, the authorized representative. The resident shall be handed the notice on the same day that it is dated. The notice must include: the resident's representative as defined in 42 CFR 483.5.~~

(a) ~~the reason for the transfer or discharge;~~

(b) ~~the effective date of the transfer or discharge;~~

(c) ~~the location to which the resident is transferred or discharged;~~

(d) ~~a statement that the resident has the right to appeal to the Hearing Officer;~~

(e) ~~the name, address, and telephone number of the state Long Term Care Ombudsman;~~

(f) ~~for nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;~~

(g) ~~for nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;~~

(h) ~~_____ a statement that the resident has the right to review his records not later than five days prior to a hearing; and~~

(i) ~~_____ a statement that the appeal will be at no cost to the resident.~~

(7)(5) "Request for a Hearing" means a ~~clear expression, in writing,~~ written expression by the resident ~~or~~ or, either an immediate family member, if known, or if an immediate family member is not known, the authorized or, legal representative, that he or she wants the opportunity to present his or her case to the hearing officer. Hearing Officer. The "Request for Hearing Form" will suffice as a clear, ~~expression, in writing, that a hearing is desired.~~

(8) ~~_____ "Request for Hearing Form" means a form which that is to be given to the resident and either an immediate family member, if known, or if an immediate family member is not known, the authorized representative, simultaneously with the Notice of Transfer or Discharge. The request for hearing form must include at the least:~~

(a) ~~_____ the date of Notice of Transfer or Discharge;~~

(b) ~~_____ the date to be transferred or discharged;~~

(c) ~~_____ the Division of Health Service Regulation's correct mailing address and phone number;~~

(d) ~~_____ the resident's name, address, telephone number, and social security number;~~

(e) ~~_____ the nursing facility's name and address;~~

(f) ~~_____ the name, address, and telephone number of authorized representative; and~~

(g) ~~_____ space to elect the option of a hearing by telephone or in person.~~

(9)(6) "Resident" means any person who is receiving treatment or long-term care in a facility.

(10)(7) "Serve" ~~or "Service"~~ means personal delivery, delivery by first class or certified United States Postal Service ~~mail~~ mail, or delivery by licensed overnight express mail, postage prepaid and addressed to the party at his or her last known address. ~~Service by mail or licensed overnight express mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in an official depository of the United States Postal Service or upon delivery, postage prepaid and wrapped in a wrapper addressed to the person to be served, to an agent of the overnight express mail service. For purposes of service on the Division, the Hearing Officer of the Division shall be the designated agent.~~

*History Note: Authority G.S. 143B-165(10); 42 U.S.C.S. 1396r(e)(3) and (f)(3); U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 C.F.R. 483.5; 42 C.F.R. 483.12; 42 CFR 483.15(c); G.S. 143B-165(10);
Eff. August 3, ~~1992~~ 1992;
Readopted Eff. January 1, 2019.*