

1 010A NCAC 13F .0702 is readopted with changes as published in 37:18 NCR 1874-1882 as follows:

2
3 **10A NCAC 13F .0702 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;~~

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 (h) 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 practitioner~~
 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 are
 6 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,
 35 telephone 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 action 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.

32

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

34 *Eff. January 1, 1977;*

35 *Readopted Eff. October 31, 1977;*

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

37 *Amended Eff. July 1, 2004- 2004.*

1

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

1 10A NCAC 13F .1307 is readopted with changes as published in 37:18 NCR 1874-1882 as follows:

2
3 **10A NCAC 13F .1307 SPECIAL CARE UNIT RESIDENT PROFILE AND CARE PLAN**

4 In addition to the requirements in Rules ~~13F .0801~~ and ~~13F .0802~~ of this Subchapter, the facility ~~shall assure the~~
5 ~~following:~~ shall:

6 (1) Within 30 days of admission to the special care unit and quarterly thereafter, ~~the facility shall~~
7 develop a written resident profile containing assessment data that describes the resident's behavioral
8 patterns, self-help abilities, level of daily living skills, special management needs, physical abilities
9 and disabilities, and degree of cognitive impairment.

10 (2) ~~The resident care plan as required in Rule 13F .0802 of this Subchapter shall be developed or revised~~
11 Develop or revise the resident's care plan required in Rule .0802 of this Subchapter based on the
12 resident profile and specify programming that involves environmental, social and health care
13 strategies to help the resident attain or maintain the maximum level of functioning possible and
14 compensate for lost abilities.

15
16 *History Note:* *Authority G.S. 131D-2.16; 131D-4.5; 131D-4.6; ~~131D-8;~~ 143B-165;*
17 *Temporary Adoption Eff. December 1, 1999;*
18 *Eff. July 1, ~~2000.~~ 2000;*
19 *Readopted Eff. [~~October 1, 2023;~~ April 1, 2024.*

20

1 10A NCAC 13G .0705 is readopted with changes as published in 37:18 NCR 1874-1882 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~~
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 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-](https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms)
 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.

32

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;*

1

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

1 10A NCAC 13G .1301 is readopted with changes as published in 37:18 NCR 1874-1882 as follows:

2
3 **SECTION .1300 - USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES**

4
5 **10A NCAC 13G .1301 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES**

6 (a) A family care home shall assure that a physical restraint, any physical or mechanical device attached to or adjacent
7 to the resident's body that the resident cannot remove easily and ~~which that~~ restricts freedom of movement or normal
8 access to one's body, shall be:

- 9 (1) used only in those circumstances in which the resident has medical symptoms for which the
10 resident's physician or physician extender has determined that warrant the use of restraints and not
11 for ~~discipline~~ [discipline, behavioral crisis intervention,] discipline or convenience purposes;
12 (2) used only with a written order from a physician or physician extender except in emergencies where
13 the health or safety of the resident is threatened, according to Paragraph ~~(e)~~ (d) of this Rule;
14 (3) the least restrictive restraint that would ~~provide safety;~~ provide a safe environment for the resident
15 and prevent harm; physical injury;
16 (4) used only after alternatives that would provide ~~safety to prevent harm to a safe environment for~~ the
17 resident to prevent physical injury and prevent a potential decline in the resident's functioning have
18 been tried and documented by the administrator or their designee in the resident's ~~record.~~ record as
19 being unsuccessful.
20 (5) used only after an assessment and care planning process has been completed, except in ~~emergencies,~~
21 emergencies where the health or safety of the resident is threatened, according to Paragraph ~~(d)~~ (c)
22 of this Rule;
23 (6) applied correctly according to the manufacturer's instructions and the physician's or physician
24 extenders' order; and
25 (7) used in conjunction with alternatives in an effort to reduce restraint use. For the purpose of this Rule,
26 "physician extender" means a licensed physician assistant or licensed nurse practitioner.

27 Note: Bed rails are restraints when used to keep a resident from voluntarily getting out of bed as opposed to enhancing
28 mobility of the resident while in bed. Examples of restraint alternatives are: providing restorative care to enhance
29 abilities to stand safely and walk, providing a device that monitors attempts to rise from chair or bed, placing the bed
30 lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering
31 fluids, providing activities, controlling pain, providing an environment with minimal noise and confusion, and
32 providing supportive devices such as wedge cushions.

33 (b) The facility shall ask obtain written consent from the ~~resident or resident, the~~ resident's responsible person, or
34 legal representative if the resident may for the resident to be restrained based on an order from the resident's ~~physician.~~
35 physician or physician extender. The facility shall inform the ~~resident, resident, the resident's responsible person~~ or
36 legal representative of the reason for the ~~request and request,~~ the benefits of restraint use use, and the negative
37 outcomes and alternatives to restraint use. The resident or the resident's legal representative may accept or refuse

1 restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the
 2 resident's legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint
 3 use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

4 Note: Potential negative outcomes of restraint use include incontinence, decreased range of motion, decreased ability
 5 to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or ~~depression~~ depression, and reduced social
 6 contact.

7 (c) In addition to the requirements in Rule ~~13F~~ .0801, .0802 and .0903 of this Subchapter regarding assessments and
 8 care planning, the resident assessment and care planning prior to application of restraints as required in Subparagraph
 9 (a)(5) of this Rule shall meet the following requirements:

10 (1) The assessment and care planning shall be implemented through a team process with the team
 11 consisting of at least a staff supervisor or personal care aide, a registered nurse, the resident and the
 12 resident's responsible person or legal representative. If the resident or resident's responsible person
 13 or legal representative is unable to participate, there shall be documentation in the resident's record
 14 that they were notified and declined the invitation or were unable to attend.

15 (2) The assessment shall include consideration of the following:

- 16 (A) medical symptoms that warrant the use of a restraint;
- 17 (B) how the medical symptoms affect the resident;
- 18 (C) when the medical symptoms were first observed;
- 19 (D) how often the symptoms occur;
- 20 (E) alternatives that have been provided and the resident's response; and
- 21 (F) the least restrictive type of physical restraint that would provide safety.

22 (3) The care plan shall include the following:

- 23 (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to
 24 reduce restraint time once the resident is restrained;
- 25 (B) the type of restraint to be used; and
- 26 (C) care to be provided to the resident during the time the resident is restrained.

27 ~~(4) The resident assessment and care plan for the use of a restraint shall be provided to the physician or~~
 28 ~~physician extender for evaluation prior to the physician or physician extender writing an order for a~~
 29 ~~restraint.~~

30 ~~(5) The resident assessment and care plan for the use of a restraint shall be signed by the physician or~~
 31 ~~physician extender within 15 days of the date of the assessment.~~

32 (d) The following applies to the restraint order as required in Subparagraph (a)(2) of this Rule:

33 (1) The order shall indicate:

- 34 (A) the medical need for the ~~restraint;~~ restraint based on the assessment and care plan;
- 35 (B) the type of restraint to be used;
- 36 (C) the period of time the restraint is to be used; and

- 1 (D) the time intervals the restraint is to be checked and released, but no longer than every 30
 2 minutes for checks and **no longer than** two hours for releases.
- 3 (2) If the order is obtained from a physician other than the resident's physician, the facility shall notify
 4 the resident's physician **or physician extender** of the order within seven days.
- 5 (3) The restraint order shall be updated by the resident's physician **or physician extender** at least every
 6 three months following the initial order.
- 7 (4) If the resident's physician changes, the physician **or physician extender** who is to attend the resident
 8 shall update and sign the existing order.
- 9 (5) In ~~an emergency situations, situations an emergency, where the health or safety of the resident is~~
 10 **threatened**, the administrator or ~~administrator in charge~~ **their designee** shall make the determination
 11 relative to the need for a restraint and its type and duration of use until a physician **or physician**
 12 **extender** is contacted. Contact with a physician **or physician extender** shall be made within 24 hours
 13 and documented in the resident's record. **For the purpose of this Rule, an "emergency" ["emergency**
 14 **situation"] means [when a resident is in imminent danger and there is fear for their safety and well-**
 15 **being-] a situation where there is a certain risk of physical injury or death to a resident.**
- 16 (6) The restraint order shall be kept in the resident's record.
- 17 (e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's
 18 record and include the following:
- 19 (1) restraint alternatives that were provided and the resident's response;
- 20 (2) type of restraint that was used;
- 21 (3) medical symptoms warranting restraint use;
- 22 (4) the time the restraint was applied and the duration of restraint use;
- 23 (5) care that was provided to the resident during restraint use; and
- 24 (6) behavior of the resident during restraint use.
- 25 (f) Physical restraints shall be applied only by staff who have received training **on the use of alternatives to physical**
 26 **restraint use and on the care of residents who are physically restrained** according to Rule .0506 of this Subchapter and
 27 **have** been validated on ~~restraint use, the care of residents who are physically restrained and the use of care practices~~
 28 **as alternatives to restraints** according to Rule .0504 of this Subchapter.

29

30 *History Note: Authority G.S. 131D-2.16; 143B-165;*
 31 *Temporary Adoption Eff. July 1, 2004;*
 32 *Temporary Adoption Expired March 12, 2005;*
 33 *Eff. June 1, 2005- 2005;*
 34 *Readopted Eff. [October 1, 2023.] April 1, 2024.*

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