

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

D

SENATE DRS65171-LN-114 (3/26)

Short Title: Discharge from Adult Care Homes.

(Public)

Sponsors: Senator Kinnaird.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE CIRCUMSTANCES UNDER WHICH A RESIDENT
MAY BE TRANSFERRED OR DISCHARGED FROM AN ADULT CARE
HOME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-21(17) reads as rewritten:

"§ 131D-21. **Declaration of residents' rights.**

Each facility shall treat its residents in accordance with the provisions of this Article.
Every resident shall have the following rights:

...

(17) To not be transferred or discharged from a facility except for medical reasons, the residents' own or other residents' welfare, nonpayment for the stay, or when the transfer is mandated under State or federal law. The resident shall be given at least 30 days' advance notice to ensure orderly transfer or discharge, except in the case of jeopardy to the health or safety of the resident or others in the home. The following circumstances shall not create a presumption of jeopardy to health or safety:

- a. The resident's welfare is affected because the resident's needs cannot be met by the facility.
- b. The physician has authorized a change to a higher level of care for the resident.
- c. The facility determines that the resident's health needs cannot be met in the facility.

In any of the circumstances listed in subparagraphs a. through c. of this subdivision, unless there is jeopardy to health or safety and an emergency requiring an immediate transfer or discharge, then prior to

1 the transfer or discharge, the facility shall conduct an assessment to
2 determine if a new care plan would allow the facility to meet the
3 resident's needs. The assessment shall include a description of the
4 problem purported to justify transfer or discharge, a description of the
5 interventions attempted to address the problem, and a description of
6 the results of the intervention. At least three working days prior to
7 providing the assessment or other information to the physician to
8 support a request for a change in the resident's level of care, the facility
9 must provide the same information to the resident and the resident's
10 legal representative along with notice to the recipients that the
11 information will be provided to the physician and that this could affect
12 the person's level of care and continuing stay in the facility. For
13 residents who are recipients of medical assistance, a level of care
14 change recorded on the level of care authorization form signed by the
15 physician (FL-2 form) is not effective to support a transfer or
16 discharge based on a need for a higher level of care until a prior
17 approval number has been assigned.

18 The resident has the right to appeal a facility's attempt to transfer or
19 discharge the resident pursuant to rules adopted by the Medical Care
20 Commission, and the resident shall be allowed to remain in the facility
21 until resolution of the appeal unless otherwise provided by law. The
22 Medical Care Commission shall adopt rules pertaining to the transfer
23 and discharge of residents that offer at least the same protections to
24 residents as State and federal rules and regulations governing the
25 transfer or discharge of residents from nursing homes."

26 **SECTION 2.** This act becomes effective July 1, 2003.