

#### **10A NCAC 22H .0204 HEARING PROCEDURES**

- (a) Upon timely receipt of a request for a hearing of a transfer or discharge by a nursing facility as set out in Rule .0203 of this Section, the Hearing Unit shall notify the parties of the request.
- (b) The parties shall be notified by certified mail of the date, time, and place of the hearing. Hearings shall be conducted by telephone, unless an in-person hearing is requested. If the hearing is to be conducted in person, it shall be held in Raleigh, North Carolina.
- (c) The facility shall make available to the resident all documents and records to be used at the hearing, to be received at least five business days prior to the hearing. The facility administrator shall forward identical information to the Hearing Unit, to be received at least five business days prior to the hearing.
- (d) The hearing officer may grant continuances for good cause. For purposes of this Rule, circumstances beyond the control of the party constitute good cause.
- (e) The hearing officer shall dismiss a request for hearing if the resident or family member or legal representative of the resident fails to appear at a scheduled hearing, unless good cause is shown.
- (f) The hearing officer shall proceed to conduct a scheduled hearing if a facility representative fails to appear at a scheduled hearing.
- (g) The Rules of Civil Procedures as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall not apply in any hearings held by a Division Hearing Officer. Division hearings are not contested case hearings within the meaning of G.S. 150B and shall not be governed by the provisions of that Chapter unless otherwise stated in these Rules. Parties may be represented by counsel or other representative at the hearing.

*History Note:* Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 431, Subpart E; 42 C.F.R. Part 483, Subpart E;  
Eff April 1, 1994;  
Readopted Eff. July 1, 2018.