

**§ 122C-277. Release and conditional release; judicial review.**

(a) Except as provided in subsections (b) and (b1) of this section, the attending physician shall discharge a committed respondent unconditionally at any time he determines that the respondent is no longer in need of inpatient commitment. However, if the attending physician determines that the respondent meets the criteria for outpatient commitment as defined in G.S. 122C-263(d)(1), he may request the clerk to calendar a supplemental hearing to determine whether an outpatient commitment order shall be issued. Except as provided in subsections (b) and (b1) of this section, the attending physician may also release a respondent conditionally for periods not in excess of 30 days on specified medically appropriate conditions. Violation of the conditions is grounds for return of the respondent to the releasing facility. A law-enforcement officer, on request of the attending physician, shall take a conditional releasee into custody and return him to the facility in accordance with G.S. 122C-205. Notice of discharge and of conditional release shall be furnished to the clerk of superior court of the county of commitment and of the county in which the facility is located.

(b) If the respondent was initially committed as the result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and respondent was found incapable of proceeding, 15 days before the respondent's discharge or conditional release the attending physician shall notify the clerk of superior court of the county in which the facility is located of his determination regarding the proposed discharge or conditional release. The clerk shall then schedule a rehearing to determine the appropriateness of respondent's release under the standards of commitment set forth in G.S. 122C-271(b). The clerk shall give notice as provided in G.S. 122C-264(d). The district attorney of the district where respondent was found incapable of proceeding may represent the State's interest at the hearing.

(b1) If the respondent was initially committed pursuant to G.S. 15A-1321, 15 days before the respondent's discharge or conditional release the attending physician shall notify the clerk of superior court. The clerk shall calendar a hearing and shall give notice as provided by G.S. 122C-264(d1). The district attorney for the original trial may represent the State's interest at the hearing. The hearing shall be conducted under the standards and procedures set forth in G.S. 122C-268.1. Provided, that in no event shall discharge or conditional release under this section be allowed for a respondent during the period from automatic commitment to hearing under G.S. 122C-268.1.

(c) If a committed respondent under subsections (a), (b), or (b1) of this section is from a single portal area, the attending physician shall plan jointly with the area authority as prescribed in the area plan before discharging or releasing the respondent. (1973, c. 726, s. 1; c. 1408, s. 1; 1981, c. 537, s. 5; 1983, c. 383, s. 6; c. 638, s. 21; c. 864, s. 4; 1985, c. 589, s. 2; 1991, c. 37, s. 6.)