

**RULES
OF
TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION
MENTAL RETARDATION SERVICES DIVISION**

**CHAPTER 0940—4—2
DISCHARGE FROM DEVELOPMENTAL CENTERS**

TABLE OF CONTENTS

0940—4—2—.01	Recommendation of Discharge	0940—4—2—.04	Extension of Conditional Discharge
0940—4—2—.02	Absolute Discharge	0940—4—2—.05	Revocation of Conditional Discharge
0940—4—2—.03	Conditional Discharge	0940—4—2—.06	Emergency Revocation of Conditional Discharge

0940—4—2—.01 RECOMMENDATION OF DISCHARGE. When the interdisciplinary team assigned to a resident determines that the resident's condition is such that he or she may be adequately and properly cared for in a setting outside of the developmental center, the team shall report the facts of such determination to the superintendent, and recommend the resident's discharge. Upon receipt of a recommendation of discharge from the interdisciplinary team or a competent adult resident or the parent or guardian of a minor resident or the guardian of an incompetent adult resident, the superintendent shall review the recommendation to determine whether discharge would be appropriate and in the resident's best interest. After reviewing the discharge recommendation, the superintendent may order the resident discharged, in accordance with Rule 0940—4—2—.02 Absolute Discharge or Rule 0940—4—2—.03 Conditional Discharge.

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 11, 1984; effective August 10, 1984.

0940—4—2—.02 ABSOLUTE DISCHARGE. The superintendent shall grant a resident an absolute discharge when the superintendent finds, by clear and convincing evidence, that the condition of the resident is such that the resident may be cared for safely elsewhere.

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978.

0940—4—2—.03 CONDITIONAL DISCHARGE. The superintendent shall grant a resident a conditional discharge for up to ninety (90) days when the superintendent finds, by substantial evidence, that the resident may be cared for safely elsewhere. At the end of the ninety (90) day conditional discharge, the superintendent shall either grant an absolute discharge under Rule 0940—4—2—.02 ABSOLUTE DISCHARGE or cause an extension of the conditional discharge under Rule 0940—4—2—.04 EXTENSION OF CONDITIONAL DISCHARGE. The superintendent may grant an absolute discharge to a resident or conditional discharge consistent with Rule 0940—4—2—.02 ABSOLUTE DISCHARGE whenever he finds, by clear and convincing evidence, that the resident may be cared for safely elsewhere.

Authority: T.C.A. §§33—1—104, 33—1—105, and 33—504. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978.

0940—4—2—.04 EXTENSION OF CONDITIONAL DISCHARGE. The superintendent may grant one sixty (60) day extension of conditional discharge when the superintendent finds that there is not sufficient evidence to indicate whether he should grant an absolute discharge under rule 0940—4—2—.02 ABSOLUTE DISCHARGE.

Authority: T.C.A. §§33—1—104, 33—105, and 33—504. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978.

0940—4—2—.05 REVOCATION OF CONDITIONAL DISCHARGE. When any person requests the superintendent to revoke the conditional discharge of a resident, the superintendent shall afford the resident a hearing under the contested case procedures of the "Uniform Administrative Procedures Act," T.C.A. §§ 4—5—301 through 0940—4—5—323. Upon a finding that the condition of the resident poses a substantial likelihood of serious

harm to the resident or to others if he is allowed to remain on conditional discharge, the superintendent may revoke the conditional discharge.

Authority: T.C.A. §§33—104, 33—105, and 33—504. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978.

0940—4—2—.06 EMERGENCY REVOCATION OF CONDITIONAL DISCHARGE. The superintendent may revoke, without a prior hearing, the conditional discharge of a resident when the condition of the resident poses an imminent danger of bodily harm to the resident or to others. Within five (5) days of the return of the resident to the developmental center, the superintendent shall afford the resident a hearing to determine the appropriateness of revocation of conditional discharge under rule 0940—4—2—.05 REVOCATION OF CONDITIONAL DISCHARGE.

Authority: T.C.A. §§33—104, 33—105, and 33—504. *Administrative History:* Original rule filed May 31, 1978; effective July 1, 1978.