

Nursing Home Discharges You've Been Told to Leave...Now What?

This is the script for the Prezi presentation of the same name available on this [page](#) under "Training and Consumer Education Materials" or [here](#). This content is also available as a Prezi [recording](#) with a voiceover.

Overview

Welcome to a presentation on nursing home discharge, brought to you by the National Ombudsman Resource Center (NORC) and the National Consumer Voice for Quality Long-term Care (Consumer Voice).

Say you've been told to leave the nursing home you live in. Now what?

Inappropriate discharge is the number one complaint received by the Long-term Care Ombudsman Program. It's important to know that many facility-initiated discharges can be resolved successfully. Know your rights. Become informed and act.

Become Informed

Federal laws and regulations provide protections from inappropriate discharge for nursing home residents.

These protections are important because discharges that violate residents' rights can be unsafe, harmful, and traumatic. They can result in being uprooted from a familiar setting, the end of relationships with other residents and staff, fewer visits from family and friends – especially if the move is far away, remaining in the hospital for months, and sometimes, homelessness.

There are five things you should know right away.

First, all discharge notices must be communicated in writing, in a manner and language you understand. Verbal notice is not an official discharge. The notice must be in writing. For example, in response to disagreements about care, nursing home staff may suggest that a resident or their family member consider finding another facility. They may say something such as, "you may be happier in another facility, we'll start looking for another nursing home for you," or "our facility can't meet your mother's needs and we need to find a facility that can." Residents have the right to participate in their care planning and share concerns about their care. A verbal suggestion to find another facility like this example is not a discharge as discharges must be given in writing.

Second, most notices must be given 30 days before the discharge date.

Third, you have the right to appeal the discharge and must do so before the discharge date.

Fourth, federal law provides you with rights and protections against discharge.

Finally, if you receive a notice, contact the Long-term Care Ombudsman Program (LTCOP) immediately. An Ombudsman program representative can help.

Federal law goes into some detail about protections against inappropriate discharge.

There are only six reasons why a facility can transfer or discharge a resident against their will:

- If the facility cannot meet the resident's needs;
- If the resident no longer needs facility services;
- If the resident's presence endangers the safety of others in the facility;
- If the resident's presence endangers the health of others in the facility;
- If the resident has failed to pay; or
- If the facility is closing.

A discharge notice must be in writing, and must include:

- The reason for discharge;
- The proposed effective date;
- The location to which you will be discharged;
- Information on your rights to appeal the discharge and have an administrative hearing; and
- Contact information for the Long-term Care Ombudsman Program (LTCOP) and if applicable, the agencies responsible for advocacy on behalf of persons with mental illness and developmental disabilities.

Also, notice must be given to you and your representative, most notices must be given 30 days in advance, and the listed location must be specific, appropriate, available, and agreeable to admitting you.

A few tips:

- Your doctor must document the reason for discharge in your medical record.
- Also, if your application for third party payment, such as Medicaid, is pending, the facility cannot discharge you for failure to pay. This includes if your initial application to Medicaid is denied and you appeal. The facility cannot discharge you until the appeal is decided. The facility is also responsible for notifying residents of a change in their payment status and should ensure residents have the assistance they need in completing their paperwork.
- Finally, the facility must problem-solve the reason for discharge and make attempts to address the issue.

If the notice says the facility cannot meet your needs, the facility must document in your record:

- The specific needs that allegedly can't be met;
- What the facility has done to meet those needs; and
- The services available in the new facility that will meet your needs.
- Except for specialized needs such as acute psychiatric, bariatric, or ventilator care, nursing homes are certified to provide similar types of care and services.

Know Your Rights

It's important to know your rights.

You have the right to appeal your discharge. The facility must help you complete and file a request for an appeal.

You have the right to remain in the facility pending the outcome of your appeal.

You have the right to return to the facility, even if you have been in the hospital or out on therapeutic leave. This includes the right to return to the same bed or the first available bed. The facility must give you information about these rights, as well as a copy of its bed-hold policy, in advance of your leave.

Additionally, sending you to the hospital does not relieve the facility of the responsibility of following the discharge requirements. If the facility decides that you cannot return, it must issue a discharge letter that gives all the notice requirements (including 30 days notice, and your appeal rights), documentation, and information required under law. If the facility refuses to re-admit you, contact the Long-Term Care Ombudsman program and the state's licensing and certification agency that oversees nursing homes to file a complaint.

You have the right to refuse transfer from one portion of the nursing home certified at one level of care to another portion with different certification.

- For example, a resident who is no longer eligible for Medicare has the right to remain in the Medicare-certified bed, if the resident needs nursing home level of care. However, if a resident is no longer eligible for Medicare, the resident will have to arrange for another source of payment to stay in the nursing home.
- Also, the facility must inform you if there are changes in eligibility for covered services, what your financial liability may be, and your appeal rights, but exercising your right to refuse does not affect your eligibility for Medicaid or Medicare.

You also have the right to know about changes to your room or roommate in writing, in advance.

If you do move to a new facility, you have the right to participate in all aspects of discharge planning and the right to arrive safely and with all your personal belongings. The written discharge plan must include a living location, services, care, and medications, if needed. The facility must prepare and orient you for a safe and orderly discharge in a language and manner you understand.

Take Action

There are several things you can do to take action after you receive a discharge notice.

- Check your notice. If it does not include all the required information, it is not valid. The facility must start over and issue a new notice.
- Make sure you file for an appeal before the discharge date.
- Ask to visit your new home. This is considered part of discharge planning and orientation.
- Ask for help applying for third-party payment, such as Medicare or Medicaid.
- File a complaint with the Long-term Care Ombudsman Program and the state's licensing and certification agency that oversees nursing homes.

- Contact the Long-Term Care Ombudsman Program for information, who can help you file your appeal request, advocate for you with the facility, and if necessary, refer you to legal assistance providers.

How to Get Help

If you receive a discharge notice, you don't have to deal with it alone. You can always ask for help by:

- Finding a Long-term Care Ombudsman. Each state has a Long-term Care Ombudsman Program that advocates with and for residents to ensure quality of life and care. Contact the program if facility staff are pressuring you to move, you receive a discharge notice, or if you want information, support, or to make a complaint. Visit http://theconsumervoice.org/get_help to locate a program or call the Eldercare Locator at 1-800-677-1116.
- Filing a complaint with your state licensing and certification agency. Each state has an agency that licenses, certifies, and regulates nursing homes and investigates complaints. To find your state licensing and certification agency, visit http://theconsumervoice.org/get_help or call the Eldercare Locator at 1-800-677-1116.

Additional Resources

Some additional resources you may find helpful include:

- The Long-term Care Ombudsman Program. Long-term Care Ombudsmen serve as advocates for quality of life and care for people who live in long-term care facilities. Talking to an LTC Ombudsman is free and confidential. Visit http://theconsumervoice.org/get_help or call the Eldercare Locator at 1-800-677-1116 to find your state's LTC Ombudsman Program.
- The National Consumer Voice for Quality Long-term Care has the following resources regarding transfer and discharge available:
 - Information for Nursing Home Residents: <http://theconsumervoice.org/issues/recipients/nursing-home-residents>
 - Federal Nursing Home Regulations: http://theconsumervoice.org/issues/issue_details/proposed-revisions-to-the-federal-nursing-home-regulations
 - Involuntary Transfer and Discharge: http://theconsumervoice.org/uploads/files/issues/Revised_Nursing_Facility_Regulations_Involuntary_Transfer_and_Discharge.pdf
 - Returning to the Nursing Home After Hospitalization or Therapeutic Leave: http://theconsumervoice.org/uploads/files/issues/Revised_Nursing_Facility_Regulations_Return_to_Facility_After_Hospitalization.pdf

Lastly, the National Long-term Care Ombudsman Resource Center, or NORC, provides support, technical assistance, and training to the 53 State Long-Term Care Ombudsman Programs and their statewide networks of almost 600 local programs.