



Watch the Time!

Once a discharge notice has been given, there is limited time to get help or file an appeal.

The law requires that a nursing home must inform the resident and the resident's family member, guardian or legal representative about a transfer or discharge at least thirty (30) days in advance.

Don't wait to ask for help! If you have received a notice of discharge, contact your local long-term care ombudsman program for information and assistance.

Contact a long-term care ombudsman in your area for more information about legal rights and protections as well as assistance in working with a facility at:
www.theconsumervoice.org/get_help

Your Rights

You have rights as a nursing home resident under Federal Law. Those rights include:

- The right to participate in your own care;
- The right to privacy and confidentiality;
- The right to be treated with dignity and respect;
- The right to be free from physical, verbal, sexual and mental abuse;
- The right to make independent choices;
- The right to complain about problems;
- The right to a safe and secure transfer or discharge.

For a full copy of the Residents' Bill of Rights go to:

www.theconsumervoice.org/issues/recipients/nursing-home-residents/residents-rights



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INVOLUNTARY TRANSFER AND DISCHARGE





Overview

The threat of transfer or discharge from a nursing home can be both frightening and stressful for residents and their families. Too often, a facility may respond to a resident's difficulties, increasing need for care, or repeated questions or complaints from family members by attempting to transfer or discharge the resident.

Transfer and Discharge

Transfer is movement from a certified institution to another institutional setting that assumes legal responsibility for the resident's care. **Discharge** is movement from a certified institutional setting to a non-institutional setting. After discharge, the facility is no longer legally responsible for the resident's care.

What the Law Says

The Nursing Home Reform Law of 1987 prohibits nursing homes from transferring or discharging a resident unless it can establish that one of the permissible reasons for transfer/discharge exist.

Those reasons are:

- the nursing home cannot provide adequate care for the resident;
- the resident's health has improved to the point that he or she no longer needs nursing home care;
- safety of individuals in the facility is endangered;
- the health of others in the facility would otherwise be endangered;
- the resident has failed, after reasonable and appropriate notice, to pay for care (although the facility cannot evict a resident who is waiting for Medicaid eligibility and should work with other state agencies to obtain payment if the resident's money is being held by a family member or other individual); or
- the facility ceases to operate.

Notification

If a resident is to be transferred or discharged, the facility must record the reason for transfer in the resident's clinical record, and notify the resident and the resident's family member, guardian, or legal representative in writing. At least a 30 day notice must be provided.

A notice must include:

- the reason for the transfer or discharge,
- the location to which the resident will be moved,
- the date of transfer or discharge,
- information about the resident's right to appeal to the state concerning the transfer or discharge,
- the name, address, and telephone number of the state long term care ombudsman.

The location the resident will be moved to must be specific, appropriate, available, and agreeable to taking the resident.

Preparation Before Transfer or Discharge

The nursing home must provide discharge planning and sufficient preparation and orientation to residents being transferred/discharged. The law guarantees the right of the resident (and/or family member) to participate in planning care and treatment, which should include choosing a new place to live. The nursing home should also prepare an orientation, such as a visit, to the new home, and assure a safe arrival. The resident should know where he or she is going. The facility should also inform the new residence about the resident's needs, preferences, and habits. Lastly, the nursing home should ensure possessions aren't lost in the moving process, and any personal funds are given to the resident or transferred to an appropriate account.

Complaints and Appeals

A resident has the right to appeal the facility's decision to transfer/discharge him or her. The transfer or discharge notice must include information about how to request a hearing, the resident's right to use legal counsel or other spokesman at the hearing, and the mailing address and telephone number of the State long-term care ombudsman. A complaint may also be filed with the state survey agency.