



**The National Long-Term Care  
Ombudsman Resource Center**

# **NURSING HOME DISCHARGES**

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**You've Been Told to Leave.....Now What?**

***Many facility-initiated discharges can be resolved successfully.***

***You have rights. Become informed and act.***

# Why Is This Topic Important?



- Discharges\* that violate residents' rights can be unsafe, harmful, and traumatic. They can result in:
  - Being uprooted from a familiar setting
  - The ending of relationships with other residents and staff
  - Fewer visits from family and friends, especially if relocation is a long distance away
  - Remaining in the hospital for months
  - Homelessness
- Discharges are the #1 complaint received by Long-Term Care Ombudsman Programs across the nation.

\*For the purpose of this presentation, the term “discharge” will be used to include transfers.

# Five Facts to Know Right Away



1. All notices of discharge must be communicated in writing, in a language and manner you understand.
2. Most discharge notices must be given 30 days before the discharge date.
3. You have the right to appeal the discharge and must do so before the date of discharge.
4. Federal law provides residents with rights and protections against discharge.
5. If you receive a notice, contact the Long-Term Care Ombudsman program (LTCOP) immediately. Visit [http://theconsumervoice.org/get\\_help](http://theconsumervoice.org/get_help) to locate a program or call the Eldercare Locator at 1-800-677-1116. LTC Ombudsman program representatives are knowledgeable about discharge requirements and empowered by law to advocate for residents.

# Protections Against Inappropriate Discharge

- **There are only 6 reasons why a facility can transfer or discharge a resident against their will:**
  - The facility cannot meet the resident's needs;
  - The resident no longer needs nursing facility services;
  - The resident's presence endangers the safety of others in the facility;
  - The resident's presence endangers the health of others in the facility;
  - The resident has failed to pay; or
  - The facility is closing.
- **Tips**
  - ✓ The law requires the nursing home to problem-solve the reason for discharge and make attempts to address the issue(s).
  - ✓ A doctor must document the reason for discharge in your medical record.
  - ✓ The facility must state the reason for discharge in the written notice.

# Protections Against Inappropriate Discharge

- **If the reason for discharge is that the facility “cannot meet the resident’s needs,” the facility must document the following in your record:**
  - The specific need(s) that allegedly cannot be met.
  - What the facility has done to try to meet those needs.
  - The services available in the “new” facility that will supposedly meet your needs.
- **Tip**
  - ✓ Except for specialized needs such as acute psychiatric, bariatric, or ventilator care, nursing homes are certified to provide similar types of care and services.

# Protections Against Inappropriate Discharge

- **If you have submitted paperwork for third party payment and payment status is pending, such as applying for Medicaid, the facility cannot discharge you for failure to pay.**
- **Tips**
  - ✓ The facility is responsible for notifying residents of their change in payment status and should ensure residents' have the assistance they need in completing the paperwork.
  - ✓ If a resident's initial application to Medicaid is denied and the resident appeals, the resident cannot be discharged until the appeal is decided.

# Written Notice Required



- **A discharge notice must be in writing and in a language and manner you understand. It must include:**
  - The reason for the 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 LTCOP and, if applicable, the agencies responsible for advocacy on behalf of persons with mental illness and developmental disabilities.
- **The notice must be given to the resident and the resident's representative.**
- **Most discharge notices must be given at least 30 days prior to the discharge date.**
- **The listed location must be specific, appropriate, available, and agreeable to admitting you.**



# Written Notice Required



- **Tips**

- ✓ **Check your written notice.** If it does not include all the information listed on the last slide, it is not valid. The facility must start over and issue another notice.
- ✓ **Verbal notice is not an official discharge. All discharges 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. 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.
- ✓ If you feel facility staff are pressuring you to move, contact the Long-Term Care Ombudsman Program.

# Right to Appeal the Discharge



- **You have the right to appeal your notice of discharge and remain in the facility pending the outcome of the appeal.**
- **Tips:**
  - ✓ The facility must help you complete and file a request for an appeal.
  - ✓ File your appeal before the date of discharge.
  - ✓ Contact the Long-Term Care Ombudsman Program for information, support, and advocacy in appealing the discharge and/or assistance finding legal assistance providers.

# A Detailed Discharge Plan is Required



- **You have the right to participate in all aspects of discharge planning. 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.
- **Tips**
  - ✓ Ask to visit your new home. This is considered part of orientation.
  - ✓ It is the facility's responsibility to ensure that you arrive safely to your new location with your possessions, including transferring any personal funds to you or a new account.

# If You Are Away, You Can Return



- You have the right to return to the facility following hospitalization or therapeutic leave, including the right to return to your 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.
- **Tip**
  - ✓ **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.

# Additional Rights

- **Room and Roommate**

- The facility must give advanced, written notice to a resident and the resident's representative before the resident's room or roommate is changed.
- The resident has the right to refuse a move to another room if the reason for the move is solely for the convenience of staff.

- **Medicare-Certified Bed**

- A resident has the right to refuse transfer from a portion of the nursing home that is 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 needing 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.

- **Medicaid**

- The facility must continue to provide care for existing residents on Medicaid if the facility ceases participation in the Medicaid program.

# Take Action and Get Help



- **Contact the Long-Term Care Ombudsman Program**

- 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 a resident to move, a resident receives a discharge notice, or if you want information, support, or to make a complaint.

- **File a complaint with your state licensing and certification agency**

- Each state has an agency responsible for the licensing, certification, and regulation of nursing homes and investigations of complaints. The state survey agency investigates complaints to ensure facilities are following federal and state regulations, including those related to discharges.

- **To locate your state licensing and certification agency or additional information, including contact information, for the Long-Term Care Ombudsman Program, visit:**  
[http://theconsumervoice.org/get\\_help](http://theconsumervoice.org/get_help) or call the Eldercare Locator at 1-800-677-1116.

**QUESTIONS?**

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# RESOURCES

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# Additional Information



- **Locate and Learn about the Long-Term Care Ombudsman Program**  
[http://theconsumervoice.org/get\\_help](http://theconsumervoice.org/get_help) or call Eldercare Locator at 1-800-677-1116.
- **The National Consumer Voice for Quality Long-Term Care (Consumer Voice)**  
[www.theconsumervoice.org](http://www.theconsumervoice.org)
  - 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](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](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](http://theconsumervoice.org/uploads/files/issues/Revised_Nursing_Facility_Regulations_Return_to_Facility_After_Hospitalization.pdf)
- **The National Long-Term Care Ombudsman Resource Center (NORC)**  
[www.ltcombudsman.org](http://www.ltcombudsman.org)

# Contact Information

- INSERT PRESENTER CONTACT INFORMATION



# The National Long-Term Care Ombudsman Resource Center

## The National Long-Term Care Ombudsman Resource Center (NORC)

[www.ltcombudsman.org](http://www.ltcombudsman.org)

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The National LTC Ombudsman Resource Center



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