

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

*Many involuntary discharges can be resolved successfully.
You have rights. Become informed and act.*



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 at least 30 days prior to the discharge date.
3. You have the right to appeal and must do so before the date of discharge
4. Federal law gives you rights and legal protections when facing discharge.
5. **If you receive a notice, contact the Long-Term Care Ombudsman program immediately.**
Ombudsman program representatives are knowledgeable about discharge requirements and empowered by law to advocate for you. **You may also file a complaint with the state licensing and certification agency.** Visit http://theconsumervoice.org/get_help for contact information or call the Eldercare Locator at 1-800-677-1116.



IMPORTANT INFORMATION REGARDING DISCHARGE



THE REASON(S) FOR DISCHARGE MUST BE VALID

Facts

- 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.

Facts

- 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 that available in the “new” facility that will supposedly meet your needs.

Tips

- Except for specialized needs such as acute psychiatric, bariatric, or ventilator care, nursing homes are certified to provide similar types of care and services.

Fact

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

Facts

- 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.

Tips

- Check your written notice. If it does not include all the information listed above, 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.



YOU CAN APPEAL THE DISCHARGE AND REMAIN IN THE FACILITY PENDING THE OUTCOME

Fact

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.
- Contact the state licensing and certification agency to file a complaint.



A DETAILED DISCHARGE PLAN IS REQUIRED

Facts

- 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

Fact

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.**



RESOURCES

Locate and Learn about the Long-Term Care Ombudsman Program

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

- **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

This project was supported, in part, by grant number 900MRC0001-01-00, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.

National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a nonprofit organization founded in 1975 by Elma L. Holder to protect the rights, safety and dignity of American's long-term care residents. ©2018 The Consumer Voice for Quality Long-Term Care, 1001 Connecticut Ave, NW, Suite 632, Washington, D.C. 20036 Tel. 202. 332.2275, email: info@theconsumervoice.org, website: www.theconsumervoice.org