

MY NURSING HOME IS TELLING ME TO LEAVE. WHAT CAN I DO?

Nursing Home Resident's Rights During Involuntary Discharge

Involuntary discharge occurs when a nursing home wants to evict or transfer a resident to another location **against the resident's will**.

Tennesseans who live in certified nursing homes **have special rights** when it comes to involuntary discharge. Nursing homes may not involuntarily discharge residents without reason. Residents may dispute the discharge through an appeal, and may be able to stay at the nursing home.

Resident rights during an involuntary discharge

1 The resident must be notified

- The nursing home must notify the resident in writing 30 days before the nursing home plans to discharge the resident. *Some emergency circumstances allow discharge in less than 30 days.*
- The notice must give a valid reason for discharge, the proposed discharge date, and the specific location of an appropriate residence where the resident will live after discharge.
- Federal law* requires facilities to send the notice to the State Long-Term Care Ombudsman.

2 The nursing home must give a valid reason for discharge

According to federal law,* residents may be discharged for the following **6 reasons only**:

1. Nursing home cannot meet the resident's needs
2. Resident no longer needs the nursing home's services
3. Resident endangers the safety of others in the nursing home
4. Resident endangers the health of others in the nursing home
5. Resident has failed to pay
6. Nursing home is closing

If a nursing home gives another reason for discharge not listed above, the discharge is not legal. Nursing homes must attempt to fix the problem before filing a notice of involuntary discharge.

Here are some examples of **invalid** reasons for involuntary discharge:

- Resident is "non-compliant" and does not follow rules
- Resident's care is too expensive
- Resident has dementia
- Resident's Medicare eligibility has ended

*42 CFR § 483.15 - Admission, transfer, and discharge rights.

3 The resident may appeal the discharge

Residents always have a right to dispute a discharge up to **30 days** after receiving the discharge notice. Nursing homes may not discharge the resident while an appeal is pending.

Residents should file an appeal even if they are unsure if they will follow through with it.

If a resident does not file an appeal within 30 days of notice, they will not be able to appeal later. Ask the nursing home for help filing an appeal. They are required to assist if requested.

4 The nursing home must safely move the resident

If a discharge is found to be appropriate, nursing homes must help the resident prepare to leave safely. The nursing home must make sure the resident understands the reason and the plan for discharge.

Contact an ombudsman for help

The State and District Long-Term Care Ombudsmen can advocate for residents and help them navigate the appeal process.

State Long-Term Care Ombudsman

877-236-0013

ombudsman.notification@tn.gov

[Click HERE to contact the District Long-Term Care Ombudsman in your county](#)

Assisted Care Living Facilities have different rules for discharge. Contact an Ombudsman for help if you live at an assisted care living facility or another type of long-term care residence.

Common Involuntary Discharge Situations

- **I've been sent to a hospital and the nursing home says I can't come back.**
 - A hospital transfer is considered an involuntary discharge, so the facility must follow the notification process. Residents transferred to a hospital for any length time are subject to the nursing home's bed hold policy. The state does not regulate how long a nursing home must hold a resident's bed while the resident is in the hospital. Residents should ask to see the nursing home's policy. The bed policy must be provided to the resident upon admission and upon transfer.
- **I've applied for Medicaid but the application is pending.**
 - A facility cannot discharge a resident for non-payment while their Medicaid eligibility is pending.
- **I received a letter from insurance that says my coverage will be cut or stopped.**
 - An insurance letter of non-coverage does not mean you are being discharged and does not necessarily mean you have not paid your nursing facility bill. You can also appeal this decision. Even if your insurance will not cover your stay, nursing homes must work with you to ensure there is a safe discharge plan in place.
- **The facility claims they cannot meet my needs, I do not need care from the facility, I make the facility unsafe, or I affect/endanger the health of others at facility.**
 - While these are valid reasons for a facility to propose an involuntary discharge, these reasons require a doctor to approve of the discharge. You can file appeal even if a doctor has signed the discharge notice.
- **The facility says my needs are too difficult to care for.**
 - A resident who is disruptive, argumentative, or does not follow their care plan may not be discharged solely for those reasons. Additionally, a facility may not discharge a resident because they need more supervision or their care is more expensive than other residents. The facility is responsible to assess all potential residents before admitting them, and only accept residents they can properly care for.

The rights listed on this fact sheet are only guaranteed to residents of certified nursing homes.



ombudsman.notification@tn.gov



[TN Long-Term Care Ombudsman website](#)

