

How to Fight a Nursing Home Discharge

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Once a resident is settled in a nursing home, being told to leave can be very traumatic. Nursing homes are required to follow certain procedures before discharging a resident, but a facility may occasionally attempt to "dump" an undesirable resident by transferring the resident to a hospital and then refusing to let the him or her back in. However, residents can fight back and challenge such discharges.

According to federal law, a nursing home can discharge a resident only for the following reasons:

- The resident's health has improved
- The resident's needs cannot be met by the facility
- The health and safety of other residents is endangered
- The resident has not paid after receiving notice
- The facility stops operating

Unfortunately, sometimes nursing homes want to get rid of a resident for another reason--perhaps the resident is difficult, the resident's family is difficult, or the resident is a Medicaid recipient. In such cases, the nursing home may not follow the proper procedure or it may attempt to "dump" the resident.

If the nursing home transfers a resident to a hospital, state law may require that the nursing home hold the resident's bed for a certain number of days (usually about a week). Before transferring a resident, the facility must inform the resident about its bed-hold policy. If the resident pays privately, he or she may have to pay to hold the bed, but if the resident receives Medicaid, Medicaid will pay for the bed hold. In addition, if the resident is a Medicaid recipient the nursing home has to readmit the resident to the first available bed if the bed-hold period has passed.

In addition, a nursing home cannot discharge a resident without proper notice and planning. In general, the nursing home must provide written notice 30 days before discharge, though shorter notice is allowed in emergency situations. Even if a patient is sent to a hospital, the nursing home may still have to do proper discharge planning if it plans on not readmitting the resident. A discharge plan must ensure the resident has a safe place to go, preferably near family, and outline the care the resident will receive after discharge.

If the nursing home refuses to readmit a patient or insists on discharging a resident, residents can appeal or file a complaint with the state. The resident should appeal as soon as possible after receiving a discharge notice or after being refused readmittance to the nursing home. [Contact an attorney](#) to find out how to file an appeal.

For more on protecting the rights of nursing home residents, see [20 Common Nursing Home Problems--and How to Resolve Them](#) by the National Senior Citizens Law Center.

For an article on a recent case of "dumping," [click here](#).

For more information on nursing homes, [click here](#).