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Facts about Discharging Adult Home Residents from the Hospital

DO ADULT HOME RESIDENTS HAVE THE RIGHT TO RETURN TO THEIR HOME AFTER A HOSPITALIZATION?

Yes. Adult home residents have the right to return to their home once the hospital determines they are ready for discharge. By law, all adult home residents must sign an admission agreement when they are first admitted to the home. The only way a home can lawfully remove a resident from an adult home is by terminating the admission agreement. This must be done by giving notice and initiating a formal court proceeding. The resident has a right to live in the home until a judge determines that the admission agreement should be terminated and issues an order saying so. In other words, **even if a home has given the resident a 30-day notice or started an eviction proceeding, the resident is allowed to return home.**

A home can temporarily remove a resident if the resident requires medical treatment or if his behavior constitutes an imminent risk of harm to himself or others. However, the law is very clear that such removal does not constitute a termination and does not relieve the operator from the requirement to bring a proceeding to terminate the admission agreement.

WHAT KIND OF PAPERWORK IS REQUIRED TO DISCHARGE AN ADULT HOME RESIDENT FROM A HOSPITAL BACK TO THE ADULT HOME?

The standard form that adult homes require is the DSS-3122. This two-page form includes a two-page medical evaluation. A best practice by hospitals is to fill out this form with as much detail as possible, including the medical and medication needs of the resident upon discharge, so that the adult home has all of the information it needs to readmit the resident.

Where a resident has been psychiatrically hospitalized and is ready for discharge back to the adult home, or where the resident has a known history of chronic psychiatric disability, the hospital must conduct a mental health evaluation and submit the results to the adult home provider, together with the DSS-3122 form. Save proof that it was submitted (fax confirmation sheet or certified mail receipts). At a minimum, this mental health evaluation must be signed by a psychiatrist, doctor, RN, certified psychologist, or certified social worker, and it **must** include the following:

- (1) the date of mental health examination;
- (2) the patient/resident's significant mental health history and current conditions, including whether the resident has a serious mental illness;
- (3) a statement that the resident's mental health needs can be adequately met in the facility and a statement that the resident "does not evidence need for placement in a residential treatment facility";
- (4) a statement that the person signing the report has conducted a face-to-face examination of the resident within 30 days of [re-admission to the adult home].

Incomplete or undetailed discharge paperwork can cause delays in returning a resident to their home.

WHAT SHOULD I DO IF AN ADULT HOME SAYS MY CLIENT MUST UNDERGO A RESCREENING INTERVIEW BEFORE THEY CAN RETURN TO THE HOME?

While many adult homes ask residents to undergo a rescreening interview, it is not required by law. The regulations governing adult homes provide: “When the basis for a transfer no longer exists and the resident is deemed appropriate for placement in the facility, the operator shall readmit him, even if involuntary termination proceedings have begun.” It is important to make sure that the resident is ready for discharge and that discharge paperwork has been provided before taking further steps.

WHAT SHOULD I SAY IF THE ADULT HOME SAYS THAT A RESIDENT MUST UNDERGO A RESCREENING INTERVIEW?

- “A rescreening interview is unnecessary. The hospital/doctor/treatment team has already determined that the resident is ready to be discharged.”
- “A rescreening interview is not required by law.”
- “Under the law, the home is required to take the resident back once s/he is ready for discharge. A rescreening interview will not change that.”
- “Other adult homes take their residents back without rescreening them.”

WHAT SHOULD I DO IF THE ADULT HOME WILL NOT READMIT MY CLIENT?

Submit all discharge paperwork to the adult home and ask when your client may return. If the home still says the resident may not return, ask the adult home to send written confirmation that they will not readmit the resident. Immediately call MFY Legal Services, Inc. at 877-417-2427.

WHAT DO I SAY IF THE ADULT HOME REFUSES TO TAKE BACK A RESIDENT?

- “The resident has an admission agreement in effect. S/he has a right to return to his/her home.”
- “Until the home goes to court to terminate [resident’s] admission agreement, the home cannot refuse to take her/him back.”
- “If you won’t readmit [resident], I have no choice but to call MFY Legal Services. This is an illegal eviction.”

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.’s Adult Home Advocacy Project toll free at 877-417-2427 Monday through Friday from 10:00 a.m. to 5:00 p.m.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.