

My Rights When a Nursing Home Decides to Transfer or Discharge Me

Can a nursing home discharge or transfer me?

It depends. There are only a few reasons why a nursing home can transfer or discharge you. A nursing home can transfer or discharge you when:

- You request it;
- Your health improves and you no longer need nursing home services;
- Your needs cannot be met at the facility after reasonable attempts to accommodate you;
- It is necessary to protect the health or safety of other individuals in the facility;
- You fail to make payment or allow payment to be made through Medicare, Medicaid or other insurance; or
- The facility is closing.

What are my rights when the nursing home decides to transfer or discharge me?

You have a right to:

- A written notice explaining the reason for transfer or discharge;
- A notice in the language you understand;
- Have a notice sent to your designated representative, if you have one;
- Record the reason for the discharge in your clinical records;
- Appeal to the State Department of Health;
- Complain to the New York City Long Term Care Ombudsman Program;
- Participate in the discharge planning decisions; and
- A safe and orderly transfer or discharge from the nursing home.

What if I do not agree with the transfer or discharge from the nursing home?

If you disagree with the nursing home's actions, you should call the Department of Health at (888) 201-4563.

When should I receive a notice from the nursing home if they are transferring or discharging me?

The nursing home should provide notice 30 days *before* you are transferred or as soon as practical. For example, it might not be practical to provide you with a written notice when you require urgent medical attention, it is alleged that the health and safety of other individuals is endangered, or you wish to leave. In those cases, the nursing home may provide notice after the transfer or discharge.

Can I stay in the Nursing Home while appealing the transfer or discharge?

Yes, if you appeal within 15 days of receiving the home's notice. You can have your hearing at the nursing home and remain in the home pending the appeal decision.

However, you do not have a right to stay in the nursing home when you need urgent medical care or if it is alleged that the safety or health of others in the nursing home is endangered.

If you appeal after you are discharged or transferred you are not allowed to return to the nursing home during the appeal.

Do I have a right to review my medical records to prepare for the hearing?

Yes.

What if the nursing home tells me I have to leave the nursing home and they do not give me a written notice?

You should call the Department of Health at (888) 201-4563 and file a complaint. The Department of Health should call the nursing home to remind it of its obligation to give you a notice explaining your rights.

What should I do if my rights have been violated?

You should complain to the nursing home. If the facility does not address your concerns, you may always call the New York State Department of Health complaint line at (888) 201-4563 or the New York City Long Term Care Ombudsman Program at (212) 962-2720. You can also call MFY Legal Services, Inc.'s Nursing Home Residents Project (855) 444-6477 and discuss your concerns confidentially.

MFY Legal Services, Inc. provides free legal services to residents of nursing homes in New York City. If you have a question about your rights, you can call us toll-free at (855) 444-6477.