State Regulations Pertaining to Admission, Transfer, and Discharge Rights

Note: This document is arranged alphabetically by State. To move easily from State to State, click the "Bookmark" tab on the Acrobat navigation column to the left of the PDF document. This will open a Table of Contents for the document. The relevant federal regulations are at the end of the PDF.

ALABAMA
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420-5-10-.05 Resident Rights.
...(3) Notice of rights and services.
...(e) The facility must:
1. Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of:
   (i) The items and services that are included in nursing facility services under the State plan for which the resident may not be charged.
   (ii) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and
2. Inform each resident when changes are made to the items and services specified in paragraphs (e)1(i) & (ii) above.
   (f) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.
   (g) The facility must furnish a written description of legal rights which includes:
   ...2. A description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment by the State Medicaid Agency to determine the extent of a couple's non-exempt resources at the time of institutionalization and attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse's medical care in his or her process of spending down to Medicaid eligibility levels.
   ...4. The facility must prominently display, in the facility, written information, and provide to residents and applicants for admission, oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.
   ...(k) Notification of changes. A facility must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal representative or an interested family member when there is:
   ...4. A decision to transfer or discharge the resident from the facility as specified in Section 420-5-10-.06.
420-5-10-.06 Admission, Transfer, Transport and Discharge Rights.

(1) Admissions, transfers, transport and discharge.

(a) Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.

(b) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
3. The safety of individuals in the facility is endangered;
4. The health of individuals in the facility would otherwise be endangered;
5. The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a nursing facility, the nursing facility may charge a resident only allowable charges under Medicaid; or
6. The facility ceases to operate.

(c) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in this section, the resident's clinical record must be documented. The documentation must be made by:

1. The resident's physician when transfer or discharge is necessary under paragraph (1)(b) 1 or paragraph (1)(b) 2 of this section; and
2. A physician when transfer or discharge is necessary under paragraph (1)(b) 4 of this section.

(d) Notice before transfer. Before a facility transfers or discharges a resident, the facility must:

1. Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.
2. Record the reasons in the resident's clinical record; and
3. Include in the notice the items described in paragraph (f) of this section.

(e) Timing of the notice. Except when specified in paragraph (e)1 of this section, the notice of transfer or discharge required under paragraph (d)1 of this section must be made by the facility at least 30 days before the resident is transferred or discharged.

1. Notice may be made as soon as practicable before transfer or discharge when:
   (i). The safety of individuals in the facility would be endangered, under paragraph (1)(b)3 of this section
   (ii) The health of individuals in the facility would be endangered, under (1)(b)4 of this section.
   (iii) The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (1)(b)2 of this section,
(iv) An immediate transfer or discharge is required by the resident’s urgent medical needs, under paragraph (1)(b)1 of this section; or
(v) A resident has not resided in the facility for 30 days.
(f) Contents of the notice. The written notice specified in paragraph (d) of this section must include the following:
1. The reason for transfer or discharge;
2. The effective date of transfer or discharge;
3. The location to which the resident is transferred or discharged;
4. A statement that the resident has the right to appeal the action to the State;
5. The name, address and telephone number of the State long term care ombudsman;
6. For nursing facility residents with developmental disabilities, or are mentally ill, the mailing address and telephone number of the Alabama Developmental Disabilities Advocacy Program (ADDAP) at the University of Alabama School of Law; and
(g) Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
(h) Resident Transport. If a resident is unable to ride in an upright position or if such resident’s condition is such that he or she needs observation or treatment by Emergency Medical Services personnel, or if the resident requires transportation on a stretcher, gurney or cot, the facility shall arrange or request transportation services only from providers who are ambulance service operators licensed by the Alabama State Board of Health. If such resident is being transported to or from a health care facility in another state, transportation services may be arranged with a transport provider licensed as an ambulance service operator in that state. For the purposes of this rule, an upright position means no more than 20 degrees from vertical.
(2) Notice of bed-hold policy and readmission.
(a) Notice before transfer. Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies:
1. The duration of the bed-hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the nursing facility; and
2. The nursing facility’s policies regarding bed-hold periods, which must be consistent with paragraph (2)(c) of this section, permitting a resident to return.
(b) Bed-hold notice upon transfer. At the time of a transfer of a resident for hospitalization or therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in paragraph (2)(a)1 and 2 of this section.
(c) Permitting resident to return to facility. A nursing facility must establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed-hold period under the State plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident;
1. Requires the services provided by the facility; and
2. Is eligible for Medicaid nursing facility services.
(3) Equal access to quality care.
   (a) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals regardless of source of payment;
   (b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in 420-5-10-.05 (3)(a)(e) and (f) describing the charges; and
   (c) The State is not required to offer additional services on behalf of a resident other than services provided in the State plan.
(4) Admissions policy.
   (a) The facility must:
      1. Not require residents or potential residents to waive their rights to Medicare or Medicaid; and
      2. Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.
   (b) Medicare/Medicaid facilities must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident’s income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident’s income or resources.
   (c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility. However,
      1. A nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State plan as included in the term “nursing facility services” so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident’s admission or continued stay on the request for and receipt of such additional services; and
      2. A nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident.
   (d) States or political subdivisions may apply stricter admissions standards under State or local laws than are specified in this section, to prohibit discrimination against individuals entitled to Medicaid.
Alaska regulations do not include specific content for Admission, Transfer, and Discharge Rights.

ARIZONA

R9-10-908. Admission
An administrator shall ensure that:
...4. Before or at the time of admission, a resident or the resident's representative:
 a. Signs a written agreement with the nursing care institution that includes rates and charges;
 b. Is informed of third-party coverage for rates and charges...

R9-10-909. Transfer or Discharge
A. An administrator shall ensure that:
 1. A resident is transferred or discharged if:
 a. The nursing care institution is unable to meet the needs of the resident;
 b. The resident’s behavior is a threat to the health or safety of the resident or other individuals at the nursing care institution; or
 c. The resident’s health has improved and the resident no longer requires nursing care institution services; and
 2. Documentation of a resident's transfer or discharge is maintained in the resident’s medical records and includes:
 a. The date of the transfer or discharge;
 b. The reason for the transfer or discharge;
 c. A 30-day written notice except in an emergency;
 d. A notation by a physician or the physician’s designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1); and
 e. If applicable, actions taken by a staff member to protect the resident or other individuals if the resident’s behavior is a threat to the health and safety of the resident or other individuals in the nursing care institution.
B. An administrator may transfer or discharge a resident for failure to pay for residency if:
 1. The resident or resident’s representative receives a 30- day written notice of transfer or discharge, and
 2. The 30-day written notice includes an explanation of the resident's right to appeal the transfer or discharge.
C. Except in an emergency, a director of nursing shall ensure that before a resident is transferred or discharged:
1. A written plan is developed with the resident or the resident's representative that includes:
   a. Information necessary to meet the resident's need for medical services and nursing services; and
   b. The state long-term care ombudsman's name, address, and telephone number;
2. A discharge summary is:
   a. Developed by a staff member providing direct care and authenticated by the resident's attending physician or designee; and
   b. Documented in the resident's medical records;
3. The discharge summary includes:
   a. The resident’s medical condition at the time of transfer or discharge;
   b. The resident’s medical and psychosocial history;
   c. The date of the transfer or discharge; and
   d. The location of the resident after transfer or discharge;
4. A copy of the written plan is provided to the resident or the resident’s representative and to the receiving health care institution.
D. If a resident is transferred to a hospital, the director of nursing shall ensure that medical records information and any other information necessary for the treatment of the resident is provided to the hospital.

ARKANSAS
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318 ADMISSION, TRANSFER, AND DISCHARGE POLICIES
...318.6 As changes occur in their physical or mental condition necessitating service or care which cannot be adequately provided by the facility, residents shall be transferred promptly to facilities which can provide appropriate care.
318.7 Except in the case of an emergency or voluntarily discharge, the resident, responsible party, attending physician, and the responsible agency, if any, are consulted in advance of the transfer or discharge of any resident. The resident and/or responsible party will be provided written notification of his/her transfer, ten days prior to the transfer.

901 GENERAL ADMINISTRATION [ALZHEIMER'S SPECIAL CARE UNIT]
...b. Disclosure Statement and Notice to the Office of Long Term Care
...5....The disclosure statement shall include, but not be limited to, the following information about the facility's ASCU:
C. The admission, discharge and transfer criteria and procedures;
...K. Admission, discharge and transfer requirements shall be documented in the facility’s disclosure statement.
904 ADMISSIONS, DISCHARGES, TRANSFERS [ALZHEIMER’S SPECIAL CARE UNIT]

a. Criteria for Services

1. Each Alzheimer’s Special Care Unit shall have written policies setting forth pre-admission screening, admission, and discharge procedures.

3. ... Discharge from the ASCU shall occur when:

A. The resident’s medical condition exceeds the level of care for which the facility is licensed or is able to provide;

B. The resident’s medical condition requires specialized nursing procedures that constitute more than limited nursing services, or nursing services the facility is unable to provide;

C. The resident has a loss of functional abilities (e.g. ambulation) that results in the resident’s level of care requirements being greater than the level of care for which the facility is licensed or able to provide;

D. Behavioral symptoms that result in the resident’s level of care requirements being greater than the level of care for which the facility is licensed or able to provide;

E. The resident requires a level of involvement in therapeutic programming that is greater than the level of care for which the facility is licensed or able to provide.

4. If the resident, or the resident’s responsible party, does not comply with, or refuses to accept, the requirements of the ISP, the resident shall be discharged from the ASCU. The facility shall document the refusal or non-compliance with the ISP. The documentation shall include, but not be limited to:

A. The identity of the person who is not willing or able to comply with the requirements of the ISP; i.e., the resident or the resident’s responsible party;

B. The date and time of the refusal; and,

C. The consequences of the unwillingness or inability to comply with the requirements of the ISP, and the name of the person providing this information to the resident or the resident’s responsible party.

b. Resident Movement, Transfer or Discharge

When a resident is moved from or within the ASCU, or is transferred or discharged from the ASCU, measures shall be taken by the facility to minimize confusion and stress to the resident. Further, the discharge shall comply with the regulations applicable to the facility housing the ASCU and Arkansas law.

RESIDENTS’ RIGHTS

3013 A resident may be transferred or discharged only for:

a. Medical reasons;

b. His welfare or the welfare of other residents;

c. The resident presents a danger to the safety or health of other residents;

d. Because the resident no longer needs the services provided by the facility;

e. Non-payment for his stay; or,

f. The facility ceases operation.

The resident shall be given reasonable written notice to ensure orderly transfer or discharge.
3014 The term "transfer" applies to the movement of the resident from facility to another facility.
3015 "Medical reasons" for transfer or discharge shall be based on the resident's needs and are to be determined and documented by a physician. That documentation shall become a part of the resident's permanent medical record.
3016 "Reasonable notice of transfer or discharge" means the decision to transfer or discharge a resident shall be discussed with the resident and the resident will be told the reason(s) and alternatives available. A minimum of thirty (30) days written notice must be given. Transfer for the welfare of the resident or other residents may be affected immediately if such action is documented in the medical record.
3017 An appeals process for residents objecting to transfer or discharge shall be developed by the facility, in accordance with Ark. Code Ann. § 20-10-1005 as amended. The process shall include:
   a. The written notice of transfer or discharge shall state the reason for the proposed transfer or discharge. The notice shall inform the resident that they have the right to appeal the decision to the Director within seven (7) calendar days. The resident must be assisted by the facility in filing the written objection to transfer or discharge.
   b. Within fourteen (14) days of the filing of the written objections a hearing will be scheduled.
   c. A final determination in the matter will be rendered within seven (7) days of the hearing.
3018 The facility shall provide preparation and orientation to resident designed to ensure a safe and orderly transfer or discharge.

SYNOPSIS OF RESIDENTS' BILL OF RIGHTS
TRANSFER, DISCHARGE, AND CHANGE OF ACCOMMODATION
EVERY RESIDENT HAS THE RIGHT TO KNOW:
- You will be transferred or discharged only for: medical reasons, for your welfare or that of others, you no longer need the services, the facility ceases operations, or for non-payment.
- Except in emergency the facility must give you a thirty (30) day written notice of transfer or discharge. You shall be given reasonable notice of change of room or roommate within the facility.
- Transfer and discharge shall be discussed with you and you shall be told the reason and alternatives that are available.
- There is an appeals process for residents objecting to transfer or discharge.
- You shall be provided preparation and orientation to ensure a safe and orderly transfer or discharge.
- You shall be given reasonable notice of change of room or roommate change in the facility.
§72503. Consumer Information to Be Posted the resident can find the following:
...(4) A notice that the facility's written admission and discharge policies are available upon request.

§ 72516. Standard Admission Agreement.
(a) The licensee shall use the California Standard Admission Agreement for Skilled Nursing and Intermediate Care Facilities, form number HS 327 (02/05), which is incorporated by reference herein, as the sole contract of admission between residents and the licensee.
(b) Except to enter information specific to the facility or the resident in blank spaces provided in the Standard Admission Agreement form or its attachments, the licensee shall not alter the Standard Admission Agreement without the prior written authorization of the Department.
(c) No resident or his or her legal representative shall be required to sign any other document at the time of, or as a condition of, admission to the licensee’s facility, or as a condition of continued stay in the facility.
(d) The licensee shall not present any arbitration agreement to a prospective resident as a part of the Standard Admission Agreement. Any arbitration agreement shall be separate from the Standard Admission Agreement and shall contain the following advisory in a prominent place at the top of the proposed arbitration agreement, in bold-face font of not less than 12 point type: "Residents shall not be required to sign this arbitration agreement as a condition of admission to this facility, and cannot waive the ability to sue for violation of the Resident Bill of Rights."

§72519. Patient Transfer.
(a) The licensee shall maintain written transfer agreements with other nearby health facilities to make the services of those facilities accessible and to facilitate the transfer of patients. Complete and accurate patient information, in sufficient detail to provide for continuity of care shall be transferred with the patient at time of transfer.
(b) When a patient is transferred to another facility, the following shall be entered in the patient health record:
(1) The date, time, condition of the patient and a written statement of the reason for the transfer.
(2) Informed written or telephone acknowledgement of the patient, patient’s guardian or authorized representative except in an emergency or as provided in Section 72527(a)(5).

§72520. Bed Hold.
(a) If a patient of a skilled nursing facility is transferred to a general acute care hospital as defined in Section 1250(a) of the Health and Safety Code, the skilled nursing facility shall afford the patient a bed hold of seven (7) days, which may be exercised by the patient or the patient’s representative.
(1) Upon transfer to a general acute care hospital, the patient or the patient’s representative shall notify the skilled nursing facility within twenty-four (24) hours after being informed of the right to have the bed held, if the patient desires the bed hold.
(2) Except as provided in Section 51535.1, Title 22, California Administrative Code, any patient who exercises the bed hold option shall be liable to pay reasonable charges, not to exceed the patient’s daily rate for care in the facility, for bed hold days.
(3) If the patient’s attending physician notifies the skilled nursing facility in writing that the patient’s stay in the general acute care hospital is expected to exceed seven (7) days, the skilled nursing facility shall not be required to maintain the bed hold.
(b) Upon admission of the patient to the skilled nursing facility and upon transfer of the patient of a skilled nursing facility to a general acute care hospital, the skilled nursing facility shall inform the patient, or the patient’s representative, in writing of the right to exercise this bed hold provision. No later than June 1, 1985, every skilled nursing facility shall inform each current patient or patient’s representative in writing of the right to exercise the bed hold provision. Each notice shall include information that a non-Medi-Cal eligible patient will be liable for the cost of the bed hold days, and that insurance may or may not cover such costs.
(c) A licensee who fails to meet these requirements shall offer to the patient the next available bed appropriate for the patient’s needs. This requirement shall be in addition to any other remedies provided by law.

The provisions of this section do not apply to patients covered only by Medicare, Title XVIII benefits pursuant to Code of Federal Regulations, Title 42, Subsection 489.22(d)(1).

s 72521. Administrative Policies and Procedures.
...(c) Each facility shall establish at least the following:
...(2) Policies and procedures for patient admission, leave of absence, transfer, pass and discharge, categories of patients accepted and retained, rate of charge for services included in the basic rate, type of services offered, charges for extra services, limitations of services, cause for termination of services and refund policies applying to termination of services.

s 72527. Patients’ Rights.
(a) Patients have the rights enumerated in this section and the facility shall ensure that these rights are not violated. The facility shall establish and implement written policies and procedures which include these rights and shall make a copy of these policies available to the patient and to any representative of the patient. The policies shall be accessible to the public upon request. Patients shall have the right:
(1) To be fully informed, as evidenced by the patient’s written acknowledgement prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing patient conduct.
(2) To be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges, including any charges for services not
covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act.

...(6) To be transferred or discharged only for medical reasons, or the patient’s welfare or that of other patients or for nonpayment for his or her stay and to be given reasonable advance notice to ensure orderly transfer or discharge. Such actions shall be documented in the patient’s health record.

COLORADO

Part 3  ADMISSIONS

...3.2  BED HOLD POLICIES. The facility shall develop policies for holding beds available for residents who are temporarily absent therefrom, provide a copy of the policy upon admission, and explain these policies to residents upon admission and before each temporary absence.

Part 12.  RESIDENTS’ RIGHTS

12.1  RESIDENTS’ RIGHTS. The facility shall adopt a statement of the rights and responsibilities of their residents, post it conspicuously in a public place, and provide a copy to each resident or guardian before admission. The facility and staff shall observe these rights in the care, treatment, and supervision of the residents. Rights shall include at least:

...12.1.5  The right to be fully informed, in writing, prior to or at the time of admission and during his or her stay, of services available in the facility and of related charges, including charges for services not covered under Medicare or Medicaid or not covered by the basic per diem rate;

12.1.6  The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated by his or her physician, and to participate in the planning of all medical treatment, including: ;

...(2)  The right to participate in discharge planning...

...12.1.11  The right to be transferred or discharged only for medical reasons or his or her welfare, or that of other residents, or for nonpayment for his or her stay, not for raising concerns or complaints, and the right to be given reasonable advance notice of any transfer or discharge, except in the case of an emergency as determined by professional staff, in accordance with the transfer procedures prescribed by Section 12.6;

...12.1.14  The right of any person eligible to receive Medicaid to select any long-term care facility certified for participation in Medicaid where space is available.

12.6  TRANSFER, DISCHARGE, AND ROOM CHANGE PROCEDURES AND APPEALS.

12.6.1 Definitions:

(1) "Discharge" means movement of a resident from a nursing facility to a
non-institutional setting when the discharging facility ceases to be legally responsible for
the care of the resident.
(2) "Transfer" means movement of a resident from a nursing facility to another
institutional setting when the legal responsibility for the care of the resident changes from
the transferring facility to the receiving facility.
(3) "Room change" refers to the movement of a resident from one room to another.
12.6.2 A resident shall not be transferred or discharged unless:
(1) The transfer or discharge is necessary for the resident’s welfare. Facilities that are
certified to participate in the Medicaid and/or Medicare reimbursement program must
also demonstrate that the resident’s needs cannot be met in the facility;
(2) The transfer or discharge is only for medical reasons. Facilities that are certified to
participate in the Medicaid and/or Medicare reimbursement program must also
demonstrate that the resident’s needs cannot be met in the facility;
(3) The transfer or discharge is necessary to preserve the welfare of other residents; or
(4) The resident has failed to pay for (or to have paid under Medicaid or Medicare) a stay at
the facility. Facilities that are certified to participate in the Medicaid and/or Medicare
reimbursement program must also provide reasonable and appropriate notice of
nonpayment and its consequences to the resident prior to initiating a transfer or discharge
of a resident for reasons of non-payment.
12.6.3 When the facility transfers or discharges a resident under any of the circumstances
specified in 12.6.2, the resident’s clinical record must be documented. The documentation
must be made by:
(1) the resident’s physician when the transfer or discharge is necessary under 12.6.2 (1)
and (2); and
(2) a physician when transfer or discharge is necessary under 12.6.2 (3).
12.6.4 Whenever a resident is transferred or discharged for the reasons in 12.6.2 (1),
12.6.2 (2) or 12.6.2 (3), the facility must provide assessment and reasonable intervention
prior to determining the need for the transfer or discharge. The assessment, attempted
intervention and reason for the discharge or transfer shall be documented in the clinical
record.
12.6.5 The facility shall provide reasonable advance notice to the resident and the family
member or legal representative of the resident of its intent to transfer or discharge a
resident. Reasonable advance notice means notice in writing at least thirty (30) days before
the transfer or discharge except in the following circumstances in which the professional
staff determines there is an emergency, in which case the notice must be made as soon as
practicable before the transfer or discharge:
(1) the safety of residents in the facility is endangered;
(2) the health of residents in the facility is endangered; or
(3) an immediate transfer or discharge is required by the resident’s urgent medical needs.
12.6.6 The written notice shall be in a language and manner understandable to the resident
and the resident’s legal representative, if applicable, and shall include:
(1) The reason for the transfer or discharge;
(2) The effective date of the transfer or discharge;
(3) The location to which the resident is transferred or discharged;
(4) The grievance procedure; and
(5) the following text:
"You have a right to appeal the nursing care facility's decision to transfer or discharge you. If you think you should not be transferred or discharged, you may appeal to __________ (staff designee). If you do not wish to handle the appeal yourself, you may use an attorney, relative, or friend. If your appeal is not resolved to your satisfaction by the staff designee, you can continue your appeal to the nursing care facility's grievance committee and, if necessary, the Colorado Department of Public Health and Environment. You may direct questions regarding this notice to the Department of Public Health and Environment at________________________(division name, address and phone number)."

(a) Nursing care facilities that are certified for Medicaid and/or Medicare reimbursement, must also add the following statement: "In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the State or Local Long Term Care Ombudsman at ___________(phone numbers/addresses).

(b) If the resident who is being involuntarily transferred is a person with a developmental disability for whom an agency has been authorized by law as the agency responsible for advocacy and protection of the rights of persons with developmental disabilities, the nursing care facility must also furnish to resident and the resident’s family member or legal representative, the following statement:
"In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the ______________, (name, phone number and address of the agency.)"

(c) If the resident who is being transferred is a person with mental illness for whom an agency has been authorized by law as the agency responsible for the advocacy and protection of persons with mental illness, the nursing care facility must also furnish to the resident and the resident’s family member or legal representative the following statement: 
"In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the ______________, (name, phone number and address of the agency.)"

12.6.7 In cases where a resident is being involuntarily transferred or discharged from a nursing care facility that is certified to participate in the Medicaid and/or Medicare reimbursement program, a copy of the written notice (including the grievance and appeal rights, and the name, address and telephone number of the State and Local Long Term Care Ombudsman) shall also be sent the State or Local Long Term Care Ombudsman at the same time it is sent to the resident or as soon as the determination is made that the transfer or discharge is involuntary.

12.6.8 A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer and discharge from the facility.

12.7 RESIDENT RELOCATION. If a facility intends to close or change bed classification, it shall notify the Department of Public Health and Environment and the Colorado Department of Health Care Policy And Financing, if it has Medicaid residents, at least 60
days before it expects to cease or change operations and at least 7 days before it notifies residents and families.

12.7.1 The facility shall appoint one staff person to coordinate resident relocation activities.

12.7.2 If the facility has Medicaid residents, it shall review its relocation plan with the Department of Health Care Policy And Financing.

12.7.3 Any facility certified for participation in Medicaid shall follow the relocation procedures prescribed by regulations of the Department of Social Services. Other facilities shall provide for an orderly relocation of residents, designed to minimize risks and ensure optimal placement of all residents, in coordination with the Department of Health, the Nursing Home Ombudsman, and local public and private social services agencies.

CONNECTICUT

Connecticut regulations do not include specific content for Admission, Transfer, and Discharge Rights.

DELAWARE

10.0 Facility Closure
10.1 In the event of the closing of a facility, the facility shall:
...10.1.2 Notify each resident directly and his/her attending physician and, if applicable, his/her responsible party by telephone and in writing at least 90 days before the planned closure.
10.1.3 Give the resident or the resident’s responsible person an opportunity to designate a preference for relocation to a specific facility or for other arrangements.
10.1.4 Arrange for relocation to other facilities in accordance with the resident’s preference, if possible.
...10.1.7 Advise any applicant for admission to a facility which has a planned closure date in writing of the planned closure date prior to admission.

DISTRICT OF COLUMBIA

District of Columbia regulations do not include specific content for Admission, Transfer, and Discharge Rights.
59A-4.106 Facility Policies.
(1) Admission, retention, transfer, and discharge policies:
(a) Each resident will receive, at the time of admission and as changes are being made and
upon request, in a language the resident or his representative understands:
...2. A copy of the facility's admission and discharge policies...
(b) Each resident admitted to the facility shall have a contract in accordance with Section
400.151, F.S., which covers:
1. A list of services and supplies, complete with a list of standard charges, available to the
resident, but not covered by the facility's per diem or by Title XVIII and Title XIX of the
Social Security Act and the bed reservation and refund policies of the facility.
...(f) All resident transfers and discharges shall be in accordance with the facility's policies
and procedures, provisions of Sections 400.022 and 400.0255, F.S., this rule, and other
applicable state and federal laws and will include notices provided to residents which are
incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, Revised May
2001, “Nursing Home Transfer and Discharge Notice,” and 3120-0003, Revised May 2001,
“Fair Hearing Request For Transfer or Discharge From a Nursing Home,” and 3120-0004,
Home Discharge and Transfer.” These forms may be obtained from the Agency for Health
Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL
32308. The Department of Children and Family Services will assist in the arrangement for
appropriate continued care, when requested.

STATUTES:
400.022 Residents' rights.
(1) All licensees of nursing home facilities shall adopt and make public a statement of the
rights and responsibilities of the residents of such facilities and shall treat such residents in
accordance with the provisions of that statement. The statement shall assure each resident
the following:
...(i) The right to be fully informed, in writing and orally, prior to or at the time of
admission and during his or her stay, of services available in the facility and of related
charges for such services, including any charges for services not covered under Title XVIII
or Title XIX of the Social Security Act or not covered by the basic per diem rates and of bed
reservation and refund policies of the facility.
...(p) The right to be transferred or discharged only for medical reasons or for the welfare
of other residents, and the right to be given reasonable advance notice of no less than 30
days of any involuntary transfer or discharge, except in the case of an emergency as
determined by a licensed professional on the staff of the nursing home, or in the case of
conflicting rules and regulations which govern Title XVIII or Title XIX of the Social Security
Act. For nonpayment of a bill for care received, the resident shall be given 30 days' advance
notice. A licensee certified to provide services under Title XIX of the Social Security Act may
not transfer or discharge a resident solely because the source of payment for care changes. Admission to a nursing home facility operated by a licensee certified to provide services under Title XIX of the Social Security Act may not be conditioned upon a waiver of such right, and any document or provision in a document which purports to waive or preclude such right is void and unenforceable. Any licensee certified to provide services under Title XIX of the Social Security Act that obtains or attempts to obtain such a waiver from a resident or potential resident shall be construed to have violated the resident’s rights as established herein and is subject to disciplinary action as provided in subsection (3). The resident and the family or representative of the resident shall be consulted in choosing another facility.

...(v) For residents of Medicaid or Medicare certified facilities, the right to challenge a decision by the facility to discharge or transfer the resident, as required under Title 42 C.F.R. part 483.13.

400.0255 Resident transfer or discharge; requirements and procedures; hearings.

(1) As used in this section, the term:
(a) “Discharge” means to move a resident to a noninstitutional setting when the releasing facility ceases to be responsible for the resident’s care.
(b) “Transfer” means to move a resident from the facility to another legally responsible institutional setting.

(2) Each facility licensed under this part must comply with subsection (9) and s. 400.022(1)(p) when deciding to discharge or transfer a resident.

(3) When a discharge or transfer is initiated by the nursing home, the nursing home administrator employed by the nursing home that is discharging or transferring the resident, or an individual employed by the nursing home who is designated by the nursing home administrator to act on behalf of the administration, must sign the notice of discharge or transfer. Any notice indicating a medical reason for transfer or discharge must either be signed by the resident’s attending physician or the medical director of the facility, or include an attached written order for the discharge or transfer. The notice or the order must be signed by the resident’s physician, medical director, treating physician, nurse practitioner, or physician assistant. (4)(a) Each facility must notify the agency of any proposed discharge or transfer of a resident when such discharge or transfer is necessitated by changes in the physical plant of the facility that make the facility unsafe for the resident.

(b) Upon receipt of such a notice, the agency shall conduct an onsite inspection of the facility to verify the necessity of the discharge or transfer.

(5) A resident of any Medicaid or Medicare certified facility may challenge a decision by the facility to discharge or transfer the resident.

(6) A facility that has been reimbursed for reserving a bed and, for reasons other than those permitted under this section, refuses to readmit a resident within the prescribed timeframe shall refund the bed reservation payment.

(7) At least 30 days prior to any proposed transfer or discharge, a facility must provide advance notice of the proposed transfer or discharge to the resident and, if known, to a
family member or the resident’s legal guardian or representative, except, in the following circumstances, the facility shall give notice as soon as practicable before the transfer or discharge:

(a) The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility, and the circumstances are documented in the resident’s medical records by the resident’s physician; or

(b) The health or safety of other residents or facility employees would be endangered, and the circumstances are documented in the resident’s medical records by the resident’s physician or the medical director if the resident’s physician is not available.

(8) The notice required by subsection (7) must be in writing and must contain all information required by state and federal law, rules, or regulations applicable to Medicaid or Medicare cases. The agency shall develop a standard document to be used by all facilities licensed under this part for purposes of notifying residents of a discharge or transfer. Such document must include a means for a resident to request the local long-term care ombudsman council to review the notice and request information about or assistance with initiating a fair hearing with the department’s Office of Appeals Hearings. In addition to any other pertinent information included, the form shall specify the reason allowed under federal or state law that the resident is being discharged or transferred, with an explanation to support this action. Further, the form shall state the effective date of the discharge or transfer and the location to which the resident is being discharged or transferred. The form shall clearly describe the resident’s appeal rights and the procedures for filing an appeal, including the right to request the local ombudsman council to review the notice of discharge or transfer. A copy of the notice must be placed in the resident’s clinical record, and a copy must be transmitted to the resident’s legal guardian or representative and to the local ombudsman council within 5 business days after signature by the resident or resident designee.

(9) A resident may request that the local ombudsman council review any notice of discharge or transfer given to the resident. When requested by a resident to review a notice of discharge or transfer, the local ombudsman council shall do so within 7 days after receipt of the request. The nursing home administrator, or the administrator’s designee, must forward the request for review contained in the notice to the local ombudsman council within 24 hours after such request is submitted. Failure to forward the request within 24 hours after the request is submitted shall toll the running of the 30-day advance notice period until the request has been forwarded. (10)(a) A resident is entitled to a fair hearing to challenge a facility’s proposed transfer or discharge. The resident, or the resident’s legal representative or designee, may request a hearing at any time within 90 days after the resident’s receipt of the facility’s notice of the proposed discharge or transfer.

(b) If a resident requests a hearing within 10 days after receiving the notice from the facility, the request shall stay the proposed transfer or discharge pending a hearing decision. The facility may not take action, and the resident may remain in the facility, until the outcome of the initial fair hearing, which must be completed within 90 days after receipt of a request for a fair hearing.
(c) If the resident fails to request a hearing within 10 days after receipt of the facility notice of the proposed discharge or transfer, the facility may transfer or discharge the resident after 30 days from the date the resident received the notice.

(11) Notwithstanding paragraph (10)(b), an emergency discharge or transfer may be implemented as necessary pursuant to state or federal law during the period of time after the notice is given and before the time a hearing decision is rendered. Notice of an emergency discharge or transfer to the resident, the resident's legal guardian or representative, and the local ombudsman council if requested pursuant to subsection (9) must be by telephone or in person. This notice shall be given before the transfer, if possible, or as soon thereafter as practicable. A local ombudsman council conducting a review under this subsection shall do so within 24 hours after receipt of the request. The resident’s file must be documented to show who was contacted, whether the contact was by telephone or in person, and the date and time of the contact. If the notice is not given in writing, written notice meeting the requirements of subsection (8) must be given the next working day.

(12) After receipt of any notice required under this section, the local ombudsman council may request a private informal conversation with a resident to whom the notice is directed, and, if known, a family member or the resident’s legal guardian or designee, to ensure that the facility is proceeding with the discharge or transfer in accordance with the requirements of this section. If requested, the local ombudsman council shall assist the resident with filing an appeal of the proposed discharge or transfer.

(13) The following persons must be present at all hearings authorized under this section:
(a) The resident, or the resident’s legal representative or designee.
(b) The facility administrator, or the facility’s legal representative or designee.

A representative of the local long-term care ombudsman council may be present at all hearings authorized by this section.

(14) In any hearing under this section, the following information concerning the parties shall be confidential and exempt from the provisions of s. 119.07(1):
(a) Names and addresses.
(b) Medical services provided.
(c) Social and economic conditions or circumstances.
(d) Evaluation of personal information.
(e) Medical data, including diagnosis and past history of disease or disability.
(f) Any information received verifying income eligibility and amount of medical assistance payments. Income information received from the Social Security Administration or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data.

The exemption created by this subsection does not prohibit access to such information by a local long-term care ombudsman council upon request, by a reviewing court if such information is required to be part of the record upon subsequent review, or as specified in s. 24(a), Art. I of the State Constitution.
(15)(a) The department’s Office of Appeals Hearings shall conduct hearings under this section. The office shall notify the facility of a resident’s request for a hearing.
(b) The department shall, by rule, establish procedures to be used for fair hearings requested by residents. These procedures shall be equivalent to the procedures used for fair hearings for other Medicaid cases, chapter 10-2, part VI, Florida Administrative Code. The burden of proof must be clear and convincing evidence. A hearing decision must be rendered within 90 days after receipt of the request for hearing.
(c) If the hearing decision is favorable to the resident who has been transferred or discharged, the resident must be readmitted to the facility’s first available bed.
(d) The decision of the hearing officer shall be final. Any aggrieved party may appeal the decision to the district court of appeal in the appellate district where the facility is located. Review procedures shall be conducted in accordance with the Florida Rules of Appellate Procedure.
(16) The department may adopt rules necessary to administer this section.
(17) The provisions of this section apply to transfers or discharges that are initiated by the nursing home facility, and not by the resident or by the resident’s physician or legal guardian or representative.
400.18 Closing of nursing facility.
(1) In addition to the requirements of part II of chapter 408, the licensee also shall inform each resident or the next of kin, legal representative, or agency acting on behalf of the resident of the fact, and the proposed time, of discontinuance of operation and give at least 90 days’ notice so that suitable arrangements may be made for the transfer and care of the resident. In the event any resident has no such person to represent him or her, the licensee shall be responsible for securing a suitable transfer of the resident before the discontinuance of operation. The agency shall be responsible for arranging for the transfer of those residents requiring transfer who are receiving assistance under the Medicaid program.
(2) A representative of the agency shall be placed in a facility 30 days before the voluntary discontinuance of operation, or immediately upon the determination by the agency that the licensee is discontinuing operation or that existing conditions or practices represent an immediate danger to the health, safety, or security of the residents in the facility, to:
(a) Monitor the transfer of residents to other facilities.
(b) Ensure that the rights of residents are protected.
(c) Observe the operation of the facility.
(d) Assist the management of the facility by advising the management on compliance with state and federal laws and rules.
(e) Recommend further action by the agency.
(3) The agency shall discontinue the monitoring of a facility pursuant to subsection (2) when:
(a) All residents in the facility have been relocated; or
(b) The agency determines that the conditions which gave rise to the placement of a representative of the agency in the facility no longer exist and the agency is reasonably assured that those conditions will not recur.
290-5-8-.03 Administration.
...(2) Each home shall be operated in accordance with policies approved by the Department. These policies shall include but not be limited to those governing admissions, transfers, discharges...

290-5-8-.05 Professional Service.
(4)...When a patient develops a condition requiring care of a level or type not provided at that home, the administration shall arrange for transfer of the patient to another home, hospital or home health agency which has a permit or is certified to provide such care or shall make satisfactory arrangements for the needed care if the condition is to be of short duration.

Legal Rights of Nursing Home Residents
[PAMPHLET, PREPARED BY THE ELDER LAW COMMITTEE OF THE YOUNG LAWYERS DIVISION OF THE STATE BAR OF GEORGIA]

Duration of Stay Agreements
Nursing homes in Georgia are not prohibited from giving preference to an applicant who is able to pay privately over an applicant who is Medicaid eligible. However, federal law prohibits nursing homes from:
requiring at admission that the resident waive his or her rights to Medicare or Medicaid;
requiring oral or written promises that residents are not eligible for Medicaid or Medicare or that they will not apply for those benefits; and
requiring a resident to pay the nursing home from private funds for a given period of time before applying for Medicaid.

It is not true that once Medicare benefits are exhausted, the resident must leave the nursing home. Federal law protects residents from discrimination based on method of payment. Nursing homes must inform each resident who is entitled to Medicaid benefits what services are paid for by Medicaid and how a resident can apply for Medicaid. Such information must be provided to the resident in writing at the time of admission or at the time a resident becomes eligible for Medicaid.

Transfer and Discharge
A nursing home may transfer or discharge a resident against his or her wishes only if: (1) the transfer or discharge is necessary for the resident’s welfare and the failure to do so will result in injury or illness to the resident or others; (2) there has been non-payment of allowable charges; (3) the resident no longer requires the level of care currently being provided; and (4) the resident’s needs cannot be met in the facility. Changing from private pay status to Medicaid does not constitute non-payment of allowable charges in a Medicaid
participating facility. If a resident is Medicaid eligible, Medicaid will retroactively reimburse the nursing home for up to three months prior to the month of application. An admission agreement that allows for involuntary discharge for becoming Medicaid eligible is illegal and unenforceable. So long as the discharge is not an emergency, a nursing home must provide a written notice to the resident, the resident’s representative and the resident’s physician 30 days prior to any proposed transfer or discharge regardless of the admission contract terms. The notice must include:

(1) the reason for transfer or discharge
(2) the effective date of transfer or discharge;
(3) the location to which the resident is being transferred or discharged;
(4) a statement that the resident has the right to appeal the proposed action to the state;
(5) the name, address and telephone number of the state long-term care ombudsman; and
(6) for residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals.

If you receive a notice of transfer or discharge and you disagree, you should immediately consult with one of the resources listed at the end of this pamphlet. If you disagree with the transfer or discharge, it is important that you request a hearing immediately. This will protect your right to continue to receive services while the appeal is pending. State regulations require that, unless an emergency situation exists, all nursing homes must pursue all reasonable alternatives prior to initiating transfer or discharge of a resident.

**Bed Hold Policies**

Nursing facilities that participate in the Medicaid program must provide written notice of the state bed hold policy to the resident and family member prior to a hospital transfer or therapeutic leave. In Georgia, Medicaid will pay for a "hold" on the resident’s bed during his or her absence for up to seven days. Family members or others may arrange for the facility to hold the bed for a longer period of time. The facility may charge a mutually agreeable rate not to exceed the total allowable per diem billing rate that the facility would have been paid had the resident been in the facility.

**Requiring Payment for Services Included in Medicaid or Medicare Programs**

For residents who are covered by Medicare or Medicaid, these programs cover the expenses included in the approved reimbursement rate for that facility. These covered goods and services must be provided to the resident at no additional charge. These services include, but are not limited to: nursing services; dietary services; activities programs; room/bed maintenance services; routine personal hygiene items and services; and medically related social services. If the admission agreement requires payment for the services mentioned above, it is unenforceable. Any list of covered services in the admissions contract should be carefully reviewed. Nursing homes may offer additional services not included in the Medicaid or Medicare reimbursement rate provided that the
facility gives the resident proper notice of the availability and cost. The facility is not permitted to require payment for additional services as a condition to admission or continued stay in the facility.

Residents' Rights
Georgia law provides for the rights of residents concerning admission, transfer, discharge and care in the facility, and provides remedies for residents when those rights have been violated. These rights include:
...the right to adequate and appropriate care and services without discrimination in the quality of service on the basis of age, gender, race, disability, religion, sexual orientation, national origin, marital status or source of payment for services;
...the right to voluntarily transfer or discharge oneself...

Bill of Rights
290-5-39-.03 Notification of Rights.
(1) At or before being admitted to a facility, each resident and guardian, or representative if there is no guardian, must be given a copy of the written explanation of the resident’s rights, grievance procedure and enforcement procedures. A staff member must also orally explain to such persons the resident’s rights, grievance procedures and enforcement procedures. Written acknowledgement of this written and oral explanation must be given by the resident, or in the case of a resident unable to give a written acknowledgement, by the resident’s guardian or representative if there is no guardian. Such written acknowledgement shall be kept in the resident's file.
(2) At the time of admission to a facility, each resident, guardian, or representative must be provided with the following information in writing:
(a) The basic daily or monthly rate of the facility for the level of care to be received by the resident;
(b) A list of the services of the facility. Such list must show which services are offered as a part of the daily rate and which services are offered on an as-needed basis along with the related charges for such services. Such list must also show which services are not covered under Medicare or Medicaid programs and for which there are extra charges...


Administrative History. Original Rule entitled "Notification of Rights" was filed on February 5, 1982; effective February 25, 1982.

290-5-39-.11 Transfer and Discharge.
(1) In an emergency situation where the resident or other residents are subject to an imminent and substantial danger that only immediate transfer or discharge will relieve, the facility may involuntarily transfer the resident to another health facility. The person in charge shall document in the resident’s file the reasons for such emergency transfer and shall immediately inform the resident, guardian and other persons of the resident’s choice regarding such transfer and the place where the resident is to be transferred.
(2) In all other situations an involuntary transfer or discharge must be in accordance with...
any of the following reasons and procedures and only after all other reasonable
alternatives to transfer have been exhausted:
(a) The resident’s physician or, if unavailable, another physician determines that failure to
transfer the resident will result in injury or illness to the resident or others. The resident’s
physician shall be kept informed of actions taken. The attending physician must
document that determination in the resident’s record. If the basis for the transfer or
discharge is the threat of injury or illness to the resident only, the resident cannot be
transferred or discharged unless the physician documents in the resident’s medical record
that such transfer or discharge is not expected to endanger the resident to a greater extent
than remaining in the facility; or
(b) The facility does not participate in, or voluntarily or involuntarily ceases to operate or
participate in the program which reimburses for the resident’s care. In the event that a
facility voluntarily or involuntarily ceases to operate or participate in the program which
reimburses for the resident’s care and proposes to transfer or discharge a resident because
of that fact, the facility must cooperate fully with and take all reasonable directives from
the State Medicaid Agency and the Health Care Financing Administration Regional
Office in the implementation of any transfer planning and transfer counseling conducted
by these agencies; or
(c) Nonpayment of allowable fees has occurred. When a resident has been converted
from full or private pay status to Medicaid eligibility due to exhaustion of personal
financial resources, nonpayment of allowable fees has not occurred so long as the facility
participates in the Medicaid program. Similarly, conversion from Medicare/Medicaid
eligibility status does not constitute nonpayment of allowable fees; or
(d) The findings of a Medicare or Medicaid medical necessity review determine that the
resident no longer requires the level of care presently being provided, subject to the right
of the resident to any appeal procedure available to challenge the determination of
medical necessity review. Where space permits, the resident must be given the option of
staying at the facility, if the facility is certified to provide the new level of care.
3) The facility must give written notice to the resident, guardian or representative, if
there is no guardian, and the resident’s physician at least 30 days before any proposed
transfer or discharge is made in accordance with subsections (2)(a), (2)(b), or (2)(c) of
this rule. The written notice must contain the following information: the reasons for the
proposed transfer or discharge; the effective date of the proposed transfer or discharge;
the location or other facility to which the facility proposes to transfer or discharge the
resident; and notice of the right to a hearing pursuant to the Georgia Administrative
Procedure Act and Section .15 of these rules and regulations, and of the right to
representation by legal counsel. If the resident so desires, the facility shall also send a
copy of such notice to the community ombudsman, or state ombudsman if there is no
community ombudsman.
4) If two residents are married and the facility proposes to transfer one spouse to another
facility at a similar level of care, notice must be given to the other spouse of the right to
be transferred to the same facility if the other spouse makes a request to that facility in
writing. Married residents must be transferred on the same day, pending availability of
accommodations. If also available, that facility shall place both residents in the same room if the residents so desire.

(5) In the event of an involuntary transfer pursuant to subsections (2)(a), (2)(b), or (2)(c) of this rule, the facility must assist the resident and guardian in finding a reasonably appropriate alternative placement prior to the proposed transfer or discharge by developing a plan designed to minimize any transfer stress to the resident. Such plan shall include counseling the resident, guardian, or representative, regarding available community resources and informing the appropriate state or social service organizations, including, but not limited to, the community or state long-term care ombudsman and assisting in arranging for the transfer.

(6) In the event that the facility proposes an involuntary transfer of the resident to another bed in the same facility, the resident and guardian shall receive 15 days written notice prior to such change.

(7) A resident shall be voluntarily discharged from a facility when the resident or guardian gives the person in charge notice of the resident’s intention to be discharged and the expected date of departure. In the case of a resident without a guardian, the facility may not require that the resident be “signed out” or authorized to be discharged by any person or agency other than the resident. Notice of the resident’s or guardian’s intention to be discharged and the expected and actual dates of departure shall be documented in the resident’s record. If the resident appears to be capable of living independently of the facility, upon such discharge, the facility is relieved of any further responsibility for the resident’s care, safety, or well-being.

(8) If a resident being voluntarily discharged into the community appears to be incapable of living independently of the facility, in addition to the requirements under section (7) of this rule, the facility shall also do the following:

(a) Notify the County Director of the Department of Family and Children Services in order to obtain social or protective services for the resident immediately after the facility receives notice of the resident’s intention to be discharged;

(b) Document such notice to the county director of the Department of Family and Children Services in the resident’s record along with the resident’s notice of intention to be discharged and the expected and actual dates of departure;

(c) Upon notice to the county director of the Department of Family and Children Services and upon actual discharge of the resident, the facility shall be relieved of any further responsibility for the resident’s care, safety, or well-being.

(9) Each resident transferred from a facility to a hospital, other health care facility, or trial alternative living placement shall have the right to return to the facility immediately upon discharge from the hospital, other health care facility or upon termination of the trial living placement, provided that the resident has continued to pay the facility or payment on behalf of the resident by another person or agency has been provided for the period of the resident’s absence. If payment is provided for the period of absence, the facility shall continue the same room assignment for such resident. In cases of nonpayment to the facility during such absence, a resident who requests to return to a facility from a hospital
shall be admitted to the facility to the first bed available, with priority over any existing waiting list.

(10) Whenever allowed by the resident's health condition, a resident shall be provided treatment and care, rehabilitative services, and assistance by the facility to prepare the resident to return to the resident's home or other living situation less restrictive than the facility. Upon the request of the resident, guardian, or representative, the facility shall provide him with information regarding available resources and inform him of the appropriate state or social service organizations.


Administrative History. Original Rule entitled "Transfer and Discharge" was filed on February 5, 1982; effective February 25, 1982.

290-5-39-.13 Nondiscrimination.

...(2) A facility shall not discriminate in the provision of a service to a resident based upon the source of payment for the service.


Administrative History. Original Rule entitled "Nondiscrimination" was filed on February 5, 1982; effective February 25, 1982.

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§11-94-14  General policies and practices.
(a) There shall be written policies and procedures available to staff, patients, and the public which govern:
...(2) Admission, transfer and discharge of patients.
(b) There policies shall ensure that:
...(3) As changes occur in a patient's physical or mental condition necessitating a different level of service or care which cannot be adequately provided by the facility, the patients are transferred promptly to a facility capable of providing an appropriate level of care.
(4) Except in the case of an emergency, the patient or the patient's guardian, the next of kin, the patient’s attending physician, and the responsible agency, if any, shall be informed in advance of the transfer or discharge to another facility.

§11-94-26  Patients’ rights.
(a) Written policies regarding the rights and responsibilities of patients during their stay in the facility shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. The facility's policies and procedures shall provide that each individual admitted to the facility shall:
...(2) Be fully informed, prior to or at the time of admission and during stay, or services available in or through the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate.
(5) Be transferred or discharged only for medical reasons, or for their welfare or that of other patients, or for nonpayment for their stay, and be given reasonable advance notice to ensure orderly transfer or discharge; such actions shall be documented in their health record.

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100. ADMINISTRATION.
03. Patient/Resident Rights and Responsibilities.
The administrator, on behalf of the governing body of the facility, shall establish written policies regarding the rights and responsibilities of patients/residents and responsibility for development of, and adherence to, procedures implementing such policies.
...c. These patients'/residents’ rights, policies and procedures ensure that, at least, each patient/resident admitted to the facility:
...ii. Is fully informed, prior to or at the time of admission and during stay, of services available in the facility, and of related charges including any charges for services not covered under Titles XVIII or XIX of the Social Security Act, or not covered by the facility’s basic per diem rate;
...iv. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients/residents, or for nonpayment for his stay (except as prohibited by Titles XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge, and such actions are documented in his medical record...
...08. Notification of Change in Patient/Resident Status. There shall be written policies and procedures relating to notification of next of kin, or sponsor, in the event of a significant change in a patient’s/resident’s status.
a. Patients/residents shall not be transferred or discharged on the attending physician’s order without prior notification of next of kin, or sponsor, except in cases of emergency. Patients/residents shall be counseled prior to transfer or discharge.
b. As changes occur in their physical or mental conditions, necessitating services or care not regularly provided by the facility, patients/residents shall be transferred to a facility providing the appropriate level of care.

154. MEDICAL DIRECTION.
...04. Emergency Transfer. In the event that neither the patient’s/resident’s attending physician nor the emergency physician can be contacted, the patient/resident in an emergent situation may be transferred to the emergency department of a nearby hospital.
Section 300.110 General Requirements
...g) The licensee shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any residents who must be transferred or discharged, to the resident’s representative, and to a member of the resident’s family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The licensee shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under the Act. (Section 3-423 of the Act).

Section 300.163 Alzheimer’s Special Care Disclosure
A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the...
...c) The facility’s pre-admission, admission, and discharge procedures;

Section 300.610 Resident Care Policies
...c) These written policies shall include, at a minimum the following provisions:
1) Admission, transfer, and discharge of residents including categories of residents accepted and not accepted, residents that will be transferred or discharged, transfers within the facility from one room to another, and other types of transfers.

Section 300.620 Admission, Retention and Discharge Policies
a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
b) An individual who needs services that are not readily available in a particular facility, or through arrangement with a qualified outside resource, shall not be admitted to or kept in that facility. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.
c) Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources. (See Section 300.3220.)
d) No person shall be admitted to or kept in the facility:
1) Who is at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, as determined by professional evaluation;
2) Who is destructive of property, if the destruction jeopardizes the safety of him/herself or others; or
3) Who is an identified offender, unless the requirements of Section 300.615 for new admissions and the requirements of Section 300.625 are met.

e) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such persons shall be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350 or, if the person is under 18, to a long-term care facility for persons under 22 years of age that is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility.
f) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.
g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident’s guardian.
h) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident’s clinical record.
i) Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020.
j) A facility shall not admit more residents than the number authorized by the license issued to it.

Section 300.625 Identified Offenders

p) Incident reports shall be submitted to the Division of Long-Term Care Field Operations in the Department’s Office of Health Care Regulation in compliance with Section 300.690 of this Part. The facility shall review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 300.3300 of this Part.

Section 300.626 Discharge Planning for Identified Offenders

a) If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 300.3300 of this Part. (Section 2-201.6(g) of the Act)
b) All discharges and transfers shall be in accordance with Section 300.3300 of this Part.
c) When a resident who is an identified offender is discharged, the discharging facility shall notify the Department.
d) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual’s status as an identified offender, including, but not limited to:

1) The facility’s inability to meet the needs of the resident, based on Section 300.625 of this Part and subsection (a) of this Section;
2) The facility’s inability to provide the security measures necessary to protect facility residents, staff and visitors; or
3) The physical safety of the resident, other residents, the facility staff, or facility visitors.
e) Discharge planning shall be included as part of the plan of care developed in accordance with Section 300.625(k).

Section 300.627 Transfer of an Identified Offender

a) If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 300.3300 of this Part. (Section 2-201.6(g) of the Act)
b) All discharges and transfers shall be in accordance with Section 300.3300 of this Part.
c) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility shall notify the Department and the receiving facility that the individual is an identified offender before making the transfer.
d) This notification must include all of the documentation required under Section 300.625 of this Part and subsection (a) of this Section, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.
e) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

1) The mittimus and any pre-sentence investigation reports;
2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];
3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];
4) Reports of disciplinary infractions and dispositions;
5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and
6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)
f) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident’s legal representative; law enforcement agencies; the resident’s parole or probation officer; the Division of Long Term Care Field Operations in the Department’s Office of Health Care Regulation; other facilities licensed by the Department,
the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

Section 300.630 Contract Between Resident and Facility
...d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

...m) The contract shall specify the services to be provided under the contract and the charges for the services. (Section 2-202(g)(2) of the Act) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident’s admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident’s liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection (m) may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the change. The written notice shall become an addendum to the contract.
o) The contract shall specify the sources liable for payment due under the contract. (Section 2-202(g)(4) of the Act)

Section 300.1020 Communicable Disease Policies

...b) A resident who is suspected of or diagnosed as having any communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act and Section 300.620 of this Part. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

Section 300.1810 Resident Record Requirements

... k) Discharge information shall be completed within 48 hours after the resident leaves the facility. The resident care staff shall record the date, time, condition of the resident, to whom released, and the resident’s planned destination (home, another facility, undertaker). This information may be entered onto the admission record form.

Section 300.1850 Other Resident Record Requirements

This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

a) The resident’s record shall include facts involved if the resident’s discharge occurs despite medical advice to the contrary, as required by Section 300.620(f) of this Part.

... o) Any resident transfer or discharge mandated by the physical safety of other residents shall be documented in the resident’s medical record as required by Sections 300.3300(d) and (g) of this Part.

Section 300.3300 Transfer or Discharge

a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident’s discharge, the facility is relieved from any responsibility for the resident’s care, safety or well-being. (Section 2-111 of the Act)

b) Each resident’s rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

A) for medical reasons.

B) for the resident’s physical safety.

C) for the physical safety of other residents, the facility staff or facility visitors.

D) for either late payment or nonpayment for the resident’s stay, except as prohibited by Title XVIII and XIX of the Federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the
resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection does not apply to those residents whose care is provided under the Illinois Public Aid Code. (B) (Section 3-401 of the Act)

2) Prohibition of Discrimination
A) A facility participating in the medical assistance program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of or an applicant for the medical assistance program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten day period. (Section 3-401.1(a) of the Act)
B) A facility which violates subsection (c)(2)(B) of this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor more than $5,000 for each subsequent offense. (Section 3-401.1(b) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:
1) When an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician; (Section 3-402(a) of the Act)
2) When the transfer or discharge is mandated by the physical safety of other residents as documented in the clinical record. (Section 3-402(b) of the Act)
e) The notice required by subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:
1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)
2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)
3) A statement in not less than 12-point type, which reads: "You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility’s decision and to request a hearing is attached. If
you have any questions, call the Department of Public Health at the telephone number listed below." (Section 3-403(c) of the Act)
4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)
5) The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)
f) A request for a hearing made under subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)
g) A copy of the notice required by subsection (d) of this Section shall be placed in the resident’s clinical record and a copy shall be transmitted to the Department, the resident, the resident’s representative, and, if the resident’s care is paid for in whole or part through Title XIX, to the Department of Public Aid. (Section 3-405 of the Act)
h) When the basis for an involuntary transfer or discharge is the result of an action by the Department of Public Aid with respect to a recipient of Title XIX and a hearing request is filed with the Department of Public Aid, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Public Aid or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)
i) When nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to redeem up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (Section 3-407 of the Act)
j) The planned involuntary transfer or discharge shall be discussed with the resident, the resident’s representative and person or agency responsible for the resident’s placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident’s clinical record. (Section 3-408 of the Act)
k) The facility shall offer the resident counseling services before the transfer or discharge of the resident. (Section 3-409 of the Act)
l) A resident subject to involuntary transfer or discharge from a facility, the resident’s guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)
m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Public Aid with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident’s facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)
n) The hearing before the Department provided under subsection (m) of this Section shall
be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under subsection (c) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under subsection (d) of this Section, or the tenth day following receipt of the Department’s decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (B) (Section 3-413 of the Act)
p) The Department of Public Aid shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by subsection (c) of this Section. (Section 3-414 of the Act)

q) The Department may transfer or discharge any resident from any facility required to be licensed under this Act when any of the following conditions exist:
1) Such facility is operating without a license; (Section 3-415(a) of the Act)
2) The Department has suspended, revoked or refused to renew the license of the facility as provided under Section 3-119 of the Act. (Section 3-415(b) of the Act)
3) The facility has requested the aid of the Department in the transfer or discharge of the resident and the Department finds that the resident consents to transfer or discharge; (Section 3-415(c) of the Act)
4) The facility is closing or intends to close and adequate arrangement for relocation of the resident has not been made at least 30 days prior to closure; or (Section 3-415(d) of the Act)
5) The Department determines that an emergency exists which requires immediate transfer or discharge of the resident. (Section 3-415(e) of the Act)
r) In deciding to transfer or discharge a resident from a facility under subsection (q) of this Section, the Department shall consider the likelihood of serious harm which may result if the resident remains in the facility. (Section 3-416 of the Act)s) The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under subsections (c) through (q) of this Section including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements, except that where an emergency makes prior resident involvement impossible, the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident’s relatives and friends. The resident shall be allowed three visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits. (Section 3-417 of the Act)
t) The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In non-emergencies and where possible in emergencies, the Department shall design and implement such plans in advance of transfer or discharge. (Section 3-418 of the Act)

u) The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans. (Section 3-419 of the Act)

v) In any transfer or discharge conducted under subsections (q) through (t) of this Section the Department shall:

1) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a non-emergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and (Section 3-420(a) of the Act)

2) Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice shall state the reason for which transfer or discharge is ordered and shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department shall hold an informal conference with the resident or the resident's representative prior to transfer or discharge at which the resident or the representative may present any objections to the proposed transfer or discharge plan or alternative placement. (Section 3-420(b) of the Act)

w) In any transfer or discharge conducted under subsection (q)(5) of this Section, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the resident, to the resident’s representative, if any, and to a member of the resident’s family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under subsection (x) of this Section. (Section 3-421 of the Act)

x) Within ten days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a hearing under Section 3-703 of the Act to challenge the transfer or discharge. The Department shall hold the hearing within 30 days of receipt of the request. Where a challenge is by a resident, the hearing shall be held at a location convenient to the resident. If the facility prevails, it
may file a claim against the State under the Court of Claims Act for payments loss less expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act (Ill. Rev. Stat. 1987, ch. 37, pars. 439.1 et seq.) for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested. (Section 3-422 of the Act)
y) Any owner of a facility licensed under this Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident’s representative, and to a member of the resident’s family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under subsection (u) of this Section. (A, B) (Section 3-423 of the Act)

**INDIANA**

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410 IAC 16.2-3.1-4 Notice of rights and services
Sec. 4
...(f) The facility must do the following:
(1) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of the following:
(A) The items and services that are included in nursing facility services under the state plan and for which the resident may not be charged.
(B) Those other items and services that the facility offers and for which the resident may be charged and the amount of the charges.
(2) Inform each resident when changes are made to the items and services specified in this section.
(3) Inform each resident before, or at the time of admission, in writing and periodically during the resident’s stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility’s per diem rate.
(i) Residents have the right to be informed by the facility, in writing, at least thirty (30) days in advance of the effective date, of any changes in the rates or services that these rates cover.

...(l) The facility must prominently display in the facility written information, and provide to residents and applicants for admission oral and written information, about how to:
(1) apply for and use Medicare and Medicaid benefits; and
(2) receive refunds for previous payments covered by such benefits.

410 IAC 16.2-3.1-5 Notification of changes
Sec. 5.
(a) A facility must immediately inform the resident, consult with the resident’s physician, and, if known, notify the resident’s legal representative or an interested family member when there is:
...(4) a decision to transfer or discharge the resident from the facility.

410 IAC 16.2-3.1-12 Transfer and discharge rights
Sec. 12.
(a) The transfer and discharge rights of residents of a facility are as follows:
(1) As used in this section, “interfacility transfer and discharge” means the movement of a resident to a bed outside of the licensed facility. For Medicare and Medicaid certified facilities, an interfacility transfer and discharge means the movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not.
(2) As used in this section, “intrafacility transfer” means the movement of a resident to a bed within the same licensed facility. For Medicare and Medicaid certified facilities, an intrafacility transfer means the movement of a resident to a bed within the same certified facility.
(3) When a transfer or discharge of a resident is proposed, whether intrafacility or interfacility, provision for continuity of care shall be provided by the facility.
(4) Health facilities must permit each resident to remain in the facility and not transfer or discharge the resident from the facility unless:
(A) the transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
(B) the transfer or discharge is appropriate because the resident’s health has improved sufficiently so that the resident no longer needs the services provided by the facility;
(C) the safety of individuals in the facility is endangered;
(D) the health of individuals in the facility would otherwise be endangered;
(E) the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility; or
(F) the facility ceases to operate.
(5) When the facility proposes to transfer or discharge a resident under any of the circumstances specified in subdivision (4)(A), (4)(B), (4)(C), (4)(D), or (4)(E), the resident’s clinical records must be documented. The documentation must be made by the following:
(A) The resident's physician when transfer or discharge is necessary under subdivision (4)(A) or (4)(B).
(B) Any physician when transfer or discharge is necessary under subdivision (4)(D).
(6) Before an interfacility transfer or discharge occurs, the facility must, on a form prescribed by the department, do the following:
(A) Notify the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner that the resident understands. The health facility must place a copy of the notice in the resident's clinical record and transmit a copy to the following:
(i) The resident.
(ii) A family member of the resident if known.
(iii) The resident's legal representative if known.
(iv) The local long term care ombudsman program (for involuntary relocations or discharges only).
(v) The person or agency responsible for the resident's placement, maintenance, and care in the facility.
(vi) In situations where the resident is developmentally disabled, the regional office of the division of disability, aging, and rehabilitative services, who may assist with placement decisions.
(vii) The resident's physician when the transfer or discharge is necessary under subdivision (4)(C), (4)(D), (4)(E), or (4)(F).
(B) Record the reasons in the resident's clinical record.
(C) Include in the notice the items described in subdivision (9).
(7) Except when specified in subdivision (8), the notice of transfer or discharge required under subdivision (6) must be made by the facility at least thirty (30) days before the resident is transferred or discharged.
(8) Notice may be made as soon as practicable before transfer or discharge when:
(A) the safety of individuals in the facility would be endangered;
(B) the health of individuals in the facility would be endangered;
(C) the resident's health improves sufficiently to allow a more immediate transfer or discharge;
(D) an immediate transfer or discharge is required by the resident's urgent medical needs; or
(E) a resident has not resided in the facility for thirty (30) days.
(9) For health facilities, the written notice specified in subdivision (7) must include the following:
(A) The reason for transfer or discharge.
(B) The effective date of transfer or discharge.
(C) The location to which the resident is transferred or discharged.
(D) A statement in not smaller than 12-point bold type that reads, “You have the right to appeal the health facility’s decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing with the Indiana state department of health postmarked within ten (10) days after you receive this notice. If you
request a hearing, it will be held within twenty-three (23) days after you receive this notice, and you will not be transferred from the facility earlier than thirty-four (34) days after you receive this notice of transfer or discharge unless the facility is authorized to transfer you under subdivision (8). If you wish to appeal this transfer or discharge, a form to appeal the health facility’s decision and to request a hearing is attached. If you have any questions, call the Indiana state department of health at the number listed below.”.

(E) The name of the director, address, telephone number, and hours of operation of the division.
(F) A hearing request form prescribed by the department.
(G) The name, address, and telephone number of the division and local long term care ombudsman.
(H) For facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.
(10) If the resident appeals the transfer or discharge, the facility may not transfer or discharge the resident within thirty-four (34) days after the resident receives the initial transfer or discharge notice, unless an emergency exists as provided under subdivision (8).
(11) If nonpayment is the basis of a transfer or discharge, the resident shall have the right to pay the balance owed to the facility up to the date of the transfer or discharge and then is entitled to remain in the facility.
(12) The department shall provide a resident who wishes to appeal the transfer or discharge from a facility the opportunity to file a request for a hearing postmarked within ten (10) days following the resident’s receipt of the written notice of the transfer or discharge from the facility.
(13) If a facility resident requests a hearing, the department shall hold an informal hearing at the facility within twenty-three (23) days from the date the resident receives the notice of transfer or discharge. The department shall attempt to give at least five (5) days written notice to all parties prior to the informal hearing. The department shall issue a decision within thirty (30) days from the date the resident receives the notice. The facility must convince the department by a preponderance of the evidence that the transfer or discharge is authorized under subdivision (4). If the department determines that the transfer is appropriate, the resident must not be required to leave the facility within the thirty-four (34) days after the resident’s receipt of the initial transfer or discharge notice unless an emergency exists under subdivision (8). Both the resident and the facility have the right to administrative or judicial review under IC 4-21.5 of any decision or action by the department arising under this section. If a hearing is to be held de novo, that hearing shall be held in the facility where the resident resides.
...(18) Prior to any interfacility or involuntary intrafacility relocation, the facility shall prepare a relocation plan to prepare the resident for relocation and to provide continuity of care. In non-emergency relocations, the planning process shall include relocation planning conference to which the resident, his or her legal representative, family
members, and physician shall be invited. The planning conference may be waived by the resident or his or her legal representative.

(19) At the planning conference, the resident’s medical, psychosocial, and social needs with respect to the relocation shall be considered and a plan devised to meet these needs. The planning conference may be waived by the resident or his or her legal representative.

(20) The facility shall provide reasonable assistance to the resident to carry out the relocation plan.

(21) The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(22) If the relocation plan is disputed, a meeting shall be held prior to the relocation with the administrator or his or her designee, the resident, and the resident’s legal representative. An interested family member, if known, shall be invited. The purpose of the meeting shall be to discuss possible alternatives to the proposed relocation plan.

(23) A written report of the content of the discussion at the meeting and the results of the meeting shall be reviewed by the administrator or his or her designee, the resident, the resident’s legal representative, and an interested family member, if known, each of whom may make written comments on the report.

(24) The written report of the meeting shall be included in the resident’s permanent record.

(25) Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave of twenty-four (24) hours duration or longer, the facility must provide written information to the resident and a family member or legal representative that specifies the following:

(A) The duration of the bed-hold policy under the Medicaid state plan during which the resident is permitted to return and resume residence in the facility.

(B) The facility’s policies regarding bed-hold periods, which must be consistent with subdivision (27), permitting a resident to return.

(26) Except in an emergency, at the time of transfer of a resident for hospitalization or therapeutic leave, a facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in subdivision (25).

(27) Medicaid certified facilities must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed-hold period under the state plan, is readmitted to the facility immediately upon the first availability of a bed in a semiprivate room if the resident:

(A) requires the services provided by the facility; and

(B) is eligible for Medicaid nursing facility services.

410 IAC 16.2-3.1-15 Equal access to quality care
Sec. 15.

(a) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the state plan for all individuals regardless of source of payment.
(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in section 4(f) of this rule describing the charges.

410 IAC 16.2-3.1-16 Admissions policy
Sec. 16.
(a) The facility must not:
(1) require residents or potential residents to waive their rights to Medicare or Medicaid; or
(2) require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.
(b) The facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.
(c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the state plan, any gift, money, or donation, or other consideration as a precondition of admission, expedited admission, or continued stay in the facility. However, a nursing facility may:
(1) charge a resident who is eligible for Medicaid for items and services the resident has requested and received and that are not specified in the state plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident’s admission or continued stay on the request for and receipt of such additional services; or
(2) solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid-eligible resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid-eligible resident.
of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A. The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa Veterans Home.

58.12(2) Discharge or transfer.
   a. Prior notification shall be made to the resident, as well as the resident’s next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident.
   b. Proper arrangements shall be made by the nursing facility for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.
   c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer.
   d. Advance notification will be made to the receiving facility prior to the transfer of any resident.
   e. When a resident is transferred or discharged, the appropriate record as set forth in 58.15(2)“k” of these rules will accompany the resident.
   f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent.

481—58.13(135C) Contracts. Each contract shall:
58.13(1) State the base rate or scale per day or per month, the services included, and the method of payment;
58.13(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. Furthermore, the contract shall:
   a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in 58.13(3);
   b. State the method of payment of additional charges;
   c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges;
   d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.;
58.13(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator;
58.13(4) Include the total fee to be charged initially to the specific resident;
58.13(5) State the conditions whereby the facility may make adjustments to the facility’s overall fees for resident care as a result of changing costs. Furthermore, the contract shall provide that the facility shall give:
a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes;
b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident’s condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made;
58.13(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge;
58.13(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s responsible party.
a. The facility shall ask the resident or responsible party if the resident wants the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented.
b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract.
58.13(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected;
58.13(9) State the conditions of voluntary discharge or transfer;
58.13(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter;
58.13(11) Each party shall receive a copy of the signed contract.

481—58.39 (135C) Residents’ rights in general.
58.39(3) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:
...b. As changes occur in residents’ physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities.
...58.39(8) Each resident or responsible party shall be fully informed in a contract as required in rule 481—58.13(135C), prior to or at the time of admission and during the resident’s stay, of services available in the facility, and of related charges including any charges for services not covered under the Title XIX program or not covered by the facility’s basic per diem rate.
481—58.40(135C) Involuntary discharge or transfer.

58.40(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident's welfare or that of other residents; for nonpayment for the resident's stay (as contained in the contract for the resident's stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k by reason of action pursuant to Iowa Code chapter 229; by reason of negative action by the Iowa department of social services; and by reason of negative action by the professional standards review organization. A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A, or because the resident's source of payment is changing from private support to payment under chapter 249A.

a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. In the case of transfer or discharge for the reason that the resident’s condition has improved such that the resident no longer needs the level of care being provided by the facility, the determination that such medical reason exists is the exclusive province of the professional standards review organization or utilization review process in effect for residents whose care is paid in full or in part by Title XIX.

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with the resident’s needs and rights). Evidence that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination.

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

(1) If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred.

(2) If the transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility.

(3) If the discharge or transfer is the result of a final, non-appealable decision by the department of social services or the professional standards review organization.
The notice required by paragraph "c" shall contain all of the following information:

1. The stated reason for the proposed transfer or discharge.
2. The effective date of the proposed transfer or discharge.
3. A statement in not less than 12-point type (elite), which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department at the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083."

A request for a hearing made under 58.40(1)"d"(3) shall stay a transfer or discharge pending a hearing or appeal decision.

The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department of elder affairs long-term care ombudsman of record not later than five full business days after receipt of request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department of elder affairs long-term care ombudsman shall have the right to appear at the hearing.

The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

Based upon all testimony and materials submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to
the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department of elder affairs long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances. A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

i. A copy of the notice required by paragraph “c” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department of elder affairs long-term care ombudsman.

j. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the professional standards review organization (Iowa Foundation for Medical Care), appeals shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

k. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility.

l. The involuntary transfer or discharge shall be discussed with the resident, the resident’s responsible party, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made part of the resident’s record.

m. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record.

(1) Counseling shall be provided by a qualified individual who meets one of the following criteria:

1. Has a bachelor’s or master’s degree in social work from an accredited college.
2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency.
3. Has been employed in a social work capacity for a minimum of four years in a public or private agency.
4. Is a licensed psychologist or psychiatrist.
5. Is any other person of the resident’s choice.
(2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged.

(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause.

n. In the case of an emergency transfer or discharge as outlined in 58.40(1)“c”(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 58.40(1)“d”(1) and (2). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” A hearing requested pursuant to this subrule shall be held in accordance with paragraphs “f,” “g,” and “h.”

o. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

481—58.54 (73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).

58.54(3)…The résumé of the program of care shall:

...c. List admission and discharge criteria...

58.54(4) Separate written policies and procedures shall be implemented in each CCDI unit or facility. There shall be:

a. Admission and discharge policies and procedures which state the criteria to be used to admit residents and the evaluation process which will be used. These policies shall require a statement from the attending physician agreeing to the placement before a resident can be moved into a CCDI unit or facility.

KANSAS

Downloaded January 2011

39-936. Statement on admission; qualified personnel; education and training of unlicensed personnel; examination and fees; state registry established; refresher course required;
supplier of medication; limitations on involuntary transfer or discharge of resident; effect of reliance upon spiritual means or prayer for healing by resident.

...(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

26-39-102. Admission, transfer, and discharge rights of residents in adult care homes.

(a) Each licensee, administrator, or operator shall develop written admission policies regarding the admission of residents. The admission policy shall meet the following requirements:

...(2) Before admission, the administrator or operator, or the designee, shall inform the prospective resident or the resident’s legal representative in writing of the rates and charges for the adult care home’s services and of the resident’s obligations regarding payment. This information shall include the refund policy of the adult care home.

(3) At the time of admission, the administrator or operator, or the designee, shall execute with the resident or the resident’s legal representative a written agreement that describes in detail the services and goods the resident will receive and specifies the obligations that the resident has toward the adult care home.

...(d) The administrator or operator of each adult care home shall ensure that each resident is permitted to remain in the adult care home and is not transferred or discharged from the adult care home unless one of the following conditions is met:

(1) The transfer or discharge is necessary for the resident’s welfare, and the resident’s needs cannot be met in the current adult care home.

(2) The safety of other individuals in the adult care home is endangered.

(3) The health of other individuals in the adult care home is endangered.

(4) The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home.

(5) The adult care home ceases to operate.

(e) Before a resident is transferred or discharged involuntarily, the administrator or operator, or the designee, shall perform the following:

(1) Notify the resident, the resident’s legal representative, and if known, a designated family member of the transfer or discharge and the reasons; and

(2) record the reason for the transfer or discharge under any of the circumstances specified in paragraphs (d)(1) through (4) in the resident’s clinical record, which shall be substantiated as follows:

(A) The resident’s physician shall document the rationale for transfer or discharge in the resident’s clinical record if the transfer or discharge is necessary for the resident's welfare and the resident’s needs cannot be met by the adult care home;

(B) the resident’s physician shall document the rationale for transfer or discharge in the resident’s clinical record if the transfer or discharge is appropriate because the resident’s
health has improved sufficiently so that the resident no longer needs the services provided by the adult care home; and

(C) a physician shall document the rationale for transfer or discharge in the resident’s clinical record if the transfer or discharge is necessary because the health or safety of other individuals in the adult care home is endangered.

(f) The administrator or operator, or the designee, shall provide a notice of transfer or discharge in writing to the resident or resident’s legal representative at least 30 days before the resident is transferred or discharged involuntarily, unless one of the following conditions is met:

(1) The safety of other individuals in the adult care home would be endangered.
(2) The resident’s urgent medical needs require an immediate transfer to another health care facility.

(g) Each written transfer or discharge notice shall include the following:

(1) The reason for the transfer or discharge;
(2) the effective date of the transfer or discharge;
(3) the address and telephone number of the complaint program of the Kansas department on aging where a complaint related to involuntary transfer or discharge can be registered;
(4) the address and telephone number of the state long-term care ombudsman; and
(5) for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.

(h) The administrator or operator, or the designee, shall provide sufficient preparation and orientation to each resident before discharge to ensure a safe and orderly transfer and discharge from the adult care home.

(i) The administrator or operator, or the designee, shall ensure the development of a discharge plan, with the involvement of the resident, the resident’s legal representative, and designated family when practicable.

(j) If the resident is transferred or discharged to another health care facility, the administrator or operator, or the designee, shall ensure that sufficient information accompanies the resident to ensure continuity of care in the new facility.

(k) Before a resident in a nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, or home plus is transferred to a hospital or goes on therapeutic leave, the administrator or operator, or the designee, shall provide written information to the resident or the resident’s legal representative and, if agreed to by the resident or the resident's legal representative, the resident’s family, that specifies the following:

(1) The period of time during which the resident is permitted to return and resume residence in the facility;
(2) the cost to the resident, if any, to hold the resident's bedroom, apartment, individual living unit, or adult day care slot until the resident's return; and
(3) a provision that when the resident’s hospitalization or therapeutic leave exceeds the period identified in the policy of a nursing facility, the resident will be readmitted to the nursing facility upon the first availability of a comparable room if the resident requires the services provided by the nursing facility.
26-39-103. Resident rights in adult care homes.

...(c) Notice of rights and services.

(1) Before admission, the administrator or operator shall ensure that each resident or the resident's legal representative is informed, both orally and in writing, of the following in a language the resident or the resident's legal representative understands:

(A) The rights of the resident;
(B) the rules governing resident conduct and responsibility;
(C) the current rate for the level of care and services to be provided; and
(D) if applicable, any additional fees that will be charged for optional services.

(2) The administrator or operator shall ensure that each resident or the resident's legal representative is notified in writing of any changes in charges or services that occur after admission and at least 30 days before the effective date of the change. The changes shall not take place until notice is given, unless the change is due to a change in level of care.

...(h) Notification of changes.

(1) The administrator or operator shall ensure that designated facility staff inform the resident, consult with the resident's physician, and notify the resident's legal representative or designated family member, if known, upon occurrence of any of the following:

...(D) a decision to transfer or discharge the resident from the adult care home.

28-39-160. Other resident services.

(a) Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.

...(2) The facility shall develop admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served.

KENTUCKY

902 KAR 20:300. Operation and services; nursing facilities.

Section 3. Resident Rights.

(1) Exercise of rights.

...(e) The facility shall inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered by third party payors or the facility's per diem rate.

...(i) Notification of changes.

1. Except in a medical emergency or when a resident is incompetent, a facility shall consult with the resident immediately and notify the resident's physician, and if known, the resident's legal representative or interested family member within twenty-four (24) hours when there is:
...iv. A decision to transfer or discharge the resident from the facility as specified in Section 4(1) of this administrative regulation.

Section 4. Admission, Transfer and Discharge Rights.
(1) Transfer and discharge.
(a) Transfer and discharge requirements. The facility shall permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:
1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
3. The safety of individuals in the facility is immediately endangered;
4. The health of individuals in the facility would otherwise be immediately endangered;
5. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or
6. The facility ceases to operate.

(b) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)1 through 5 of this subsection, the resident's clinical record must be documented. The documentation must be made by:
1. The resident's physician when transfer or discharge is necessary under paragraph (a)1 or 2 of this subsection; and
2. A physician when transfer or discharge is necessary under paragraph (a)4 of this subsection.

(c) Notice before transfer. Before a facility transfers or discharges a resident, the facility shall:
1. Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons;
2. Record the reasons in the resident's clinical record; and
3. Include in the notice the items described in paragraph (e) of this subsection.

(d) Timing of the notice. Except when specified in paragraph (d)2 of this subsection, the notice of transfer or discharge required under paragraph (c) of this subsection must be made by the facility at least thirty (30) days before the resident is transferred or discharged.

2. Notice may be made as soon as practicable before transfer or discharge when:
   a. The safety of individuals in the facility would be endangered, under paragraph (a)3 of this subsection;
   b. The health of individuals in the facility would be endangered, under paragraph (a)4 of this subsection;
   c. The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)2 of this subsection;
d. An immediate transfer or discharge is required by the resident’s urgent medical needs, under paragraph (a)1 of this subsection;
e. A resident has not resided in the facility for thirty (30) days.

(c) Contents of the notice. For nursing facilities, the written notice specified in paragraph (c) of this subsection shall include the following:
1. A statement that the resident has the right to appeal the action to the state agency designated by the state for such appeals.
2. The name, address and telephone number of the state long-term care ombudsman;
3. For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals;
4. For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals;
5. The reason for the transfer or discharge;
6. The effective date of transfer or discharge; and
7. The location to which the resident is transferred or discharged.

(f) Orientation for transfer or discharge. A facility shall provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(2) Notice of bed-hold policy and readmission.
(a) Notice before transfer. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility shall provide written information to the resident and family member or legal representative that specifies the duration of the bed-hold policy if any, during which the resident is permitted to return and resume residence in the facility; and
(b) Notice upon transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility shall provide written notice to the resident and a family member or legal representative, which specifies the duration of the bed-hold policy described in paragraph (a) of this subsection.
(c) Permitting resident to return to facility. A nursing facility shall establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed hold period, is readmitted to the facility immediately upon the first availability of a bed in a semiprivate room if the resident:
1. Requires the services provided by the facility; and
2. Is eligible for nursing facility services.

(3) Equal access to quality care. A facility shall establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for all individuals regardless of source of payment;

(4) Admissions policy.
(a) The facility shall:
1. Not require a third party guarantee of payment to the facility as a condition of admission, or expedited admission, or continued stay in the facility;
2. Not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid for services, any gift, money, donation or other consideration as a precondition of admission, expedited admission or continued stay in the facility.

(b) A facility shall:
1. Not require residents or potential residents to waive their rights to Medicare or Medicaid;
2. Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(c) A facility may require an individual who has legal access to a resident’s income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide facility payment from the resident’s income or resources.

(d) A nursing facility may charge a resident for items and services the resident has requested and received, and that are not covered in the facility’s basic per diem rate.

(e) A nursing facility may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.

§9704. Alzheimer's Special Care Disclosure
E. A provider must use the "Alzheimer's Special Care Disclosure Form" developed by the department. The disclosure form shall contain the following information:

...2. a description of the criteria and process for admission to, transfer, or discharge from the program...

§9733. Statement of Rights and Responsibilities
A. In accordance with R.S. 40:2010.8 et seq., all nursing homes shall adopt and make public a statement of the rights and responsibilities of the residents residing therein and shall treat such residents in accordance with the provisions of the statement. The statement shall assure each resident the following:

...5. The right to be fully informed, in writing and orally, prior to or at time of admission and during his or her stay, of services not covered by the basic per diem rates and of bed reservation and refund policies of the home;

...11. The right to be transferred or discharged:

a. a resident can be transferred or discharged only if necessary for his welfare and if his needs cannot be met in the facility; his health has improved sufficiently so that he no longer needs the services provided by the facility; the safety of individuals in the facility is endangered; the health of individuals in the facility would otherwise be endangered; he has failed, after reasonable and appropriate notice, to pay or have paid for a stay at the facility; or the facility ceases to operate;
b. both the resident and his legal representative or interested family member, if known and available, have the right to be notified, in writing, in a language and manner they understand, of the transfer and discharge. The notice must be given no less than 30 days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility; c. the resident, or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Department of Health and Hospitals, which shall provide a fair hearing in all such appeals; d. the facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his legal representative or interested family member, if known and available, shall be consulted in choosing another facility if facility placement is required;

...15. the right to be informed of the bed reservation policy for a hospitalization: a. the nursing home shall inform a private pay resident and his sponsor that his bed shall be reserved for any single hospitalization for a period up to 30 days, provided the nursing home receives reimbursement; b. notice shall be provided within 24 hours of the hospitalization;

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3.I. Voluntary Closing of a Licensed Facility
Whenever a licensed facility voluntarily discontinues operation, the facility shall notify the Department, and during the period when it is preparing for such discontinuance, the facility shall inform the resident, the next of kin, legal representative or agency acting on the resident’s behalf of the fact and the proposed time of such discontinuance, with at least thirty (30) days notice so that suitable arrangements may be made for the orderly transfer and care of such resident. In the case of any resident who has no person acting on his/her behalf, the facility shall be responsible for assisting such resident to arrange for a suitable transfer prior to the discontinuance of operation. Immediately upon discontinuance of operation of a licensed facility, the owner shall surrender the license to the Department.

4.G. Admissions
A facility must establish identical practices for admissions, transfers and discharges for all individuals regardless of source of payment, as addressed below.
4.G.1 Admissions.
a. The facility must not:
1. Require a third party guarantee of payment to the facility as a condition of admission, or to expedite admission, or continued stay in the facility;
2. Charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility;
3. Require residents or potential residents to waive their rights to Medicare or Medicaid;
4. Require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

b. A facility may:
1. Charge any amount for services furnished to non-Medicaid residents consistent with the requirement in 4.G.1.a.
2. Require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, or to provide facility payment from the resident's income or resources, without incurring personal financial liability.
3. Charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the Maine Medical Assistance Manual as included in the term "nursing facility services".
4. Solicit, accept or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.
5. A nursing facility may decline to admit a prospective resident after an evaluation of the person's clinical condition and related care needs and a determination that the facility lacks qualified staff to meet the level of care required for that person. A nursing facility is not subject to penalty or sanction for declining to admit a prospective resident for whom the facility lacks sufficient staff to meet the resident's level of care.

5.B. Written Policies
5.B.2 Policies shall address all areas of services provided and facility practices regarding:
...g. admissions, transfers and discharges:
1. provision for prevention of resident transfer from one part of the facility to another, except from a private room, solely because of Medicaid status;
2. provision for prevention of discharging a patient from a nursing facility solely because of Medicaid status;
3. nursing facility must establish and follow written readmission policies which are consistent with all applicable regulations and statutes.

6.B. Provisions of Contract
Each contract to which this section applies shall contain express provisions specifically setting forth the following:
6.B.1. The services and accommodations to be provided by the facility and the rates and charges therefor, including an outline of responsibilities for and payment of treatment and medications, special equipment and appliances, dressings, clothing, personal supplies of the resident; services of related medical and paramedical personnel; and any other related charges not covered by the facility's basic per diem rate;

6.C. Contract Requirements Each contract or agreement is subject to the following requirements:
6.C.1. No contract or agreement may contain a provision for the discharge or transfer of a resident to another facility or another room within the same facility which is inconsistent with State law or rule.
6.C.5. No contract or agreement may require the resident to sign a waiver of liability statement as a condition of discharge, even if the discharge is against medical advice. This does not prohibit a facility from attempting to obtain a written acknowledgment that the resident has been informed of the potential risk in being discharged against medical advice.
6.C.6. Each contract or agreement shall contain a provision which provides for at least thirty (30) days notice prior to any changes in rates and/or charges, responsibilities, services to be provided or any other items included in the contract or agreement.
6.C.7. No contract or agreement may require the resident to authorize the facility or its staff to manage, hold or otherwise control the income or other assets of a resident.
6.C.8. No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or agreement may refuse to accept retroactive Medicaid benefits.

10.C. Exercise of Rights
10.C.8 The facility must display information and:
   a. Inform each resident how to apply for Medicaid;
   b. Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of:
      1. The items and services that are included in nursing facility services in the Maine Medical Assistance Manual and for which the resident may not be charged.
      2. Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services and,
   c. Inform each resident when changes are made to the items and services specified in Chapters 10.C.8.b.1. and 10.C.8.b.2.

10.C.9. Inform each resident before, or at the time of admission, when changes occur, and periodically during the resident’s stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicaid/Medicare or by the facility’s per diem rate.

10.D. Notification of Changes
10.D.1 Except in a medical emergency or when a resident is incompetent, a facility must consult with the resident regarding any proposed significant changes in treatment or plan
of care. The facility must notify the resident's physician, the resident's legal representative and, with the resident's permission, an interested family member, when there is:

...d. A decision to transfer or discharge the resident from the facility.

10.Q. Transfer and Discharge Rights
10.Q.1. Definition
Transfer and discharge includes movement of a resident to a bed outside of the certified unit, whether that bed is in the same facility or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified unit.
10.Q.2. Transfer and Discharge Requirements
The facility must permit each resident to remain in the unit or facility, and not transfer or discharge the resident from the unit or facility unless:

a. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the unit or facility.
b. The transfer or discharge is appropriate because the resident's health and/or functional ability has improved sufficiently so that the resident no longer needs the services provided by the unit or facility.
c. The safety and/or health of individuals in the facility is endangered.
d. The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only charges allowable under Medicaid.
e. The facility ceases to operate.
10.Q.3. Notice Before Transfer
Before a facility transfers or discharges a resident, the facility must notify the resident and, if known, a family member or legal representative of the resident, of the transfer or discharge and the reasons.
The resident's clinical record shall contain documentation describing the basis for the transfer or discharge.
10.Q.4. Contents of the Notice
Each notice must be written and include, in a language and manner understood by the resident.

a. In order to provide for informed resident decisions, a nursing facility shall provide lists of licensed providers of care and services for all patients prior to discharge for whom home health care is needed.
(1) For all residents requiring home health care, the list must include all licensed home health care providers that request to be listed and any branch offices, including addresses and telephone numbers, that serve the area in which the resident resides.
(2) The nursing facility shall disclose to the resident any direct or indirect financial interest which the nursing facility has in the home health care provider.
b. For all residents transferring to another nursing facility, a list must be provided of all
nursing facilities that request to be listed that serve the area in which the resident resides or wishes to reside.
c. The reason for the transfer or discharge, including events which are the basis for such action.
d. The effective date of the transfer or discharge.
e. The location to which the resident is transferred or discharged.
f. Notice of the resident’s right to appeal the transfer or discharge as set forth in the Maine Medical Assistance Manual.
g. The location to which the resident is transferred or discharged.
h. Notice of the resident’s right to appeal the transfer or discharge as set forth in the Maine Medical Assistance Manual.
i. The mailing address and telephone number of the Long Term Care Ombudsman Program.
j. In the case of residents with developmental disabilities or mental illness, the mailing address and telephone number of the Office of Advocate, Department of Mental Health, Mental Retardation and Substance Abuse Services.
k. The resident’s right to be represented by himself or herself or by legal counsel, a relative, friend or other spokesman.

10.Q.5. Timing of the Notice
Except when specified in Chapter 10.Q.2.c., the notice of transfer or discharge must be made by the facility at least
a. Thirty (30) days before the resident is transferred or discharged.
b. As soon as practicable before transfer or discharge when:
   1. The safety and/or health of individuals in the facility would be endangered.
   2. The resident’s health improves sufficiently to allow a more immediate transfer or discharge.
   3. An immediate transfer or discharge is required by the resident’s urgent medical needs, or
   4. A resident has not resided in the facility for thirty (30) days.

10.Q.6. Appeal of Transfer or Discharge
The resident has the right to appeal a transfer or discharge to the Administrative Hearings Unit of the Department.

10.Q.7. Transfer or Discharge Orientation
The resident has the right to receive sufficient preparation and orientation to ensure safe and orderly transfer or discharge from the facility. This shall be documented in the resident record.

19.E. Readmissions
When a facility readmits a resident within one month, the resident’s clinical record must contain the following documentation:
New physician orders;
Updated physical exam;
A comprehensive assessment; and
A current note by all appropriate professionals.

19.E.2. For readmission after more than one month of discharge, a new record must be completed.
19.F. Transfers and Discharges
19.F.1. For transfers within a facility with distinct parts, the current record may be continued.
19.F.2. Before a facility transfers or discharges a resident from one facility to another facility, institution or agency, the facility must prepare a referral form. The referral form is forwarded at the time a resident is transferred. A copy is to be retained in the resident’s record. To ensure the optimal continuity of care, the referral form shall contain an appropriate summary of information about the discharged resident.

23.B. Alzheimer’s/Dementia Care Unit Program Disclosure
...23.B.2. Disclosure Content
The disclosure must explain the additional care provided in the Alzheimer’s/Dementia Care Unit and include, at a minimum:
...b. The process and criteria for placement in, or transfer or discharge from the program;

23.C.3. Admission and Discharge [Alzheimer’s/Dementia Care Unit]
Facilities with Alzheimer’s/Dementia Care Units shall have a written policy of preadmission screening, admission and discharge procedures. Admission criteria shall require, at a minimum, a physician’s diagnosis of Alzheimer’s Disease or other dementia. The policy shall include criteria for moving residents from within the facility, into or out of the unit. When moving a resident within the facility, or transferring a resident to another facility or placement, the facility shall take into account the resident’s welfare. When a resident is moved into or out of the unit from within the facility, measures shall be taken by the facility to minimize confusion and stress resulting from the move. For those persons undiagnosed upon admission, but exhibiting signs and symptoms of dementia, the facility shall be required to have a diagnostic workup completed within forty-five (45) days following admission. The admission policy shall include criteria for moving residents from within the facility, into or out of the unit.
10.07.02.08 Admission and Discharge.

E. Notification of Responsible Persons When Patient Moves. The administrator or the administrator’s designee shall notify the private or public agency or relative responsible for the patient when the patient is transferred from the facility for any reason or at time of death. The attending physician shall also be notified.

10.07.02.09 Resident Care Policies.

A. Written Policies. Comprehensive care facilities and extended care facilities shall develop written policies, consistent with these regulations, to govern the nursing care and related medical or other services they provide covering the following:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility, or those who are required to transfer to another level of care. The facility’s admission policy shall include a statement as to whether or not medical assistance patients will be admitted and if admitted, under what circumstances.

10.07.02.14-1 Special Care Units — General.

C. The facility shall obtain Departmental approval of the following pertaining to the special care unit:

(a) The transfer or referral of residents who require services that are not provided by the special care unit.

10.07.02.47 Relocation of Residents.

A. The facility shall develop and implement a written plan to provide for the smooth and orderly transfer of residents if the facility closes.

B. The plan for relocation shall include:

1. A description of how residents, families, or guardians will be notified and by whom;
2. Sample letters and other documents that will be used during a closure;
3. Procedures for notifying Medicaid and other payment sources;
4. Procedures for notifying the Office of Health Care Quality; and
5. A mechanism to ensure the safe and orderly transfer of residents that takes into account:
   (a) Roommates, medical care, religious affiliation, geographical location and payer source;
   (b) Proper assessment and identification of any special needs;
   (c) Transfer of medical information and records; and
   (d) Transfer of personal property.

10.07.09.10 Resident Transfers and Discharges.

A. A nursing facility may not involuntarily transfer or discharge a resident from the nursing facility unless the:
(1) Transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the nursing facility;
(2) Transfer or discharge is appropriate because the resident’s health has improved sufficiently so that the resident no longer needs the health care or services provided by the nursing facility;
(3) Resident’s presence endangers the health or safety of other individuals in the nursing facility;
(4) Resident has failed, after reasonable and appropriate notice, to pay, or to have paid under third-party payers, for a stay at the nursing facility; or
(5) Nursing facility ceases to operate or, in the case of a resident who receives Medicare or Medicaid services, when the nursing facility has been decertified or has withdrawn from the Medicare or Medicaid Program.

B. A resident has a right to request a hearing on the proposed transfer or discharge, except when the transfer or discharge is being taken pursuant to §A(5) of this regulation.

C. Notice.

(1) Transfer and Discharge. Except in emergency situations such as a hospitalization, or if the resident has not resided in the facility for 30 days, the nursing facility shall notify the resident, representative, or interested family member, the State Long-Term Care Ombudsman, and the Department at least:
(a) 30 days before any proposed transfer or discharge if the nursing facility is not part of a continuing care retirement community as defined in Article 70B, Annotated Code of Maryland; or
(b) 60 days before any proposed transfer or discharge if the nursing facility is part of a continuing care retirement community.

(2) Emergency Transfers, Discharges, and Relocations. In an emergency situation, a nursing facility shall notify the resident, representative, or interested family member of a transfer as soon as possible.

D. Contents of Notice. The required notice to a resident under this regulation shall be on a form developed by the Department and shall include:
(1) Each reason for the proposed transfer or discharge;
(2) A statement that the resident has the right to request a hearing on a proposed transfer or discharge, and how to request a hearing pursuant to Regulation .13 of this chapter, except in the case of a discharge made pursuant to §A(5) of this regulation;
(3) The name, address, and telephone number of the State's Office on Aging and local office on aging long-term care ombudsman;
(4) The right of a resident to consult with any lawyer the resident chooses;
(5) The name, address, and telephone number of the Legal Aid Bureau, The Older American Act Senior Legal Assistance Programs, and other agencies that may provide assistance to individuals who need legal counsel;
(6) For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals;
(7) For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals;

(8) The effective date of the proposed transfer or discharge which, except as set forth in §C of this regulation, is at least 30 days after receiving the notice and at least 60 days after receipt of the notice if the nursing facility is part of a continuing care retirement center; and

(9) The resident’s rights concerning discharge, as set forth in Regulation .11 of this chapter.

E. Documentation.

(1) In the event of a discharge or transfer of a resident, a nursing facility shall ensure that the following appears in the resident record:

(a) The circumstances surrounding the discharge or transfer, including interventions initiated by the facility before proposing the discharge;

(b) The notice described in C and D of this regulation; and

(c) If applicable, any express consent given by the resident or, when applicable, the resident’s representative.

(2) When a resident is transferred or discharged pursuant to §A(1) and (2) of this regulation, the resident’s physician shall document in the resident’s clinical records the reason or reasons why the transfer or discharge is necessary.

(3) When a resident is transferred or discharged pursuant to §A(3) of this regulation, a physician shall document in the resident’s clinical records the reason or reasons why the transfer or discharge is necessary.

10.07.09.11 Involuntary Discharge or Transfer of a Resident.

A. In addition to the provisions of Regulation .10 of this chapter, a facility may not involuntarily discharge or transfer a resident unless, within 48 hours before the discharge or transfer, the facility has:

(1) Provided or obtained:

(a) A comprehensive medical assessment and evaluation of the resident, including a physical examination, that is documented in the resident’s medical record,

(b) A post-discharge plan of care for the resident that is developed, if possible, with the participation of the resident’s representative, and

(c) Written documentation from the resident’s attending physician indicating that the transfer or discharge is in accordance with the post-discharge plan of care and is not contraindicated by the resident’s medical condition; and

(2) Provided information to the resident concerning the resident’s rights to make decisions concerning health care, including the right to:

(a) Accept or refuse medical treatment,

(b) Make an advance directive, including the right to make a living will and the right to appoint an agent to make health care decisions, and

(c) Revoke an advance directive.

B. With the exception of residents of a certified continuing care facility as set forth in §D of this regulation, at the time of transfer or discharge, the facility shall provide the resident and, when appropriate, the representative or interested family member with:
(1) A written statement of the medical assessment and evaluation and post-discharge plan of care required under §A of this regulation;
(2) A written statement itemizing the medications currently being taken by the resident;
(3) To the extent permitted under federal and State law, at least a 3-day supply of the medications currently being taken by the resident;
(4) Information necessary to assist the resident or the resident’s representative in obtaining additional prescriptions for necessary medication through consultation with the resident’s attending physician; and
(5) A written statement containing the date, time, method, mode, and destination of the resident’s discharge.
C. A facility may not discharge or transfer a resident:
(1) Unless the resident or appropriate representative consented in writing to the discharge or transfer; or
(2) Except when the discharge or transfer:
(a) Is in accordance with a post-discharge plan of care developed under §A of this regulation;
(b) Is to a safe and secure environment where the resident will be under the care of a:
(i) Licensed, certified, or registered care provider, or
(ii) Person who has agreed in writing to provide a safe and secure environment.
D. A continuing care facility certified under Article 70B, Annotated Code of Maryland, is not subject to §B of this regulation if the:
(1) Facility transfers a resident to a lesser level of care within the same facility in accordance with a contract between the facility and the resident; and
(2) Transfer is approved by the resident’s attending physician.
E. If the requirements of A-----D of this regulation have been met, the resident’s representative, in conjunction with the facility, shall cooperate and assist in the resident’s discharge planning, including:
(1) Contacting, cooperating with, and assisting other health care facilities considering admitting the resident; and
(2) Cooperating with government agencies, including applying for Medical Assistance for the resident.
F. If requested by a person during the process of transferring or discharging a resident, or on its own initiative, the Office of the Attorney General may investigate whether an abuse of a resident’s funds contributed to the decision to transfer or discharge the resident, and may make appropriate referrals of the matter to other government agencies.
G. The Secretary may impose a civil money penalty not to exceed $10,000 for each:
(1) Violation by a facility of its obligations under this regulation and Regulation .10 of this chapter; or
(2) Willfully or grossly negligent violation by a resident’s representative of the representative’s obligations under this regulation and Regulation .10 of this chapter.
H. If a civil money penalty is imposed under §G of this regulation, the facility or representative has the right to request a hearing on the proposed civil money penalty in
accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 10.01.04.

I. A resident, resident’s representative, resident’s attorney, or the Attorney General, on behalf of a resident who believes that an involuntary discharge or transfer that violates this regulation is imminent or has taken place, may request appropriate injunctive relief from the appropriate circuit court.

10.07.09.12 Resident Relocation and Bed Hold.
A. Notification of Resident Relocation Within a Facility.
(1) Except in emergency situations or when it is documented in the resident’s record that a resident’s physical, clinical, or psychological well-being would be jeopardized, a nursing facility shall notify a resident or, when applicable, the resident’s representative or interested family member, if available, in writing at least 30 days before the resident is relocated within a facility or to a different part of a facility, unless the resident or, if the resident is incapacitated, the resident’s legally authorized representative, agrees to the relocation and this is documented in the resident’s record.
(2) Under the limited conditions set forth in §A(1) of this regulation where 30-days notice cannot be provided in advance of a relocation, the facility shall document that it has provided notice of the relocation as soon as practicable.
(3) When a resident is relocated, the facility shall elicit and make reasonable efforts to comply with the resident’s request of location and, if applicable, assignment of roommate.
B. A resident’s right to refuse a change in room assignment under §A of this regulation does not affect the resident’s eligibility or entitlement to Medicaid benefits.
C. Notice.
(1) Notice of Bed-Hold Policy at the Time of Admission. At the time of admission, a nursing facility shall provide written information to a resident or, when applicable, the resident’s representative or interested family member, describing the facility’s bed-hold policy, including the period of time during which the resident is permitted to return and resume residence in the nursing facility.
(2) Notice of Bed-Hold Policy at Time of Transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility shall provide a written notice to the resident, or when applicable, the resident’s representative or interested family member, which specifies the duration of the bed-hold policy described in §C of this regulation.
D. Permitting a Resident to Return to the Nursing Facility. When a resident’s hospitalization or therapeutic leave exceeds the bed-hold period under the State Medicaid plan, the resident has a right to be readmitted to the nursing facility immediately upon the first availability of a bed in a semiprivate room if the resident:
(1) Requires the services provided by the nursing facility; and
(2) Is eligible for Medicaid coverage for the nursing facility’s services.
E. Unless the bed hold has expired, for purposes of this regulation, transfer includes the refusal of a nursing facility to accept the return of a resident who was previously transferred from the nursing facility:
(1) Whose bed at the nursing facility was continuously reserved or required to be reserved through payment to the nursing facility from any source; or
(2) Who had an application for medical assistance pending at the time of the transfer if there is no reason to believe that the application will not be approved.

F. Transfer and Discharge Planning. In addition to the requirements of Regulation .11 of this chapter, a nursing facility shall provide, in all cases, orientation and planning to residents to ensure safe and orderly transfer of discharge from the nursing facility.

10.07.09.13 Hearings for Transfers and Discharges, and Establishment of an Escrow Account.

A. A resident may request a hearing within 30 days of receiving a notice of an intended involuntary transfer or discharge as provided in Regulation .10C of this chapter.
B. Except in an emergency or when the resident has resided in a facility for less than 30 days, after a request for a hearing has been filed, a nursing facility may not discharge or transfer the resident until:
(1) A final decision is issued after the hearing and all requirements of Regulation .11 of this chapter are met; or
(2) The resident consents to the discharge or transfer and withdraws the request for a hearing.
C. Procedure.
(1) The resident shall send a written request for a hearing to the Office of Administrative Hearings by the 30th calendar day after the resident receives the nursing facility’s notice of the proposed transfer or discharge.
(2) After receiving the written request, the Office of Administrative Hearings shall schedule a hearing.
(3) The Office of Administrative Hearings shall conduct the hearing in accordance with COMAR 10.01.04 and 28.02.01.
(4) The Department is not a party to a hearing conducted pursuant to this regulation. The parties are the nursing facility and the resident. Therefore, a hearing conducted pursuant to this regulation is not a contested case as defined in the Administrative Procedure Act, State Government Article, §10-202, Annotated Code of Maryland.

D. A facility may require that an escrow account be established when the:
(1) Basis for a resident's discharge is nonpayment; and
(2) Resident continues to reside in the facility pending a final decision.

E. If an escrow account is required under §D of this regulation, the facility shall develop a policy and procedure that is acceptable to the Department concerning the establishment and disposition of funds from the escrow account.
4.03: Non Discriminatory Access to Long-Term Care

It shall be an unfair and deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for a licensee or an administrator of a long-term care facility that is a party to a Medicaid provider agreement:

(1) to discriminate against any Medicaid recipient or person eligible or soon-to-be eligible to receive Medicaid benefits, who is seeking admission to the facility, on the basis of his/her current or anticipated source of payment;

(2) to require, directly or indirectly, any resident or applicant for admission to waive his/her rights to benefits under the Medicaid program. Examples of such impermissible conduct include, but are not limited to:

(a) requiring an applicant to agree to pay private rates for a specified period of time prior to applying for Medicaid benefits;

(b) charging, soliciting, accepting, or receiving, in addition to any amount otherwise required to be paid pursuant to the Medicaid program, any gift, money, donation, or other consideration either as a precondition of admitting or expediting the admission of a Medicaid eligible applicant to, or as requirement for a resident's continued stay in, the facility;

(3) to fail or refuse to provide an appropriate admission application form to each person, his/her legal representative or next of kin or to a third party authorized to act for the person seeking admission to a facility, immediately upon request, or, if the request is made in writing or by telephone, to mail such application form within two business days following receipt of the request therefore;

(4) to render or offer assistance in the preparation of applications or in any facet of the admission process to private pay applicants in a manner greater than that rendered or offered to Medicaid recipients;

(5) Nothing contained herein shall be construed to bar:

(a) any religious or denominational institution or organization established for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization from limiting admission to or giving preference to persons of the same religion or denomination, or from making such selection as is calculated by such organization to promote the religious principles for which it was established or is maintained, provided, however, that such admissions or preferences shall not be based on any qualified applicant's status or lack of status as a recipient or prospective recipient of Medicaid; or

(b) any organization operated for charitable purposes and within the constraints of an existing corporate charter pursuant to 26 U.S.C. § 501(c)(3), from limiting admission to or giving preference to certain qualified applicants in accordance with the provisions of said charter, provided, however, that such admissions or preferences shall not be based on any qualified applicant's status or lack of status as a recipient or prospective recipient of Medicaid.
4.04: Admission Contracts
It shall be an unfair or deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for a licensee or an administrator:

(1) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition of admission, expedited admission, or continued stay in the facility, to provide a third party guarantee of payment to the facility;

(2) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition of admission, expedited admission, or continued stay in the facility, to designate a third party to be responsible for giving authorization and consent on behalf of any resident, unless such resident has been adjudged incompetent by a court of law; however, nothing in 940 CMR 4.04(1) and (2) should be construed to require that an applicant be admitted who has no source of payment;

(3) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition of admission, expedited admission, or continued stay in the facility, to agree to waive or limit the facility's liability for loss of personal property or any injury suffered as a result of negligence on the part of the administrator or of the facility's employees or agents;

(4) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition for admission, expedited admission, or continued stay in the facility, to agree to treatment by a physician chosen by the facility or otherwise to limit the resident's right to choose his/her attending physician;

(5) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition of admission, expedited admission, or continuing stay in the facility, to purchase medications at or from a pharmacy chosen by the facility, or to otherwise limit the resident's right to select a pharmacy of his/her choice, provided that the prescription complies with all relevant regulations governing pharmacy labeling;

(6) to include, as part of the facility's admission contract, any documents printed
(a) in less than 12 point print, and
(b) other than in a language which the prospective resident understands;

(7) to require a resident or a prospective resident, his/her legal representative or next of kin, to agree, as a condition of admission, expedited admission, or continued stay in the facility, to pay attorney's fees or any other costs incurred in collecting payment from the resident;

(8) to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition of admission, expedited admission, or continued stay in the facility at any time after admission, to waive any benefit or right conferred by any statute or regulation intended to provide protection to or for residents of any long-term care facility;

(9) without limiting the provisions of 940 CMR 4.05(10), to require a resident or a prospective resident, his/her legal representative or next of kin, as a condition for admission, expedited admission, or continued stay in the facility, to provide any nonrefundable deposit.
It shall be an unfair or deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for a licensee or administrator:

(1) to fail or refuse to inform a resident, both orally and in writing, in clear and conspicuous type, in a language the resident understands, and to fail or refuse to inform his/her legal representative or next of kin at the time of admission to the facility, and at least every year thereafter during the resident's stay, of any of the following:
   (a) services available in the facility and charges for those services, including any charges for services not covered under Medicare and Medicaid or by the facility's per diem rate;
   (b) the existing basic per diem rate, applicable to the resident, charged by the licensee and all the services included in that rate;
   (c) except in the case of private residents, the services available to the resident that are covered by the Social Security Act, but that are not included in the basic per diem rate (e.g., telephone, television, personal clothing, etc.); however, such disclosures shall be made to each private resident at the time when he/she ceases to be a private resident;
(2) to fail or refuse to inform each resident, both orally and in writing, in clear and conspicuous type, in a language the resident understands, and to fail or refuse to inform his/her legal representative or next of kin when changes are made to the items and services specified in 940 CMR 4.05(1);
(3) to impose, seek to impose, or collect a charge in addition to the basic per diem rate for services included in the basic per diem rate;
(4) to charge, or collect payment from, a resident, his/her legal representative or next of kin for services covered by the Social Security Act for that resident;
(5) to fail or refuse to provide all the services included in the basic per diem rate, except those services not medically required by the resident which are included in the basic per diem rate;
(6) to charge for services not actually rendered to a resident, except that a licensee or administrator may charge for medical services included in the basic per diem rate that are not medically required by the resident during a particular billing period; or to fail to return to the resident, his/her legal representative, or, when appropriate, the resident’s estate, any advance payments made for services not rendered as a result of the resident’s death or transfer from the facility; however, the facility may require a private resident or a third party acting on his/her behalf to give two days advance notice of a voluntary transfer;
(7) to provide and charge for additional services, except for medical services required in an emergency, which are not included in the per diem rate, without prior written request for those services by the resident or his/her legal representative or next of kin;
(8) to fail or refuse to permit a resident, his/her legal representative or next of kin to receive, upon request, a reasonable explanation of the charge[s] or bill[s] for the resident’s care in the facility, regardless of the source of payment;
(9) in the case of a private resident, to increase the basic per diem rate without written notification to the resident and his/her legal representative of the higher rate; such notification shall be given not less than 60 days prior to the effective date of the higher
rate so as to insure an orderly transfer of the resident if the resident cannot afford the higher rate.

(10) to demand that any private resident pay, at or prior to his/her admission to the facility, any security deposit that is greater than the total of one month's per diem charges or to fail or refuse:
(a) to give the resident, his/her legal representative or next of kin a signed receipt indicating the amount of the security deposit, the date received, and the employee or agent of the facility who received it;
(b) to place said deposit in an interest-bearing escrow account in a bank located within the Commonwealth under such terms that place such deposit beyond the claim of creditors of the facility;
(c) to provide the resident, his/her legal representative or next of kin with the name of the bank and the account number where the security deposit is located;
(d) to preserve the security deposit intact unless the resident fails to pay for services which he/she requested, which were provided by the facility, and which remained unpaid after having been invoiced in accordance with the facility's regular procedure for two successive months; however, a licensee or administrator may apply the security deposit to outstanding charges for a resident who has spent down his/her assets and is otherwise eligible for Medicaid without invoicing for two successive months;
(e) to return said deposit, plus accrued interest, to the resident, or his/her legal representative or estate within 30 days of said resident's discharge, transfer or death, unless deductions, duly accounted for, have been made in accordance with 940 CMR 4.05(10)(e);
(f) to return said deposit, plus accrued interest, to the resident, or his/her legal representative or estate, within 30 days of receipt of notice of the resident’s eligibility for Medicaid, provided that the resident is eligible for Medicaid coverage of long-term care services.

150.003: Admissions, Transfers, and Discharges
(A) The admission, transfer and discharge of patients or residents shall be in accordance with written policies and procedures developed by each facility and acceptable to the Department.
(1) Any restrictions, priorities, or special admission criteria shall be applied equally to all potential admissions regardless of source of referral, source of payment, race, creed, ethnic origin, sex, age, or handicap. All facilities shall comply with state and federal anti-discrimination laws.
(2) Facilities shall adopt policies and procedures to assure compliance with anti discrimination [provisions of 105 CMR 150.00.
...(G) Transfer and Discharge
(1) Facilities providing Levels I, II, and III care shall enter into a written transfer agreement with one or more general hospitals that provides for the reasonable assurance of transfer and inpatient hospital care for patients whenever such transfer is medically necessary as determined by the attending physicians or physician-physician assistant
team or physician-nurse practitioner team. The agreement shall provide for the transfer of acutely ill patients to the hospital ensuring timely admission and provisions for continuity in the care and transfer of pertinent medical and other information. Every facility providing SNCFC or both shall enter into a written agreement with one or more hospitals which have an organized pediatric department.

(2) Facilities that provide Levels I, II, and III shall designate a member of the permanent or consultant staff to be responsible for transfer and discharge planning.

(3) If major changes occur in the physical or mental condition of the patient or resident so that he requires services not regularly provided by the facility, arrangements shall be made by the attending physicians or physician-physician assistant team or physician nurse practitioner team and the facility to transfer the patient or resident to a facility providing more appropriate care.

(4) If in the opinion of the facility or the Department a patient or resident poses a danger to himself or the health and welfare of other residents or staff, the attending physician or physician-physician assistant team or physician-nurse practitioner team and the Department shall be notified and arrangements made for transfer to a facility providing more appropriate care.

(5) Except in an emergency, the facility shall give at least 24 hours notice of anticipated or impending transfer to the receiving agency or institution and shall assist in making arrangements for safe transportation.

(6) No patient or resident shall be transferred or discharged without a physician’s, physician assistant’s or nurse practitioner’s order and notification to the next of kin or sponsor. The reason for transfer or discharge shall be noted on the patient’s or resident’s clinical record. If the discharge or transfer is to be ordered by a nurse practitioner or physician assistant, the nurse practitioner or physician assistant shall consult his supervising physician by telephone prior to discharging a patient to an acute facility for a non emergency situation, prior to transferring a patient to another facility, and prior to discharging a patient home. A nurse practitioner or physician assistant may discharge a patient to an acute facility in an emergency situation without prior consultation with his supervising physician only if said physician cannot be contacted immediately. Consultation shall take place thereafter without delay so as to maintain continuity of care.

(8) A health care referral form approved by the Department and other relevant information shall be sent to the receiving agency or institution. A discharge report shall be sent to the Department on forms provided by the Department.

(9) Discharge by Death.

(a) Each long-term care facility shall develop specific procedures to be followed in the event of death.

(b) A physician shall be notified immediately at the time of death. Deceased shall be pronounced dead by a physician within a reasonable time after the death and shall not be discharged from the facility until pronounced dead.

(10) All facilities providing Level I.II/III/ or IV care shall comply with the Attorney General’s regulations regarding discharges and transfers as set forth in 940 CMR 4.07.
150.004: Patient Care Policies
(A) All facilities that provide Level I, II or III care shall have current, written policies that govern the services provided in the facility:
Admission, transfer and discharge procedures

153.023: Voluntary Closure
(A) The holder of a license shall submit to the Department a Notice of Intent to close or to sell the long term care facility for other business use at least 60 days in advance of the proposed sale or closure. Such notice shall be subject to the Department’s approval and shall include a plan for appropriate notice to and relocation of long term care facility patients. Such notice shall be in addition to notification requirements established pursuant to Department of Public Welfare regulations (106 CMR) and Massachusetts General Laws regarding withdrawal from participation in the Medical Assistance Program. The notification-relocation plan shall include but not be limited to the following:
(1) consideration of the best means to notify each patient (e.g. personal notice from facility staff; written notice; or notice through next of kin) at least 45 days in advance of the patient’s relocation;
(2) psychological preparation or counseling of each patient as necessary;
(3) efforts to find appropriate alternate placements for each patient within a 25 mile radius distance of the facility and/or the patient’s family and friends. Before a facility can place a patient beyond the required distance limit, a facility must demonstrate to the Department that it has made a good faith effort to adhere to this requirement and that appropriate placement cannot be made within the 25 mile radius; and
(4) consultation with each patient and next of kin or the patient’s sponsor regarding placement options and the placement process being considered.
(B) Transfers shall take place in an orderly fashion. No more than five patients per day shall be transferred unless the facility has demonstrated to the Department that it has sufficient staff and resources for transferring a larger number of patients per day in an orderly fashion and has received approval from the Department.
(C) Copies of all appropriate medical records shall accompany all patients upon discharge.
(D) Failure to comply with the notice provisions or to implement an appropriate relocation plan, or if transfer of patients is begun prior to the 60 day notice period as specified above, may result in a finding that an emergency exists as defined in M.G.L. c. 111, § 72M and the Department may seek the appointment of a receiver. Furthermore, failure to assure appropriate notice to and relocation of all patients may result in a finding of abuse, mistreatment or neglect as defined in M.G.L. c. 111, § 72F and 105 CMR 155.000 et seq.
R 325.20112 Policy on patient rights and responsibilities.
Rule 112.
(1) A nursing home shall develop, adopt, post in a public place, distribute, and implement a policy on the rights and responsibilities of patients in accordance with the requirements of sections 20201, 20202, and 20203 of the code.
(2) For purposes of section 20201(2)(a) of the code, denial of care on the basis of source of payment shall include, when a nursing home or nursing care facility is certified for medicare or medicaid, discrimination in favor of or against a beneficiary of 1 of those programs by giving unequal or priority preference to patients with other payment sources.

R 325.20116 Involuntary transfers.
Rule 116.
(1) A patient shall not be involuntarily transferred or discharged, except as provided by section 21773 of the code and these rules.
(2) For purposes of section 21773 of the code, all of the following provisions apply:
   (a) "Welfare of nursing home employees" means the physical safety of nursing home employees.
   (b) The 21-day notice period shall begin on the day the patient or patient’s guardian actually receives the written notice.
   (c) The home shall maintain a record of efforts to collect payment where nonpayment is the basis for involuntary transfer or discharge and shall be capable of documenting the nonpayment and efforts to collect payment upon request by the department.
   (d) The written summary of the discussion required by section 21773(8) of the code shall be available to each person participating in the discussion at the time it is made part of the patient’s clinical record.
   (e) The home and the department shall assure that the counseling mandated in section 21773(9) of the code is provided.
   (f) The department shall monitor counseling of patients who are involuntarily transferred or discharged utilizing appropriate members of the department staff. These same members of the department staff, as part of the monitoring activity, shall be responsible for approving a facility plan to effectuate the orderly and safe transfer or discharge of a patient.
   (g) It shall be the objective of a transfer or discharge plan to assure all of the following:
      (i) That the proposed new placement is appropriate for the patient’s needs and considers the recommendations of the attending physician.
      (ii) That the optimum placement is made, insofar as possible, the first time to avoid the necessity for additional transfers at a later date.
      (iii) That the patient or the next of kin, guardian, designated representative, agency, or organization responsible for placing and maintaining the patient in a facility is involved in the choice of facility to which the patient is to be transferred.
(iv) That at least 1 counseling session shall be provided for each involuntarily transferred or discharged patient.

(v) That the patient shall have the opportunity to visit the proposed new placement at least once. The visit to the new site may only be waived if the attending physician documents in the patient’s clinical record that such a visit is medically contraindicated or if the patient, guardian, or patient representative determines, in writing, that it is not in the patient’s best interest. In such instances, the patient shall receive appropriate information, such as floor plans, brochures, pictures, and other documents, to familiarize the patient with the new facility.

(vi) That the department assures that a family member or other appropriate person is available to accompany the patient on the involuntary transfer or discharge from the home to a new placement, unless the patient requests otherwise.

(h) That the department assures that counseling in the new placement is provided following transfer or discharge and that counseling occurs within 72 hours following the transfer or discharge.

(3) For purposes of section 21774 of the code, both of the following provisions apply:

(a) Submission of a hearing request form shall be prerequisite to a patient’s appeal of an involuntary transfer or discharge, and any written communication from the patient or the patient’s representative to the department shall be accepted as a request for a hearing on the matter if the department has reason to believe the communication is intended to dispute the proposed transfer or discharge.

(b) Hearings shall be conducted informally by a representative of the department at the facility in which the patient is located. The patient and home, or their representative, may state their position and present documents and other proofs at the hearing. Following the hearing, the department shall issue its decision and reasons therefor in writing, which decision shall be final and not subject to further administrative appeal.

(4) This rule shall not apply when a facility discontinues, or is required to discontinue, operations.

R 325.20401 Administrative policy manual.
Rule 401.
(1) The home shall make immediately available for on-site inspection by the department an administrative policy manual which shall include, at a minimum, all of the following:

(a) Admission policies, including a copy of the contract form used by the home when admitting patients...

R 325.20403 Admission policies.
Rule 403.
(1) A home shall have a written admission policy that is available upon request, before and following the patient’s admission, to all of the following:

(a) The patient.

(b) Attending physician.

(c) Next of kin or member of the family.
(d) Guardian.
(e) Designated representative.
(f) Person or agency responsible for placing and maintaining the patient in the home.
(g) Employees of the facility.
(h) The public.

R 325.20406 Patient bill of rights provisions.
Rule 406. To protect the rights of patients under section 20201 of the code and other relevant provisions of the code, the following requirements shall be complied with:
...(b) When a patient refuses treatment, a determination shall be made by the attending physician as to whether or not the patient’s refusal of treatment prevents the facility from providing appropriate care according to ethical and professional standards. The physician’s determination in this matter shall be in writing and shall be made a part of the patient’s clinical record. When a relationship between a nursing home and patient is terminated in conjunction with the physician’s determination and the action results in an involuntary transfer or discharge, such transfer or discharge shall be handled in accordance with the provisions of sections 21773 and 21774 of the code.

R 325.20407 Enforcement of nondiscrimination on the basis of source of payment for care.
Rule 407.
(1) When a nursing home is enrolled as a provider in the medicare and medicaid programs and holds a valid provider agreement with the designated federal or state agency, discrimination with respect to source of payment for purposes of sections 21799c(3) and 20201(2)(a) of the code includes action to require a cash payment before admission from any person determined to be eligible to receive medicare or medicaid, to require cash payment instead of medicare or medicaid payment authorized by the designated federal or state agency for any period of time, or to require any unauthorized supplemental cash payment in addition to medicare or medicaid payment for care.
(2) A home which violates a patient’s rights with respect to the matters described in subrule (1) of this rule shall, in addition to any civil penalties assessed under the code, repay any and all cash payments improperly required of the patient, the patient’s family, or designated representative, with interest, at the prime interest rate on the day the violation is identified, to be added and compounded for the period the cash payment has been inappropriately in the home’s possession.

R 325.20502 Policies and procedures for care.
Rule 502.
(1) The home shall have a written policy governing the nursing care and other services provided to a patient, which shall be implemented through written procedures which are maintained and available to personnel at all times. All personnel shall be oriented to the facility and their responsibilities.
...(5) The policy shall govern, at a minimum, all of the following:
(a) Admission, discharge, and transfer of patients...
R 333.20178 Nursing home, home for the aged, or county medical care facility; description of services to patients or residents with Alzheimer's disease; contents; “represents to the public” defined.
Sec. 20178.
(1) Beginning not more than 90 days after the effective date of the amendatory act that added this section, a health facility or agency that is a nursing home, home for the aged, or county medical care facility that represents to the public that it provides inpatient care or services or residential care or services, or both, to persons with Alzheimer's disease or a related condition shall provide to each prospective patient, resident, or surrogate decision maker a written description of the services provided by the health facility or agency to patients or residents with Alzheimer's disease or a related condition. A written description shall include, but not be limited to, all of the following:
...(b) The process and criteria for placement in or transfer or discharge from a program for patients or residents with Alzheimer's disease or a related condition...

R 333.20192 Do-not-resuscitate order; execution not required.
Sec. 20192. A health facility or agency shall not require the execution of a do-not-resuscitate order under the Michigan do-not-resuscitate procedure act as a condition for admission or receipt of services.

R 333.20201 Policy describing rights and responsibilities of patients or residents; adoption; posting and distribution; contents; additional requirements; discharging, harassing, retaliating, or discriminating against patient exercising protected right; exercise of rights by patient's representative; informing patient or resident of policy; designation of person to exercise rights and responsibilities; additional patients' rights; definitions.
...(2) The policy describing the rights and responsibilities of patients or residents required under subsection(1) shall include, as a minimum, all of the following:
(a) A patient or resident shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or source of payment...
(3) The following additional requirements for the policy described in subsection (2) apply to licensees under parts 213 and 217:
(a) The policy shall be provided to each nursing home patient or home for the aged resident upon admission, and the staff of the facility shall be trained and involved in the implementation of the policy.
...(d) A nursing home patient or home for the aged resident is entitled to the opportunity to participate in the planning of his or her medical treatment. A nursing home patient shall be fully informed by the attending physician of the patient's medical condition unless medically contraindicated as documented by a physician in the medical record. Each nursing home patient shall be afforded the opportunity to discharge himself or herself from the nursing home.
(e) A home for the aged resident may be transferred or discharged only for medical reasons, for his or her welfare or that of other residents, or for nonpayment of his or her stay, except as provided by title XVIII or title XIX. A nursing home patient may be transferred or discharged only as provided in sections 21773 to 21777. A nursing home patient or home for the aged resident is entitled to be given reasonable advance notice to ensure orderly transfer or discharge. Those actions shall be documented in the medical record.

(f) A nursing home patient or home for the aged resident is entitled to be fully informed before or at the time of admission and during stay of services available in the facility, and of the related charges including any charges for services not covered under title XVIII, or not covered by the facility’s basic per diem rate. The statement of services provided by the facility shall be in writing and shall include those required to be offered on an as-needed basis.

...(6) A nursing home patient or home for the aged resident is entitled to be fully informed, as evidenced by the patient’s or resident’s written acknowledgment, before or at the time of admission and during stay, of the policy required by this section. The policy shall provide that if a patient or resident is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in this section shall be exercised by a person designated by the patient or resident. The health facility or agency shall provide proper forms for the patient or resident to provide for the designation of this person at the time of admission.

333.21741 Rules.

...(3) In addition to the rules prescribed in section 20171, rules for nursing homes shall include the establishment of standards relating to:

...(b) Discharges and transfers.

333.21765a Certain admission conditions prohibited; enforcement of contract provisions or agreements in conflict with subsections (1) and (2).

Sec. 21765a.

(1) A nursing home shall not require an applicant, as a condition of admission, to waive his or her right to benefits under medicare or medicaid, to give oral or written assurance that the applicant is not eligible for medicare or medicaid, or to give oral or written assurance that the applicant will not apply for benefits under medicare or medicaid.

(2) A nursing home shall not require any of the following as a condition of an applicant’s admission or a patient’s continued residency at that nursing home:

(a) That an applicant or patient remain a private pay patient for a specified period of time before applying for medicaid.

(b) That a person pay on behalf of an applicant or patient the private pay rate for a specified period of time before the applicant or patient applies for medicaid.

(c) That an applicant, patient, or other person make a gift or donation on behalf of that applicant or patient.
(3) As of the effective date of this section, a contract provision or agreement in conflict with subsection (1) or (2), whether made before, on, or after the effective date of this section, is unenforceable.

(4) Not later than 30 days after the effective date of this section, a nursing home that participates in medicaid shall provide written notice to each private pay patient subject to a contract provision or agreement in conflict with subsection (1) or (2) that the contract provision or agreement is no longer a bar to the patient applying for medicaid.

333.21766 Written contract.
Sec. 21766.
...(2) A nursing home shall not discharge or transfer a patient at the expiration of the term of a contract, except as provided in section 21773.

333.21773 Involuntary transfer or discharge of patient; notice; form; request for hearing; copy of notice; commencement of notice period; nonpayment; redemption; explanation and discussion; counseling services; prohibition; notice of nonparticipation in state plan for Medicaid funding.
Sec. 21773.
(1) A nursing home shall not involuntarily transfer or discharge a patient except for 1 or more of the following purposes:
(a) Medical reasons.
(b) The patient's welfare.
(c) The welfare of other patients or nursing home employees.
(d) Nonpayment for the patient's stay, except as prohibited by title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(2) A licensed nursing home shall provide written notice at least 30 days before a patient is involuntarily transferred or discharged. The 30-day requirement of this subsection does not apply in any of the following instances:
(a) If an emergency transfer or discharge is mandated by the patient's health care needs and is in accord with the written orders and medical justification of the attending physician.
(b) If the transfer or discharge is mandated by the physical safety of other patients and nursing home employees as documented in the clinical record.
(c) If the transfer or discharge is subsequently agreed to by the patient or the patient's legal guardian, and notification is given to the next of kin and the person or agency responsible for the patient's placement, maintenance, and care in the nursing home.

(3) The notice required by subsection (2) shall be on a form prescribed by the department of consumer and industry services and shall contain all of the following:
(a) The stated reason for the proposed transfer.
(b) The effective date of the proposed transfer.
(c) A statement in not less than 12-point type that reads: "You have a right to appeal the nursing home's decision to transfer you. If you think you should not have to leave this facility, you may file a request for a hearing with the department of consumer and industry
services within 10 days after receiving this notice. If you request a hearing, it will be held at least 7 days after your request, and you will not be transferred during that time. If you lose the hearing, you will not be transferred until at least 30 days after you received the original notice of the discharge or transfer. A form to appeal the nursing home’s decision and to request a hearing is attached. If you have any questions, call the department of consumer and industry services at the number listed below.”

(d) A hearing request form, together with a postage paid, preaddressed envelope to the department of consumer and industry services.

(e) The name, address, and telephone number of the responsible official in the department of consumer and industry services.

(4) A request for a hearing made under subsection (3) shall stay a transfer pending a hearing or appeal decision.

(5) A copy of the notice required by subsection (3) shall be placed in the patient’s clinical record and a copy shall be transmitted to the department of consumer and industry services, the patient, the patient’s next of kin, patient’s representative, or legal guardian, and the person or agency responsible for the patient’s placement, maintenance, and care in the nursing home.

(6) If the basis for an involuntary transfer or discharge is the result of a negative action by the department of community health with respect to a Medicaid client and a hearing request is filed with that department, the 21-day written notice period of subsection (2) does not begin until a final decision in the matter is rendered by the department of community health or a court of competent jurisdiction and notice of that final decision is received by the patient and the nursing home.

(7) If nonpayment is the basis for involuntary transfer or discharge, the patient may redeem up to the date that the discharge or transfer is to be made and then may remain in the nursing home.

(8) The nursing home administrator or other appropriate nursing home employee designated by the nursing home administrator shall discuss an involuntary transfer or discharge with the patient, the patient’s next of kin or legal guardian, and person or agency responsible for the patient’s placement, maintenance, and care in the nursing home. The discussion shall include an explanation of the reason for the involuntary transfer or discharge. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the patient’s clinical record.

(9) The nursing home shall provide the patient with counseling services before the involuntary transfer or discharge and the department shall assure that counseling services are available after the involuntary transfer or discharge to minimize the possible adverse effect of the involuntary transfer or discharge.

(10) If a nursing home voluntarily withdraws from participation in the state plan for Medicaid funding, but continues to provide services, the nursing home shall not, except as provided in subsection (1), involuntarily transfer or discharge a patient, whether or not the patient is eligible for Medicaid benefits, who resided in the nursing home on the day before the effective date of the nursing home’s withdrawal from participation. The prohibition
against transfer or discharge imposed by this subsection continues unless the patient falls within 1 or more of the exceptions described in subsection (1).

(11) If an individual becomes a patient of a nursing home after the date the nursing home withdraws from participation in the state plan for Medicaid funding, the nursing home, on or before the date the individual signs a contract with the nursing home, shall provide to the patient oral and written notice of both of the following:
(a) That the nursing home is not participating in the state plan for Medicaid funding.
(b) That the facility may involuntarily transfer or discharge the patient for nonpayment under subsection (1)(d) even if the patient is eligible for Medicaid benefits.

333.21774 Involuntary transfer or discharge; request for hearing; informal hearing; decision; burden of proof; procedures; time for leaving facility.
Sec. 21774.
(1) A patient subject to involuntary transfer or discharge from a licensed nursing home shall have the opportunity to file a request for a hearing with the department within 10 days following receipt of the written notice of the involuntary transfer or discharge by the nursing home.
(2) The department of public health, when the basis for involuntary transfer or discharge is other than a negative action by the department of social services with respect to a Medicaid client, shall hold an informal hearing in the matter at the patient’s facility not sooner than 7 days after a hearing request is filed, and render a decision in the matter within 14 days after the filing of the hearing request.
(3) In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge. The hearing shall be in accordance with fair hearing procedures prescribed by rule.
(4) If the department determines that a transfer or discharge is authorized under section 21773, the patient shall not be required to leave the facility before the thirty-fourth day following receipt of the notice required under section 21773(2), or the tenth day following receipt of the department’s decision, whichever is later.

333.21775 Continuation of Medicaid funding during appeal, transfer, or discharge period.
Sec. 21775. The department of social services shall continue Medicaid funding during the appeal, transfer, or discharge period as provided in section 21774 for those Medicaid patients affected by section 21773.

333.21776 Transfer or discharge of patient; plan; counseling services.
Sec. 21776. The licensee, with the approval of the department, shall develop a plan to effectuate the orderly and safe transfer or discharge of a patient. The patient and the patient’s family or representative shall be consulted in choosing another facility. The patient shall receive counseling services before the move to minimize the adverse effects of transfer trauma. The department shall assure that counseling will be available if the patient requires counseling after transfer or discharge.
333.21777 Holding bed open during temporary absence of patient; option; title 19 patients. Sec. 21777.
(1) If a patient is temporarily absent from a nursing home for emergency medical treatment, the nursing home shall hold the bed open for 10 days for that patient in the patient's absence, if there is a reasonable expectation that the patient will return within that period of time and the nursing home receives payment for each day during the absent period.
(2) If a patient is temporarily absent from a nursing home for therapeutic reasons as approved by a physician, the nursing home shall hold the bed open for 18 days, if there is a reasonable expectation that the patient will return within that period of time and the nursing home receives payment for each day during the absent period. Temporary absences for therapeutic reasons are limited to 18 days per year.
(3) When a patient's absence is longer than specified under subsection (1) or (2), or both, the patient has the option to return to the nursing home for the next available bed.
(4) For title 19 patients, the department of community health shall continue funding for the temporary absence as provided under subsections (1) and (2) if the nursing home is at 98% or more occupancy except for any bed being held open under subsection (1) or (2).

333.21785 Discontinuance of operation; notice; relocation of patients. Sec. 21785.
(1) If a nursing home proposes to discontinue operation, the licensee shall notify the department of public health and the department of social services of the impending discontinuance of operation. The licensee shall notify the patient and the patient's next of kin, patient's representative, and the party executing the contract under section 21766 of the proposed date of the discontinuance. The notice shall be sufficient to make suitable arrangements for the transfer and care of the patient.
(2) The notices required by this section shall be given not less than 30 days before the discontinuance.
(3) The licensee and the department of social services shall be responsible for securing a suitable relocation of a patient who does not have a relative or legal representative to assist in his or her relocation before the discontinuance of operation. The licensee and the department of social services shall keep the department of public health informed of their efforts and activities in carrying out this responsibility. The department of social services shall make available to the licensee and the department of public health assistance necessary to assure the effectiveness of efforts to secure a suitable relocation.

333.21786 Emergency closing of nursing home. Sec. 21786. In the case of an emergency closing of a nursing home, or when it is determined by the department that a nursing home is suddenly no longer able to provide adequate patient care, the department shall do both of the following:
(a) Assure that the department of social services has been notified to make arrangements for the orderly and safe discharge and transfer of the patients to another facility.
(b) Place a representative of the department in a facility on a daily basis to do each of the following:
(i) Monitor the discharge of patients to other facilities or locations.
(ii) Ensure that the rights of patients are protected.
(iii) Discuss the discharge and relocation with each patient and next of kin or legal
      guardian, person, or agency responsible for the patient’s placement, maintenance, and care
      in the facility. The content of the explanation and discussion shall be summarized in writing
      and shall be made a part of the patient’s clinical record.

MINNESOTA

MINNESOTA RULE 4658
4658.0085 NOTIFICATION OF CHANGE IN RESIDENT HEALTH STATUS.
A nursing home must develop and implement policies to guide staff decisions to consult
physicians, physician assistants, and nurse practitioners, and if known, notify the resident’s
legal representative or an interested family member of a resident’s acute illness, serious
accident, or death. At a minimum, the director of nursing services, and the medical director
or an attending physician must be involved in the development of these policies. The
policies must have criteria which address at least the appropriate notification times for:
...D. a decision to transfer or discharge the resident from the nursing home; or
E. expected and unexpected resident deaths.
STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 20 SR 303 Current as of 01/19/05

4658.0135 POLICY RECORDS.
Subp. 2. Admission policies. Admission policies must be made available upon request to
prospective residents, family members, legal representatives, and designated
representatives.
STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 20 SR 303 Current as of 01/19/05

4658.0145 AGREEMENT AS TO RATES AND CHARGES.
Subpart 1. Written agreement. At the time of admission, there must be a written
agreement between the nursing home and the resident, the resident’s agent, or the
resident’s guardian, which includes:
A. The base rate and what services and items are provided by the nursing home and are
   included in that base rate;
B. Extra charges for care or services;
C. Obligations concerning payment of the rates and charges; and
D. The refund policy of the home.
All residents’ bills must be itemized for services rendered.
Subp. 2. Notification of rates and charges. Annually, and when there is any change, a
nursing home must inform the resident of services available in the nursing home and of
charges for those services, including any charges for services not covered under Medicare
or Medicaid or by the nursing home’s per diem rate. A nursing home must inform the
resident or the resident’s agent or guardian before any change in the charges for services
not covered under Medicare or Medicaid or by the nursing home’s per diem rate.
STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 20 SR 303
Current as of 01/19/05

4658.0465 TRANSFER, DISCHARGE, AND DEATH.
Subpart 1. Discharge summary at death. When a resident dies, the nursing home must
compile a discharge summary that includes the date, time, and cause of death.
Subp. 2. Other discharge. When a resident is transferred or discharged for any reason
other than death, the nursing home must compile a discharge summary that includes the
date and time of transfer or discharge, reason for transfer or discharge, transfer or
discharge diagnoses, and condition.
Subp. 3. Transfer or discharge to another facility. When a resident is transferred or
discharged to another health care facility or program, the nursing home must send the
discharge summary compiled according to subpart 2, and pertinent information about the
resident’s immediate care and sufficient information to ensure continuity of care prior to
or at the time of the transfer or discharge to the other health care facility or program.
Additional information not necessary for the resident’s immediate care may be sent to the
new health care facility or program at the time of or after the transfer or discharge.
STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 20 SR 303 Current as of 01/19/05

4658.2020 STATEMENT OF OPERATIONS.
A nursing home must develop and implement a statement of operations for a secured unit,
which must include, at a minimum:
...C. a list of the admission and discharge criteria;
STAT AUTH: MS s 144A.04; 144A.08
HIST: 21 SR 196 Current as of 01/19/05
4658.2030 SPECIALIZED CARE UNIT.
Subp. 2. Statement of operations. A nursing home must develop and implement a statement
of operations for the specialized care unit, which must include, at a minimum:
...C. admission and discharge criteria for the unit.
STAT AUTH: MS s 144A.04; 144A.08
HIST: 21 SR 196 Current as of 01/19/05
Minnesota Statutes
144.651 HEALTH CARE BILL OF RIGHTS.
Subdivision 1. Legislative intent. It is the intent of the legislature and the purpose of this section to promote the interests and well being of the patients and residents of health care facilities. No health care facility may require a patient or resident to waive these rights as a condition of admission to the facility. Any guardian or conservator of a patient or resident or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on behalf of a patient or resident. An interested person may also seek enforcement of these rights on behalf of a patient or resident who has a guardian or conservator through administrative agencies or in district court having jurisdiction over guardianships and conservatorships. Pending the outcome of an enforcement proceeding the health care facility may, in good faith, comply with the instructions of a guardian or conservator. It is the intent of this section that every patient’s civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible exercise of these rights.

...Subd. 17. Disclosure of services available. Patients and residents shall be informed, prior to or at the time of admission and during their stay, of services which are included in the facility’s basic per diem or daily room rate and that other services are available at additional charges. Facilities shall make every effort to assist patients and residents in obtaining information regarding whether the Medicare or medical assistance program will pay for any or all of the aforementioned services.

...Subd. 29. Transfers and discharges. Residents shall not be arbitrarily transferred or discharged. Residents must be notified, in writing, of the proposed discharge or transfer and its justification no later than 30 days before discharge from the facility and seven days before transfer to another room within the facility. This notice shall include the resident’s right to contest the proposed action, with the address and telephone number of the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12). The resident, informed of this right, may choose to relocate before the notice period ends. The notice period may be shortened in situations outside the facility’s control, such as a determination by utilization review, the accommodation of newly-admitted residents, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment for stay unless prohibited by the public program or programs paying for the resident's care, as documented in the medical record. Facilities shall make a reasonable effort to accommodate new residents without disrupting room assignments.
CHAPTER 144A
NURSING HOMES AND HOME CARE

144A.135 TRANSFER AND DISCHARGE APPEALS.
a. The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.
b. Until federal regulations are adopted under sections 1819(f)(3) and 1919(f)(3) of the Social Security Act that govern appeals of the discharges or transfers of residents from nursing homes and boarding care homes certified for participation in Medicare or medical assistance, the commissioner shall provide hearings under sections 14.57 to 14.62 and the rules adopted by the office of administrative hearings governing contested cases. To appeal the discharge or transfer, or notification of an intended discharge or transfer, a resident or the resident's representative must request a hearing in writing no later than 30 days after receiving written notice, which conforms to state and federal law, of the intended discharge or transfer.
c. Hearings under this section shall be held no later than 14 days after receipt of the request for hearing, unless impractical to do so or unless the parties agree otherwise. Hearings shall be held in the facility in which the resident resides, unless impractical to do so or unless the parties agree otherwise.
d. A resident who timely appeals a notice of discharge or transfer, and who resides in a certified nursing home or boarding care home, may not be discharged or transferred by the nursing home or boarding care home until resolution of the appeal. The commissioner can order the facility to readmit the resident if the discharge or transfer was in violation of state or federal law. If the resident is required to be hospitalized for medical necessity before resolution of the appeal, the facility shall readmit the resident unless the resident's attending physician documents, in writing, why the resident's specific health care needs cannot be met in the facility.
e. The commissioner and office of administrative hearings shall conduct the hearings in compliance with the federal regulations described in paragraph (b), when adopted.
f. Nothing in this section limits the right of a resident or the resident's representative to request or receive assistance from the office of ombudsman for older Minnesotans of the office of health facility complaints with respect to an intended discharge or transfer.

144A.161 NURSING HOME AND BOARDING CARE HOME RESIDENT
Subd. 1a. Scope. Where a facility is undertaking closure, curtailment, reduction, or change in operations, or where a housing with services unit registered under chapter 144D is closed because the space that it occupies is being replaced by a nursing facility bed that is being reactivated from layaway status, the facility and the county social services agency must comply with the requirements of this section.
Subd. 2. Initial notice from licensee.
...(c) After providing written notice under this section, and prior to admission, the facility must fully inform prospective residents and their families of the intent to close or curtail, reduce, or change operations, and of the relocation plan.

Subd. 4. Responsibilities of licensee for resident relocations. The licensee shall provide for the safe, orderly, and appropriate relocation of residents. The licensee and facility staff shall cooperate with representatives from the county social services agency, the Department of Health, the Department of Human Services, the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities in planning for and implementing the relocation of residents.

Subd. 5. Licensee responsibilities prior to relocation.
Subd. 5a. Licensee responsibilities to provide notice. At least 60 days before the proposed date of closing, curtailment, reduction, or change in operations as agreed to in the plan, the licensee shall send a written notice of closure or curtailment, reduction, or change in operations to each resident being relocated, the resident’s family member or designated representative, and the resident’s attending physician. The notice must include the following:
(1) the date of the proposed closure, curtailment, reduction, or change in operations;
(2) the name, address, telephone number, facsimile number, and e-mail address of the individual or individuals in the facility responsible for providing assistance and information;
(3) notification of upcoming meetings for residents, families and designated representatives, and resident and family councils to discuss the relocation of residents;
(4) the name, address, and telephone number of the county social services agency contact person; and
(5) the name, address, and telephone number of the Office of Ombudsman for Older Minnesotans and the Ombudsman for Mental Health and Developmental Disabilities.
The notice must comply with all applicable state and federal requirements for notice of transfer or discharge of nursing home residents.
Subd. 5b. Licensee responsibility regarding medical information. The licensee shall request the attending physician provide or arrange for the release of medical information needed to update resident medical records and prepare all required forms and discharge summaries.
Subd. 5c. Licensee responsibility regarding placement information.
(a) The licensee shall provide sufficient preparation to residents to ensure safe, orderly, and appropriate discharge and relocation. The licensee shall assist residents in finding placements that respond to personal preferences, such as desired geographic location.
(b) The licensee shall prepare a resource list with several relocation options for each resident.
The list must contain the following information for each relocation option, when applicable:
(1) the name, address, and telephone and facsimile numbers of each facility with appropriate, available beds or services;
(2) the certification level of the available beds;
(3) the types of services available; and
(4) the name, address, and telephone and facsimile numbers of appropriate available home and community-based placements, services, and settings or other options for individuals with special needs. The list shall be made available to residents and their families or designated representatives, and upon request to the Office of Ombudsman for Older Minnesotans, the Ombudsman for Mental Health and Developmental Disabilities, and the county social services agency.

Subd. 5d. Licensee responsibility to meet with residents and families. Following the establishment of the plan, the licensee shall conduct meetings with residents, families and designated representatives, and resident and family councils to notify them of the process for resident relocation. Representatives from the local county social services agency, the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, the commissioner of health, and the commissioner of human services shall receive advance notice of the meetings.

Subd. 5e. Licensee responsibility for site visits. The licensee shall assist residents desiring to make site visits to facilities with available beds or other appropriate living options to which the resident may relocate, unless it is medically inadvisable, as documented by the attending physician in the resident’s care record. The licensee shall provide or arrange transportation for site visits to facilities or other living options within a 50-mile radius to which the resident may

Subd. 5f. Licensee responsible for resident property, funds, and telephone service.
(a) The licensee shall complete an inventory of resident personal possessions and provide a copy of the final inventory to the resident and the resident’s designated representative prior to relocation. The licensee shall be responsible for the transfer of the resident’s possessions for all relocations within a 50-mile radius of the facility, or within a larger radius if no suitable options are available within 50 miles. The licensee shall complete the transfer of resident possessions in a timely manner, but no later than the date of the actual physical relocation of the resident.
(b) The licensee shall complete a final accounting of personal funds held in trust by the facility and provide a copy of this accounting to the resident and the resident’s family or the resident’s designated representative. The licensee shall be responsible for the transfer of all personal funds held in trust by the facility. The licensee shall complete the transfer of all personal funds in a timely manner.
(c) The licensee shall assist residents with the transfer and reconnection of service for telephones or, for residents who are deaf or blind, other personal communication devices or services. The licensee shall pay the costs associated with reestablishing service for telephones or other personal communication devices or services, such as connection fees.
or other one-time charges. The transfer or reconnection of personal communication devices or services shall be completed in a timely manner.

Subd. 5g. Licensee responsibilities for final notice and records transfer.
(a) The licensee shall provide the resident, the resident's family or designated representative, and the resident's attending physician final written notice prior to the relocation of the resident. The notice must:
(1) be provided seven days prior to the actual relocation, unless the resident agrees to waive the right to advance notice; and
(2) identify the date of the anticipated relocation and the destination to which the resident is being relocated.
(b) The licensee shall provide the receiving facility or other health, housing, or care entity with complete and accurate resident records including information on family members, designated representatives, guardians, social service caseworkers, or other contact information. These records must also include all information necessary to provide appropriate medical care and social services. This includes, but is not limited to, information on preadmission screening, Level I and Level II screening, minimum data set (MDS), and all other assessments, resident diagnoses, social, behavioral, and medication information.
(c) For residents with special care needs, the licensee shall consult with the receiving facility or other placement entity and provide staff training or other preparation as needed to assist in providing for the special needs.

MISSISSIPPI
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116 RESIDENTS RIGHTS
116.02 Residents’ Rights. The residents’ rights policies and procedures ensure that each resident admitted to the facility:
1. Is fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission and during stay, of these rights and is given a statement of the facility's rules and regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of other residents;
2. Is fully informed, and is given a written statement prior to or at time of admission and during stay, of services available in the facility, and of related charges including any charges for services covered by the facility's basic per diem rate;
...5. is transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay (except as prohibited by sources of third-party payment), and is given a two weeks advance notice in writing to ensure orderly transfer or discharge. A copy of this notice is maintained in his medical record;
120 RESIDENT CARE
120.01 Service Beyond Capability of the Home. Whenever a resident requires
hospitalization or medical, nursing, or other care beyond the capabilities and facilities of
the home, prompt effort shall be made to transfer the patient/resident to a hospital or
other appropriate medical facility.

19 CSR 30-82.010 General Licensure Requirements
...(B) Every facility that provides specialized Alzheimer’s or dementia care services, as
defined in sections 198.500 to 198.515, RSMo, by means of an Alzheimer’s special care unit
or program shall submit to the department with the licensure application or renewal, the
following:
1. Form MO 580-2637, Alzheimer’s Special Care Services Disclosure (2-07)...The form shall
be completed showing how the care provided by the special care unit or program differs
from care provided in the rest of the facility in the following areas:
... B. The process and criteria for placement in, or transfer or discharge from, the unit or
program;

19 CSR 30-82.050 Transfer and Discharge Procedures
PURPOSE: This rule provides instructions for persons who are discharged from a licensed
long-term care facility under involuntary circumstances. When this proposed rule becomes
effective it will replace 13 CSR 15-9.010(17) which will be rescinded by subsequent
rulemaking. This rule also includes the provisions of section 198.088, RSMo applicable to
transfer or discharge and the notice and due process required of all licensed facilities.

(1) For the purposes of this rule, the following terms shall be defined as follows:
(A) Transfer means moving a resident from one institutional setting to another
institutional setting for care and under circumstances where the releasing facility has
decided that it will not readmit the resident or a legally authorized representative of the
resident has not consented or agreed with the transfer. Unless indicated otherwise from
the context of this rule, a transfer shall be deemed the same as a discharge;
(B) Discharge means releasing from a facility or refusing to readmit a resident from a
community setting under circumstances where the resident or a legally authorized
representative of the resident has not consented or agreed with the move or decision to
refuse re-admittance. Refusal to readmit a former resident shall not constitute a discharge
if the former resident has been absent from the facility for more than ninety (90) days;
(C) Consent to or agreement with transfer or discharge means one of the following:
1. The resident or a legally authorized representative of the resident has consented to,
agreed with, or requested the discharge; or
2. The resident’s treating physician has ordered the transfer and the releasing facility intends to readmit the resident if requested to do so;

(D) Consent of the resident means that the resident, with sufficient mental capacity to fully understand the effects and consequences of the transfer or discharge, consents to or agrees with the transfer or discharge; and

(E) Legally authorized representative of a resident means a duly appointed guardian or an attorney-in-fact who has current and valid power to make health care decisions for the resident.

(2) The facility shall permit each resident to remain in the facility unless—

(A) The transfer or discharge is appropriate because the resident’s welfare and the resident’s needs cannot be met by the facility;

(B) The transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;

(C) The safety of individuals in the facility is endangered;

(D) The health of individuals in the facility would otherwise be endangered;

(E) The resident has failed, after reasonable and appropriate notice, to pay for (or have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge that resident only allowable charges under Medicaid; or

(F) The facility ceases to operate.

(3) When the facility transfers or discharges a resident under any of the circumstances specified in subsections (2)(A)–(E), the resident’s clinical record shall be documented. The facility shall ensure that documentation for the transfer or discharge is obtained from—

(A) The resident’s personal physician when transfer or discharge is necessary under subsections (2)(A)–(B); and

(B) A physician when transfer or discharge is necessary under subsection (2)(D); and

(C) The facility administrator or the facility director of nursing in all circumstances.

(4) Before a facility transfers or discharges a resident, the facility shall:

(A) Send written notice to the resident in a language and manner reasonably calculated to be understood by the resident. The notice must also be sent to any legally authorized representative of the resident and to at least one family member. In the event that there is no family member known to the facility, the facility shall send a copy of the notice to the appropriate regional coordinator of the Missouri State Ombudsman’s office;

(B) Include in the written notice the following information:

1. The reason for the transfer or discharge;

2. The effective date of transfer or discharge;

3. The resident’s right to appeal the transfer or discharge notice to the director of the 4. Division of Aging or his/her designated hearing official within thirty (30) days of the receipt of the notice;
4. The address to which the request for a hearing should be sent: Administrative Hearings Unit, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527;
5. That filing an appeal will allow a resident to remain in the facility until the hearing is held unless a hearing official finds otherwise;
6. The location to which the resident is being transferred or discharged;
7. The name, address and telephone number of the designated regional long-term care ombudsman office;
8. For Medicare and Medicaid certified facility residents with developmental disabilities, the mailing address and telephone number of the Missouri Protection and Advocacy Agency, 925 South Country Club Drive, Jefferson City, MO 65109, (573) 893-3333, or the current address and telephone number of the protection advocacy agency if it has changed. The protection and advocacy agency is responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act. For Medicare and Medicaid certified facility residents with mental illness, the address and telephone number of Missouri Protection and Advocacy Agency, the agency responsible for persons with mental illness under the Protection and Advocacy for Mentally Ill Individuals Act; and
(C) Record and document in detail in each affected resident’s record the reason for the transfer or discharge. The recording of the reason for the transfer or discharge shall be entered into the resident’s record prior to the date the resident receives notice of the transfer or discharge, or prior to the time when the transferring or discharging facility decides to transfer or discharge the resident.

(5) The notice of transfer or discharge described in this rule shall be made by the facility no less than thirty (30) days before the resident is to be transferred or discharged. In the case of an emergency discharge, the notice shall be made as soon as practicable before the discharge when it is specifically alleged in the notice that—
(A) The safety of individuals in the facility would be endangered under subsection (2)(C) of this rule and the notice contains specific facts upon which the facility has based its determination that the safety of said individuals would be so endangered;
(B) The health of individuals in the facility would be endangered under subsection (2)(D) of this rule and the notice contains specific facts upon which the facility has based its determination that the safety of said individuals would be so endangered;
(C) The resident’s health has improved sufficiently to allow a more immediate transfer or discharge under subsection (2)(B) of this rule;
(D) An immediate transfer or discharge is required by the resident’s urgent medical needs under subsection (2)(A) of this rule; or
(E) The resident has not resided in the facility for thirty (30) days.

(6) Any resident of a facility who receives notice of discharge from the facility in which he/she resides may file an appeal of the notice with the Administrative Hearings Section, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527 within thirty (30) days of the date the resident received the discharge notice from the facility. The resident’s
legal guardian, the resident’s attorney-in-fact appointed under sections 404.700–404.725, RSMo (Durable Power of Attorney Law of Missouri) or pursuant to sections 404.800–404.865, RSMo (Durable Power of Attorney for Health Care Act) or any other individual may file an appeal on the resident’s behalf. A Nursing Facility Transfer or Discharge Hearing Request form (MO Form 886-3245) to request a hearing may be obtained from the Division of Aging or the regional ombudsman. However, the use of a form is not required in order to file a request for a hearing. The request for a hearing shall be verified in writing by the resident, his/her legal guardian, attorney-in-fact, or any other party requesting a hearing on the resident’s behalf by attesting to the truth of the resident’s request for a hearing.

(7) The director of the Department of Social Services shall designate a hearing official to hear and decide the resident’s appeal.

(A) The designated hearing official shall notify the resident, the state long-term care ombudsman and the facility that the request for a hearing has been received and that a hearing has been scheduled.

(B) The hearing may be held by telephone conference call or in person at any location the designated hearing official deems reasonably appropriate to accommodate the resident’s needs.

(8) The discharge of the resident shall be stayed at the time the request for a hearing was filed unless the facility can show good cause why the resident should not remain in the facility until a written hearing decision has been issued by the designated hearing official. Good cause shall include, but is not limited to, those exceptions when the facility may notify the resident of a discharge from the facility with less than thirty (30) days notice as set forth in section (5) of this rule.

(A) The facility may show good cause for discharging the resident prior to a hearing decision being issued by the designated hearing official by filing a written Motion to Set Aside the Stay with the Administrative Hearings Unit at the address in paragraph (4)(B)4. The facility must provide a copy of the Motion to Set Aside the Stay to the resident, or to the resident’s legally authorized representative and to at least one (1) family member, if one is known. In the event that a resident has no legally authorized representative and no known family members, then a copy of the Motion to Set Aside the Stay must be provided to the Missouri State Long-Term Care Ombudsman’s Office.

(B) Within five (5) days after a written Motion to Set Aside the Stay has been filed with the Administrative Hearings Unit, the designated hearing official shall schedule a hearing to determine whether the facility has good cause to discharge the resident prior to a written hearing decision being issued. Notice of the good cause hearing need not be in writing. All parties and representatives who received a copy of the Motion to Set Aside the Stay under subsection (8)(A) of this rule shall also be notified of the good cause hearing.

1. The designated hearing official shall have the discretion to consolidate the facility’s good cause hearing with the discharge hearing requested by the resident. In the case of an emergency discharge, an expedited hearing shall be held upon the request of the resident,
legally authorized representative, family member, and in a case where notice was required to be sent to the regional ombudsman, to the state long-term care ombudsman, so long as the parties waive the ten (10)-day notice requirement specified in section (9).

2. Subsequent to the good cause hearing, the designated hearing official shall issue an order granting or denying the facility’s Motion to Set Aside the Stay. If the facility’s good cause hearing and the resident’s discharge hearing were consolidated, the order shall also set forth whether the facility may discharge the resident.

(9) Written notice of a hearing shall contain the date and time for the hearing and shall be mailed to the facility, the resident or the resident’s legally authorized representative, and to any and all parties in interest, including any family members who received notice of the discharge, that are known to the designated hearing official. The written notice shall be mailed to the parties at least ten (10) days prior to the hearing.

(10) If the facility’s good cause hearing and the resident’s discharge hearing were not consolidated and the designated hearing official issues an order denying the facility’s Motion to Set Aside the Stay, the designated hearing official shall schedule the discharge hearing subsequent to the date the order which denied the facility’s motion was issued. After the hearing, the designated hearing official shall issue a written decision setting forth whether the facility may discharge the resident. The written decision shall be mailed to the facility, the resident or the resident’s legally authorized representative and counsels for all parties, if any. If the state long-term care ombudsman’s office received notice of the discharge, a copy of the hearing decision shall be sent to the ombudsman’s office. If a member of the resident’s family received notice of the discharge, a copy of the hearing decision shall be mailed to the family member upon request.

(11) The burden of showing that the facility has complied with all requirements for appropriate discharge of the resident shall be upon the facility. The resident may provide any additional evidence competent to show that the facility has not met its burden.

(12) The resident may obtain legal counsel, represent him/herself or use a relative, a friend or other spokesperson. All natural parties, including residents, sole proprietors of a facility and a partner of a facility operated in the partnership form of business, may represent themselves in a pro se capacity on behalf of the facility. Corporate operators of a facility may only be represented by an attorney licensed to practice law in Missouri.

(13) Hearings shall be subject to the hearing procedures found in 42 CFR Chapter IV, Part 483, subpart E and the Missouri Administrative Procedures Act, specifically sections 536.070 through 536.080, RSMo, which include, but are not limited to, oral and written evidence, witnesses, objections, official notices, affidavits, transcripts, depositions and other discovery methods, sanctions, oral arguments and written briefs. Written medical statements by a physician, psychiatrist or psychologist shall be admitted as relevant and probative evidence and shall be given due weight in consideration by the director or
his/her designated hearing official. An audiotape recording of the hearing shall be made unless it is agreed by both parties to substitute a certified transcript.

(14) If the decision is that there is no cause for discharge, the resident shall be permitted to remain in the facility. If the decision is in the facility's favor, the resident shall be granted an additional ten (10) days after the decision is received for purpose of relocation, and the facility shall assist the resident in making suitable arrangements for relocation. If the resident prevails and has already been discharged, the facility shall notify the resident, the qualified representative, or any other responsible party who will assure that the resident is made aware of the decision and that the resident may return to the facility. In the event that there are no beds available, the facility shall admit the resident to occupy the first available bed without regard to any waiting list maintained by the facility.

19 CSR 30-82.070 Alzheimer’s Demonstration Projects
...(11) In addition to the minimum requirements, applicants will also be considered for selection based on their ability to provide the following:
...(B) Admission and discharge criteria which effectively identify those individuals for whom the participant is able to effectively provide treatment services;

19 CSR 30-85.042 Administration and Resident Care Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities
PURPOSE: This rule establishes standards for administration and resident care in an intermediate care or skilled nursing facility.
Editor’s Note: All rules relating to long-term care facilities licensed by the Division of Aging are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo
...(13) The facility shall develop policies and procedures applicable to its operation to insure the residents’ health and safety and to meet the residents’ needs. At a minimum, there shall be policies covering..., admission, discharge...

19 CSR 30-88.010 Resident Rights
PURPOSE: This rule establishes requirements for protection of resident rights in all types of licensed long-term care facilities.
...(8) Prior to or at the time of admission and during his or her stay in the facility, each resident and/or his or her next of kin, legally authorized representative or designee shall be fully informed, in writing, of services available in the facility and of related charges, including any charges for services not covered by the facility’s basic per diem rate or federal or state programs. Information shall include procedures to be followed by the facility in cases of medical emergency, including transfer agreements and costs. All residents who receive treatment in an Alzheimer’s special care program or unit and their next of kin, legally authorized representatives or designees shall be given a copy of the Alzheimer’s Special Care Services Disclosure Form at the time of admission. Residents also shall be informed of services outside the facility which may reasonably be made available...
to the resident and of any reasonable estimate of any foreseeable costs connected with those services.

...(15) No resident shall be transferred or discharged except in the case of an emergency discharge unless the resident, and the next of kin, or a legally authorized representative or designee, and the resident’s attending physician and the responsible agency, if any, are notified at least thirty (30) days in advance of the transfer or discharge, and casework services or other means are utilized to assure that adequate arrangements exist for meeting the resident’s needs. In the event that there is no next of kin, legally authorized representative or designee known to the facility, the facility shall notify the appropriate regional coordinator of the Missouri State Ombudsman’s office.

(16) A resident may be transferred or discharged only for medical reasons or for his or her welfare or that of other residents, or for nonpayment for his or her stay. If

(17) No resident may be discharged without full and adequate notice of his or her right to a hearing before the department’s Administrative Hearings Unit and an opportunity to be heard on the issue of whether his or her discharge is necessary. Such notice shall be given in writing no less than thirty (30) days in advance of the discharge except in the case of an emergency discharge and must comply with the requirements set forth in 19 CSR 30-82.050.

(18) In emergency discharge situations the facility shall submit to the resident and his or her next of kin, legally authorized representative or designee a written notice of discharge. The written notice of discharge shall be given as soon as practicable and advise the resident of the right to request an expedited hearing. In the event that there is no next of kin, legally authorized representative or designee known to the facility, the facility shall send a copy of the notice to the appropriate regional coordinator of the Missouri State Ombudsman’s office.

MONTANA
Downloaded January 2011

50-5-1104. Rights of long-term care facility residents.
(1) The state adopts by reference for all long-term care facility residents the rights for long-term care facility residents applied by the federal government to facilities that provide skilled nursing care or intermediate nursing care and participate in a medicaid or medicare program (42 U.S.C. 1395i-3(a) and 1396r(a), as implemented by regulation).
(2) In addition to the rights adopted under subsection (1), the state adopts for all residents of long-term care facilities the following rights:
(a) A resident or the resident’s authorized representative must be informed by the facility at least 30 days in advance of any changes in the cost or availability of services, unless to do so is beyond the facility’s control.
...(j) In case of involuntary transfer or discharge, a resident has the right to reasonable advance notice to ensure an orderly transfer or discharge. Reasonable advance notice requires at least 21 days’ written notification of any interfacility transfer or discharge
except in cases of emergency or for medical reasons documented in the resident's medical
record by the attending physician

37.40.306 PROVIDER PARTICIPATION AND TERMINATION REQUIREMENTS
...(3) A provider must provide the department with 30 days advance written notice of
termination of participation in the Medicaid program. Notice will not be effective prior to
30 calendar days following actual receipt of the notice by the department. Notice must be
mailed or delivered to the Department of Public Health and Human Services, Senior and
Long Term Care Division, 111 N. Sanders, P.O. Box 4210, Helena, MT
59604-4210.
...(b) In the event that discharge or transfer planning is necessary, the provider remains
responsible to provide for such planning in an orderly fashion and to care for its residents
until appropriate transfers or discharges are effected, even though transfer or discharge
may not have been completed prior to the facility’s planned date of termination from the
Medicaid program.
(4) A provider must notify a resident or the resident's representative of a transfer or
discharge as required by 42 CFR 483.12(a)(4), (5) and (6). The notice must be provided
using the form prescribed by the department. In addition to the notice contents required by
42 CFR 483.12, the notice must inform the recipient of the recipient’s right to a hearing, the
method by which the recipient may obtain a hearing and that the recipient may represent
herself or himself or may be represented by legal counsel, a relative, a friend or other
spokesperson. Notice forms are available upon request from the department. Requests for
notice forms may be made to the Department of Public Health and Human Services, Senior
and Long Term Care Division, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

37.40.307 NURSING FACILITY REIMBURSEMENT
...(10) The department will not reimburse a nursing facility for any patient day for which
another nursing facility is holding a bed under the provisions of ARM 37.40.338(1),
unless the nursing facility seeking such payment has, prior to admission, notified the
facility holding a bed that the resident has been admitted to another nursing facility. The
nursing facility seeking such payment must maintain written documentation of such
notification.

37.40.338 BED HOLD PAYMENTS
(1) Except as provided in (6) through (9) for therapeutic home visits, payment will be
made to a provider for holding a bed for a resident only if:
(a) the provider's facility is full and has a current waiting list of potential residents during
each such bed day claimed for reimbursement;
(b) the resident for whom the bed is held is temporarily receiving medical services outside
the facility, except in another nursing facility, and is expected to return to the provider;
(c) the cost of holding the bed will evidently be less costly than the possible cost of
extending the hospital stay until an appropriate long term care bed would otherwise
become available; and
(d) the provider has received written approval from the department's senior and long term
care division as provided in (4).

(2) For purposes of (1), a provider will be considered full if:
(a) all Medicaid certified beds are occupied or being held for a recipient who is either
temporarily receiving medical services outside the provider's facility or outside the facility
on a therapeutic home visit; or
(b) as to gender, if all appropriate, available beds are occupied or being held. For example,
if all beds are occupied or held except for one semi-private bed in a female room, the
provider is full for purposes of hold days for male recipients.

(3) For purposes of (1), the provider must maintain and, upon request, provide to the
department or its agents documentation that the absence is expected to be temporary and
of the anticipated duration of the absence. Temporary absences which are of indefinite
duration must be documented at least weekly by the provider to assure that the absence is
indeed temporary.

(4) A provider's request for the department's written approval of bed hold days as required
in (1) must be submitted to the department's senior and long term care division on the
form provided by the department within 90 days after the first day of the requested bed
hold period. The request must include a copy of the waiting list applicable to each bed hold
day claimed for reimbursement.

(5) Where the conditions of (1) through (4) are met, providers are required to hold a bed
and may not fill the bed until these conditions are no longer met. The bed may not be filled
unless prior approval is obtained from the department’s senior and long term care division.
In situations where conditions of billing for holding a bed are not met, providers must hold
the bed and may not bill Medicaid for the bed hold day until all conditions of billing are met
and may not bill the resident under any circumstances.

(6) Payment will be made to a provider for holding a bed for a resident during a
therapeutic home visit only if:
(a) the recipient’s plan of care provides for therapeutic home visits;
(b) the recipient is temporarily absent on a therapeutic home visit; and
(c) the resident is absent from the provider’s facility for no more than 72 consecutive hours
per absence, unless the department determines that a longer absence is medically
appropriate and has authorized the longer absence in advance of the absence. If a resident
leaves the facility unexpectedly, on a weekend or a non business day for a visit longer than
72 hours, a provider must call in to the department on the next business day to receive
prior authorization for the visit. If a resident is unexpectedly delayed while out on a
therapeutic home visit, a provider must call the department and receive prior authorization
if that delay will result in the visit exceeding 72 hours or obtain an extension for a visit that
was previously approved by the department in excess of 72 hours.

(7) The department may allow therapeutic home visits for trial placement in the Home and
Community Services (Medicaid Waiver) program.

(8) No more than 24 days per resident in each rate year (July 1 through June 30) will be
allowed for therapeutic home visits.
(9) The provider must submit to the department’s Senior and Long Term Care Division a request for a therapeutic home visit bed hold, on the appropriate form provided by the department, within 90 days of the first day a resident leaves the facility for a therapeutic home visit. Reimbursement for therapeutic home visits will not be allowed unless the properly completed form is filed timely with the department’s Senior and Long Term Care Division.

(10) Approvals or authorizations of bed hold days obtained from county offices will not be valid or effective for purposes of this rule.

37.40.416 RESIDENT RIGHTS
(3) Each resident who is entitled to Medicaid benefits has a right to be informed by the provider in writing, at the time of admission to the swing-bed or, when the resident becomes eligible for Medicaid of:
(a) the items and services that are included in the swing-bed per diem rate for which the resident may not be charged, i.e., those items included in nursing facility services under ARM 37.40.302(14) or ancillary services under ARM 37.40.330(1); and
(b) those other items and services that the provider offers and for which the resident may be charged, and the amount of charges for those services; and
(c) changes made to the items and services specified in (3)(a) and (b).

37.40.420 RESIDENT TRANSFER AND DISCHARGE RIGHTS
(1) The resident has the following transfer and discharge rights. Transfer and discharge includes movement of a resident to a bed outside of the swing-bed hospital facility whether or not that bed is in the same physical plant. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.

(2) The facility must permit each resident to remain in the facility and may not transfer or discharge the resident from the facility unless any one or more of the following apply:
(a) the transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
(b) the transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;
(c) the safety of individuals in the facility is endangered;
(d) the health of individuals in the facility would otherwise be endangered;
(e) the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid;
(f) the facility ceases to operate; or
(g) an appropriate nursing facility bed is available within a 25 mile radius of the swing-bed hospital, as provided in ARM 37.40.405.
(3) When the facility transfers or discharges a resident, the facility must document the reason for transfer or discharge in the resident's clinical record. The documentation must be made by the resident's physician when transfer or discharge is necessary under (2)(a) and (b), or a physician when transfer or discharge is necessary under (2)(d).

(4) Before a facility transfers or discharges a resident, the facility must:
(a) notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;
(b) record the reasons in the resident's clinical record; and
(c) include in the notice the items described in (6) through (6)(f).

(5) Notice of transfer or discharge must be made by the facility at least 30 days before the resident is transferred or discharged except when:
(a) the safety of individuals in the facility would be endangered;
(b) the health of the individuals in the facility would be endangered;
(c) the resident's health improves sufficiently to allow a more immediate transfer or discharge;
(d) an immediate transfer or discharge is required by the resident's urgent medical needs;
(e) a resident has not resided in the facility for 30 days; or
(f) transfer is required within 72 hours because an appropriate nursing facility bed is available within a 25 mile radius of the swing-bed hospital. In such cases, the facility must provide notice within 24 hours of determining that the nursing facility bed is available.

(6) The written notice of transfer or discharge must include the following:
(a) the reason for transfer or discharge;
(b) the effective date of transfer or discharge;
(c) the location to which the resident is transferred or discharged;
(d) a statement that the resident has the right to appeal the action to the fair hearings office at the department of public health and human services;
(e) the name, address and telephone number of the long term care ombudsman in the governor's office on aging; and
(f) for nursing facility residents with developmental disabilities and nursing facility residents who are mentally ill, the mailing address and telephone number of the Montana advocacy program, inc.

(7) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

37.40.421 RESIDENT POST DISCHARGE RIGHTS
(1) When the facility anticipates discharge, a resident must have a discharge summary that includes:
(a) a recapitulation of the resident's stay;
(b) a final summary of the resident's status which includes:
(i) medically defined conditions and prior medical history;
(ii) medical status measurement;
(iii) physical and mental functional status;
(iv) sensory and physical impairments;
(v) nutritional status and requirements;
(vi) special treatments or procedures;
(vii) mental and psychosocial status;
(viii) discharge potential;
(ix) dental condition;
(x) activities potential;
(xi) cognitive status;
(xii) drug therapy; and
(c) a post discharge plan of care that is developed with the participation of the resident and family, which will assist the resident to adjust to the new living environment.

TITLE 50. HEALTH AND SAFETY
CHAPTER 5. HOSPITALS AND RELATED FACILITIES
Part 11: Long-Term Health Care Facilities
50-5-1104. Rights of long-term care facility residents.
(2) In addition to the rights adopted under subsection (1), the state adopts for all residents of long-term care facilities the following rights:
...(j) In case of involuntary transfer or discharge, a resident has the right to reasonable advance notice to ensure an orderly transfer or discharge. Reasonable advance notice requires at least 21 days' written notification of any inter-facility transfer or discharge except in cases of emergency or for medical reasons documented in the resident's medical record by the attending physician.

NEBRASKA
Downloaded January 2011

12-003.01 Initial License:
12-003.01B Application Requirements: The applicant may construct an application or obtain an application from the Department. The application must include:
...21. If applicable, the disclosure information required by the Alzheimer’s Special Care Disclosure Act, Neb. Rev. Stat. §§ 71-516.01 to 71-516.04. The following information must be submitted:
...b. The process and criteria for placement in, transfer to, or discharge from the unit;

12-006.05 Resident Rights:
The facility must inform residents of their rights in writing. The operations of the facility must afford residents the opportunity to exercise their rights, which must include, but are not limited to, the following. Residents must have the right to:
1. Be fully informed in writing prior to or at the time of admission and during his or her stay, of services available in the facility, and of related charges including any charges for services not covered by the facility’s basic per diem rate;

5. Be free from arbitrary transfer or discharge. The resident must be informed at the time of admission that he or she may be transferred or discharged only upon the following terms:
   a. Upon his or her consent;
   b. For medical reasons, which must be based on the resident’s needs and be determined and documented by a physician;
   c. For the resident’s safety or the safety of other residents or facility employees;
   d. When rehabilitation is such that movement to a less restrictive setting is possible; or
   e. For nonpayment of the resident’s stay, except as prohibited by Title XVIII or XIX of the Social Security Act as amended, or the Nebraska Nursing Home Act, Neb. Rev. Stat. §§ 71-6008 to 71-6037. Nonpayment under the Nebraska Nursing Home Act State Regulation for Admission, Transfer and Discharge Rights—NE through NH must not include a change in resident economic status so that the resident receives Medicaid or becomes eligible for Medicaid if the resident has resided in the facility for a period of at least one year after July 17, 1986, unless 10% of the facility’s residents are receiving Medicaid or are eligible for Medicaid. This provision does not apply to Nebraska Veterans’ Homes established under Chapter 80, Article 3 of Nebraska Statutes. A minimum of 30 days written notice must be given to the resident or to his or her designee prior to involuntary transfer or discharge of a resident, except that:
      (1) Five days written notice must be given if the transfer is to a less restrictive setting due to rehabilitation.
      (2) Ten days written notice will be given if the resident is five or more days in arrears of payment for stay.
      (3) Written notice is not required in the event of emergency transfer or discharge if the transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician, or if mandated for safety of other residents or facility employees as is documented in the facility’s records.

Written notice must contain:
   (1) The stated reason for transfer or discharge
   (2) The effective date of the transfer or discharge; and
   (3) In not less than 12-point type, the following text:
   “A health care facility or health care service shall not discriminate or retaliate against a person residing in, served by, or employed at the facility or service who has initiated or participated in any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the administrator of the facility or service, the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services
Regulation and Licensure. Such person may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.”

12-006.16G Other Facility Records: The facility must have and maintain the following records:

...12-006.16G2 Written policies and procedures that govern all services provided by the facility. Policies and procedures must address the following areas but are not limited to:

...2. Transfer and discharge...

NAC 449.74423 Certain conditions for admission prohibited. (NRS 449.037)
A facility for skilled nursing shall not, as a condition of admitting or providing for the expedited admission of a patient to, or allowing a patient to remain in, the facility:

1. Require a patient to waive his rights to benefits under any state or federal program that is available to assist patients in the payment of services provided by the facility, including, without limitation, Medicaid and Medicare.

2. Require a patient to provide a written or oral confirmation that he is not eligible for or will not apply for benefits under such a program.

3. Charge, solicit, accept or receive any gift, money, contribution or other consideration on behalf of a patient who is eligible for benefits under such a program in addition to any amount otherwise required to be paid to the facility under the program. The provisions of this subsection do not prohibit a facility from:

(a) Charging such a patient for an item or service not covered under the program if:
(1) The item or service is requested by the patient;
(2) The facility does not require the patient to request the item or service as a condition of admission to or remaining in the facility; and
(3) The facility informs the patient that there will be a charge for the item or service and the amount of the charge.

(b) Soliciting, accepting or receiving a charitable, religious or philanthropic contribution from an organization or a person who is unrelated to the patient, but only to the extent that the contribution is not a condition of admitting or providing for the expedited admission of the patient to, or allowing the patient to remain in, the facility.

4. Require a third person to guarantee the payment of fees charged by the facility for services provided to the patient. The provisions of this subsection do not prohibit the facility from requiring a person who has legal control over the income or other resources of the patient to enter into a contract, without incurring personal liability, for the payment of fees charged by the facility for services provided to the patient.

NAC 449.74429 Transfer or discharge of patient. (NRS 449.037)

1. A facility for skilled nursing may transfer or discharge a patient from the facility only if:
(a) The facility can no longer provide for the needs of the patient and the transfer or discharge is necessary for the patient’s welfare;
(b) The health of the patient has improved sufficiently so that the patient no longer requires the services provided by the facility;
(c) The health or safety of other persons in the facility is endangered if the patient remains in the facility;
(d) The charges for services provided to the patient by the facility have not been paid after the facility has given notice of those charges; or
(e) The facility ceases to operate.

2. Before a facility for skilled nursing may transfer or discharge a patient from the facility, the facility shall:
(a) Record the reasons for the transfer or discharge in the medical records of the patient. If a patient is transferred or discharged under the circumstances described in:
   (1) Paragraph (a) or (b) of subsection 1, the reasons for the transfer or discharge must be recorded by the patient’s physician.
   (2) Paragraph (c) of subsection 1, the reasons for the transfer or discharge must be recorded by any physician.
(b) Give notice of the transfer or discharge to the patient and, if known, to the legal representative of the patient or a member of the patient’s family. The notice must:
   (1) Be in writing;
   (2) Be in a language that is understood by the patient and his legal representative or a member of his family;
   (3) Except as otherwise provided in subsection 3, be given at least 30 days before the effective date of the transfer or discharge;
   (4) Include the reasons for the transfer or discharge;
   (5) Include the effective date of the transfer or discharge;
   (6) Specify the location to which the patient will be transferred or discharged;
   (7) Include a statement that the patient has a right to appeal the transfer or discharge;
   (8) Include the name, address and telephone number of the advocates for residents of facilities for long-term care appointed pursuant to chapter 427A of NRS; and
   (9) If the patient is developmentally disabled or mentally ill, include the name, address and telephone number of persons who advocate for and are responsible for the protection of such persons.

3. The notice required by paragraph (b) of subsection 2 may be given less than 30 days before the effective date of the transfer or discharge if:
(a) The health or safety of other persons in the facility is endangered if the patient remains in the facility;
(b) The health of the patient has improved sufficiently to allow a more immediate transfer or discharge of the patient;
(c) The medical needs of the patient require a more immediate transfer or discharge; or
(d) The patient has not resided in the facility for at least 30 days.

4. Upon admission of a patient to a facility for skilled nursing and at the time the facility transfers the patient for hospitalization or therapeutic leave, the facility shall provide to the
patient and to the legal representative of the patient or to a member of the patient’s family, in writing:
(a) The time within which the patient may resume his residency in the facility without waiting for readmission; and
(b) The policy of the facility for readmitting a patient whose hospitalization or therapeutic leave exceeds the time within which he may resume his residency in the facility without waiting for readmission upon the first availability of a bed in a semiprivate room.

1. A facility for skilled nursing shall prepare a patient for his transfer or discharge in such a manner as to ensure the safe and orderly transfer or discharge of the patient from the facility.
2. As used in this section, “transfer” or “discharge” means the movement of a patient to a location outside of a facility for skilled nursing, whether or not that location is within the same physical area of the facility. The term does not include the movement of a patient to a bed located within the facility for skilled nursing.

NAC 449.74431 Summary of discharge. (NRS 449.037)
1. A facility for skilled nursing shall prepare a summary of discharge for each patient discharged from the facility.
2. A summary of discharge must include:
(a) A summary of the pertinent information relating to the patient’s stay at the facility;
(b) A final summary of the patient’s physical, mental and psychosocial health at the time of discharge, including, without limitation, the information required to be included in a comprehensive assessment of the patient pursuant to subsection 2 of NAC 449.74433; and
(c) A plan of care for the patient after his discharge that assists the patient in adjusting to his new living environment. The plan of care must be developed with the participation of the patient and members of his family.
3. A facility for skilled nursing may release a summary of discharge to persons and under the circumstances approved by the patient who is the subject of the summary or his legal representative.

NAC 449.74453 Notice to patients of programs available for assistance in payment of services. (NRS 449.037)
A facility for skilled nursing shall:
1. Provide to applicants for admission to the facility and to the patients in the facility oral and written information concerning state and federal programs that are available to assist patients in the payment of services provided by the facility, including, without limitation, Medicaid and Medicare; and
2. Display in a prominent place within the facility the written information provided pursuant to subsection 1.
NAC 449.74455 Discrimination prohibited. (NRS 449.037)
...2. A facility for skilled nursing shall adopt and maintain policies and procedures for the transfer and discharge of, and the provision of services to, patients in the facility which do not discriminate against a patient based on the source of payment for the services provided.

NEW HAMPSHIRE
Downloaded January 2011

He-E 802.14 Temporary Absence From the Nursing Facility.
(b) If a resident is transferred to a hospital or for therapeutic leave:
(1) The certified facility shall hold the bed open for the resident for 10 calendar days or such longer period of time as may be provided by the nursing facility’s bed-hold policies as long as:
   a. It is reasonable to expect that the resident will return during this time; and
   b. The resident, a member of the resident’s family, the resident's legal representative or another person acting on the resident's behalf, offers payment for the period of absence or payment for the period of absence is payable by Medicaid as a reserved bed day;
(2) The certified facility shall not charge an amount in excess of the Medicaid rate to hold a bed for a resident who is on Medicaid; and
(3) The facility shall communicate with the hospital to the extent reasonably necessary in order to monitor the resident’s progress and plan for the resident’s safe and orderly transition back to the nursing facility.
(e) Any transfer made under He-E 802.14 shall be considered temporary in nature, with the resident returning to the transferring facility when the resident’s condition is stabilized. Any certified facility that refuses to readmit or wishes to discharge or transfer a resident during or following a hospitalization or therapeutic leave shall comply with the requirements of He-E 802.15 through He-E 802.17.

He-E 802.15 Transfer or Discharge of Residents.
(a) A certified facility shall establish and maintain identical policies and practices for all individuals, regardless of the payment source, regarding transfers, discharges, and the provision of services required under the state Medicaid program.
(b) The certified facility shall not transfer or discharge a resident unless the resident is being transferred or discharged for one of the following reasons, as documented in the notice described in He-E 802.17:
(1) The resident’s health has improved sufficiently so that the resident no longer needs the services provided by the facility, as documented in the resident’s clinical record by the resident’s personal physician or ARNP; (2) The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility, as documented in the resident’s clinical record by the resident’s personal physician or ARNP;
(3) The safety, health, or both, of other residents in the facility is endangered, as documented in the resident’s clinical record by a physician;
(4) The resident has failed, after reasonable notice, to pay for or to have paid under Medicare or Medicaid the charges accrued during his/her stay at the facility, as documented in the resident’s record, and:
(5) The facility ceases to operate.
(c) The facility shall not transfer or discharge a resident unless the facility has compiled with He-E 802.15 through He-E 802.18, as applicable.
(d) A resident shall not be transferred or discharged from a swing-bed if the sole reason for the proposed transfer or discharge is because the hospital is in need of a hospital bed rather than a nursing facility bed.
(e) No resident shall be transferred or discharged with less than 30 days’ notice from the date the notice of transfer or discharge is received by the resident except for one of the following reasons:
(1) The resident chooses to leave the facility; or
(2) The facility has explored other reasonable alternatives, and documented these in the resident’s record, but transfer or discharge of the resident is necessary for one of the following reasons:
   a. The resident’s health improves sufficiently to allow a more immediate transfer or discharge, in accordance with He-E 802.15(b)(1);
   b. An immediate transfer or discharge is required by the resident’s urgent medical needs pursuant to He-E 802.15(b)(2), and is in accord with the written orders and medical justification of the resident’s personal physician or ARNP; or
   c. The safety or health of other residents in the nursing facility would be endangered, under He-E 802.15(b)(3), as documented in the resident’s clinical record and after consultation with the resident’s personal physician; or
   d. A resident has resided in the facility for less than 30 days.
(f) When the resident is transferred or discharged, reasonable efforts shall be made to relocate the resident to a setting of his or her choosing.
(g) The facility shall make, and document in the resident’s record, reasonable efforts to work with the resident, the resident’s legal representative, or the resident’s family to resolve any payment problem prior to transfer or discharge.
(h) For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid.

Source. #7751, eff 8-17-02

He-E 802.16 Transfer or Discharge Plan.
(a) Certified facilities shall provide sufficient preparation and assistance to residents in order to ensure their safe and orderly transfer or discharge from the facility.
(b) No resident shall be transferred or discharged unless there is a written transfer or discharge plan, which includes the following:
(1) The circumstances surrounding the discharge or transfer, including:
   a. Alternative interventions initiated by the nursing facility before the facility proposed the discharge or transfer;
   b. The fact that the facility has exhausted all reasonable alternatives short of transfer or discharge; and
   c. Whether the facility used the services of the ombudsman program as described in RSA 161-F:10 and if not, why not;
(2) All efforts that were made to locate the resident to the setting of his or her choice, and if the resident's wishes could not be accommodated, the reasons why;
(3) The location of the new setting and, if a facility, confirmation that the facility has accepted the resident;
(4) A comprehensive description of the medical, social, and rehabilitative needs of the resident and how the resident's needs will be met in the new setting;
(5) Documentation of consultation with the resident, family or other interested parties, if and to the extent that this has been reasonably possible; and
(6) The medical opinion of the resident's personal physician regarding the transfer or discharge, including the possible effects on the physical and emotional well-being of the resident.

c) A copy of the transfer or discharge plan shall be provided to:
   (1) The resident and his/her legal representative;
   (2) The office of the state long term care ombudsman; and
   (3) DEAS.

Source. #7751, eff 8-17-02

He-E 802.17 Notice Before Transfer or Discharge.
(a) Before a certified facility transfers or discharges a resident, including a transfer or discharge with less than 30 days notice, the facility shall consult with the resident’s personal physician or ARNP and provide written notice, as specified in (b) below, to the following parties, in a language and manner that they understand:
   (1) The resident and the resident’s legal representative; and
   (2) Family members, if known, in accordance with instructions or limitations given by the resident.

(b) The notice specified in (a) above shall include the following information:
   (1) The basis for the proposed transfer or discharge, including the specific circumstances leading up to the proposal and a reference to the applicable section(s) of He-E 802.15(b);
   (2) The effective date of the transfer or discharge;
   (3) The location where the resident is proposed to be transferred or discharged;
   (4) A statement that shall read: "You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may file an appeal in superior or probate court pursuant to RSA 151:26 IV, or request an administrative hearing;"
   (5) A statement regarding the resident’s right to an administrative hearing pursuant to He-C 200, which includes:
a. A statement that the hearing is required to be requested in writing by the resident or his/her representative within 90 days of receiving the notice;
b. A statement that the resident may represent himself/herself at the hearing or use legal counsel, a relative, a friend or another advocate or representative;
c. A statement indicating that if a request for a hearing is filed within 20 days of receipt of the notice:
  1. The resident shall be allowed to remain in the facility until a final decision is made by the administrative appeals unit, except as may be allowable under the provisions of He-E 802.15(e); and
  2. That if the resident receives Medicaid, payments to the facility shall continue while the appeal is pending; and
d. With regard to transfers/discharges involving less than 30 days notice, a statement informing the resident of his/her right to an expedited hearing, as described in He-E 802.18(d);
(6) The name, mailing address and telephone number of the office of the state long term care ombudsman and a summary of the statutory responsibilities of that office;
(7) For certified facility residents who are 60 years of age or older, the name, address and telephone number of the provider(s) of legal services under Title VII of the Older Americans Act;
(8) For certified facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals as established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act; and
(9) For certified facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.
(c) In accordance with RSA 151:26 II(a)(5), a copy of the notice specified in (a) above shall be transmitted to the office of the ombudsman established under RSA 161-F:10, the agency identified in He-E 802.17(b)(8) or (9) if the resident is mentally retarded or mentally ill, and the person or agency responsible for the patient's placement, maintenance, and care in the facility.
(d) When the notice is delivered to the resident, facility staff shall:
  (1) Communicate orally to the resident, in a language he or she understands, all information contained in the written notice, or, if the resident is hearing-impaired or cannot communicate orally due to a disability, consult with DEAS on how to make reasonable accommodation for communicating with the resident;
  (2) Offer to help the resident contact a family member, legal representative, the office of the state long term care ombudsman, or any of the organizations identified in the notice; and
  (3) Document the date and time of the notification and offer of assistance in the resident's record.
(e) The facility shall provide the resident with written material that describes residents’ rights, including the rights of a resident in the event of a proposed transfer or discharge from the facility.
(f) The facility shall document delivery of the notice to the resident by:
(1) Requesting the signature of the resident on a dated statement of receipt, if the resident is able and willing to sign a receipt;
(2) Recording the date of delivery to the resident in the resident’s record; and
(3) Recording whether and when the notice was mailed to the resident’s legal representative or family members.

(g) If less than 30 days notice of a transfer or discharge is given as allowed by He-E 802.15(e), the facility, in addition to all other requirements of He-E 802.17, shall:
(1) Provide verbal notice to the resident and/or his legal representative and to family members in accordance with any instructions or limitations given by the resident;
(2) As soon as possible, follow the verbal notice with written notice to the above-mentioned parties;
(3) Document the date and time of the notification in the resident’s record.

Source. #7751, eff 8-17-02

He-E 802.18 Appealing Transfers or Discharges.
(a) Any resident being transferred or discharged, including any resident who asserts that his or her bed-hold right or right to readmission under He-E 802.14 has been denied, may appeal the transfer or discharge in accordance with the provisions contained in these rules and in He-C 200.
(b) The request for an appeal shall be submitted within 90 days after the resident receives written notice of a proposed transfer or discharge, in compliance with He-E 802.17, or within 90 days of the date the resident learns of the right to appeal if the facility fails to provide the required written notice.
(c) If a resident requests a hearing within 20 days after receiving the notice from the facility, the resident’s transfer or discharge shall be suspended until after the hearing decision is issued, and the resident shall not be transferred or discharged from the facility except as allowed under the provisions of He-E 802.15(e).
(d) In the event of a transfer or discharge with less than 30 days notice under the provisions of He-E 802.15(e), a resident may request an expedited hearing, subject to the following conditions:
(1) The request for an expedited hearing shall be made within 10 calendar days of the notice of transfer or discharge;
(2) An expedited hearing shall be held within 5 working days of the request for hearing; and
(3) The hearing decision shall be issued:
   a. Within 3 working days of the hearing if the resident has been moved out of the facility and the resident requested an expedited hearing; or
   b. Within 15 working days of the hearing in all other cases.
(e) The following shall govern computation of time with respect to administrative appeals of transfer or discharge decisions:
(1) In computing any period of time prescribed or allowed by these rules, the day of the act, event or determination from which the designated period of time begins to run shall not be included;
(2) Unless otherwise specified, when the period of time prescribed or allowed is less than 10 days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation; and
(3) The last day of the period so computed shall be included, unless it is Saturday, Sunday or a legal holiday as specified in RSA 288.
(f) A hearing may be requested by a resident, his or her legal representative or anyone acting on behalf of a resident, including a certified facility, the department, a family member or a friend.
(g) Any employee or agent of the facility or the department who becomes aware that a resident has expressed a desire to have his/her transfer or discharge reviewed shall assist the resident in writing and submitting his or her request for a hearing, or shall submit the request on behalf of the resident if the resident is not able to do so. (h) The request for a hearing shall be submitted in writing, with a copy of the facility's notice of transfer or discharge, to the NH Department of Health and Human Services, Administrative Appeals Unit, 105 Pleasant Street, Concord, NH 03301.
(i) The resident and the facility shall be considered parties to any appeal filed by a resident contesting a transfer or discharge pursuant to He-C 200.
(j) When feasible, all hearings shall be conducted at the facility where the resident is located.
(k) The resident or his/her legal representative shall:
(1) Upon an oral or written request, be given access to all records pertaining to the resident, including current clinical records, within 24 hours, excluding weekends and holidays; and
(2) After receipt of his or her records for inspection, to purchase at a cost not to exceed 25 cents per page, photocopies of the records or any portions of them upon request and after providing advance notice of 2 working days to the certified facility.
(l) The administrative appeals unit shall request a medical or psychological evaluation of the resident, if such would assist in the resolution of the matter under appeal, and a funding source is available.
(m) A certified facility seeking to transfer or discharge a resident shall have the burden of proving by clear and convincing evidence that the transfer complies with the requirements of He-E 802.15.
(n) The following actions shall be taken following the administrative appeal unit's decision:
(1) If the decision upholds the discharge or transfer, the resident shall be relocated;
(2) If the hearing decision does not uphold the discharge or transfer, the resident shall not be relocated;
(3) If the decision by the administrative appeals unit does not uphold the transfer or discharge of a resident who has been transferred or discharged pursuant to the provisions of He-E 802.15, the resident shall be readmitted to the facility's first available bed; and
(4) If the administrative appeals unit approves a transfer or discharge, the facility shall have prepared a discharge plan as required by He-E 802.16, prior to relocating the resident to an appropriate new location.

Source. #7751, eff 8-17-02

He-P 803.15 Required Services.

...(b) Prior to or upon the time of admission, the licensee shall provide the resident a written copy of the admission agreement, except in the case of an emergency admission where the written agreement shall be given as soon as practicable.

(c) In addition to (b) above, at the time of admission, the licensee shall provide a written copy to the resident and the guardian or agent, if any, or personal representative, and receive written verification of receipt for the following:

(1) An admissions packet including the following information:
   a. The basic daily, weekly or monthly rate;
   b. A list of the core services required by He-P 803.14(b);
   c. Information regarding the timing and frequency of cost of care increases;
   e. The grounds for transfer or discharge and termination of the agreement, pursuant to RSA 151:21, V;
   f. The nursing home’s policy for resident discharge planning;
   g. Information regarding nursing, other health care services, or supplies not provided in the core services, to include:
      1. The availability of services;
      2. The nursing home’s responsibility for arranging services; and
      3. The fee and payment for services, if known; and
   h. Information regarding:
      ...2. Arranging for the provision of third party services, such as a hairdresser or cable television;
      3. Acting as a billing agent for third party services;
      4. Monitoring third party services contracted directly by the resident and provided on the nursing home premises;
   ...6. Bed hold, in compliance with RSA 151:25...

...(3) A copy of the resident’s right to appeal an involuntary transfer or discharge under RSA 151:26, II(5)...

He-P 803.22 Resident Transfer or Discharge. Transfers and discharges shall be done in accordance with RSA 151:26.

151:26 Transfer or Discharge of Patients. –
I. A facility shall not transfer or discharge a patient except for those reasons listed under RSA 151:21, V.

II. (a) Transfer or discharge of a patient shall in all instances be preceded by written notice which shall contain the following:
(1) The reason for the proposed transfer or discharge;
(2) The effective date of the proposed transfer or discharge;
(3) The location to which the patient is transferred or discharged;
(4) The name, address and telephone number of the long-term care ombudsman, established under RSA 161-F:10, and the name, address, and telephone number of the federally-designated protection and advocacy agency for individuals with disabilities;
(5) A statement which shall read: "You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may file an appeal in superior or probate court.” If the patient is in a skilled nursing facility or nursing facility certified under Title XVIII or Title XIX of the Social Security Act, the statement shall inform the patient of his or her right to request an administrative hearing before the department of health and human services.

Except as specified in paragraph II(b) of this section, written notice of transfer or discharge shall be given at least 30 days before the resident is transferred or discharged. A copy of the notice shall be placed in the patient’s clinical record and a copy shall be transmitted to the patient, the patient’s personal representative, legal guardian, the long-term care ombudsman, established under RSA 161-F:10, and the federally-designated protection and advocacy agency for individuals with disabilities.

(b) Written notice as specified in subparagraph II(a) shall be given as soon as practicable before transfer or discharge in the following circumstances:
(1) If an emergency transfer or discharge is mandated by the patient’s health care needs and is in accord with the written orders and medical justification of the patient’s physician or advanced practice registered nurse (APRN);
(2) If the transfer or discharge is mandated by the health or safety of other individuals in the facility, as documented in the patient’s clinical record upon consultation with the patient’s physician or advanced practice registered nurse (APRN);
(3) If the patient's health has improved sufficiently so the patient no longer needs the services provided by the facility, as documented in the patient’s clinical record by the patient’s physician or advanced practice registered nurse (APRN); or
(4) If the patient has resided in the facility for less than 30 days.

(c) The basis for the transfer or discharge shall be documented in the patient’s clinical record. The facility shall consult with the patient’s physician or advanced practice registered nurse prior to transferring or discharging the patient for medical reasons or for the patient’s welfare or that of other patients. The documentation of the basis for the transfer or discharge shall be made by:
(1) The patient’s physician or advanced practice registered nurse (APRN) if the transfer or discharge is necessary because the patient’s needs cannot be met in the facility;
(2) The patient’s physician or advanced practice registered nurse (APRN) if the transfer or discharge is appropriate because the patient’s health has improved sufficiently so the patient no longer needs the services provided by the facility;
(3) A physician or advanced practice registered nurse (APRN) if the health of individuals in the facility would be endangered.

III. Transfer or discharge of a patient of a skilled nursing facility or nursing facility certified under Title XVIII or Title XIX of the Social Security Act shall take into account any additional rights and safeguards prescribed by the commissioner of the department of
health and human services and the secretary of the United States Department of Health and Human Services.

IV. Upon notice, a patient may petition the superior or probate court to enjoin the facility's decision to transfer or discharge. This petition shall stay any transfer or discharge pending a decision.

V. For the purposes of this section, "transfer" or "discharge" shall not include transfers or discharges initiated at the request of the patient or his or her legal guardian, except that transfer or discharge of a resident from a nursing home certified under federal law even if initiated at the request of the resident or his or her legal guardian shall be subject to all federal notice requirements.

VI. If the patient or his or her legal guardian wishes to have the patient relocate to another facility or place, the patient shall be relocated according to the patient's or legal guardian's wishes; provided, that the patient or legal guardian gives written notice of such relocation to the facility.

NEW JERSEY

8:39-4.1 Resident rights
(a) Each resident shall be entitled to the following rights:
...8. To receive a written statement or admission agreement describing the services provided by the nursing home and the related charges. Such statement or admission agreement must be in compliance with all applicable State and Federal laws. This statement or agreement must also include the nursing home's policies for payment of fees, deposits, and refunds. The resident shall receive this statement or agreement prior to or at the time of admission, and afterward whenever there are any changes;
...30. To discharge himself or herself from the nursing home by presenting a release signed by the resident. If the resident is an adjudicated mental incompetent, the release must be signed by his or her next of kin or guardian;
31. To be transferred or discharged only for one or more of the following reasons, with the reason for the transfer or discharge recorded in the resident's medical record:
i. In an emergency, with notification of the resident's physician or advanced practice nurse and next of kin or guardian;
ii. For medical reasons or to protect the resident's welfare or the welfare of others;
iii. To comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, as specified in N.J.A.C. 8:39-9.6(d); or
iv. For nonpayment of fees, in situations not prohibited by law.
32. To receive written notice at least 30 days in advance when the nursing home requests the resident's transfer or discharge, except in an emergency. Written notice shall include the name, address, and telephone number of the New Jersey Office of the Ombudsman for
the Institutionalized Elderly, and shall also be provided to the resident’s next of kin or guardian 30 days in advance.

8:39-5.1 Mandatory policies and procedures for access to care
...(b) There shall be no discrimination against any resident or group of residents based on method of payment.

8:39-5.2 Admissions
(a) The facility shall establish a single waiting list in chronological order. The order of names shall be predicated upon the order in which a completed written application is received. Hospitalized individuals ready for readmission to the facility are to be added to the top of the list as soon as the hospital notifies the facility of the contemplated discharge. As soon as a bed becomes available, it shall be filled from this waiting list. Provisions can be made for emergency, life-threatening situations or life-care community admissions.

1. The facility shall meet the following requirements:
   i. The facility shall maintain only one waiting list; this list shall reflect a roster updated on a regular basis, of all individuals who have applied for admission to the facility;
   ii. The waiting list shall reflect in chronological order the full name and address of the individual applying by the date the written application for admission is made;
   iii. Facilities that participate in the Medicaid program shall utilize the waiting list to admit individuals on a first-come, first-serve basis in the order in which they apply until the provider’s Medicaid occupancy level equals the Statewide occupancy level, or the Medicaid occupancy level set forth in the provider’s Certificate of Need, whichever is higher; and
   iv. A file shall be maintained containing full documentation to support any valid reason why the individual whose name appears first on the waiting list is not admitted to the facility.

2. Any Medicaid participating facility whose Medicaid occupancy level is less than the Statewide occupancy level shall not deny admission to a Medicaid eligible individual who has been authorized for nursing facility services by the Long-Term Care Field Office, when a bed becomes available in accord with the waiting list.
   i. Under the provisions of N.J.S.A 10:5-12.2, a facility with a residential unit or a life-care community may give its own residents priority when a bed becomes available.

(b) The facility shall not deny admission to any applicant for admission (“applicant for admission” means an individual who has made a formal application) based on diagnosis or health care needs if the applicant’s health care needs can be reasonably accommodated without reducing the quality of care provided to other residents, and are commensurate with the services provided by the facility.

(c) Whenever the facility denies admission to an applicant for admission, the facility, within 14 days of the denial, shall provide written notice of the denial and the reasons therefore, to the applicant or person applying on the applicant’s behalf. A record of each completed application, including the disposition and stated reason if admission is denied, shall be kept for one year.
8:39-5.3 Transfers
(a) Policies for transfer shall include method of transportation, procedures for security of
the resident and all personal belongings or other items that accompany or immediately
follow a transferred resident, a transfer form that is consistent with "Patient Information
Transfer Form" in Appendix C, incorporated herein by reference, copies of relevant medical
records, including assessments (MDS; PASRR) and advance directives if applicable.
(b) The facility shall arrange for transfer of residents to other health care facilities, and to
health care services provided outside the nursing home, and in accordance with the
physician’s or advanced practice nurse’s orders.
(c) All transfers shall be in accordance with N.J.A.C. 8:39-4.1.

8:39-5.4 Discharges
(a) No resident shall be discharged between 5:00 P.M. and 8:00 A.M., except in an
emergency or with the consent of the resident and family or responsible person.
(b) Discharge plans, for those residents considered to be likely candidates for discharge
into the community or a less intensive care setting, shall be developed by the
interdisciplinary team prior to discharge and shall reflect communication with the resident
and/or the resident’s family.
(c) All discharges shall be in accordance with N.J.A.C. 8:39-4.1 and 39.

NEW MEXICO
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7.9.2.22 RIGHTS OF RESIDENTS
...E. ADMISSION INFORMATION: Be fully informed in writing prior to or at the time of
admission, of all services and the charges for these services, and be informed in writing,
during the resident’s stay, of any changes in services available or in charges for services, as
follows:
(1) No person may be admitted to a facility without that person or that person’s guardian
or designated representative signing an acknowledgement of having received a statement
of information before or on the day of admission which contains at least the following
information or, in the case of a person to be admitted for short-term care, the information
required under these regulation.
(a) An accurate description of the basic services provided by the facility, the rate charged
for those services, and the method of payment for them;
...(c) The method for notifying residents of a change in rates or fees;
(d) Terms for refunding advance payments in case of transfer, death or voluntary or
involuntary discharge.
(e) Terms of holding and charging for a bed during a resident’s temporary absence.
(f) Conditions for involuntary discharge or transfer, including transfers within the facility;
...(h) A summary of residents’ rights recognized and protected by this section and all
facility policies and regulations governing resident conduct and responsibilities. No
statement of admission information may be in conflict with any part of these regulations.
K. TRANSFER, DISCHARGE AND BEDHOLD: Involuntary transfer shall be conducted only for resident’s welfare, health and safety of others, or failure to pay. Reasons other than failure to pay must be documented by a physician in resident’s record. Prior to transfer the facility must notify resident and/or next of kin or responsible party of right to appeal and name and address of ombudsman.

Q. NON-DISCRIMINATORY TREATMENT: Be free from discrimination based on the source from which the facility's charges for the resident's care are paid, as follows:

1. No facility may assign a resident to a particular wing or other distinct area of the facility, whether for sleeping, dining or any other purpose, on the basis of the source or amount of payment. A facility only part of which is certified for Medicare/Medicaid reimbursement under Title XVIII/XIX of the Social Security Act is not prohibited from assigning a resident to the certified part of the facility because of the source of payment for the resident’s care is Medicare/Medicaid.

2. Facilities shall offer and provide an identical package of basic services meeting the requirements of these regulations to all individuals regardless of the sources of a resident’s payment or amount of payment. Facilities may offer enhancements of basic services, provided that these enhanced services are made available at an identical cost to all residents regardless of the source of a resident’s payment. A facility which elects to offer enhancements to basic services to its residents must provide all residents with a detailed explanation of enhanced services and the additional charges for these services.

3. If a facility offers at extra charge additional services which are not covered by the facility’s provider agreement under which it provides Medicaid and Medicare services, it shall provide them to any resident willing and able to pay for them, regardless of the source from which the resident pays the facility’s charges.

4. No facility may require, offer or provide an identification tag for a resident that publicly identifies the source from which the facility’s charges for that resident’s care are paid.

7.9.2.38 REMOVALS FROM THE FACILITY:
The provisions of this section shall apply to all resident removals.
A. CONDITIONS: No resident may be temporarily or permanently removed from this facility except:

1. Voluntary removal: Upon the request or with the informed consent of the resident or guardian.

2. Involuntary removal:
   a. For nonpayment of charges, following seven (7) days notice and opportunity to pay any deficiency.
   b. If the resident requires care other than that which the facility is licensed to provide.
   c. For medical reasons as ordered by a physician.
   d. In case of a medical emergency or disaster.
   e. For the resident’s welfare or the welfare of other residents.
   f. If the resident does not need nursing home care, and alternate placement is identified and arrangements for transfer have been completed.
   g. If the short-term care period for which the resident was admitted has expired; and
(h) As otherwise permitted by law.
(3) Alternate placement: Except for removal under the preceding section, no resident may be involuntarily removed unless an alternate placement is arranged for the resident.

B. PERMANENT REMOVALS:

(1) Notice: The facility shall provide a resident, the resident’s physician and guardian, relative, or other responsible person, at least thirty (30) days notice of removal under Subsection A of 7.9.2.38 NMAC, except Subparagraph (a) of Paragraph (2) of Subsection A of 7.9.2.38 NMAC, unless the continued presence of the resident endangers the health, safety, or welfare of the resident or other residents.

(2) Removal procedures:
(a) The resident, shall be given a notice containing the time and place of a planning conference; a statement informing the resident that any persons of the resident’s choice may attend the conference; and the procedure for submitting a complaint to the Department.
(b) Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to involuntary removal under Section a planning conference shall be held at least three (3) days before removal with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident’s physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements, and develop a relocation plan which includes at least those activities listed below.
(c) Removal activities shall include: counseling regarding the impending removal; arrangements for the resident to visit the potential alternative placement and/or meeting with that facility's admissions staff, unless medically contra-indicated or waived by the resident; assistance to the resident in planning the moving of belongings and funds to the new facility or quarters; and provisions for needed medications and treatments during relocation.
(d) Discharge records. Upon removal of a resident, all relevant documents shall be prepared and provided to the facility admitting the resident.

7.9.2.40 BEDHOLD:

A. BEDHOLD: A resident who is on leave or temporarily discharged has expressed an intention to return to the facility under the terms of the admission policy for bedhold, shall not be denied readmission, if level of care remains the same.

B. LIMITATION: The facility shall hold a resident’s bed until the resident returns, until the resident waives his right to have the bed held or until the maximum time allowable as defined by facility policies expires. The facility is responsible for notifying resident and/or family of their bedhold policy.

.9.2.43 NOTIFICATION OF CHANGES IN CONDITION OR STATUS OF RESIDENT:

... B. CHANGES IN STATUS: A resident’s guardian and other person designated in writing by the resident or guardian shall be notified promptly of any significant nonmedical change in the resident’s status, including financial situation, any plan to discharge the resident, or any plan to transfer the resident within the facility or to another facility.
415.26 Organization and administration.
(b) Governing Body... The governing body shall:
...(14) transfer residents to another appropriate facility only after consultation, as appropriate, with the resident, his or her physician, and designated representative except in an emergency situation, in which case the operator shall notify the physician and designated representative immediately and record the reason for the transfer; and
(i) Admission Policies and Practices.
(1) The nursing home shall:
...(x) establish and implement written policies and procedures governing the admission process which ensure compliance with State and Federal anti-discrimination laws which apply to the governing body.

415.3 - Residents’ rights
...(b) Admission rights. The nursing home shall protect and promote the rights of residents and potential residents by establishing and implementing policies which ensure that the facility:
(1) shall not require a third party guarantee of payment to the facility as a condition of admission, or expedited admission, or continued stay in the facility;
(2) shall not charge, solicit, accept or receive, in addition to any amount otherwise required to be paid by third party payors, any gift, money, donation or other consideration as a precondition of admission, expedited admission or continued stay in the facility except that arrangements for prepayment for basic services not exceeding three months shall not be precluded by this paragraph;
(3) shall not require residents or potential residents to waive their rights to Medicare or Medicaid benefits;
(4) shall not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits;
(5) shall obey all pertinent state and local laws which prohibit discrimination against individuals entitled to Medicaid benefits;
(6) may require an individual who has legal access to a resident’s income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide the facility payment from the resident’s income or resources;
(7) may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified at the time of admission as included in basic nursing home services, so long as the facility gives proper notice of the availability and cost of these items and services to the resident and does not condition the resident’s admission or continued stay on the request for and receipt of such additional items and services; and
(8) may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.

...(e) Right to Clinical Care and Treatment.

...(2) With respect to its responsibilities to the resident, the facility shall:

...(ii) except in a medical emergency, consult with the resident immediately if the resident is competent, and notify the resident’s physician and designated representative within 24 hours when there is:

...(d) a decision to transfer or discharge the resident from the facility as specified in subdivision (h) of this section; and

...(g) Financial Rights.

...(2) With respect to its responsibilities to the resident, the facility shall:

(i) inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing home or, when the resident becomes eligible for Medicaid of:

(a) the items and services that are included in nursing home services under the State plan and for which the resident may not be charged;

(b) those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and

(c) the clear distinction between the two lists required by clauses (a) and (b) of this subparagraph;

(ii) inform each resident when changes are made to the items and services specified in clauses (a) and (b) of subparagraph (i) of this paragraph;

(iii) inform each resident verbally and in writing before, or at the time of admission, and periodically when changes occur during the resident’s stay, of services available in the facility and of charges for those services, including any charges for services not covered by sources of third party payment or by the facility’s basic per diem rate; and

(iv) prominently display in the facility written information, and provide to residents and potential residents oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits as well as a description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment which will determine the extent of a couple’s non-exempt resources at the time of institutionalization and attribute to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse’s medical care in his or her process of spending down to Medicaid eligibility levels.

(h) Transfer and discharge rights. Transfer and discharge shall include movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge shall not refer to movement of a resident to a bed within the same certified facility.

(1) With regard to the transfer or discharge of residents, the facility shall:
(i) permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless such transfer or discharge is made in recognition of the resident’s rights to receive considerate and respectful care, to receive necessary care and services, and to participate in the development of the comprehensive care plan and in recognition of the rights of other residents in the facility.

(a) The resident may be transferred only when the interdisciplinary care team, in consultation with the resident or the resident’s designated representative, determines that:

(1) the transfer or discharge is necessary for the resident's welfare and the resident’s needs cannot be met after reasonable attempts at accommodation in the facility;

(2) the transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility; or

(3) the health or safety of individuals in the facility would otherwise be endangered, the risk to others is more than theoretical and all reasonable alternatives to transfer or discharge have been explored and have failed to safely address the problem.

(b) Transfer and discharge shall also be permissible when the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid or third party insurance) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility the facility may charge a resident only allowable charges under Medicaid.

Such transfer or discharge shall be permissible only if a charge is not in dispute, no appeal of a denial of benefits is pending, or funds for payment are actually available and the resident refuses to cooperate with the facility in obtaining the funds.

(c) Transfer or discharge shall also be permissible when the facility discontinues operation and has received approval of its plan of closure in accordance with subdivision (i) of Section 401.3 of this Subchapter.

(ii) ensure complete documentation in the resident’s clinical record when the facility transfers or discharges a resident under any of the circumstances specified in subparagraph (i) of this paragraph. The documentation shall be made by:

(a) the resident’s physician and interdisciplinary care team, as appropriate, when transfer or discharge is necessary under sub clause (1) or (2) of clause (a) of subparagraph (i) of this paragraph; and

(b) a physician when transfer or discharge is necessary due to the endangerment of the health of other individuals in the facility under sub clause (3) of clause (a) of subparagraph (i) of this paragraph;

(iii) before it transfers or discharges a resident:

(a) notify the resident and designated representative of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

(b) record the reasons in the resident’s clinical record; and

(c) include in the notice the items described in subparagraph (v) of this paragraph;

(iv) provide the notice of transfer or discharge required under subparagraph (iii) of this paragraph at least 30 days before the resident is transferred or discharged, except that
notice shall be given as soon as practicable before transfer or discharge under the following
circumstances:
(a) the safety of individuals in the facility would be endangered;
(b) the health of individuals in the facility would be endangered;
(c) the resident’s health improves sufficiently to allow a more immediate transfer or
discharge;
(d) an immediate transfer or discharge is required by the resident’s urgent medical needs;
or
(e) the transfer or discharge is being made in compliance with a request by the resident.

(v) include in the written notice specified in subparagraph (iii) of this paragraph the
following:
(a) for transfers or discharges a statement that the resident has the right to appeal the
action to the State Department of Health in accordance with paragraphs (2) and (3) of this
subdivision. The statement shall include a current phone number for the Department
which can be used to initiate an appeal;
(b) the name, address and telephone number of the State long term care ombudsman;
(c) for nursing facility residents who are mentally ill or who have developmental
disabilities, the mailing address and telephone number of the Commission on Quality of
Care for the Mentally Disabled which is responsible for the protection and advocacy of such
individuals; and
(d) a statement that, if the resident appeals the transfer or discharge to the Department of
Health within 15 days of being notified of such transfer or discharge, the resident may
remain in the facility pending an appeal determination. This clause shall not apply to
transfers or discharges based on clauses (a), (b), (d) or (e) of subparagraph (iv) of this
paragraph; and
(vi) provide sufficient preparation and orientation to residents to ensure
safe and orderly transfer or discharge from the facility including an opportunity to
participate in deciding where to go.

(2) Appeals of transfer and discharge decisions to the Department of Health as permitted
by clause (a) of subparagraph (v) of paragraph (1) of this subdivision shall
be in accordance with the following:
(i) the resident has the right to:
(a) a pre-transfer on-site appeal determination under the auspices of the Department of
Health, provided that the resident has appealed the transfer or discharge within 15 days of
the notice, except in cases involving imminent danger to others in the facility, and
(b) remain in the facility pending an appeal determination, or
(c) a post-transfer appeal determination within 30 days of transfer if the resident did not
request an appeal determination prior to transfer, or
(d) return to the facility to the first available bed if the resident wins the appeal; and
(e) examine his/her medical records.
(ii) the presiding officer shall have the power to obtain medical and psychosocial
consultations,
(iii) the nursing home shall have the burden of proof that the transfer is/was necessary and the discharge plan appropriate,
(iv) in cases involving imminent danger to others in the facility, an involuntary transfer may be arranged before a hearing. However, the facility shall be required to hold the resident’s bed until after the hearing decision. If the transfer is found to be appropriate, the facility may charge a private pay resident for the time the bed was held. If the transfer is found to be inappropriate, the facility shall readmit the resident to his or her bed on a priority basis,
(v) the department shall conduct a review and render a decision on the appeal as required in clause (a) of subparagraph (i) of this paragraph within 15 days of the request.

(3) If an appeal decision rendered after discharge finds the discharge or transfer to be inappropriate, the facility shall readmit the resident prior to admitting any other person.
(4) The facility shall establish and implement a bed-hold policy and a readmission policy that reflect at least the following:
(i) At the time of admission and again at the time of transfer for any reason, the facility shall verbally inform and provide written information to the resident and the designated representative that specifies:
(a) the duration of the bed-hold policy during which the resident is permitted to return and resume residence in the facility; and
(b) the facility’s policies regarding bed-hold periods, which must be consistent with subparagraph
(iii) of this paragraph, permitting a resident to return.
(ii) At the time for therapeutic leave, a nursing home shall provide written notice to the resident and the designated representative, which specifies the duration of the bed-hold policy described in subparagraph (i) of this paragraph.
(iii) A nursing home shall establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed hold period is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident:
(a) requires the services provided by the facility; and
(b) is eligible for Medicaid nursing home services.
(iv) A nursing home shall establish and follow a written policy under which a resident who has resided in the nursing home for 30 days or more and who has been hospitalized or who has been transferred or discharged on therapeutic leave without being given a bed-hold is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident:
(a) requires the services provided by the facility; and
(b) is eligible for Medicaid nursing home services.

(5) With regard to the assurance of equal access to quality care, the facility shall establish and maintain identical policies and practices regarding transfer, discharge and the provision of all required services for all individuals regardless of source of payment
10A NCAC 13D .2205 DISCHARGE OF PATIENTS
(a) The facility shall ensure a medical order for discharge is obtained for all patients except when a patient leaves against medical advice or is discharged for non-payment.
(b) The facility shall ensure discharge planning is accomplished according to each patient's needs when a discharge is anticipated.
(c) The facility shall ensure the patient or the legal representative is informed and included in the discharge planning process.

North Dakota regulations do not contain specific content for Admission, Transfer, and Discharge Rights.

Ohio regulations do not contain specific content for Admission, Transfer, and Discharge Rights.

310:675-1-5. Relocation of a resident by the Department in emergency
(a) The Department may relocate a resident in an emergency when:
(1) The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or
(2) The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or
(3) The facility is unable to meet the needs of the resident.
(b) The Department may order the removal of all the residents to close the facility.
(c) The Department shall involve the resident and the resident’s family or representative in the decision to relocate the resident; however, the Department may move the resident without the consent of the resident or the family if necessary to preserve the health, welfare or safety of the resident. If the resident does not consent, then if possible a member
of the Adult Protective Services staff must agree in writing that the resident needs to be moved.
(d) The Department shall give written notice to the resident and to the facility of the reasons for the discharge or transfer if the resident or the resident’s families do not agree to transfer the resident.
(e) If the resident has no specific preference, the Department shall relocate the residents to the nearest facility capable of care for the resident if acceptable to the resident.
(f) Should a resident be aggrieved by the decision of the Department to relocate or transfer that resident, the Department shall conduct a hearing before relocating the resident unless to do so will fail to preserve the health, welfare or safety of the resident.
(g) The hearing will be conducted following Chapter 2 of this title and the Administrative Procedures Act.
(h) The hearing will be conducted at the facility, and will be attended by the Administrative Law Judge and the Department’s legal counsel. The Department will maintain a record on the case as it would for another individual proceeding.
(i) The Administrative Law Judge shall make this case a priority and shall issue a written opinion within one working day from the close of the hearing.
(j) The Administrative Law Judge’s order shall include findings of fact, conclusions of law and an order that the transfer was according to law or not.
(k) The order may be appealed to District Court as in any other individual proceeding in any other individual proceeding under the Administrative Procedures Act.

310:675-7-4. Resident transfer or discharge
(a) Reasons for transfer or discharge. Involuntary transfer or discharge of a resident may be initiated by a facility only for one or more of the following:
(1) Medical reasons, including needs that the facility is unable to meet, as documented by the attending physician, in consultation with the medical director if the medical director and attending physician are not the same person.
(2) The resident’s safety, or for the safety of other residents, as documented by the clinical record. The facility shall show through medical records that:
(A) the resident has had a comprehensive assessment by an interdisciplinary team and alternative measures have been attempted unsuccessfully; or
(B) the resident is a danger to himself, herself or other resident as documented by the medical record and the facility is not capable of managing that resident.
(3) The non-payment of charges for the resident’s care as documented by the facility’s business records for services for more than 30 days.
(b) Procedures. Procedures for involuntary transfer or discharge by the facility are as follows:
(1) Written notice shall be provided at least ten days in advance of the transfer or discharge date to the resident, resident’s legal representative, person responsible for payment of charges for the resident’s care, if different from any of the foregoing, and the Department.
(2) The ten day requirement shall not apply when an emergency transfer is mandated by the resident’s health care needs and is in accordance with the attending physician’s written orders and medical justification; or the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record. The facility shall not use a discharge to a hospital as a reason for failing to re-admit a resident after release from the hospital to the first available bed in a semi-private room. Such action shall be considered to be an involuntary discharge subject to all the requirements of this section, unless the discharge was required by the Department.

(3) The written notice shall include:
(A) A full explanation of the reasons for the transfer or discharge;
(B) The date of the notice;
(C) The date notice was given to the resident and the resident’s representative;
(D) The date by which the resident must leave the facility; and
(E) Information that the resident’s representative or person responsible for payment of the resident’s care who is aggrieved by the facility’s decision, may file within ten (10) days of notice a written request for a hearing with the Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.

(4) Failure of the facility to give the notice as substantially specified above shall result in an order without hearing from the Department denying the right of the facility to discharge the resident.

(5) If a written request for a hearing is properly filed by an eligible aggrieved party, the Department shall convene a hearing within ten working days of receipt of the request. The request may be in the form of a letter or a formal request for hearing from the resident or resident’s representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request should state the reason for the discharge and attach a copy of the letter from the facility.

(6) During the pendency of the hearing, the facility shall not discharge the resident unless the discharge was required by the Department or is an emergency situation. If the resident relocates from the facility but wants to be readmitted, the Department may proceed with the hearing and the facility shall be required to readmit the resident to the first available bed in a semi-private room if the discharge is found not to meet the requirements of the Nursing Home Care Act and OAC 310:675.

(7) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the facility, may be represented by counsel or may represent themselves.

(8) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department shall maintain a record on the case as it does for any other individual proceeding.
(9) The hearing shall be conducted in accordance with the Department’s procedures, Chapter 2 of this Title. The Administrative Law Judge’s order shall include findings of fact, conclusions of law and an order as to whether or not the transfer or discharge was according to law. If a facility receives federal funds for services, it shall also comply with the certification standards. The more restrictive rule toward the facility shall be applied.

(10) If the Administrative Law Judge finds that the discharge was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

(11) If the discharge is according to law, the order shall give the facility the right to discharge the resident.

(12) The scope of the hearing may include:
(A) Inadequate notice;
(B) Discharge based on reason not stated in the law;
(C) Sufficiency of the evidence to support the involuntary discharge; or
(D) The finding of emergency.

(13) The Administrative Law Judge shall render a written decision within ten working days of the close of the record.

(14) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer or discharge the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03]

OREGON
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Conditions for Payment
Nursing facilities must meet the following conditions in order to receive payment under Title XIX (Medicaid):

(1) CERTIFICATION.
(c) A facility choosing to discontinue compliance with section (1)(b) of this rule may elect to gradually withdraw from Medicaid certification but must comply with all of the following:
...(E) Notify in writing all persons applying for admission subsequent to notification of gradual withdrawal that, should the person later become eligible for Medicaid assistance, that reimbursement would not be available in that facility.

(2) CIVIL RIGHTS, MEDICAID DISCRIMINATION.
...(b) The facility must not discriminate based on source of payment. The facility must not have different standards of transfer or discharge for Medicaid residents except as required to comply with this rule.
(c) The facility must accept Medicaid payment as payment in full. The facility must not require, solicit, or accept payment, the promise of payment, a period of residence as a private pay resident, or any other consideration as a condition of admission, continued stay, or provision of care or service from the resident, relatives, or any one designated as a "responsible party".

(d) No applicant may be denied admission to a facility solely because no family member, relative, or friend is willing to accept personal financial liability for any of the facility's charges.

(e) The facility may not request or require a resident, relative, or "responsible party" to waive or forego any rights or remedies provided under state or federal law, rule, or regulation.

411-070-0115 Transfer of Residents
(1) Prior Approval Required. A resident must not be transferred to another facility without prior approval by the resident, the attending physician, branch worker, and the facility's director of nursing services. Reassignment of rooms within the facility requires prior notice to the case manager. All transfers, both inter-and intra-facility, must be conducted in accordance with resident's rights as described in OAR chapter 411, division 085 and the transfer rules in OAR chapter 411, division 088.

(2) Emergency Transfer. In an emergency, consultation with the branch worker is waived. However, the branch worker must be notified by the facility of the resident's transfer at the earliest possible opportunity.

(3) Noncompliance. Failure on the part of the facility administration to comply with this rule can constitute a basis for withholding payment for care of the resident involved.

411-070-0120 Discharge of Residents
When the attending physician indicates that the resident does not, or in the future will not, require long-term care, facility authorities must report this fact to the branch office no later than the first branch office working day following the physician's notification. Upon request, the branch office will assist the resident, facility, relatives, or guardian in developing plans and arrangements for discharge placement. Resident's refusal to be discharged will relieve the Department of responsibility for payment.

411-085-0210 Facility Policies
(1) POLICIES REQUIRED. A Quality Assessment and Assurance Committee must develop and adopt facility policies. The policies must be followed by the facility staff and evaluated annually by the Quality Assessment and Assurance Committee and rewritten as needed. Policies must be adopted regarding:

...(b) Transfer and discharge, including discharge planning;

411-085-0310 Residents' Rights: Generally
The facility must protect, encourage and assist the resident in exercising the rights identified in OAR 411-085-0300 – 411-085-0350. Each resident and the resident's legal representative, as appropriate, have the right to:
...(3) Be fully informed, prior to or at the time of admission and during stay, of services available in the facility, including Medicaid and Medicare certification status and the potential consequences thereof to the resident. The facility must assist the resident to apply for Medicaid and Medicare benefits, by ensuring that the resident is able to contact the local Medicaid agency, whenever a resident may be eligible.
...(8) Be transferred or discharged only in accordance with the Seniors and People with Disabilities Division transfer and discharge rules in OAR chapter 411, division 088.

411-085-0320 Residents' Rights: Charges and Rates
(1) ADMISSION. The facility must provide written and oral notice before or at the time of admission to each resident specifying:
(a) The base daily rate, or Medicaid rate and, as soon as known, amount of resident liability, as applicable; services provided for that rate, and other charges that might reasonably be expected, including but not limited to medical supplies, pharmaceuticals, incontinence care, feeding, bedhold daily rate, and laundry;
(b) Whether the facility accepts Medicaid reimbursement:
(A) If the facility accepts Medicaid reimbursement, the notice must include a description of the Medicaid eligibility requirements and who to contact to apply for Medicaid assistance;
(B) If the facility does not accept Medicaid, the notice must include the facility's policy regarding residents who exhaust their private resources and become eligible for Medicaid;
(C) Nothing in this section will be construed to permit discrimination based on payment source; and
(c) Alternative forms of transportation available to the resident for routine and emergency transportation, including information on possible cost and how to access such service(s).
(2) RATE CHANGES. The facility must give 30 days' written notice to all residents of changes in base rates and any other charge.

411-086-0310 Employee Orientation and In-Service Training
...(2) Inservice. The Administrator or his/her designee shall coordinate all inservice training. Inservice training shall be designed to meet the needs of all facility staff in accordance with facility policy (OAR 411-085-0210). Each certified nursing assistant shall receive a minimum of three hours of inservice training each calendar quarter. Each calendar year the inservice training agenda shall include at least the following:
...(c) The transfer/discharge rules, including, but not limited to, the obligations of facility personnel to forward requests for conferences and hearings to the appropriate authorities.

411-088-0000 Purpose
These Oregon Administrative Rules, OAR 411-088-0000 through 411-088-0080, shall be known as the "Transfer Rules." The purpose of these rules is to ensure that:
(1) Unnecessary transfers do not occur;
(2) When transfers are necessary, precautions are taken by the facility to minimize risk to the resident and to help ensure the transfer will result in an environment that is suited to meet the resident's needs; and
(3) Residents who leave to go to a hospital, or who choose to go to any other environment (except another nursing facility), may return; and
(4) Residents are provided with information on their rights relative to the transfer process prior to a voluntary or involuntary transfer.

411-088-0007 Voluntary Transfer
(1) Written Consent Required. Written consent for a voluntary transfer is required. Consent must be in writing on the form provided by the Division on the back page of the brochure, "Leaving the Nursing Facility". If a resident has substantially impaired cognitive powers, consent may only be given by a person designated by the resident to receive notice or, if none, the resident's legal representative.
(2) Documentation. The completed consent form must be kept in the resident's clinical record.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]
Stat. Auth.: ORS 410 & ORS 441.055
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 8-1993, f. & cert. ef. 10-1-93

411-088-0010 Involuntary Transfer
Unless a transfer is voluntary, no resident may be transferred from a facility except for the reasons and according to the procedures described in these Transfer Rules. These rules shall only apply to residents in nursing facility beds or persons returning to nursing facility beds.
Stat. Auth.: ORS 410 & ORS 441
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90

411-088-0020 Basis for Involuntary Transfer
Upon compliance with these Transfer rules (OAR 411-088), an involuntary transfer of a resident may be made when one of the reasons specified in section (1) or section (2) of this rule exists.
(1) MEDICAL and WELFARE REASONS.
(a) A resident may be transferred when the resident's physician states in writing that:
(A) The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or
(B) The facility is unable to meet the resident's care needs and the facility has identified another environment available to the resident which can better meet the resident's needs. The Division shall assist the facility in the effort.
(b) A resident may be transferred when the Division Administrator or the State Fire Marshal states in writing the safety of the resident (or other persons in the facility) is endangered and justifies the transfer;
(c) A resident may be transferred when the behavior of the resident creates a serious and immediate threat to the resident or to other residents or persons in the facility and all reasonable alternatives to transfer (consistent with the attending physician’s orders) have been attempted and documented in the resident’s medical record. Such alternatives may include but are not limited to chemical or physical restraints and medication;
(d) A resident may be transferred when the resident has a medical emergency;
(e) A resident may be transferred when governmental action results in the revoking or declining to renew a facility’s certification or license;
(f) A resident may be transferred when the facility intends to terminate operation as a nursing facility, and:
(A) Certifies in writing to the Division the license is to be irrevocably terminated; and
(B) Establishes to the satisfaction of the Division it has made arrangements to accomplish all necessary transfers in a safe manner with adequate resident involvement and follow-up or each resident to minimize negative effects of the transfer;
(g) A resident may be transferred from a facility when the resident has been accepted for the purpose of receiving post-hospital extended care services or specialized services, as physician’s orders for such facility services and has, according to the physician’s written opinion, improved sufficiently so the resident no longer needs the post-hospital extended care services or specialized services provided by the facility. The purpose of the admission, including the program of care, and the expected length of stay must have been agreed to in writing by the resident (or his/her legal representative who is so authorized to make such an agreement) at or prior to admission. The facility shall identify another environment available to the resident which is appropriate to meet the resident’s needs. The Notice may be issued at the time of admission or later and shall be based upon the projected course of treatment.
(2) NON-PAYMENT REASONS. A resident may be transferred when there is a non-payment of facility charges for the resident and payment for the stay is not available through Medicaid, Medicare or other third party reimbursement. A resident may not be transferred if, prior to actual transfer, delinquent charges are paid. A resident may not be transferred for delinquent charges if payment for current charges is available through Medicaid, Medicare or other third party reimbursement.
(3) CONVICTION OF A SEX CRIME. A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:
(a) The facility was not notified prior to admission that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and
(b) The facility learns that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and
(c) The resident presents a current risk of harm to another resident, staff or visitor in the facility, as evidenced by:
(A) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature or verbal threats of a sexual nature; and
(B) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections or community corrections agency parole or probation officer
that the individual’s Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(d) Prior to the move, the facility must contact DHS Central Office by telephone and review the criteria in paragraphs (8)(c)(A)&(B) of this rule. DHS will respond within one working day of contact by the facility. The Department of Corrections parole or probation officer will be included in the review, if available. DHS will advise the facility if rule criteria for immediate move out are not met. DHS will assist in locating placement options.

(e) A written move-out notice must be completed on a Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person, to the resident, or the resident’s legal representative, if applicable. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out must be immediately faxed to the State Long Term Care Ombudsman.

(f) Prior to the move, the facility must orally review the notice and right to object with the resident or legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary move-out. The facility will immediately telephone DHS Central Office when a hearing is requested. The hearing will be held within five business days of the resident’s move. No informal conference will be held prior to the hearing.

Stat. Auth.: ORS 441.055, 441.605, & 443.410
Stats. Implemented: ORS 441.055, 441.600, 441.615, 443.410 & 181.586
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 6-2006(Temp), f. & cert. ef. 1-18-06 thru 7-1-06; SPD 21-2006, f. 6-27-06 cert. ef. 7-1-06

411-088-0030 Considerations Required Prior to Involuntary Transfer
Prior to issuing a notice for an involuntary transfer, in order to determine the appropriateness of transfer, the facility shall consider the following:
(1) The availability of alternatives to transfer.
(2) The resident’s ties to family and community.
(3) The relationships the resident has developed with other residents and facility staff.
(4) The duration of the resident’s stay at the facility.
(5) The medical needs of the resident and the availability of medical services.
(6) The age of the resident and degree of physical and cognitive impairment.
(7) The availability of a receiving facility that would accept the resident and provide service consistent with the resident’s need for care.
(8) The consistency of the receiving facility’s services with the activities and routine with which the resident is familiar, and the receiving facility’s ability to provide the resident with similar access to personal items significant to the resident and enjoyed by the resident at the transferring facility.
(9) The probability that the transfer would result in improved or worsened mental, physical, or social functioning, or in reduced dependency of the resident.
(10) The type and amount of preparation for the move, including but not limited to:
(a) Solicitation of the resident's friends and/or family in preparing the resident for the move;
(b) Visitation by the resident to (prior to actual transfer) or familiarity of the resident with the place to which the resident is to be transferred.

(11) On-site consultation by an individual with specific expertise in mental health services if the basis for considering transfer is behavioral, e.g., gero-psychiatric consultation.

Stat. Auth.: ORS 410 & ORS 441.055
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93

411-088-0040 Involuntary Transfer Prohibited

(1) The facility shall not involuntarily transfer a resident for medical or welfare reasons under OAR 411-088-0020(1)(a) through (f) if the risk of physical or emotional trauma significantly outweighs the risk to the resident and/or to other residents if no transfer were to occur.

(2) The facility shall not involuntarily transfer a resident for any other reasons under OAR 411-088-0020 if the transfer presents a substantial risk of morbidity or mortality to the resident.

Stat. Auth.: ORS 410 & ORS 441
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93

411-088-0050 Right to Return from Hospital

(1) If a resident is transferred to a hospital, the facility shall not fill the resident's bed with another person if the resident or the resident's legal representative offers payment, or reimbursement is available from the Division, for the period of the hospital stay. If payment/reimbursement is offered or available, from or on behalf of the resident or the Division or a combination thereof, or if the facility has not complied in full with section (2) of this rule, the resident shall have the right of return to his/her bed immediately after the period of hospital stay.

(2) The Administrator, or his/her designee, is responsible for notifying the resident/legal representative and any agency responsible for the welfare or support of the resident of the option to offer payment to hold the bed prior to filling the bed with another person. This notification shall be documented in the resident's record by either the resident's or legal representative's written agreement to pay or rejection of the option to pay.

(3) If the resident is unable due to physical or mental incapacity to enter such agreement and there is no legal representative known to the facility, this fact shall be documented in the resident's record and the resident's bed may thereafter be filled upon issuance of the notice (Exhibit 2).

(4) If the resident’s bed has been given to another person because payment was not offered, the resident shall have priority for readmission over all other persons with a right to readmission and over any other waiting list.
(5) If a former resident or his/her legal representative requests right of return and the facility denies right of return, then the facility shall give written notice (Exhibit 2).

(6) Persons with right of return have priority over all persons with right of readmission.

(7) Residents with a right of return are entitled to return to the facility immediately upon discharge from the hospital unless the resident’s bed has been filled in compliance with OAR 411-088-0050 and there is no available bed in the facility.

[ED. NOTE: The Exhibit(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 410 & ORS 441.055
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93

411-088-0060 Right to Readmission

(1) Any person transferred from a facility voluntarily or involuntarily shall have the right of readmission to the facility from which the person was transferred, provided that:

(a) A request for readmission is made within 180 days of the date of transfer; and

(b) The person is eligible by means of payment and requires nursing facility care; and

(c) No determination was made at informal conference or hearing that the person would not have the right of readmission.

(2) Section (1) of this rule does not require a facility to accept a person in a bed located in a room which is occupied by a resident of the opposite sex at the time of the request.

EXCEPTION: A facility is required to accept a person to a room occupied by a resident of the opposite sex if the respective resident previously shared a room in the facility and if neither resident objects to the admission.

(3) Section (1) of this rule does not require a facility to accept a person who voluntarily transferred from the facility directly to another nursing facility.

(4) If a person, or his/her legal representative, request readmission, and the facility denies readmission, then the facility shall give written notice (Exhibit 2).

(5) A former resident who receives Medicaid does not have the right to be readmitted to a facility which is not Medicaid certified unless reimbursement is available pursuant to OAR 411-070-0010.

(6) If more than one person has a right of readmission, priority in allocation of vacancies shall be determined by the earliest date of application for readmission.

(7) Exception. A person whose stay(s) in the facility totals 30 or fewer days and was transferred pursuant to OAR 411-088-0070(1)(d) (post-hospital extended care services or specialized services) shall not have a right of readmission.

[ED. NOTE: The Exhibit(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 441.055 & ORS 441.605
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95
411-088-0070 Notice Requirements

(1) NOTICE LENGTH:

(a) Any person transferred shall be provided a minimum of 30 days prior written notice (Exhibit 1) by the facility unless otherwise provided under this section.

(b) Any person may be transferred under OAR 411-088-0020(1)(b) (Life or Safety Threat) or 411-088-0020(1)(c) (Behavior Problem) with fewer than 30 days prior written notice (Exhibit 1) if the reason for such transfer constitutes an emergency. However, the facility shall give as much prior written notice (Exhibit 1) as the emergency permits.

(c) Any resident may be involuntarily transferred under OAR 411-088-0020(1)(d) (Medical Emergency) with no prior notice. However, the facility shall give notice (Exhibit 1 or 2) before giving the resident's bed to another person.

(d) Any person involuntarily transferred under OAR 411-088-0020(1)(g) (Post-Hospital Extended Care Services or Specialized Services) and cared for in the facility for less than 30 days may be transferred with fewer than 30 days’ notice.

(A) In such cases the person shall be provided with notice no shorter than the length of current stay in the nursing facility.

(B) The notice shall be issued at the time of admission or as soon as the length of time for projected course of treatment can be estimated.

(C) Section (1)(d) of this rule does not apply if the resident had a right of readmission to the same facility prior to the hospital, surgical or emergency department services.

(e) Any resident involuntarily transferred under OAR 411-088-0020(1)(b) or (e) (Governmental Action) shall be provided a minimum of 14 days prior written notice (Exhibit 1).

(f) Any person denied the right of return or the right of readmission shall be notified by the facility immediately and provided written notice (Exhibit 2), mailed (registered or certified) or delivered in person within five days from date of request for return or readmission. A denial of right of return or readmission is allowable only if there is good cause to believe the resident lacks such right (see OAR 411-088-0050, 411-088-0060 and 411-088-0080).

(g) Any resident may voluntarily transfer from a facility. However, the facility shall provide notice (Exhibit 1) pursuant to this rule and shall maintain the signed consent form in the resident’s medical record.

(2) NOTIFICATION LIST. The facility shall maintain and keep current in the resident’s record the name, address and telephone number of the resident’s legal representative, if any, and of any person designated by the resident or the resident’s legal representative to receive notice of the transfer. The facility shall also record the name, address, and telephone number of any person who has demonstrated consistent concern for the resident if the resident has no one who is currently involved and who has been designated by the resident.

(3) NOTICE DISTRIBUTION. Notice shall be provided to:

(a) The resident or former resident, as appropriate;
(b) All persons required to be listed in the resident’s medical record under section (2) of this rule;
(c) The local unit of the Seniors and People with Disabilities Division or Type B Area Agency on Aging. The notice does not need to be provided to the local unit of the Seniors and People with Disabilities Division or Type B Area Agency on Aging if the resident is private pay and the resident’s stay(s) in the facility total 30 days or less; and
(d) The Long-Term Care Ombudsman if there is no one currently involved and designated by the resident.
(4) NOTICE FORMAT. Each notice shall be in the same format and shall have the same content as that provided in Exhibit 1 (Notice of Transfer) or Exhibit 2 (Denial of Readmission/Return) as appropriate.
(a) Each notice provided to residents, and persons required to be listed in the resident’s medical record under section (2) of this rule shall be accompanied by a copy of the Seniors and People with Disabilities Division’s brochure, "Leaving the Nursing Facility".
(b) If the person is a resident at the facility, the notice shall be served personally to the resident. All other notices required by this rule, including notices to persons who are no longer residents, must be either served personally or delivered by registered or certified mail.
(c) Both exhibits are incorporated by this reference as a part of this rule.
[ED. NOTE: Exhibits referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 441.055 & 441.605 Stats. Implemented: ORS 441.055, 441.600 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 32008, f. & cert. ef. 3-6-08

411-088-0080 Informal Conference and Hearing
(1) Conference and Hearing Required. A person who is to be involuntarily transferred, or refused the right of return or readmission, shall be entitled to an informal conference and hearing as provided in this rule.
(2) Conference Request:
(a) Upon receipt of a notice, the resident or any agency designated to receive the notice or person acting in the resident’s or former resident’s behalf, may request an informal conference on the form provided on the brochure, "Leaving the Nursing Facility":
(A) The request for informal conference must be mailed to the Division within ten days of the service or delivery of the notice. The Division shall immediately notify the licensee of the request;
(B) The Division may extend the time allowed for requesting an informal conference if it determines that good cause exists for failure to make a timely request;
(C) Any facility management personnel, or employee involved in providing nursing or other direct care, who receives any oral or written indication of a desire for an informal conference from a resident shall immediately notify the facility administrator. The administrator shall immediately thereupon provide notification to the Division.
(b) A resident may not be transferred after having requested an informal conference, or after facility staff or the licensee has knowledge of any indication of a desire for an informal conference, until:

(A) Disposition of the request has been completed to the satisfaction of all parties; or
(B) Authorization is provided by the Hearings Officer pursuant to this section.

(3) Informal Conference:
(a) The Division will hold an informal conference as promptly as reasonably possible, but in no event later than ten days (unless a later date is agreed upon by both the facility and the persons/agencies requesting the conference) after the request is received. The Division shall give telephone notice (where a telephone number is available) and send written notice of the time and place of the conference to the facility and all persons entitled to the notice. The purpose of the informal conference is to resolve the matter without a formal hearing. If a resolution is reached at the informal conference, it will be reduced to writing and no formal hearing will be held;
(b) The proceedings will be conducted at the facility where the resident is located unless an alternate site is agreed upon by both the licensee and the persons/agencies requesting the conference;
(c) At the end of the informal conference, if the licensee wishes to proceed with the transfer, the Division shall ask if any party representing the resident wishes to request a hearing.

(4) Hearing:
(a) Hearings shall be conducted as a contested case in accordance with the Administrative Procedures Act, ORS Chapter 183, and the rules of the Division adopted there under. Parties to the hearing shall be the resident (or former resident) and the licensee. The Hearings Officer is delegated the authority to issue the final order and shall do so;
(b) If, pursuant to section (3) of this rule, the Division receive (orally or in writing) a request for a hearing, the Division will set the date, time and place of the hearing as promptly as possible. Unless a later date is agreed upon by both the licensee and the person(s) requesting the hearing, the hearing shall be held no later than 30 days after the informal conference;
(c) Nothing herein shall be construed to prohibit, at the election of the Division and with the consent of all interested parties, a hearing immediately following the informal conference;
(d) The Division shall provide all persons and entities listed in OAR 411-088-0070(3) and the licensee with notification of the hearing. The hearing notification shall be served on the parties personally or by registered or certified mail;
(e) At the hearing the facility shall proceed first by presentation of evidence in support of the transfer of the resident, or of refusal to provide right of return or readmission of the former resident. The person or persons requesting the hearing shall follow the facility by presentation of evidence in support of their objection to the transfer, or of the request of right of return or readmission:
(A) In a hearing concerning right of readmission, the only questions raised shall be whether the application was timely, whether the former resident is eligible by means of payment, and whether another person was/is entitled to the bed;
(B) In a hearing concerning right of return, the only question raised shall be whether full payment is or was available for the period of hospital stay and whether there was authority under OAR 411-088-0050(2) for another person to be given the bed.
(f) The licensee shall have the burden of establishing that the transfer, or denial of return or readmission, is permitted by law;
(g) The Hearings Officer shall, in determining the appropriateness and timeliness of an involuntary transfer, or a refusal of return or readmission, consider factors including, but not limited to, the factors listed in OAR 411-088-0030. The Hearings Officer shall not approve a transfer:
(A) For medical or welfare reasons (under OAR 411-088-0020(1)(a) through (d) if the risks of physical or emotional trauma significantly outweighs the risk to the resident and/or to other residents if no transfer were to occur;
(B) For any other reason if the transfer presents a substantial risk of morbidity or mortality to the resident.
(h) Conclusion of Hearing. The hearing shall be concluded by the issuance of findings and an order:
(A) Affirming the transfer, or the refusal to provide right of return or readmission;
(B) Granting conditional approval of a transfer when necessary or appropriate for the welfare of the resident. Conditions may include without limitation the occurrence of any or all of the following incidents in preparation for a transfer:
(i) Selecting a location for the person to be placed consistent with his/her need for care and as consistent as possible with his/her ties, if any, with friends and family;
(ii) Soliciting and encouraging participation of the resident’s friends and family in preparing the resident for transfer;
(iii) Visits by the resident to the proposed site of relocation prior to the actual transfer, accompanied by a person with whom the resident is familiar and comfortable, unless the resident is already familiar with the proposed site;
(iv) Arranging at the proposed site of relocation for continuation (as much as possible) of activities and routines with which the resident has become familiar;
(v) Ensuring that the resident is afforded continuity in the arrangement of an access to personal items significant to the resident.
(C) Ordering the licensee to retain the resident or to readmit the former resident if he or she has been transferred; or to provide the former resident with the right of return or readmission; or
(D) Ordering the licensee to retain the resident and establishing standards of behavior for family members or other visitors necessary for the welfare of residents;
(E) Making such further provisions as are reasonably necessary to give full force and effect to any order that a licensee retain or readmit the resident or provide the resident the right of return or readmission.
(i) If the Division approves a transfer subject to one or more conditions pursuant to this rule, the transfer shall not occur until the licensee has notified the person(s) requesting the hearing and certified to the Division in writing that all of such conditions have been complied with and the Division has acknowledged to the licensee in writing the receipt and sufficiency of such certification. The Division may, upon request, allow verbal certification and give verbal acknowledgement subject to subsequent certification and acknowledgement in writing.

(5) Exceptions. A person who is to be involuntarily transferred, or refused the right of return or readmission, as a result of governmental action pursuant to OAR 411-088-0020(1)(b) shall not be entitled to a hearing prior to transfer.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 410 & ORS 441.055
Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93

PENNSYLVANIA

§ 201.23. Closure of facility.
(a) The administrator or owner shall notify the appropriate Division of Nursing Care Facilities field office at least 90 days prior to closure
(b) If the facility is to be closed, the licensee shall notify the resident or the resident’s responsible person in writing.
(c) Sufficient time shall be given to the resident or the resident’s responsible person to effect an orderly transfer.
(d) No resident in a facility may be required to leave the facility prior to 30 days following receipt of a written notice from the licensee of the intent to close the facility, except when the Department determines that removal of the resident at an earlier time is necessary for health and safety.
(e) If an orderly transfer of the residents cannot be safely effected within 30 days, the Department may require the facility to remain open an additional 30 days.
(f) The Department is permitted to monitor the transfer of residents.

§ 201.25. Discharge policy.
There shall be a centralized coordinated discharge plan for each resident to ensure that the resident has a program of continuing care after discharge from the facility. The discharge plan shall be in accordance with each resident’s needs. Authority
The provisions of this § 201.25 amended under section 803 of the Health Care Facilities Act (35 P.S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).
§ 201.29. Resident rights.
(e) The resident or if the resident is not competent, the resident’s responsible person, shall be informed verbally and in writing prior to, or at the time of admission, of services available in the facility and of charges covered and not covered by the per diem rate of the facility. If changes in the charges occur during the resident’s stay, the resident shall be advised verbally and in writing reasonably in advance of the change. “Reasonably in advance” shall be interpreted to be 30 days unless circumstances dictate otherwise. If a facility requires a security deposit, the written procedure or contract that is given to the resident or resident’s responsible person shall indicate how the deposit will be used and the terms for the return of the money. A security deposit is not permitted for a resident receiving Medical Assistance (MA).

(f) The resident shall be transferred or discharged only for medical reasons, for his welfare or that of other residents or for nonpayment of stay if the facility has demonstrated reasonable effort to collect the debt. Except in an emergency, a resident may not be transferred or discharged from the facility without prior notification. The resident and the resident’s responsible person shall receive written notification in reasonable advance of the impending transfer or discharge. Reasonable advance notice shall be interpreted to mean 30 days unless appropriate plans which are acceptable to the resident can be implemented sooner. The facility shall inform the resident of its bed-hold policy, if applicable, prior to discharge. The actions shall be documented on the resident record.

(g) Unless the discharge is initiated by the resident or resident’s responsible person, the facility is responsible to assure that appropriate arrangements are made for a safe and orderly transfer and that the resident is transferred to an appropriate place that is capable of meeting the resident’s needs. Prior to transfer, the facility shall inform the resident or the resident’s responsible person as to whether the facility where the resident is being transferred is certified to participate in the Medicare and MA reimbursement programs.

(h) It is not necessary to transfer a resident whose condition had changed within or between health care facilities when, in the opinion of the attending physician, the transfer may be harmful to the physical or mental health of the resident. The physician shall document the situation accordingly on the resident’s record.
Section 19.0 Rights of Residents

...19.2 Each resident shall be offered treatment without discrimination as to gender, age, race, color, religion, national origin, handicap, or source of payment.

...19.6 Each resident or responsible party shall be informed in writing, prior to, or at the time of admission and during stay, of services available and of related charges including all charges not covered either under federal and/or state programs by other third party payers or by the facility’s basic per diem rate.

...19.18 Before transferring a resident to another facility or level of care within a facility, the resident shall be informed of the need for such a transfer and of any alternatives to such a transfer.

a) A resident shall be transferred or discharged only for medical reasons, or for his welfare or that of other residents or for nonpayment of his stay.

b) Reasonable advance notice for transfers to health care facilities other than hospitals shall be given to ensure orderly transfer or discharge and such actions shall be documented in the medical record.

19.18.1 Bed-Hold and Readmission: A nursing facility must provide written information pertaining to bed-hold and readmission for residents transferred for hospitalization or therapeutic leave as follows:

a) Notice before transfer: Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and a family member or legal representative concerning:
   i) the provisions of the medical assistance program state plan regarding the period (if any) during which the resident will be permitted under the state plan to return and resume residence in the facility; and
   ii) the policies of the facility regarding such a period, which policies must be consistent with section b) hereunder;

b) Notice upon transfer: At the time of the transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and a family member or legal representative of the duration of any period described in section c) hereunder; except in an emergency, said notice must be given within 24 hours of the transfer.

c) Permitting resident to return: A nursing facility must establish and follow a written policy under which a resident:
   i) who is transferred from the facility for hospitalization or therapeutic leave; and
   ii) whose hospitalization or therapeutic leave exceeds a period paid for under the state plan for the holding of a bed in the facility for the resident, will be readmitted to the facility immediately upon the first availability of a bed of appropriate level of care in a semi-private room in the facility if at time of readmission, the resident requires the services provided by the facility;
iii) Any nursing facility that accepts private payment for purposes of reserving a bed in the facility for a resident who is transferred from the facility for hospitalization or other institutional therapeutic leave, and that resident's medical and health care is being paid for by the state Medical Assistance Program, shall not charge an amount per day for reserving a bed in the facility that exceeds the facility's current Medicaid daily rate; for a minimum of the first five (5) days of said hospitalization or the institutional therapeutic leave.

iv) the departments of human services and of health shall receive, on a monthly basis, the names from each nursing home of those persons awaiting readmission under these provisions.

Section 21.0 Resident Care Policies
21.5 Resident care policies shall be available for review by all residents, physicians, community agencies, relatives and personnel and shall include provisions for at least the following:
...g) emergency admissions or discharges and emergency care of residents;
...i) notification of next of kin, attending physician or responsible agency of any transfer or discharge;
Such information shall contain no less than the following:
...vi. bed-hold policy and readmission in accordance with section 19.18.1 c) herein.

Section 26.0 Special Care Units - Alzheimer and Other Dementia Special Care Units or Programs:
26.1.2 The facility shall provide care and services as described in the disclosure form, and consistent with the rules and regulations herein. The information disclosed shall explain the additional care provided in each of the following areas:
...b) Pre-Admission, Admission and Discharge - The process and criteria for placement (which shall include a diagnosis of dementia), transfer or discharge from the unit.

SOUTH CAROLINA
Downloaded January 2011

SECTION 500 - POLICIES AND PROCEDURES
501. General (II)
A. There shall be written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The written policies and procedures shall accurately reflect actual facility practice regarding...admission and transfer...

SECTION 1000 - RESIDENT CARE AND SERVICES
1001. General
A. There shall be a written care and services agreement between the resident, and/or his or her responsible party, and the facility. The agreement shall be signed and completed before or at the time of admission and include and/or address at least the following:
...6. Discharge and transfer provisions to include the conditions under which the resident may be discharged and the agreement terminated, and the disposition of personal belongings.

1013. Discharge/Transfer
A. Residents shall be transferred or discharged only upon physician orders and only as appropriate in accordance with the Bill of Rights for Residents of Long-Term Care Facilities. Immediate transfer is permissible in cases of medical emergencies or where the health and safety of other residents would be endangered, in accordance with the Bill of Rights for Residents of Long-Term Care Facilities.
B. Notification of resident discharge and transfer shall be in accordance with the Bill of Rights for Residents of Long-Term Care Facilities. In cases of transfer due to medical emergencies or instances where other residents may be endangered, the family member, if any, shall be notified within a time period that is practicable under the circumstances, but not later than twenty-four (24) hours following the transfer.
C. Other than residents transferred back to their home, residents requiring care and/or supervision shall be transferred or discharged to a location that is licensed to provide that care and is appropriate to the resident’s needs and abilities. (II)
D. Upon transfer or discharge, the facility shall assure that resident information, medications, as appropriate, personal possessions and personal monies are released to the resident and/or the receiving facility in a manner that assures continuity of treatment, care, and services. (II)
E. A discharge summary shall accompany each resident discharged or transferred to another licensed healthcare facility, or shall be forwarded to the receiving facility in a manner that assures continuity of care and services.

SOUTH DAKOTA
Downloaded January 2011

44:04:04:07. Admissions of patients or residents.
The governing body of the facility shall establish and maintain admission, transfer, and discharge policies, with written evidence to assure the patients or residents admitted to and retained in the facility are within the licensure classification of the facility or its distinct part...

44:04:17:03. Facility to provide information on available services.
A facility must provide the following information in writing to each resident:
(1) A list of services available in the facility and the charges for such services. The facility must specify which items and services are included in the services for which the resident may not be charged, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges;
...(6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

(7) A description of the bed-hold policy which indicates the length of time the bed will be held for the resident, any policies regarding the held bed, and readmission rights of the resident.


44:04:17:04. Notification when resident’s condition changes.
A facility must immediately inform the resident, consult with the resident’s physician, and, if known, notify the resident’s legal representative or interested family member when any of the following occurs:
(1) An accident involving the resident which results in injury or has the potential for requiring intervention by a physician;
(2) A significant change in the resident’s physical, mental, or psychosocial status;
(3) A need to alter treatment significantly; or
(4) A decision to transfer or discharge the resident from the facility.


A facility must establish and maintain policies and practices for admission, discharge, and transfer of residents which prohibit discrimination based upon payment source and which are made known to residents at or before the time of admission. The policies and practices must include:
(1) The resident may remain in the facility and may not be transferred or discharged unless the resident’s needs and welfare cannot be met by the facility, the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of individuals in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;
(2) The facility must notify the resident and a family member or client advocate in writing at least 30 days before the transfer or discharge unless a change in the resident’s health requires immediate transfer or discharge or the resident has not resided in the facility for 30 days. The written notice must specify the reason for and effective date of the transfer or discharge and the location to which the resident will be transferred or discharged;
(3) Conditions under which the resident may request or refuse transfer within the facility; and
(4) A description of how the resident may appeal a decision by the facility to transfer or discharge the resident.
1200-8-6-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

...(8) No resident shall be discharged without a written order from the attending physician or through other legal processes and timely notification of next of kin and/or sponsor or authorized representative, if any. Each nursing home shall establish a policy for handling patients who wish to leave against medical advice.

(9) When a resident is discharged, a brief description of the significant findings and events of the resident’s stay in the nursing home, the condition on discharge and the recommendation and arrangement for future care, if any, shall be provided.

(10) No resident shall be transferred without a written order from the attending physician or through other legal processes and timely notification of next of kin and/or sponsor or authorized representative, if any.

(11) When a resident is transferred, a summary of treatment given at the nursing home, condition of the resident at time of transfer and date and place to which he is transferred shall be entered in the record. If the transfer is due to an emergency, this information will be recorded within forty-eight (48) hours, otherwise, it will precede the transfer of the resident.

(12) When a resident is transferred, a copy of the clinical summary shall, with consent of the resident, be sent to the nursing home that will continue the care of the resident.

(13) Where an involuntary transfer is proposed, in addition to any other relevant factors, the following factors shall be taken into account:

(a) The traumatic effect on the resident.

(b) The proximity of the proposed nursing home to the present nursing home and to the family and friends of the resident.

(c) The availability of necessary medical and social services at the proposed nursing home.

(d) Compliance by the proposed nursing home with all applicable Federal and State regulations.

(14) When the attending physician has ordered a resident transferred or discharged, but the resident or a representative of the resident opposes the action, the nursing home shall counsel with the resident, the next of kin, sponsor and representative, if any, in an attempt to resolve the dispute and shall not transfer the resident until such counseling has been provided. No involuntary transfer or discharge shall be made until the nursing home has first informed the department and the area long-term care ombudsman. Unless a disaster occurs on the premises or the attending physician orders The transfer as a medical emergency (due to the resident’s immediate need for a higher level of care) no involuntary transfer or discharge shall be made until five (5) business days after these agencies have been notified, unless they each earlier declare that they have no intention of intervening.
(15) Except when the Board has revoked or suspended the license, a nursing home which intends to close, cease doing business, or reduce its licensed bed capacity by ten percent (10%) or more shall notify both the department and the area long-term care ombudsman at the earliest moment of the decision, but not later than thirty (30) days before the action is to be implemented. The facility shall establish a protocol, subject to the department’s approval, for the transfer or discharge of the residents. Should the nursing home violate the provisions of this paragraph, the department shall request the Attorney General of the State of Tennessee to intervene to protect the residents, as is provided by T.C.A. § 68-11-213(a).


1200-8-6-.12 RESIDENT RIGHTS.

(1) The nursing home shall establish and implement written policies and procedures setting forth the rights of residents for the protection and preservation of dignity, individuality and, to the extent medically feasible, independence. Residents and their families or other representatives shall be fully informed and documentation shall be maintained in the resident's file of the following rights:

...(r) To be told in writing before or at the time of admission about the services available in the facility and about any extra charges, charges for services not covered under Medicare or Medicaid, or not included in the facility's bill;

...(v) To be free from involuntary transfer or discharge, except for these reasons:

1. Medical reasons;
2. His/her welfare or that of the other residents; or
3. Nonpayment, except as prohibited by the Medicaid program;

Sec. 242.501. RESIDENT’S RIGHTS.
(a) The department by rule shall adopt a statement of the rights of a resident. The statement must be consistent with Chapter 102, Human Resources Code, but shall reflect the unique circumstances of a resident at an institution. At a minimum, the statement of the rights of a resident must address the resident’s constitutional, civil, and legal rights and the resident’s right:
...(11) to a written statement or admission agreement describing the services provided by the institution and the related charges;
...(20) to discharge himself or herself from the institution unless the resident is an adjudicated mental incompetent;
(21) to not be discharged from the institution except as provided in the standards adopted by the department under Section 242.403;
(b) A right of a resident may be restricted only to the extent necessary to protect:
(1) a right of another resident, particularly a right of the other resident relating to privacy and confidentiality; or
(2) the resident or another person from danger or harm.

RULE §19.204 Application Requirements
(B). The disclosure statement must contain the following information:
...(ii) the preadmission, admission, and discharge process.

SUBCHAPTER E RESIDENT RIGHTS
RULE §19.402 Exercise of Rights
...(d) The facility must comply with all applicable provisions of the Human Resources Code, Title 6, Chapter 102. An individual may not be denied appropriate care on the basis of his race, religion, color, national origin, sex, age, handicap, marital status, or source of payment.

RULE §19.403 Notice of Rights and Services
(a) The facility must inform the resident, the resident’s next of kin or guardian, both orally and in writing, in a language that the resident understands, of the resident’s rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. This notification must be made prior to or upon admission and during the resident’s stay if changed.
...(i) The facility must inform a resident before, or at the time of admission, and periodically during the resident’s stay (if there are any changes), of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility’s per diem rate. Notice must be in writing, at least 30 days
before the effective date of any changes in rates for services not covered by the current charge, or in Medicaid-certified facilities, by Medicaid.

...(I) Notification of changes.

(1) A facility must immediately inform the resident; consult with the resident’s physician; and if known, notify the resident’s legal representative or an interested family member when there is:

... (D) a decision to transfer or discharge the resident from the facility.

(m) Additional requirements for Medicaid-certified facilities. Medicaid-certified facilities must:

(1) provide the resident with the state-developed notice of rights under §1919(e)(6) of the Social Security Act (see also §19.402 of this subchapter (relating to Exercise of Rights));

(2) inform a resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of:

   (A) the items and services that are included in nursing facility services provided under the State Plan and for which the resident may not be charged;

   (B) those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services;

(3) inform each resident when changes are made to the items and services specified in paragraphs (2)(A) and (2)(B) of this subsection;

(4) provide a written description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment under §1924(c) of the Social Security Act, which:

   (A) is used to determine the extent of a couple’s nonexempt resources at the time of institutionalization; and

   (B) attributes to the community spouse an equitable share of resources that cannot be considered available for payment toward the cost of the institutionalized spouse’s medical care in the process of spending down to Medicaid eligibility levels; and

(5) prominently display in the facility written information, and provide to residents and potential residents oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive funds for previous payments covered by such benefits.

Source Note: The provisions of this §19.403 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective July 1, 2001, 26 TexReg 3824; amended to be effective May 1, 2002, 27 TexReg 3207; amended to be effective August 1, 2002, 27 TexReg 6052; amended to be effective June 1, 2006, 31 TexReg 4449; amended to be effective September 1, 2008, 33

RULE §19.404 Protection of Resident Funds

...(c) Statement of resident rights and responsibilities. The facility must provide each resident and responsible party with a written statement at the time of admission that meets the following requirements:
... (2) the statement notes, when applicable, that any charge for the facility handling a Medicaid recipient's personal funds is included in the facility's basic rate.

Source Note: The provisions of this §19.404 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.405 Additional Requirements for Trust Funds in Medicaid-certified Facilities

...(j) Request for items or services that may be charged to a resident's personal funds. The facility must:
(1) not charge a resident, nor his representative, for any item or service not requested by the resident;
(2) not require a resident, nor his representative, to request any item or service as a condition of admission or continued stay; and
(3) inform the resident or his representative, when he requests an item or service for which a charge will be made, that there will be a charge for the item or service and the amount of the charge.

RULE §19.406 Free Choice

...(2) The facility must furnish Medicaid recipients with complete information about available Medicaid services, how to obtain these services, their rights to freely choose service providers as specified in this subsection and the right to request a hearing before the Texas Department of Human Services (DHS) if the right to freely choose providers has been abridged without due process.

Source Note: The provisions of this §19.406 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.408 Grievances

...(c) A facility may not discharge or otherwise retaliate against:
(1) an employee, resident, or other person because the employee, resident, or other person files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of a restraint or involuntary seclusion at the facility; or
(2) a resident because someone on behalf of the resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of a restraint or involuntary seclusion at the facility.

Source Note: The provisions of this §19.408 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective May 1, 2002, 27 TexReg 2832; amended to be effective June 1, 2006, 31 TexReg 4449

RULE §19.422 Authorized Electronic Monitoring (AEM)

...(b) A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct authorized video monitoring.
(i) A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. If a facility discovers a covert electronic monitoring device and it is no longer covert as defined in §242.843, Health and Safety Code, the resident must meet all the requirements for AEM before monitoring is allowed to continue.

j) DHS may assess an administrative penalty of $500 against a facility for each instance in which the facility:

...(2) refuses to admit an individual or discharges a resident because of a request to conduct AEM;
(3) discharges a resident because covert electronic monitoring is being conducted by or on behalf of the resident.

Source Note: The provisions of this §19.422 adopted to be effective July 1, 2002, 27 TexReg 4362

Subpart F ADMISSION, TRANSFER, AND DISCHARGE RIGHTS IN MEDICAID-CERTIFIED FACILITIES

RULE §19.501 Admissions Policy for Medicaid-certified Facilities

(a) The facility must not require:
(1) residents or potential residents to waive their rights to Medicare or Medicaid; and
(2) oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(b) The facility must not require a third-party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident’s income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident’s income or resources.

(c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State Plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission, or continued stay in the facility. However, a nursing facility may:
(1) charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State Plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident’s admission or continued stay on the request for and receipt of these additional services; and
(2) solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid-eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid-eligible resident.

Source Note: The provisions of this §19.501 adopted to be effective May 1, 1995, 20 TexReg 2393
RULE §19.502 Transfer and Discharge in Medicaid-certified Facilities

(a) Definition. Transfer and discharge includes movement of a resident to a bed outside the certified facility, whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement within the same certified facility.

(b) Transfer and discharge requirements. The facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless:

1. the transfer or discharge is necessary for the resident’s welfare, and the resident’s needs cannot be met in the facility;
2. the transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;
3. the safety of individuals in the facility is endangered;
4. the health of other individuals in the facility would otherwise be endangered;
5. the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid;
6. the resident, responsible party, or family or legal representative requests a voluntary transfer or discharge; or
7. the facility ceases to operate or participate in the program which pays for the resident’s care. See §19.2310 of this title (relating to Nursing Facility Ceases to Participate). If the facility voluntarily withdraws from participation in Medicaid, but continues to provide nursing facility services:
   (A) the facility’s voluntary withdrawal from Medicaid is not an acceptable basis for the transfer or discharge of residents who were residing in the facility on the day before the effective date of the withdrawal (including those residents who were not entitled to Medicaid assistance as of such day);
   (B) for individuals who begin residence in the facility after the effective date of the withdrawal, the facility must provide notice orally and in a prominent manner in writing on a separate page of the admission agreement at the time the resident begins residence and must provide notice in writing, signed by the individual, and separate from other documents signed by the individual of the following information:
      (i) The facility is not participating in the Medicaid program with respect to these residents.
      (ii) The facility may transfer or discharge these residents if they are unable to pay the charges of the facility, even though the resident may have become eligible for Medicaid nursing facility services.

(c) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in subsection (b)(1)-(5) of this section, the resident’s clinical record must be documented. The documentation must be made by:
1. the resident’s physician when transfer or discharge is necessary under subsection (b)(1) or (2) of this section; and
2. a physician when transfer or discharge is necessary under subsection (b)(4) of this section.
(d) Notice before transfer. Before a facility transfers or discharges a resident, the facility must:
(1) notify the resident and, if known, a responsible party or family or legal representative of the resident about the transfer or discharge and the reasons for the move in writing and in a language and manner they will understand;
(2) record the reasons in the resident’s clinical record; and
(3) include in the notice the items described in subsection (f) of this section.
(e) Timing of the notice.
(1) Except when specified in paragraph (3) of this subsection, the notice of transfer or discharge required under subsection (d) of this section must be made by the facility at least 30 days before the resident is transferred or discharged.
(2) The requirements described in paragraph (1) of this subsection and subsection (g) of this section do not have to be met if the resident, responsible party, or family or legal representative requests the transfer or discharge.
(3) Notice may be made as soon as practicable before transfer or discharge when:
(A) the safety of individuals in the facility would be endangered, as specified in subsection (b)(3) of this section;
(B) the health of individuals in the facility would be endangered, as specified in subsection (b)(4) of this section;
(C) the resident’s health improves sufficiently to allow a more immediate transfer or discharge, as specified in subsection (b)(2) of this section;
(D) the transfer and discharge is necessary for the resident’s welfare because the resident’s needs cannot be met in the facility, as specified in subsection (b)(1) of this section, and the resident’s urgent medical needs require an immediate transfer or discharge; or
(E) a resident has not resided in the facility for 30 days.
(4) When an immediate involuntary transfer or discharge as specified in subsection (b)(3) or (4) of this section, is contemplated, unless the discharge is to a hospital, the facility must:
(A) immediately call the staff of the state office LTC-R Customer Service Section of the Texas Department of Human Services (DHS) to report their intention to discharge; and
(B) submit the required physician documentation regarding the discharge.
(f) Contents of the notice. For nursing facilities, the written notice specified in subsection (d) of this section must include the following:
(1) the reason for transfer or discharge;
(2) the effective date of transfer or discharge;
(3) the location to which the resident is transferred or discharged;
(4) a statement that the resident has the right to appeal the action as outlined in DHS’s Fair Hearings, Fraud, and Civil Rights Handbook by requesting a hearing through the Medicaid eligibility worker at the local DHS office within 10 days;
(5) the name, address, and telephone number of the regional representative of the Office of the State Long Term Care Ombudsman, Texas Department on Aging, and of the toll-free number of the Texas Long Term Care Ombudsman, 1-800-252-2412;
(6) in the case of a resident with mental illness or mental retardation, the address and phone number of the state mental health/mental retardation authority, which is: Texas
(g) Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(h) Notice of relocation to another room. Except in an emergency, the facility must notify the resident and either the responsible party or the family or legal representative at least five days before relocation of the resident to another room within the facility. The facility must prepare a written notice which contains:

(1) the reasons for the relocation;
(2) the effective date of the relocation; and
(3) the room to which the facility is relocating the resident.

(i) Fair hearings.

(1) Individuals who receive a discharge notice from a facility have 10 days to appeal. If the recipient appeals, he may remain in the facility, except in the circumstances described in subsections (b)(5) and (e)(3) of this section, until the hearing officer makes a final determination. Vendor payments and eligibility will continue until the hearing officer makes a final determination. If the recipient has left the facility, Medicaid eligibility will remain in effect until the hearing officer makes a final determination.

(2) When the hearing officer determines that the discharge was inappropriate, the facility, upon written notification by the hearing officer, must readmit the resident immediately, or to the next available bed. If the discharge has not yet taken place, and the hearing officer finds that the discharge will be inappropriate, the facility, upon written notification by the hearing officer, must allow the resident to remain in the facility. The hearing officer will also report the findings to Long Term Care-Regulatory for investigation of possible noncompliance.

(3) When the hearing officer determines that the discharge is appropriate, the resident is notified in writing of this decision. Any payments made on behalf of the recipient past the date of discharge or decision, whichever is later, must be recouped.

(j) Discharge of married residents. If two residents in a facility are married and the facility proposes to discharge one spouse to another facility, the facility must give the other spouse notice of his right to be discharged to the same facility. If the spouse notifies a facility, in writing, that he wishes to be discharged to another facility, the facility must discharge both spouses on the same day, pending availability of accommodations.

Source Note: The provisions of this §19.502 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective January 1, 2000, 24 TexReg 11781; amended to be effective August 1, 2000, 25 TexReg 6779
RULE §19.503 Notice of Bed-Hold Policy and Readmission in Medicaid-certified Facilities

(a) Notice before transfer. Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies:
(1) the duration of the bed-hold policy under the Medicaid State Plan (see §19.2603 of this title (relating to Therapeutic Home Visits Away from the Facility) if any, during which the resident is permitted to return and resume residence in the facility; and
(2) the facility’s policies regarding bed-hold periods, which must be consistent with subsection (c) of this section, permitting a resident to return.
(b) Bed-hold notice upon transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative, written notice which specifies the duration of the bed-hold policy described in subsection (a) of this section.
(c) Permitting resident to return to facility. A nursing facility must establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed-hold period under the State Plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident:
(1) requires the services provided by the facility; and
(2) is eligible for Medicaid nursing facility services.
(d) Bed-hold charges. The facility may enter into a written agreement with the recipient or responsible party to reserve a bed.
(1) The facility may charge the recipient an amount not to exceed the DHS daily vendor rate according to the recipient's classification at the time the individual leaves the facility.
(2) The facility must document all bed-hold charges in the recipient’s financial record at the time the bed-hold reservation services were provided.
(3) The facility may not charge a bed-hold fee if the Texas Department of Human Services (DHS) is paying for the same period of time, as in a three-day therapeutic home visit.

Source Note: The provisions of this §19.503 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314.

RULE §19.504 Equal Access to Quality Care in Medicaid-certified Facilities

(a) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the Medicaid State Plan for all individuals regardless of source of payment.
(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in §19.403(h) and (i) of this title (relating to Notice of Rights and Services).
(c) The Texas Department of Human Services is not required to offer additional services on behalf of a recipient other than services provided in the State Plan.

Source Note: The provisions of this §19.504 adopted to be effective May 1, 1995, 20 TexReg 2393.
SUBCHAPTER M Physician Services
RULE §19.1202 Physician Visits
The physician must:
...(4) write, sign, and date a physician's discharge summary within 20 workdays of being notified by the facility of the discharge, except as specified in §19.1912(e) of this title (relating to Additional Clinical Record Service Requirements), if the resident has been temporarily discharged for 30 days or less, and readmitted to the same facility; and
Source Note: The provisions of this §19.1202 adopted to be effective May 1, 1995, 20 TexReg 2393.

SUBCHAPTER X REQUIREMENTS FOR MEDICAID-CERTIFIED FACILITIES RULE
§19.2302 Requirements for a Contracted Medicaid Facility
...(d) A facility may not participate in the Texas Medical Assistance Program if it has restrictive policies or practices, including:
...(7) restricting the resident from applying for Medicaid for a specified period of time;
(8) denying appropriate care to an individual on the basis of his race, religion, color, national origin, sex, age, disability, marital status, or source of payment; and

RULE §19.2304 Contract Requirements
...(c) The contracting nursing facility agrees to:
(1) comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), §504 of the Rehabilitation Act of 1973 (Public Law 93-112), the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 (Public Law 101-336), the Safe Medical Devices Act of 1990, and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts. In addition, the contractor agrees to comply with Chapter 73 of this title (relating to Civil Rights). These provide in part that no persons in the United States shall, on the grounds of race, color, national origin, sex, age, disability, political beliefs or religion be excluded from participation in, or denied, any aid, care, service or other benefits provided by federal and/or state funding, or otherwise be subjected to discrimination;
Source Note: The provisions of this §19.2304 adopted to be effective May 1, 1995, 20 TexReg 2393.

SUBCHAPTER Y MEDICAL REVIEW AND RE-EVALUATION
RULE §19.2407 Denied Medical Necessity
(a) If the state Medicaid claims administrator determines that a Medicaid applicant or a recipient does not meet the criteria for medical necessity described in §19.2401 of this subchapter (relating to General Qualifications for Medical Necessity Determinations), the state Medicaid claims administrator notifies the attending physician and the nursing facility in writing and provides them an opportunity to present additional information about the applicant's or recipient's medical need for nursing facility care.
(1) If the attending physician or a nursing facility physician does not respond or contest the findings of the state Medicaid claims administrator within 10 working days after receipt of the written notice about the decision, the findings are final.

(2) If the attending physician or a nursing facility physician contests the findings of the state Medicaid claims administrator, at least one physician with the state Medicaid claims administrator must review the case. If the state Medicaid claims administrator’s physician determines that the applicant’s or recipient’s admission or stay is not medically necessary, the determination becomes final.

(3) The state Medicaid claims administrator sends written notification of the final determination of denied medical necessity to the attending physician, the nursing facility, and the applicant or recipient (or responsible party).

(b) After an applicant receives written notice of a determination of denied medical necessity, the applicant or responsible party must request a fair hearing within 90 days after the date of denied medical necessity, or the applicant loses the right to a fair hearing.

(c) After a recipient receives written notice of a determination of denied medical necessity, the recipient or responsible party must request a fair hearing within 10 days after the date of the written notice in order to have nursing facility services paid for during the appeal.

(1) If the recipient requests a fair hearing within 10 days after the date of the written notice and the determination of denied medical necessity is upheld, the effective date of the denial is 10 days after the hearing officer's written decision.

(2) If the recipient does not request a fair hearing within 10 days after the date of the written notice, DADS makes vendor payments to the nursing facility at the previously established RUG rate for 15 days or until the recipient is discharged, whichever occurs first.

(3) If the recipient does not request a fair hearing within 10 days after the date of the written notice, the recipient must request a fair hearing within 90 days after the date of denied medical necessity, or the recipient

d) Fair hearings are conducted by the Texas Health and Human Services Commission (HHSC) in accordance with HHSC rules at 1 TAC Chapter 357.

Source Note: The provisions of this §19.2407 adopted to be effective September 1, 2008, 33

**SUBCHAPTER AA  VENDOR PAYMENT**

**RULE §19.2602 Additional Charges (Items and Services Excluded from Vendor Payment)**

(a) The Texas Department of Human Services (DHS) does not make vendor payments when a Title XIX recipient is absent from the facility because of:

(1) therapeutic home visits that extend beyond three days; or

(2) hospital inpatient services. However, DHS makes vendor payments for periods when a recipient is a hospital outpatient subject to the following limitations.

(A) DHS makes vendor payments when a Title XIX recipient is absent from the nursing facility past midnight for outpatient hospital services, including services resulting from hospital outpatient observation. In these cases the facility must document in the clinical record that the recipient was not admitted as an inpatient in the hospital.
If the recipient is admitted to the hospital for inpatient services anytime during a hospital outpatient observation period, a patient transaction notice showing discharge must be submitted effective the date the recipient left the nursing facility. The facility may enter into a written agreement with the recipient or responsible party to reserve a bed, according to the specifications of §19.503 of this title (relating to Notice of Bed-hold Policy and Readmission in Medicaid-Certified Facilities). Source Note: The provisions of this §19.2602 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.2603 Therapeutic Home Visits Away from the Facility
(a) The facility must have written policies and procedures governing recipient therapeutic home visits away from the facility for the purpose of visiting with relatives and friends.
(b) The following conditions must be met for the facility to receive vendor payment:
   (1) the recipient’s plan of care provides for physician-authorized therapeutic visits;
   (2) the facility must provide equipment and supplies necessary to meet the needs of the recipient, including, but not limited to, medication and oxygen and supplies for its administration;
   (3) if a visit exceeds three days, the facility submits a discharge form effective the first day. Days are defined as 24-hour periods extending from midnight to midnight. In determining days of absence from a facility, the first day is the first 24-hour period beginning at midnight after the recipient’s departure. Situations that require a discharge form effective the first day include: alternate care living arrangements, including at home; transfer or discharge to other medical care or living arrangements covered under Title XIX; and
   (C) therapeutic visits that are over three days (one night must be spent in the facility between therapeutic home visits if vendor payment is to be made);
   (4) the facility must maintain a record of each therapeutic visit away from the facility. Verification that therapeutic visits took place and were documented is a part of the audit procedures during the DHS audit of the facility. DHS does not pay for therapeutic visits which were not documented.
(c) Before a resident goes on therapeutic leave, the facility must provide written notification to the recipient, and, if known, a responsible party, or family or legal representative, regarding the three-day time limit for a home visit, as specified in subsection (b)(3) of this section. Source Note: The provisions of this §19.2603 adopted to be effective May 1, 1995, 20 TexReg 2393.
(a) be informed, prior to or at the time of admission and for the duration of stay, of resident rights and of all rules and regulations governing resident conduct.
(b) be informed, prior to or at the time of admission and for the duration of stay, of services available in the facility and of related charges, including any charges for services not covered by the facility’s basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act.

...(d) be transferred or discharged only for medical reasons, for personal welfare or that of other residents, or for nonpayment for the stay, and to be given reasonable advance notice to ensure orderly transfer or discharge.

...(8) Facility policy must include criteria for admission and retention of residents who require behavior management programs.

(1) Each facility must develop written admission, transfer and discharge policies and make these policies available to the public upon request. The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:
(a) The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
(b) The transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;
(c) The safety of individuals in the facility is endangered;
(d) The health of individuals in the facility is endangered;
(e) The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or
(f) The facility ceases to operate.
(2) The facility must document resident transfers or discharges under any of the circumstances specified in R432-150-22(1)(a) through (f), in the resident’s medical record. The transfer or discharge documentation must be made by: (a) the resident's physician if transfer or discharge is necessary under R432-150-22(1)(a) and (b);
(b) a physician if transfer or discharge is necessary under R432-150-22(1)(c) and (d).
(3) Prior to the transfer or discharge of a resident, the facility must:
(a) provide written notification of the transfer or discharge and the reasons for the transfer or discharge to the resident, in a language and manner the resident understands, and, if known, to a family member or legal representative of the resident;
(b) record the reasons in the resident’s clinical record; and
(c) include in the notice the items described in R432-150-22(5).
(4) Except when specified in R432-150-22(4)(a), the notice of transfer or discharge required under R432-150-22(2), must be made by the facility at least 30 days before the resident is transferred or discharged.
(5) Notice may be made as soon as practicable before transfer or discharge if:
(a) the safety or health of individuals in the facility would be endangered if the resident is 
not transferred or discharged sooner;
(b) the resident's health improves sufficiently to allow a more immediate transfer or 
discharge;
(c) an immediate transfer or discharge is required by the resident’s urgent medical needs; 
or
(d) a resident has not resided in the facility for 30 days.
(6) The contents of the written transfer or discharge notice must include the following:
(a) the reason for transfer or discharge;
(b) the effective date of transfer or discharge;
(c) the location to which the resident is transferred or discharged; and
(d) the name, address, and telephone number of the State and local Long Term Care 
Ombudsman programs.
(e) For nursing facility residents with developmental disabilities, the notice must contain 
the mailing address and telephone number of the agency responsible for the protection and 
avocacy of developmentally disabled individuals established under part C of the 
Developmental Disabilities Assistance and Bill of Rights Act.
(f) For nursing facility residents who are mentally ill, the notice must contain the mailing 
address and telephone number of the agency responsible for the protection and advocacy 
of mentally ill individuals established under the Protection and Advocacy for Mentally Ill 
Individuals Act.
(7) The facility must provide discharge planning to prepare and orient a resident to ensure 
safe and orderly transfer or discharge from the facility.
(8) Notice of resident bed-hold policy, transfer and re-admission must be documented in 
the resident file.
(a) Before a facility transfers a resident to a hospital or allows a resident to go on 
therapeutic leave, the facility must provide written notification and information to the 
resident and a family member or legal representative that specifies:
(i) the facility's policies regarding bed-hold periods permitting a resident to return; and
(ii) the duration of the bed-hold policy, if any, during which the resident is permitted to 
return and resume residence in the facility.
(b) At the time of transfer of a resident to a hospital or for therapeutic leave, the facility 
must provide written notice to the resident and a family member or legal representative, 
which specifies the duration of the bed-hold policy.
(c) If transfers necessitated by medical emergencies preclude notification at the time of 
transfer, notification shall take place as soon as possible after transfer.
(d) The facility must establish and follow a written policy under which a resident whose 
hospitalization or therapeutic leave exceeds the bed-hold period is readmitted to the 
facility.
(9) The facility must establish and maintain identical policies and practices regarding 
transfer, discharge, and the provision of services for all individuals regardless of pay 
source.
R432-200-12. Residents’ Rights. [Small Health Care Facility (Four to Sixteen Beds)]
(2) Each resident admitted to the facility shall have the following rights:
(a) To be fully informed, as evidenced by the resident's written acknowledgement prior to or at the time of admission and during stay, of residents’ rights and of all rules governing resident conduct;
(b) To be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act;
...(f) To be transferred or discharged only for medical reasons, or his welfare or that of other residents, or for nonpayment for his stay, and to be given reasonable advance notice to ensure orderly transfer or discharge; such actions shall be documented in his health record.

R432-200-13. Admission and Discharge. [Small Health Care Facility (Four to Sixteen Beds)]
Each facility shall develop admission and discharge policies that shall be available to the public upon request.
(1) Admission Policies.
...(g) The resident shall be informed of his rights as a resident.
(i) A written copy of the facility’s residents’ rights shall be explained and given to the resident.
(ii) If the resident is unable to comprehend his rights, a written copy shall be given to the next of kin or other responsible party.
(iii) The inability of the resident to provide consent shall be documented in the resident’s record.
(2) Discharge Policies.
(a) The resident shall be discharged when the facility is no longer able to meet the resident’s identified needs.
(b) There shall be an order for the resident’s discharge by the physician or person in charge of the resident’s care.
(c) A discharge summary containing a brief narrative of the resident’s diagnoses, course of treatment, conditions, and final disposition shall be documented in the medical record.
(d) Upon discharge of a resident, all money and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident in exchange for a signed receipt (see R432-200-12(3)).
operating a Special Care Unit. Approval will be based on a demonstration that the Unit will provide specialized services to a specific population.

...(b) A request for approval must include all of the following:

...(5) the criteria for admission, continued stay and discharge which shall also include any criteria used for moving residents within the facility, into or out of a unit.

2.8 Changes in Status Necessitating Discharge or Transfer of Residents
(a) Whenever a licensee plans to discontinue all or part of its operation or change its ownership or location, and such change in status would necessitate the discharge or transfer of residents, the administrator shall notify the licensing agency and the State Long Term Care Ombudsman at least 90 days prior to the proposed date of the change.

(b) For Licensees planning a change in status as described above:
(1) All nursing home rules and regulations shall remain fully applicable until all residents have been discharged or transferred.
(2) At least 60 days prior to the date of the planned change in status, the administrator shall provide the licensing agency and the State Long Term Care Ombudsman with a written transfer plan, subject to approval by the licensing agency. This plan shall include the following:
(i) documentation that adequate staff and resident care will be provided;
(ii) the licensee’s arrangements to make an orderly transfer of residents and to minimize the health risks; and
(iii) the placement action proposed to be taken for each individual resident.
(3) The administrator, upon request, shall provide the licensing agency with any additional information related to the transfer plan as well as follow-up reports regarding specific placement action.
(4) The licensee shall not admit new residents after the date of written notice required in this section.

3. RESIDENTS’ RIGHTS
3.6 Treatment and Experimental Research
...(b) To the extent permitted by law, the resident has the right to refuse care or treatment, including the right to refuse restraint and to discharge himself or herself from the facility, and to be informed of the consequences of that action. The nursing home shall be relieved of any further responsibility for that refusal.

3.12 Bed Hold and Right of Return
(a) After hospitalization, each resident has the right to return to the first available bed in the nursing home he or she came from, if the patient has not retained his or her bed under subsection 3.12(b), provided the facility is able to meet the resident’s medical needs and the resident’s welfare or that of other residents will not be adversely affected.
(b) Upon payment of his or her usual rate or, in the case of Medicaid residents, his or her certified per diem compensation, each resident has the right to retain his or her bed in the nursing home while absent from the facility due to hospitalization or therapeutic leave.
provided such absence does not exceed ten successive days. Upon admission, before a nursing facility allows a resident to go on therapeutic leave and upon or as soon as practicable after transfer to a hospital, a nursing facility must provide written information to the resident and a family member or legal representative that specifies:
(1) The duration of the bed-hold policy during which the resident is permitted to return and resume residence in the nursing facility; and
(2) The nursing facility's policies regarding bed-hold periods permitting a resident to return.
(c) A nursing facility must establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed-hold period is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident requires the services provided by the facility.

3.14 Transfer and Discharge
...(b) Transfer and Discharge Requirements. The facility must permit each resident to remain in the room or in the facility, and not transfer or discharge the resident from the facility, unless:
(1) the transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
(2) the transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;
(3) the health or safety of individuals in the facility is endangered;
(4) the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a nursing facility, the nursing facility may charge a resident allowable charges under Medicaid;
(5) the facility ceases to operate; or
(6) the transfer or discharge is ordered by a court.
(c) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in this subsection, the circumstances must be documented in the resident’s clinical record. The documentation must be made by the resident’s physician when transfer or discharge is necessary under subsections 3.14(b)(1), (2), (3) or (4) or 3.14 (l).
(d) Notice before transfer or discharge. Before a facility transfers or discharges a resident, the facility must:
(1) notify the resident and, if known, a family member, including a reciprocal beneficiary, or legal representative of the resident, of the proposed transfer or discharge and reasons for the move. The notice shall be in writing and in a language and manner they understand, and shall be given at least 72 hours before a transfer within the facility and 30 days before the discharge from the facility.
(2) record the reasons in the resident’s clinical record; and
(3) include in the notice the items described in subsection 3.14(e) below.
(e) Contents of the notice. The written notice specified in this subsection shall be on a form provided by the licensing agency or one that is substantially similar and must include the following:
(1) the reason for transfer or discharge;
(2) the effective date of transfer or discharge;
(3) the location to which the resident is being transferred or discharged;
(4) a statement in large print or large point type that the resident has the right to appeal the facility's decision to transfer or discharge to the State, with the appropriate information regarding how to do so as set forth in 3.14 (h) below;
(5) the name, address and telephone number of the State Long Term Care Ombudsman;
(6) a statement that the resident may remain in place pending the appeal;
(7) for nursing facility residents with developmental disabilities, the mailing address and telephone number of the Developmental Disability Law Project and that of the Vermont Department of Developmental and Mental Health Services, Division of Developmental Services; and/or
(8) for nursing facility residents who are mentally ill, the mailing address and telephone number of Vermont Protection and Advocacy, Inc.

(f) Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation for residents to ensure safe and orderly transfer or discharge from the facility.

(g) Discharge to community setting. No resident appropriate for nursing home care may be discharged to a community setting against his or her will. A facility must document that a resident voluntarily discharged to a community setting understood fully all options for care and understood fully the right to refuse such a discharge.

(h) Appeal process. A resident has the right to appeal the facility's decision to transfer or discharge. The process for appeal is as follows:
(1) To appeal the decision to transfer or discharge, the resident must notify the administrator of the facility or the director of the licensing agency. Upon receipt of an appeal, the administrator must immediately notify the director of the licensing agency.
(2) The request to appeal the decision may be oral or written and must be made within 10 business days of the receipt of the notice by the resident.
(3) Both the facility and the resident shall provide all the materials deemed relevant to the decision to transfer or discharge to the director of the licensing agency as soon as the notice of appeal is filed. The resident may submit orally if unable to submit in writing. Copies of all materials submitted to the licensing agency shall be provided to the resident by the facility.
(4) The director of the licensing agency will render a decision within eight business days of receipt of the notice of appeal.
(5) The notice of decision from the director will be sent to the resident and to the facility, will state that the decision may be appealed to the Human Services Board, and will include information on how to do so.
(6) The resident or the facility will have 10 business days to file a request for an appeal with the Human Services Board by writing to the Board. The Human Services Board will conduct a de novo evidentiary hearing in accordance with 3 V.S.A. §3091.
(i) Transfer or Discharge Agreement. If the resident agrees to the transfer or discharge, the transfer or discharge may occur prior to the effective date of the notice.

(j) Relocation Charges. A facility is responsible for any charges associated with disconnecting, relocating or reconnecting telephones, cable television, air-conditioning or other similar costs resulting from a facility’s decision to transfer the resident within the facility.

(k) Right to Redeem. When non-payment is the basis for the discharge from a facility, the resident has the right to redeem up to the effective date of the discharge. If the resident redeems in full, the discharge proceedings will be terminated and the resident has the right to remain in the facility.

(l) Emergency Transfer or Discharge of Residents. An emergency discharge or transfer may be made with less than thirty (30) days’ notice under the following circumstances:

1) The resident’s attending physician documents in the resident’s record that the discharge or transfer is an emergency measure necessary for the health and safety of the resident or other residents; or

2) A natural disaster or emergency necessitates the evacuation of residents from the home; or

3) The resident presents an immediate threat to the health or safety of self or others. In that case, the licensee shall request permission from the licensing agency to discharge or transfer the resident immediately. Permission from the licensing agency is not necessary when the immediate threat requires intervention of the police, mental health crisis personnel, or emergency medical services personnel who render the professional judgment that discharge or transfer must occur immediately. In such cases, the licensing agency shall be notified on the next business day; or

4) When ordered or permitted by a court.

3.15 Equal Access to Quality Care
(a) A facility must establish and maintain identical policies and practices regarding admission, transfer, discharge, and the provision of services under the State Medicaid Plan for all individuals regardless of source of payment.

(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in paragraph 3.16(c) of this section describing the charges.

3.16 Admissions and Payment Policy
(a) A nursing facility shall not:

1) require residents or potential residents to waive their rights to Medicare or Medicaid;

2) require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits; and

3) require, request, or accept a deposit or other payment from a Medicare or Medicaid beneficiary as a condition for admission, continued care, or the provision of service.
(b) A nursing facility shall not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal right and access to a resident’s income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from a resident’s income or resources.

(c) Each resident shall be fully informed, prior to or at the time of admission and during their stay of services available in the facility and of related charges, including any charges for services not covered under Medicare or Medicaid, or not covered by the facility’s basic per diem rate, including the facility’s policy on providing toiletries, adult briefs, wheelchairs, and all personal care and medical items.

(d) The facility shall inform residents in writing about Medicaid and Medicare eligibility and what is covered under those programs including information on resource limits and allowable uses of the resident’s income for items and services not covered by Medicaid and Medicare.

(e) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State Medicaid Plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility. However,

(1) a nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State Medicaid Plan as included in the term “nursing facility services” so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident’s admission or continued stay on request for and receipt of such additional services; and

(2) a nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident.

(f) The facility shall inform each resident when changes are made to the items and services specified in subsections 3.16(c) and 3.16(d) above.

(g) Anyone admitted to a nursing facility shall receive options counseling as follows:

(1) Anyone seeking admission to a nursing facility directly from home or from a residential care home shall receive options counseling prior to admission to the nursing facility. Upon receipt of an application for admission to the nursing facility, the facility shall inform the individual of the requirement for options counseling. The facility shall make a written referral, using a form provided by the Department, to the local options counseling agency upon receipt of the application and prior to admitting the individuals.

(2) An individual who is hospitalized and seeking admission to a nursing facility may be discharged directly from the hospital to the nursing facility. In such instances, the individual shall receive options counseling no later than three working days after

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admission to the facility, unless the options counseling agency has provided option
counseling in the hospital. The nursing facility shall make a referral in writing to the
options counseling agency in the area no later than one working day after agreeing to
admit the individual. If upon admission it is determined that the individual will remain in
the facility for no longer than 21 days, the options counseling agency may elect not to
conduct options counseling within three working days.
(3) If an individual needs emergency admission to a nursing facility, the individual may be
admitted to the facility prior to receiving options counseling. Emergency is defined for
purposes of this section as a situation in which an individual is likely to experience death or
serious and permanent harm unless admitted to a nursing facility.
(4) An individual admitted to or requesting admission to a nursing facility may decline
options counseling after contact by the options counseling agency. The decision to decline
options counseling must be recorded in the resident's record.
(5) Options counseling is not required for individuals re-admitted to the nursing facility
after a hospital stay or other short absence, or for individuals transferred from one nursing
facility to another or for individuals entering for a respite stay.
(6) Options counseling shall be provided by the Department or by an organization under
contract with the Department.

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...H. The nursing facility shall fully disclose its admission policies, including any preferences
given, to applicants for admission.

12 VAC 5-371-140. Policies and procedures.
...D. Administrative and operational policies and procedures shall include, but are not
limited to:
...2. Admission, transfer and discharge.
...F. Financial policies and procedures shall include, but not be limited to:
  1. Admission agreements;
  2. Methods of billing:
     a. Services not included in the basic daily or monthly rate;
     b. Services delivered by contractors of the nursing facility; and
     c. Third party payers;
  3. Resident or designated representative notification of changes in fees and charges...

12 VAC 5-371-150. Resident rights.
A. The nursing facility shall develop and implement policies and procedures that ensure
resident’s rights as defined in ' 32.1-138 and 32.1-138.1 of the Code of Virginia.
§ 32.1-138.1. Implementation of transfer and discharge policies. [Code of Virginia]
A. To implement and conform with the provisions of subdivision A 4 of § 32.1-138, a facility may discharge the patient, or transfer the patient, including transfer within the facility, only:
1. If appropriate to meet that patient's documented medical needs;
2. If appropriate to safeguard that patient or one or more other patients from physical or emotional injury;
3. On account of nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social Security Act and the Virginia State Plan for Medical Assistance Services; or
4. With the informed voluntary consent of the patient, or if incapable of providing consent, with the informed voluntary consent of the patient's authorized decision maker pursuant to § 54.1-2986 acting in the best interest of the patient, following reasonable advance written notice.
B. Except in an emergency involving the patient's health or well being, no patient shall be transferred or discharged without prior consultation with the patient, the patient's family or responsible party and the patient's attending physician. If the patient's attending physician is unavailable, the facility's medical director in conjunction with the nursing director, social worker or another health professional, shall be consulted. In the case of an involuntary transfer or discharge, the attending physician of the patient or the medical director of the facility shall make a written notation in the patient's record approving the transfer or discharge after consideration of the effects of the transfer or discharge, appropriate actions to minimize the effects of the transfer or discharge, and the care and kind of service the patient needs upon transfer or discharge.
C. Except in an emergency involving the patient's health or well being, reasonable advance written notice shall be given in the following manner. In the case of a voluntary transfer or discharge, notice shall be reasonable under the circumstances. In the case of an involuntary transfer or discharge, reasonable advance written notice shall be given to the patient at least five days prior to the discharge or transfer.
D. Nothing in this section or in subdivision A 4 of § 32.1-138 shall be construed to authorize or require conditions upon a transfer within a facility that are more restrictive than Titles XVIII or XIX of the United States Social Security Act or by regulations promulgated pursuant to either title. (1987, c. 221; 1993, c. 692.)

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388-97-0040 Discrimination prohibited.
(1) A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services covered under the state medicaid plan for all individuals regardless of source of payment.
A nursing facility must not require or request:
Residents or potential residents to waive their rights to medicare or medicaid;
(b) Oral or written assurance that residents or potential residents are not eligible for, or
will not apply for medicare or medicaid benefits; and
(c) A third party guarantee of payment to the facility as a condition of admission or
expedited admission, or continued stay in the facility. However, the facility may require an
individual who has legal access to a resident’s income or resources available to pay for
facility care to sign a contract, without incurring personal financial liability, to provide
facility payment from the resident’s income or resources.
(3) A nursing facility must inform, in writing, a prospective resident, and where
applicable, the resident’s representative, before or at the time of admission, that a third
party may not be required or requested to personally guarantee payment to the nursing
home, as specified in subsection (2)(c) of this section.
(4) A nursing facility must readmit a resident, who has been hospitalized or on
therapeutic leave, immediately to the first available bed in a semiprivate room if the
resident:
(a) Requires the services provided by the facility; and
(b) Is eligible for medicaid nursing facility services.
(5) A nursing facility must not:
(a) Deny or delay admission or readmission of an individual to the facility because of the
individual’s status as a medicaid recipient;
(b) Transfer a resident, except from a single room to another room within the facility,
because of the resident’s status as a medicaid recipient;
(c) Discharge a resident from a facility because of the resident’s status as a medicaid
recipient; or
(d) Charge medicaid recipients any amounts in excess of the medicaid rate from the date
of eligibility, except for any supplementation that may be permitted by department
regulation.
(6) A nursing facility must maintain only one list of names of individuals seeking
admission to the facility, which is ordered by the date of request for admission, and must:
(a) Offer admission to individuals in the order they appear on the list, except as provided
in subsection (7), as long as the facility can meet the needs of the individual with available
staff or through the provision of reasonable accommodations required by state or federal
laws;
(b) Retain the list of individuals seeking admission for one year from the month
admission was requested; and
(c) Offer admission to the portions of the facility certified under medicare and medicaid
without discrimination against persons eligible for medicaid, except as provided in
subsection (7).
(7) A nursing facility is permitted to give preferential admission to individuals who seek
admission from a boarding home, licensed under chapter 18.20 RCW, or from independent
retirement housing, if:
(a) The nursing facility is owned by the same entity that owns the boarding home or independent housing; and

(b) They are located within the same proximate geographic area; and

(c) The purpose of the preferential admission is to allow continued provision of culturally or faith-based services, or services provided by a continuing care retirement community as defined in RCW 74.38.025.

(8) A nursing facility must develop and implement written policies and procedures to ensure nondiscrimination in accordance with this section and RCW 74.42.055.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0040, filed 9/24/08, effective 11/1/08.]

388-97-0080 Discharge planning.

(1) A resident has the right to attain or maintain the highest practicable physical, mental, and psychosocial well-being, and to reside in the most independent setting. Therefore, the nursing home must:

(a) Utilize a formal resident discharge planning system with identical policies and practices for all residents regardless of source of payment;

(b) Inform the resident or resident’s representative in writing of the nursing home’s discharge planning system when the resident is admitted or as soon as practical after the resident’s admission, including:

(i) Specific resources available to assist the resident in locating a lesser care setting;

(ii) The name of the nursing home’s discharge coordinator(s);

(iii) In the case of a medicaid certified nursing facility, the address and telephone number for the department’s local home and community services office; and

(iv) In the case of a resident identified through pre-admission screening and resident review (PASRR) as having a developmental disability or mental illness, the address and telephone number for the division of developmental disabilities or the mental health PASRR contractor.

(2) The nursing home must prepare a detailed, written transfer or discharge plan for each resident determined to have potential for transfer or discharge within the next three months. The nursing home must:

(a) Develop and implement the plan with the active participation of the resident and, where appropriate, the resident’s representative;

(b) In the case of a medicaid resident, coordinate the plan with the department’s home and community services staff;

(c) In the case of a resident identified through PASRR as having a developmental disability or mental illness, coordinate the plan with the division of developmental disabilities or the mental health PASRR contractor;

(d) Ensure the plan is an integral part of the resident’s comprehensive plan of care and, as such, includes measurable objectives and timetables for completion;

(e) Incorporate in the plan relevant factors to include, but not be limited to the:

(i) Resident’s preferences;

(ii) Support system;
(iii) Assessments and plan of care; and
(iv) Availability of appropriate resources to match the resident’s preferences and needs.
(f) Identify in the plan specific options for more independent placement; and
(g) Provide in the plan for the resident’s continuity of care, and to reduce potential transfer trauma, including, but not limited to, pretransfer visit to the new location whenever possible.

(3) For a resident whose transfer or discharge is not anticipated in the next three months, the nursing home must:
(a) Document the specific reasons transfer or discharge is not anticipated in that time frame; and
(b) Review the resident’s potential for transfer or discharge at the time of the quarterly comprehensive plan of care review. If the reasons documented under subsection (3)(a) of this section are unchanged, no additional documentation of reasons is necessary at the time of plan of care review.

(4) The nursing home must initiate discharge planning on residents described in subsection
(3) of this section:
(a) At the request of the resident or the resident’s representative; and
(b) When there is a change in the resident’s situation or status which indicates a potential for transfer or discharge within the next three months.

(5) Each resident has the right to request transfer or discharge and to choose a new location. If the resident chooses to leave, the nursing home must assist with and coordinate the resident’s transfer or discharge. The medicaid resident, resident’s representative, or nursing facility may request assistance from the department’s home and community services or, where applicable, the division of developmental disabilities or mental health in the transfer or discharge planning and implementation process.

(6) The nursing home must coordinate all resident transfers and discharges with the resident, the resident’s representative and any other involved individual or entity.

(7) When a nursing home anticipates discharge, a resident must have a discharge summary that includes:
(a) A recapitulation of the resident’s stay;
(b) A final summary of the resident’s status to include items in WAC 388-97-1000(1), at the time of discharge that is available for release to authorized individuals and agencies, with the consent of the resident or and surrogate decision maker; and
(c) A postdischarge plan of care that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0080, filed 9/24/08, effective 11/1/08.]

388-97-0100 Utilization review.
...(2) When the nursing facility determines a resident no longer needs nursing facility care under subsection (1) of this section, the nursing facility must initiate transfer or discharge
in accordance with WAC 388-97-0120, 388-97-0140, and 42 C.F.R. § 483.12, or successor laws, unless the resident voluntarily chooses to transfer or discharge.

(3) When a nursing facility initiates a transfer or discharge of a medicaid recipient under subsection (2) of this section:
   (a) The resident will be ineligible for medicaid nursing facility payment:
      (i) Thirty days after the receipt of written notice of transfer or discharge; or
      (ii) If the resident appeals the facility determination, thirty days after the final order is entered upholding the nursing home’s decision to transfer or discharge a resident.
   (b) The department’s home and community services may grant extension of a resident’s medicaid nursing facility payment after the time specified in subsection (3)(a) of this section, when the department’s home and community services staff determine:
      (i) The nursing facility is making a good faith effort to relocate the resident; and
      (ii) A location appropriate to the resident’s medical and other needs is not available.
   (4) Department designees may review any assessment or determination made by a nursing facility of a resident’s need for nursing facility care.

388-97-0120 Individual transfer and discharge rights and procedures.

(1) The skilled nursing facility and nursing facility must comply with all of the requirements of 42 C.F.R. § 483.10 and § 483.12, and RCW 74.42.450, or successor laws, and the nursing home must comply with all of the requirements of RCW 74.42.450 (1) through (4) and (7), or successor laws, including the following provisions and must not transfer or discharge any resident unless:
   (a) At the resident’s request;
   (b) The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the facility;
   (c) The transfer or discharge is appropriate because the resident's health has improved enough so the resident no longer needs the services provided by the facility;
   (d) The safety of individuals in the facility is endangered;
   (e) The health of individuals in the facility would otherwise be endangered; or
   (f) The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.

(2) The following notice requirements apply if a nursing home/facility initiates the transfer or discharge of a resident. The notice must:
   (a) Include all information required by 42 C.F.R. § 483.12 when given in a nursing facility;
   (b) Be in writing, in language the resident understands;
   (c) Be given to the resident, the resident’s surrogate decision maker, if any, the resident’s family and to the department;
   (d) Be provided thirty days in advance of a transfer or discharge initiated by the nursing facility, except that the notice may be given as soon as practicable when the facility cannot
meet the resident's urgent medical needs, or under the conditions described in (1)(c), (d), and
(e) of this section; and
(e) Be provided fifteen days in advance of a transfer or discharge initiated by the nursing home, unless the transfer is an emergency.

(3) The nursing home must:
(a) Provide sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the nursing home;
(b) Attempt to avoid the transfer or discharge of a resident from the nursing home through the use of reasonable accommodations unless agreed to by the resident and the requirements of WAC 388-97-0080 are met; and
(c) Develop and implement a bed-hold policy. This policy must be consistent with any bed-hold policy that the department develops.

(4) The nursing home must provide the bed-hold policy, in written format, to the resident, and a family member, before the resident is transferred or goes on therapeutic leave. At a minimum the policy must state:
(a) The number of days, if any, the nursing home will hold a resident’s bed pending return from hospitalization or social/therapeutic leave;
(b) That a medicaid eligible resident, whose hospitalization or social/therapeutic leave exceeds the maximum number of bed-hold days will be readmitted to the first available semiprivate bed, provided the resident needs nursing facility services. Social/therapeutic leave is defined under WAC 388-97-0001. The number of days of social/therapeutic leave allowed for medicaid residents and the authorization process is found under WAC 388-97-0160; and
(c) That a medicaid eligible resident may be charged if he or she requests that a specific bed be held, but may not be charged a bed-hold fee for the right to return to the first available bed in a semi-private room.

(5) The nursing facility must send a copy of the federally required transfer or discharge notice to:
(a) The department's home and community services when the nursing home has determined under WAC 388-97-0100, that the medicaid resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and
(b) The department's designated local office when the transfer or discharge is for any of the following reasons:
(i) The resident's needs cannot be met in the facility;
(ii) The health or safety of individuals in the facility is endangered; or
(iii) The resident has failed to pay for, or to have paid under medicare or medicaid, a stay at the facility.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0120, filed 9/24/08, effective 11/1/08.]

388-97-0140 Transfer and discharge appeals for resident in medicare or medicaid certified facilities.
(1) A skilled nursing facility and a nursing facility that initiates transfer or discharge of any resident, regardless of payor status, must:
(a) Provide the required written notice of transfer or discharge to the resident and, if known or appropriate, to a family member or the resident’s representative;
(b) Attach a department-designated hearing request form to the transfer or discharge notice;
(c) Inform the resident in writing, in a language and manner the resident can understand, that:
   (i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and
   (ii) Transfer or discharge will be suspended when an appeal request is received by the office of administrative hearings on or before the date the resident actually transfers or discharges; and
   (iii) The nursing home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.
(2) A skilled nursing facility or nursing facility must suspend transfer or discharge pending the outcome of the hearing when the resident’s appeal is received by the office of administrative hearings on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.
(3) The resident is entitled to appeal the skilled nursing facility or nursing facility’s transfer or discharge decision. The appeals process is set forth in chapter 388-02 WAC and this chapter. In such appeals, the following will apply:
(a) In the event of a conflict between a provision in this chapter and a provision in chapter 388-02 WAC, the provision in this chapter will prevail;
(b) The resident must be the appellant and the skilled nursing facility or the nursing facility will be the respondent;
(c) The department must be notified of the appeal and may choose whether to participate in the proceedings. If the department chooses to participate, its role is to represent the state’s interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;
(d) If a medicare certified or medicaid certified facility’s decision to transfer or discharge a resident is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by a nursing facility or skilled nursing facility;
(e) Any review of the administrative law judge’s initial decision shall be conducted under WAC 388-02-0600(1).

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0140, filed 9/24/08, effective 11/1/08.]
388-97-0160 Discharge or leave of a nursing facility resident.
(1) A nursing facility must send immediate written notification of the date of discharge or death of a medicaid resident to the department’s local home and community service office.
(2) The nursing facility must:
(a) Notify the department of nursing facility discharge and readmission for all medicaid recipients admitted as hospital inpatients; and
(b) Document in the resident’s clinical record all social/therapeutic leave exceeding twenty-four hours.
(3) The department will pay the nursing facility for a medicaid resident’s social/therapeutic leave not to exceed a total of eighteen days per calendar year per resident.
(4) The department’s home and community services may authorize social/therapeutic leave exceeding eighteen days per calendar year per resident when requested by the nursing facility or by the resident. In the absence of prior authorization from the department’s home and community services, the department will not make payment to a nursing facility for leave days exceeding eighteen per calendar year per resident.
(5) An individual who is on social/therapeutic leave retains the status of a nursing facility resident.
[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970160, filed 9/24/08, effective 11/1/08.]

388-97-0300 Notice of rights and services.
(1) The nursing home must provide the resident, before admission, or at the time of admission in the case of an emergency, and as changes occur during the resident’s stay, both orally and in writing and in language and words that the resident understands, with the following information:
   (a) All rules and regulations governing resident conduct, resident’s rights and responsibilities during the stay in the nursing home;
   (b) Advanced directives, and of any nursing home policy or practice that might conflict with the resident’s advance directive if made;
   (c) Advance notice of transfer requirements, consistent with RCW 70.129.110;
   (d) Advance notice of deposits and refunds, consistent with RCW 70.129.150; and
   (e) Items, services and activities available in the nursing home and of charges for those services, including any charges for services not covered under medicare or medicaid or by the home’s per diem rate.
...(4) The nursing home must inform each resident:
   (a) Who is entitled to medicaid benefits, in writing, prior to the time of admission to the nursing facility or, when the resident becomes eligible for medicaid of the items, services and activities:
      (i) That are included in nursing facility services under the medicaid state plan and for which the resident may not be charged; and
      (ii) That the nursing home offers and for which the resident may be charged, and the amount of charges for those services.
(b) That deposits, admission fees and prepayment of charges cannot be solicited or accepted from medicare or medicaid eligible residents; and
(c) That minimum stay requirements cannot be imposed on medicare or medicaid eligible residents.

(5) The nursing home must, except for emergencies, inform each resident in writing, thirty days in advance before changes are made to the availability or charges for items, services or activities specified in section (4)(a)(i) and (ii), or before changes to the nursing home rules.

(6) The private pay resident has the right to the following, regarding fee disclosure:

   deposits:
   (a) Prior to admission, a nursing home that requires payment of an admission fee, deposit, or a minimum stay fee, by or on behalf of an individual seeking admission to the nursing home, must provide the individual:
      (i) Full disclosure in writing in a language the potential resident or his representative understands:
         (A) Of the nursing home’s schedule of charges for items, services, and activities provided by the nursing home; and
         (B) Of what portion of the deposits, admissions fees, prepaid charges or minimum stay fee will be refunded to the resident if the resident leaves the nursing home.
      (ii) The amount of any admission fees, deposits, or minimum stay fees.
      (iii) If the nursing home does not provide these disclosures, the nursing home must not keep deposits, admission fees, prepaid charges or minimum stay fees.
   (b) If a resident dies or is hospitalized or is transferred and does not return to the nursing home, the nursing home:
      (i) Must refund any deposit or charges already paid, less the home’s per diem rate, for the days the resident actually resided or reserved or retained a bed in the nursing home, regardless of any minimum stay or discharge notice requirements; except that
      (ii) The nursing home may retain an additional amount to cover its reasonable, actual expenses incurred as a result of a private pay resident’s move, not to exceed five days per diem charges, unless the resident has given advance notice in compliance with the admission agreement.
   (c) The nursing home must refund any and all refunds due the resident within thirty days from the resident’s date of discharge from the nursing home; and
   (d) Where the nursing home requires the execution of an admission contract by or on behalf of an individual seeking admission to the nursing home, the terms of the contract must be consistent with the requirements of this section.

(7) The nursing home must furnish a written description of legal rights which includes:

   ...(b) In the case of a nursing facility only, a description of the requirements and procedures for establishing eligibility for medicaid, including the right to request an assessment which determines the extent of a couple’s nonexempt resources at the time of institutionalization and attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse’s medical care in his or her process of spending down to medicaid eligibility levels...
...(9) The skilled nursing facility and nursing facility must prominently display in the facility written information, and provide to residents and individuals applying for admission oral and written information, about how to apply for and use medicare and medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

(10) The written information provided by the nursing home pursuant to this section, and the terms of any admission contract executed between the nursing home and an individual seeking admission to the nursing home, must be consistent with the requirements of chapters 74.42 and 18.51 RCW and, in addition, for facilities certified under medicare or medicaid, with the applicable federal requirements.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0300, filed 9/24/08, effective 11/1/08.]

388-97-0320 Notification of changes.
(1) A nursing home must immediately inform the resident, consult with the resident’s physician, and if known, notify the resident’s surrogate decision maker, and when appropriate, with resident consent, interested family member(s) when there is:

...(d) A decision to transfer or discharge the resident from the facility.

388-97-0340 Protection of resident funds
...(8) Medicare certified and medicaid certified nursing facilities must:

(a) Not charge a resident (or the resident’s representative) for any item or service not requested by the resident;

(b) Not require a resident, or the resident’s representative, to request any item or service as a condition of admission or continued stay; and

(c) Inform the resident, or the resident’s representative, requesting an item or services for which a charge will be made that there will be a charge for the item or service and what the charge will be.

388-97-1040 Dementia care.
(1) A nursing home must ensure that it provides residents with dementia with an environment designed to attain or maintain the highest level of functioning and well-being possible, taking into consideration the resident’s medical condition and functional status. Therefore, the nursing home must:

...(c) Have admission, transfer, and discharge criteria which ensures that:

(i) The process of informed consent is followed before admission to or transfer/discharge from the unit;

(ii) The resident is provided with unit specific admission or transfer/discharge criteria, prior to admission to the unit;

(iii) The resident’s need for admission to the unit from another part of the nursing home, or transfer/discharge from the unit, is based on the comprehensive assessment and plan of care...
388-97-1640 Required notification and reporting.

...(8) The nursing home licensee must notify the department in writing of a nursing home’s voluntary closure.

(a) The licensee must send this written notification sixty days before closure to the department’s designated local aging and adult administration office and to all residents and resident representatives.

(b) Relocation of residents and any required notice to the Centers for Medicare and Medicaid Services and the public must be in accordance with WAC 388-97-4320(2).

(9) The nursing home licensee must notify the department in writing of voluntary termination of its medicare or medicaid contract.

(a) The licensee must send this written notification sixty days before contract termination, to the department’s designated local aging and disability services administration office and to all residents and resident representatives.

(b) If the contractor continues to provide nursing facility services, the contract termination will be subject to federal law prohibiting the discharge of residents who are residing in the facility on the day before the effective date of the contract termination.

388-97-2000 Preadmission screening and resident review (PASRR) determination and appeal rights.

...(5) If the department’s PASRR determination requires that a resident be transferred or discharged, the department will:

(a) Provide the required notice of transfer or discharge to the resident, the resident’s surrogate decision maker, and if appropriate, a family member or the resident’s representative thirty days or more before the date of transfer or discharge;

(b) Attach a hearing request form to the transfer or discharge notice;

(c) Inform the resident, in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge;

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of administrative hearings on or before the date of transfer or discharge set forth in the written transfer or discharge notice; and

(iii) The resident will be ineligible for medicaid nursing facility payment:

(A) Thirty days after the receipt of written notice of transfer or discharge; or

(B) If the resident appeals under subsection (1)(a) of this section, thirty days after the final order is entered upholding the department’s decision to transfer or discharge a resident.
...(7) The department will:
(a) Send a copy of the transfer/discharge notice to the resident's attending physician, the
nursing facility and, where appropriate, a family member or the resident's representative;
(b) Suspend transfer or discharge:
(i) If the office of administrative hearings receives an appeal on or before the date set for
transfer or discharge or before the resident is actually transferred or discharged; and
(ii) Until the office of appeals makes a determination; and
(c) Provide assistance to the resident for relocation necessitated by the department’s
PASRR determination.
(8) Resident appeals of PASRR determinations will be in accordance with 42 C.F.R. § 431
Subpart E, chapter 388-02 WAC, and the procedures defined in this section. In the event of
a conflict between a provision in this chapter and a provision in chapter 388-02 WAC, the
provision in this chapter will prevail.
[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, §
388-97-2000, filed 9/24/08, effective 11/1/08.]

74.42.030 Resident to receive statement of rights, rules, services, and charges.
Each resident or guardian or legal representative, if any, shall be fully informed and receive
in writing, in a language the resident or his or her representative understands, the
following information:
...(4) Charges for services, items, and activities, including those not included in the
facility's basic daily rate or not paid by medicaid.

74.42.055 Discrimination against medicaid recipients prohibited.
(1) The purpose of this section is to prohibit discrimination against medicaid recipients by
nursing homes which have contracted with the department to provide skilled or
intermediate nursing care services to medicaid recipients.
(2) A nursing facility shall readmit a resident, who has been hospitalized or on
therapeutic leave, immediately to the first available bed in a semiprivate room if the
resident:
(a) Requires the services provided by the facility; and
(b) Is eligible for medicaid nursing facility services.
(3) It shall be unlawful for any nursing home which has a medicaid contract with the
department:
(a) To require, as a condition of admission, assurance from the patient or any other person
that the patient is not eligible for or will not apply for medicaid;
(b) To deny or delay admission or readmission of a person to a nursing home because of
his or her status as a medicaid recipient;
(c) To transfer a patient, except from a private room to another room within the nursing
home, because of his or her status as a medicaid recipient;
(d) To transfer a patient to another nursing home because of his or her status as a medicaid recipient;
(e) To discharge a patient from a nursing home because of his or her status as a medicaid recipient; or

(f) To charge any amounts in excess of the medicaid rate from the date of eligibility, except for any supplementation permitted by the department pursuant to RCW 18.51.070.

(4) Any nursing home which has a medicaid contract with the department shall maintain one list of names of persons seeking admission to the facility, which is ordered by the date of request for admission. This information shall be retained for one year from the month admission was requested. However, except as provided in subsection (2) of this section, a nursing facility is permitted to give preferential admission to individuals who seek admission from a boarding home, licensed under chapter 18.20 RCW, or from independent retirement housing, provided the nursing facility is owned by the same entity that owns the boarding home or independent housing which are located within the same proximate geographic area; and provided further, the purpose of such preferential admission is to allow continued provision of: (a) Culturally or faith-based services, or (b) services provided by a continuing care retirement community as defined in RCW 70.38.025.

(5) The department may assess monetary penalties of a civil nature, not to exceed three thousand dollars for each violation of this section.

(6) Because it is a matter of great public importance to protect senior citizens who need medicaid services from discriminatory treatment in obtaining long-term health care, any violation of this section shall be construed for purposes of the application of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

(7) It is not an act of discrimination under this chapter to refuse to admit a patient if admitting that patient would prevent the needs of the other patients residing in that facility from being met at that facility, or if the facility’s refusal is consistent with subsection (4) of this section.

[2004 c 34 § 1; 1987 c 476 § 30; 1985 c 284 § 3.]
Notes: Effective date -- 2004 c 34: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2004]." [2004 c 34 § 2.]

74.42.057 Notification regarding resident likely to become medicaid eligible.
If a nursing facility has reason to know that a resident is likely to become financially eligible for medicaid benefits within one hundred eighty days, the nursing facility shall notify the patient or his or her representative and the department. The department may:

(1) Assess any such resident to determine if the resident prefers and could live appropriately at home or in some other community-based setting; and

(2) Provide case management services to the resident.

[1995 1st sp.s. c 18 § 8.]
Notes: Conflict with federal requirements -- Severability -- Effective date -1995 1st sp.s. c 18: See notes following RCW 74.39A.030. Conflict with federal requirements -- 1995 1st sp.s. c 18: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of
this act is inoperative solely to the extent of the conflict and with respect to the agencies
directly affected, and this finding does not affect the operation of the remainder of this act
in its application to the agencies concerned. The rules under this act shall meet federal
requirements that are a necessary condition to the receipt of federal funds by the state.
[1995 1st sp.s. c 18 § 74.] Severability -- 1995 1st sp.s. c 18: "If any provision of this act or
its application to any person or circumstance is held invalid, the remainder of the act or the
application of the provision to other persons or circumstances is not affected." [1995 1st
sp.s. c 18 § 119.] Effective date -- 1995 1st sp.s. c 18: "This act is necessary for the
immediate preservation of the public peace, health, or safety, or support of the state
government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st
sp.s. c 18 § 120.]

74.42.430 Written policy guidelines.
The facility shall develop written guidelines governing:
...(2) Admission, transfer or discharge.

74.42.450 Residents limited to those the facility qualified to care for — Transfer or
discharge of residents — Appeal of department discharge decision — Reasonable
accommodation.
...(2) The facility shall transfer a resident to a hospital or other appropriate facility when
a change occurs in the resident's physical or mental condition that requires care or service
that the facility cannot provide. The resident, the resident's guardian, if any, the resident's
next of kin, the attending physician, and the department shall be consulted at least fifteen
days before a transfer or discharge unless the resident is transferred under emergency
circumstances. The department shall use casework services or other means to insure that
adequate arrangements are made to meet the resident's needs.

(3) A resident shall be transferred or discharged only for medical reasons, the resident's
welfare or request, the welfare of other residents, or nonpayment. A resident may not be
discharged for nonpayment if the discharge would be prohibited by the medicaid program.

(4) If a resident chooses to remain in the nursing facility, the department shall respect
that choice, provided that if the resident is a medicaid recipient, the resident continues to
require a nursing facility level of care.

(5) If the department determines that a resident no longer requires a nursing facility
level of care, the resident shall not be discharged from the nursing facility until at least
thirty days after written notice is given to the resident, the resident's surrogate decision
maker and, if appropriate, a family member or the resident's representative. A form for
requesting a hearing to appeal the discharge decision shall be attached to the written
notice. The written notice shall include at least the following:
(a) The reason for the discharge;
(b) A statement that the resident has the right to appeal the discharge; and
(c) The name, address, and telephone number of the state long-term care ombudsman.
(6) If the resident appeals a department discharge decision, the resident shall not be discharged without the resident’s consent until at least thirty days after a final order is entered upholding the decision to discharge the resident.

(7) Before the facility transfers or discharges a resident, the facility must first attempt through reasonable accommodations to avoid the transfer or discharge unless the transfer or discharge is agreed to by the resident. The facility shall admit or retain only individuals whose needs it can safely and appropriately serve in the facility with available staff or through the provision of reasonable accommodations required by state or federal law. "Reasonable accommodations" has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

[1997 c 392 § 216; 1995 1st sp.s. c 18 § 64; 1979 ex.s. c 211 § 45.]

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4.6. Refusal of Treatment and Experimental Research.
4.6.b. A nursing home shall not transfer or discharge a resident for refusing treatment unless criteria for transfer or discharge are met under Subsection 4.13 of this rule.
4.7. Written Information. A nursing home shall provide to residents a written description of a resident’s legal rights which includes:
...4.7.b. A description of the residents’s financial obligation as explained to the residents prior to or at the time of admission, including residents’ charges for services available, charges not covered under the Medicaid Program, or charges not included in the nursing home’s basic rate;
4.7.c. A description of the requirements and procedures for Medicaid eligibility including information about the availability of asset assessments upon request at the county Department office;
4.12.a. Upon payment of the nursing home’s bed-hold rate or in the case of Medicaid residents, in accordance with the policy and procedure currently prescribed by the State plan, a resident has the right to retain the bed in which he or she is a resident. The nursing home shall notify a resident in writing at the time of admission and hospitalization or leave of absence, of the bed-hold policy.
4.12.b. After a hospitalization or a leave of absence for which there was no bed-hold, a former resident has the right to be re-admitted to the first available bed in a semi-private room in the nursing home from which he or she came, if the resident requires the services provided by the nursing home.
4.12.b.1. If a former resident wishes to return to the nursing home and meets the requirements for coverage under the Medicare program, the resident may be placed in a bed certified to participate in that program.
4.12.b.2. If the nursing home is not certified under the Medicare program and the resident chooses placement in a nursing home providing Medicare coverage, the resident may be placed on a waiting list for readmission to the nursing home after Medicare coverage has ceased if the nursing home can provide the necessary services to the former resident.

4.13. Admission, Transfer and Discharge.

4.13.b. Transfer and discharge requirements. The nursing home shall permit each resident to remain in the nursing home, unless:

4.13.b.1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing home;

4.13.b.2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the nursing home;

4.13.b.3. The health or safety of persons in the nursing home is endangered;

4.13.b.4. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the nursing home; or

4.13.b.5. The nursing home ceases to operate.


4.13.c.1. When a nursing home transfers or discharges a resident, the resident's clinical record shall contain the reason for the transfer or discharge.

4.13.c.2. The documentation shall be made by the resident's physician when transfer or discharge is necessary under paragraphs 4.13.b.1 through 4.13.b.3 of this Subsection.

4.13.d. Notice before transfer or discharge. Before a nursing home transfers or discharges a resident, it shall:

4.13.d.1. Provide written notice to the resident or his or her legal representative as appropriate, of the transfer or discharge. The notice shall be in a language the resident understands and shall include the following:

4.13.d.1.A. The reason for the proposed transfer or discharge;

4.13.d.1.B. The effective date of the proposed transfer or discharge;

4.13.d.1.C. The location or other nursing home to which the resident is being transferred or discharged;

4.13.d.1.D. A statement that the resident has the right to appeal the action to the State Board of Review, with the appropriate information regarding how to do so;

4.13.d.1.E. The name, address and telephone number of the State long term care ombudsman;

4.13.d.1.F. For nursing home residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled persons; and

4.13.d.1.G. For nursing home residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill persons.

4.13.e. Time of notice. The notice of transfer or discharge shall be made by the nursing home at least thirty (30) days before the resident is discharged or transferred, except the notice shall be made as soon as practicable before a transfer or discharge when:
4.13.e.1. The discharge is to a community setting in accordance with Subdivision 4.13.g. of this Subsection;
4.13.e.2. The safety of persons in the nursing home would be endangered;
4.13.e.3. The health of persons in the nursing home would be endangered;
4.13.e.4. The resident’s health improves sufficiently to allow a more immediate transfer or discharge;
4.13.e.5. An immediate transfer or discharge is required by the resident’s urgent medical needs; or
4.13.e.6. A resident has not resided in the nursing home for thirty (30) days.
4.13.f. Orientation for Transfer or Discharge.
4.13.f.1. A nursing home shall provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the nursing home.
4.13.f.2. Involuntary Transfer. In the event of an involuntary transfer, the nursing home shall assist the resident or legal representative or both in finding a reasonably appropriate alternative placement prior to the proposed transfer or discharge and by developing a plan designed to minimize any transfer trauma to the resident.
4.13.f.2.A. The plan may include counseling the resident, or legal representative or both regarding available community resources and taking steps under the nursing home’s control to assure safe relocation.
4.13.g. Discharge to a Community Setting.
4.13.g.1. A nursing home shall not discharge a resident requiring the nursing home’s services to a community setting against his or her will.
4.13.g.2. A nursing home shall document that a resident who was voluntarily discharged to a community setting fully understood all options for care and helped develop a plan of care in anticipation of the resident’s discharge.
4.13.g.3. Each resident shall understand fully the right to refuse a discharge.
4.14.a. Each resident or person requesting admission to a nursing home shall be free from discrimination by the nursing home, unless the discrimination:
4.14.a.1. Is the result of the nursing home not being able to provide adequate and appropriate care, and treatment and services to the resident or applicant due to the resident’s or applicant’s history of mental or physical disease or disability; and
4.14.a.2. Is not contrary to a federal or State law, regulation or rule:
4.14.a.2.A. That prohibits the discrimination; or
4.14.a.2.B. That requires the care to be provided if the nursing home participates in a financial program requiring the admittance or continued residence of the person.
4.14.b. For all persons, regardless of source of payment, a nursing home shall establish and maintain a set of policies and procedures regarding admission, transfer, discharge and the provision of services.
4.15. Admissions and Payment Policy.
4.15.a. A nursing home shall not require:
4.15.a.1. Residents or potential residents to waive their rights to Medicare or Medicaid; and
4.15.a.2. Oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

4.15.b. Third Party Guarantee. A nursing home shall not require a third party guarantee of payment to the nursing home as a condition of admission or expedited admission, or continued stay in the nursing home.

4.15.b.1. A nursing home, however, may require for admission or for continued stay of the resident, that a person who has legal right and access to a resident's income or resources available to pay for care to sign a contract, without incurring personal financial liability, to provide payment from the resident's income or resources.

4.15.c. A nursing home shall fully inform each resident prior to or at the time of admission and during his or her stay, of services available in the nursing home and of related charges, including any charge for services not covered under Medicare or Medicaid, or not covered by the nursing home's basic per diem rate, including the nursing home's policy on providing toiletries, adult briefs, wheelchairs, and all personal care and medical items.

4.15.c.1. A nursing home may charge any amount for services furnished to non-Medicaid residents consistent with this paragraph.

4.15.c.2. Medicaid residents and their legal representatives shall be informed that if they desire a private room, they may privately supplement the Medicaid payment by directly paying the facility the difference between the semi-private room rate and the private room rate.

4.15.d. A nursing home shall inform residents in writing about Medicaid and Medicare eligibility and what is covered under those programs including information on resource limits and allowable uses of the resident's income for items and services not covered by Medicaid and Medicare.

4.15.e. In the case of a person eligible for Medicaid, a Medicaid/Medicare approved nursing home shall not charge, solicit or accept, or receive, in addition to any amount otherwise required to be paid under the State Medicaid Plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the nursing home.

4.15.e.1. A nursing home may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State Medicaid Plan as included in the term "nursing home services" if the nursing home gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for or receipt of such additional services.

4.15.e.2. A nursing home may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the nursing home for a Medicaid eligible resident.

4.15.f. A nursing home shall give the resident a thirty (30) day notice when changes are made to items and services specified in Subdivisions 4.16.c. and 4.16.d. of this Subsection.

SERIES 85 ALZHEIMER’S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS
§64-85-5. Admission, Transfer and Discharge.

5.1. Each facility shall have a written policy of pre-admission screening, admission, transfer and discharge procedures, including an explanation of the level of care the facility is licensed to provide and the conditions that may necessitate a resident’s transfer or discharge.

5.4. Prior to admission, the facility shall provide a copy and an explanation of the disclosure statement to the resident and/or the resident's legal representative. The facility shall maintain a copy of this disclosure, signed and dated by the resident and/or legal representative, in the resident’s record.

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HFS 132.31 Rights of residents.

(1) RESIDENTS’ RIGHTS. Every resident shall, except as provided in sub. (3), have the right to:

(d) Admission information. Be fully informed in writing, prior to or at the time of admission, of all services and the charges for these services, and be informed in writing, during the resident’s stay, of any changes in services available or in charges for services, as follows:

1. No person may be admitted to a facility without that person or that person’s guardian or any other responsible person designated in writing by the resident signing an acknowledgement of having received a statement of information before or on the day of admission which contains at least the following information or, in the case of a person to be admitted for short-term care, the information required under s. HFS 132.70 (3):

a. An accurate description of the basic services provided by the facility, the rate charged for those services, and the method of payment for them;

b. Information about all additional services regularly offered but not included in the basic services. The facility shall provide information on where a statement of the fees charged for each of these services can be obtained. These additional services include pharmacy, x-ray, beautician and all other additional services regularly offered to residents or arranged for residents by the facility;

c. The method for notifying residents of a change in rates or fees;

d. Terms for refunding advance payments in case of transfer, death or voluntary or involuntary discharge;

e. Terms of holding and charging for a bed during a resident’s temporary absence;

f. Conditions for involuntary discharge or transfer, including transfers within the facility;

h. A summary of residents’ rights recognized and protected by this section and all facility policies and regulations governing resident conduct and responsibilities.

2. No statement of admission information may be in conflict with any part of this chapter.

(j) Transfer or discharge. Be transferred or discharged, and be given reasonable advance notice of any planned transfer or discharge and an explanation of the need for and
alternatives to the transfer or discharge except when there is a medical emergency. The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency.

...(p) Nondiscriminatory treatment. Be free from discrimination based on the source from which the facility's charges for the resident's care are paid, as follows:
1. No facility may assign a resident to a particular wing or other distinct area of the facility, whether for sleeping, dining or any other purpose, on the basis of the source or amount of payment, except that a facility only part of which is certified for Medicare reimbursement under 42 USC 1395 is not prohibited from assigning a resident to the certified part of the facility because the source of payment for the resident's care is Medicare.
2. Facilities shall offer and provide an identical package of basic services meeting the requirements of this chapter to all individuals regardless of the sources of a resident's payment or amount of payment. Facilities may offer enhancements of basic services, or enhancements of individual components of basic services, provided that these enhanced services are made available at an identical cost to all residents regardless of the source of a resident's payment. A facility which elects to offer enhancements to basic services to its residents must provide all residents with a detailed explanation of enhanced services and the additional charges for these services pursuant to par. (d) 1. b.
3. If a facility offers at extra charge additional services which are not covered by the medical assistance program under ss. 49.43 to 49.497, Stats., and chs. HFS 101 to 108, it shall provide them to any resident willing and able to pay for them, regardless of the source from which the resident pays the facility's charges.
4. No facility may require, offer or provide an identification tag for a resident or any other item which discloses the source from which the facility's charges for that resident's care are paid.

HFS 132.53 Transfers and discharges.
(1) SCOPE. This section shall apply to all resident transfers and discharges, except that in the event of conflict with s. 49.45 (6c) (c) and (d), 49.498 (4) or 50.03 (5m) or (14), Stats., the relevant statutory requirement shall apply.
(2) CONDITIONS.
(a) Prohibition and exceptions. No resident may be discharged or transferred from a facility, except:
1. Upon the request or with the informed consent of the resident or guardian;
2. For nonpayment of charges, following reasonable opportunity to pay any deficiency;
3. If the resident requires care other than that which the facility is licensed to provide;
4. If the resident requires care which the facility does not provide and is not required to provide under this chapter;
5. For medical reasons as ordered by a physician;
6. In case of a medical emergency or disaster;
7. If the health, safety or welfare of the resident or other residents is endangered, as documented in the resident's clinical record;
8. If the resident does not need nursing home care;
9. If the short-term care period for which the resident was admitted has expired; or
10. As otherwise permitted by law.
(b) Alternate placement.
1. Except for transfers or discharges under par. (a) 2. and 6., no resident may be
   involuntarily transferred or discharged unless an alternative placement is arranged for the
   resident pursuant to s. HFS 132.31 (1) (j).
2. No resident may be involuntarily transferred or discharged under par. (a) 2. for
   nonpayment of charges if the resident meets both of the following conditions:
   a. He or she is in need of ongoing care and treatment and has not been accepted for ongoing
      care and treatment by another facility or through community support services; and
   b. The funding of the resident’s care in the nursing home under s. 49.45 (6m), Stats., is
      reduced or terminated because either the resident requires a level or type of care which is
      not provided
      by the nursing home or the nursing home is found to be an institution for mental diseases
      as defined under 42 CFR 435.1009.

(3) PROCEDURES.
(a) Notice. The facility shall provide a resident, the resident’s physician and, if known, an
   immediate family member or legal counsel, guardian, relative or other responsible person
   at least 30 days notice of transfer or discharge under sub. (2) (a) 2. to 10., and the reasons
   for the transfer or discharge, unless the continued presence of the resident endangers the
   health, safety or welfare of the resident or other residents. The notice shall also contain the
   name, address and telephone number of the board on aging and long-term care. For a
   resident with developmental disability
   or mental illness, the notice shall contain the mailing address and telephone number of the
   protection and advocacy agency designated under s. 51.62 (2) (a), Stats.
(b) Planning conference.
1. Unless circumstances posing a danger to the health, safety or welfare of a resident
   require otherwise, at least 7 days before the planning conference required by subd. 2., the
   resident, guardian, if any, any appropriate county agency, and others designated by the
   resident, including the resident’s physician, shall be given a notice containing the time and
   place of the conference, a statement informing the resident that any persons of the
   resident’s choice may attend the conference, and the procedure for submitting a complaint
   to the department.
2. Unless the resident is receiving respite care or unless precluded by circumstances posing
   a danger to the health, safety, or welfare of a resident, prior to any involuntary transfer or
   discharge under sub. (2) (a) 2. to 10., a planning conference shall be held at least 14 days
   before transfer or discharge with the resident, guardian, if any, any appropriate county
   agency, and others designated by the resident, including the resident’s physician, to review
   the need for relocation, assess the effect of relocation on the resident, discuss alternative
   placements and develop a relocation plan which includes at least those activities listed in
   subd. 3.
3. Transfer and discharge activities shall include:
   a. Counseling regarding the impending transfer or discharge;
   b. The opportunity for the resident to make at least one visit to the potential alternative placement, if any, including a meeting with that facility’s admissions staff, unless medically contraindicated or waived by the resident;
   c. Assistance in moving the resident and the resident’s belongings and funds to the new facility or quarters; and
   d. Provisions for needed medications and treatments during relocation.

4. A resident who is transferred or discharged at the resident's request shall be advised of the assistance required by subd. 3. And shall be provided with that assistance upon request.

(c) Records. Upon transfer or discharge of a resident, the documents required by s. HFS 132.45 (5) (L) and (6) (h) shall be prepared and provided to the facility admitting the resident, along with any other information about the resident needed by the admitting facility.

...(5) BEDHOLD.

(a) Bedhold. A resident who is on leave or temporarily discharged, as to a hospital for surgery or treatment, and has expressed an intention to return to the facility under the terms of the admission statement for bedhold, shall not be denied readmission unless, at the time readmission is requested, a condition of sub. (2) (b) has been satisfied.

(b) Limitation. The facility shall hold a resident’s bed under par. (a) until the resident returns, until the resident waives his or her right to have the bed held, or up to 15 days following the temporary leave or discharge, whichever is earlier.

Note: See s. HFS 107.09 (4) (j) for medical assistance bedhold rules.

(6) APPEALS ON TRANSFERS AND DISCHARGES.

(a) Right to appeal.
1. A resident may appeal an involuntary transfer or discharge decision.
2. Every facility shall post in a prominent place a notice that a resident has a right to appeal a transfer or discharge decision. The notice shall explain how to appeal that decision and shall contain the address and telephone number of the nearest bureau of quality assurance regional office. The notice shall also contain the name, address and telephone number of the state board on aging and long-term care or, if the resident is developmentally disabled or has a mental illness, the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62 (2)(a), Stats.
3. A copy of the notice of a resident’s right to appeal a transfer or discharge decision shall be placed in each resident’s admission folder.
4. Every notice of transfer or discharge under sub. (3) (a) to a resident, relative, guardian or other responsible party shall include a notice of the resident’s right to appeal that decision.

(b) Appeal procedures.
1. If a resident wishes to appeal a transfer or discharge decision, the resident shall send a letter to the nearest regional office of the department’s bureau of quality assurance within 7 days after receiving a notice of transfer or discharge from the facility, with a copy to the facility administrator, asking for a review of the decision.
2. The resident’s written appeal shall indicate why the transfer or discharge should not take place.
3. Within 5 days after receiving a copy of the resident’s written appeal, the facility shall provide written justification to the department’s bureau of quality assurance for the transfer or discharge of the resident from the facility.
4. If the resident files a written appeal within 7 days after receiving notice of transfer or of discharge from the facility, the resident may not be transferred or discharged from the facility until the department’s bureau of quality assurance has completed its review of the decision and notified both the resident and the facility of its decision.
5. The department’s bureau of quality assurance shall complete its review of the facility’s decision and notify both the resident and the facility in writing of its decision within 14 days after receiving written justification for the transfer or discharge of the resident from the facility.
6. A resident or a facility may appeal the decision of the department’s bureau of quality assurance in writing to the department of administration’s division of hearings and appeals within 5 days after receipt of the decision. Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707.
7. The appeal procedures in this paragraph do not apply if the continued presence of the resident poses a danger to the health, safety or welfare of the resident or other residents.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; cr. (2) (b) 8. and 9., am. (2) (c), (3) (b) 2. and (c), Register, January, 1987, No. 373, eff. 2−1−87; renum. (2) (c) to be (2) (c) 1. and am., cr. (2) (c) 2., Register, February, 1989, No. 398, eff. 3−1−89; am. (2) (c) 2. b., Register, October, 1989, No. 406, eff. 11−1−89; r. and recr. (1) to (3), cr. (4) (d) and (6), Register, June, 1991, No. 426, eff. 7−1−91.

HFS 132.60 Resident care
(3) NOTIFICATION OF CHANGES IN CONDITION OR STATUS OF RESIDENT.
...(b) Changes in status. A resident’s guardian and any other person designated in writing by the resident or guardian shall be notified promptly of any significant non−medical change in the resident’s status, including financial situation, any plan to discharge the resident, or any plan to transfer the resident within the facility or to another facility.

Wyoming regulations do not contain specific content for Admission, Transfer, and Discharge Rights.
§ 483.10 Resident rights.
(a) Exercise of rights.
...(5) The facility must—
(i) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of—
(A) The items and services that are included in nursing facility services under the State plan and for which the resident may not be charged;
(B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and
(ii) Inform each resident when changes are made to the items and services specified in paragraphs (5)(i) (A) and (B) of this section.
(6) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.

§ 483.12 Admission, transfer and discharge rights.
(a) Transfer and discharge—
(1) Definition: Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Discharge does not refer to movement of a resident to a bed within the same certified facility.
(2) Transfer and discharge requirements.
The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless—
(i) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
(ii) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
(iii) The safety of individuals in the facility is endangered;
(iv) The health of individuals in the facility would otherwise be endangered;
(v) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or
(vi) The facility ceases to operate.
(3) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)(2)(i) through (v) of this section, the resident's clinical record must be documented. The documentation must be made by—
(i) The resident's physician when transfer or discharge is necessary under paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section; and
(ii) A physician when transfer or discharge is necessary under paragraph (a)(2)(iv) of this section.

(4) Notice before transfer. Before a facility transfers or discharges a resident, the facility must—
(i) Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.
(ii) Record the reasons in the resident’s clinical record; and
(iii) Include in the notice the items described in paragraph (a)(6) of this section.

(5) Timing of the notice.
(i) Except when specified in paragraph (a)(5)(ii) of this section, the notice of transfer or discharge required under paragraph (a)(4) of this section must be made by the facility at least 30 days before the resident is transferred or discharged.
(ii) Notice may be made as soon as practicable before transfer or discharge when—
(A) the safety of individuals in the facility would be endangered under paragraph (a)(2)(iii) of this section;
(B) The health of individuals in the facility would be endangered, under paragraph (a)(2)(iv) of this section;
(C) The resident’s health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)(2)(ii) of this section;
(D) An immediate transfer or discharge is required by the resident’s urgent medical needs, under paragraph (a)(2)(i) of this section; or
(E) A resident has not resided in the facility for 30 days.

(6) Contents of the notice. The written notice specified in paragraph (a)(4) of this section must include the following:
(i) The reason for transfer or discharge;
(ii) The effective date of transfer or discharge;
(iii) The location to which the resident is transferred or discharged; (iv) A statement that the resident has the right to appeal the action to the State;
(v) The name, address and telephone number of the State long term care ombudsman;
(vi) For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act; and
(vii) For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(7) Orientation for transfer or discharge.
A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
(b) Notice of bed-hold policy and readmission—

(1) Notice before transfer.
Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies—

(i) The duration of the bed-hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the nursing facility; and

(ii) The nursing facility's policies regarding bed-hold periods, which must be consistent with paragraph (b)(3) of this section, permitting a resident to return.

(2) Bed-hold notice upon transfer.
At the time of transfer of a resident for hospitalization or therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in paragraph (b)(1) of this section.

(3) Permitting resident to return to facility.
A nursing facility must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed hold period under the State plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident—

(i) Requires the services provided by the facility; and

(ii) Is eligible for Medicaid nursing facility services.

(c) Equal access to quality care.

(1) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals regardless of source of payment;

(2) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in § 483.10(b)(5)(i) and (b)(6) describing the charges; and

(3) The State is not required to offer additional services on behalf of a resident other than services provided in the State plan.

(d) Admissions policy.

(1) The facility must—

(i) Not require residents or potential residents to waive their rights to Medicare or Medicaid; and

(ii) Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(2) The facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.
(3) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility. However,—

(i) A nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State plan as included in the term “nursing facility services” so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident’s admission or continued stay on the request for and receipt of such additional services; and

(ii) A nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident.

(4) States or political subdivisions may apply stricter admissions standards under State or local laws than are specified in this section, to prohibit discrimination against individuals entitled to Medicaid.