

# DISABILITY & AGING RIGHTS



DEVELOPED BY EQUIP FOR EQUALITY UNDER A GRANT PROVIDED BY THE ILLINOIS DEPARTMENT ON AGING



## RIGHTS IN FACILITIES

# Involuntary Transfer or Discharge from Nursing Homes and Other Long-Term Care Facilities

If you are living in a long-term care facility, you have the right to continue living there. A facility can make you leave for only a few reasons, such as when your health or safety, or the safety of others, is at risk. Before the facility moves you against your wishes, it must provide you with written notice, and you have the right to seek review of the facility's decision.

This fact sheet will inform you of the reasons nursing homes and other long-term care facilities may discharge or transfer you against your wishes, your rights in connection with the discharge or transfer, and how to ask for a review of the facility's decision.

### What is a long-term care facility?

Nursing homes are long-term care facilities. Certain other facilities that provide personal care, sheltered care or nursing services are also considered long-term care facilities.

Assisted living facilities, community integrated living arrangements (CILAs), and many other places that provide services to persons with disabilities are NOT considered long-term care facilities. Different rules apply to involuntary discharge or transfer from these facilities.

If you are not sure whether the place where you live is considered a long-term care facility, please contact one of the organizations listed at the end of this fact sheet for help.



## Involuntary transfers and discharges

You are being involuntarily transferred if your current facility is moving you to another facility, but you do not want to move. You are being involuntarily discharged if your current facility fully releases you from the facility against your wishes.

Your rights and the requirements for long-term care facilities are the same for both a transfer and a discharge.

You are NOT being involuntarily transferred or discharged if the facility decides to move you to a different bed in the SAME facility.

## The reasons a facility can make you leave

A long-term care facility can discharge or transfer you against your wishes for one of these reasons only:

- The facility cannot meet your medical needs and the move is necessary for your welfare.
- Your health has improved so that you no longer require the facility's services.
- Your physical health or safety is at risk.
- The safety of others — including other residents, facility staff, or facility visitors — is at risk.
- You have not paid or are late paying the facility's bill, and the facility has given you written notice and 30 days to pay.
- The facility closes or stops operating.

### Your rights when a facility is making you leave

#### You have a right to receive written notice of the transfer or discharge

The facility must give you or your representative written notice at least 21 days before the date it plans to discharge or transfer you.

The facility should provide you with a form from the Department of Public Health called “Notice of Involuntary Transfer or Discharge and Opportunity for Hearing for Nursing Home Residents.”

If the facility does not give you this form, you should request it. This form advises you of your right to appeal the discharge. Make sure the facility completes all of the information on the form.

#### If you move from the facility and do not request the notice and appeal the discharge or transfer, you may be agreeing to a voluntary discharge or transfer.

The facility does NOT have to provide you with at least 21-day notice if your doctor orders an emergency transfer or discharge because of your health care needs or if the facility is moving you for the physical safety of others at the facility. If the facility is moving you for the safety of others, the Illinois Department of Public Health should immediately offer you transfer or discharge and relocation assistance.

#### You have a right to discuss the planned involuntary transfer or discharge

The facility director or the director’s representative must meet with you, your representatives, and any agency responsible for your admission into the facility to discuss the involuntary move and to explain the reasons for it.

The facility must write down a summary of the discussion and include the names of the people participating in the meeting. The written summary must be included with your records.



## **You have a right to return to the facility after being hospitalized**

The facility must allow you to return after being hospitalized unless the facility gives you a written Notice of Involuntary Transfer or Discharge.

If you receive Medicaid and are hospitalized for 10 days or less, the facility must allow you to return when you are released from the hospital, even if the facility has given you a written Notice of Involuntary Transfer or Discharge, except under an emergency discharge or transfer.

If you receive Medicaid and are hospitalized for more than 10 days, the facility must let you return if there is a bed available and you still require the care provided by the facility, except under an emergency discharge or transfer. If the facility is full and you still require that level of care, the facility must allow you to have the first available semi-private room.

## **You have the right to make payment and stay in the facility**

If you are being discharged or transferred because you have not paid your bill, you have the right to pay it at any time up to the date of your planned discharge or transfer and then stay at the facility.

If you are a Medicaid recipient and the Department of Healthcare and Family Services (HFS) has taken action against you that will reduce your benefits, the facility may not transfer or discharge you for that reason if you have appealed HFS's action. The facility can provide you with your 21-day notice of discharge or transfer only after HFS or the court has made a final decision on your appeal, and after you have received notice of that decision.

### **You have the right to appeal the transfer or discharge**

If you do not agree with the facility's decision to discharge or transfer you, you have a right to file an appeal and request a hearing with the Illinois Department of Public Health. You should complete and mail in the form that the facility gives you with the notice of discharge and transfer in order to appeal. You must do so within **10 days** of receiving the written notice of discharge or transfer.

The Illinois Department of Public Health should hold a hearing at the facility within 10 days from when you filed the appeal. A hearing officer will travel to the facility to hear why it believes you should move and to hear from you why you believe you should stay. The facility must prove that one of the six reasons for involuntary discharge or transfer listed above exists.

### **You have the right to stay until your appeal is decided**

The Department of Public Health should make a decision within 14 days after you filed the request for a hearing. The facility cannot make you leave until your appeal is decided, unless there is an emergency with your health care needs or if your move is necessary for the safety of others at the facility.

If the Department of Public Health decides you should be discharged, you should not have to leave right away. The facility should not make you leave before the 34th day after you received the written notice of discharge or the 10th day after the Illinois Department of Public Health's decision, whichever is later. The facility can make you leave earlier only if there is an emergency situation with your health care needs or your move is necessary for the safety of others.

If you disagree with the Department of Public Health's decision, you may file a petition for judicial review with the court within 15 days of receiving the Department's decision. If you file a petition, you will NOT automatically be allowed to stay at the facility until the court rules. Please seek further assistance if you have questions about asking for judicial review.



## **You have the right to a safe discharge or transfer**

Before a facility can discharge or transfer you, the facility and the Department of Public Health must prepare you to be sure that the discharge or transfer is safe and that the new setting is appropriate for you.

The Department of Public Health must offer you relocation assistance, including information on available alternative placements. You have the right to be involved in planning your transfer or discharge, to visit other facilities and to choose among available alternatives, except in emergencies.

The facility you are being discharged from must offer you counseling services before the transfer or discharge. ■

### For more information:

A long-term care ombudsman protects and promotes the rights and quality of life for people who live in long-term care facilities. The ombudsman is available to help in appealing the involuntary transfer or discharge. You can identify the ombudsman for your facility by calling the Department on Aging at **1-800-252-8966** or **1-888-206-1327** (TTY).

Long Term Care Ombudsman Contact List: [www.illinois.gov/aging/ProtectionAdvocacy/LTCOmbudsmen/Documents/LTCOP\\_Contact%20List.pdf](http://www.illinois.gov/aging/ProtectionAdvocacy/LTCOmbudsmen/Documents/LTCOP_Contact%20List.pdf).

You can also ask Equip for Equality for help if you think your rights have been violated in the involuntary transfer or discharge process. Call **1-800-537-2632** or **1-800-610-2779** (TTY).

The Illinois Department of Public Health provides relocation assistance and information on alternative placements. Call **1-800-252-4343** or **1-800-547-0466** (TTY).



**Equip for Equality**  
20 North Michigan Avenue  
Suite 300  
Chicago, IL 60602

[www.equipforequality.org](http://www.equipforequality.org)  
1-800-537-2632  
1-800-610-2779 (TTY)

**Illinois Department on Aging**  
One Natural Resources Way  
Suite 100  
Springfield, IL 62702-1271

Senior HelpLine:  
1-800-252-8966  
1-888-206-1327 (TTY)  
[www.illinois.gov/aging](http://www.illinois.gov/aging)

The Illinois Department on Aging does not discriminate in admission to programs or treatment of employment in programs or activities in compliance with appropriate State and Federal statutes. If you feel like you have been discriminated against, call the Senior HelpLine at 1-800-252-8966, 1-888-206-1327 (TTY).