



My nursing home says I have to leave... Now what?

A guide for residents and their loved ones when a nursing home wants to discharge a resident.





The National
CONSUMER VOICE
for Quality Long-Term Care

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Voice for Quality Long-Term Care,**
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The discharges described in this booklet are “facility-initiated,” which means you, as a resident, object to the discharge, did not request it, and/or do not agree with it.

Your Rights In A Nutshell

You have the right to remain in the nursing home. There are only six reasons why a nursing home may initiate a discharge against your wishes.

The nursing home must give you written notice that it is planning to discharge you.

You may appeal the discharge if you don't want to leave.

The facility may only discharge you to a safe location where your needs can be met.

6 REASONS FOR A FACILITY-INITIATED DISCHARGE

- 1** Your welfare and needs cannot be met in the facility.
- 2** Your health has improved, and you no longer need nursing home services.
- 3** The safety of others in the facility is endangered.
- 4** The health of others in the facility is endangered.
- 5** You have failed to pay (after reasonable and appropriate notice) for your stay; or
- 6** The facility is closing.



The Utah Long-Term Care Ombudsman Program Is Here To Help!

The Office of the State Long-Term Care Ombudsman Program advocates for residents who live in nursing homes. Ombudsmen are trained to resolve residents' problems. They are guided by residents' wishes and advocate for the issues residents care about. Ombudsmen represent residents' interests and do not work for the nursing home.

Ombudsman services are free and confidential.

During a proposed discharge, the Ombudsman Program can answer your questions, work to address your concerns, and provide support and assistance. If you have been informed, either verbally or in writing, that you are being discharged, and you believe you should be able to remain in the facility, contact the Utah Long-Term Care Ombudsman Program.



To contact the Ombudsman Program, call the Division of Aging and Adult Services:

1-801-538-3910

1-877-424-4640

Written Notice Required

If the facility initiates a discharge, they must give a **written notice** to you, your representative (a person you've chosen to act on your behalf, like a family member, a power of attorney, a guardian, etc.), and the Ombudsman Program. The notice must be given **at least 30 days before** the planned date of discharge except under certain circumstances.

The notice must contain the following information in a way you can understand:

- The reason for the discharge
- The date of the discharge
- A statement of your right to appeal the discharge
- The location to which you will be discharged

CAUTION

Sometimes nursing home staff will tell a resident to think about moving to another nursing home. This is not an official discharge notice. Contact the Ombudsman Program if you hear anything like the comments below.



“You might be happier in another nursing home. We’ll start looking for another place for you to live.”



“We can’t meet your needs here, and we are happy to find somewhere else for you to go.”



I did not receive a written notice, but the nursing home says I have to leave. What can I do?

The nursing home cannot discharge you if you did not get a written notice. Oral notice alone does not meet the nursing home's legal requirements for discharge.

- Tell the facility you know your rights
- Do not move out
- Contact the Long-Term Care Ombudsman Program



The facility just gave me a notice of discharge. What's the first thing I should do?

Contact the Long-Term Care Ombudsman Program immediately.

An Ombudsman will explain your rights, the nursing home's responsibilities, and your options. The Ombudsman will help you develop a plan of action and can be as involved as you wish. All communication with an Ombudsman is confidential.

What Are My Options?

You may choose to leave the nursing home or stay and challenge the proposed discharge.

1

I am willing to leave the nursing home.

Work with the person in the nursing home who is responsible for making sure you have a safe and appropriate discharge plan that you agree with.

Discuss your options with your loved ones, your doctor, and nursing home staff. For instance:

- Do you want to move back into the community?
- Do you want to move into an assisted living facility?
- Do you want to move to another nursing home?

Ask for a meeting to express your wishes and decide on a discharge plan you agree with. The Ombudsman can assist you during this meeting if you wish.

The nursing home is required to plan for a discharge that meets your health and safety needs, as well as your preferences and goals.

You have a right to choose where you will live.

The nursing home must provide you with a list of facilities and information about their quality.

You can visit other facilities before deciding.

The decision is up to you!

2

I want to stay in the nursing home.

Talk to your representative and/or an Ombudsman as soon as possible.

Try to solve the issue that caused the proposed discharge by requesting a meeting to discuss the concerns. The Ombudsman Program may be able to help you work things out with the nursing home.



Contact the Ombudsman Program to help you file an appeal right away.



Appeals

An appeal is the process you can use to challenge the facility's decision to discharge you. You have 30 days from the time you receive the discharge notice to file a request for an appeal hearing. At the hearing, the facility must prove why it has the right to discharge you.

If you appeal within 30 days of getting the notice, the nursing home may not discharge you until a final decision has been made.

An Ombudsman can help you file an appeal. The Ombudsman will also explain your right to be represented by anyone of your choosing, including a lawyer.



What will happen if I lose the appeal?

The nursing home must assist you in finding a place to go that is safe and that will meet your needs. You cannot be required to leave until arrangements have been made for a discharge that is well-planned and supports your well-being.



What will happen if I don't appeal the discharge?

If you are unable to resolve the concern and the facility does not withdraw the proposed discharge, you can be discharged from the facility within 30 days of receiving the notice.

Hospitalization



The nursing home won't let me come back after it sent me to the hospital. What can I do?

The nursing home must allow you to come back in most situations.

The nursing home must also follow their bed-hold policy. The bed-hold policy explains how long the facility will hold your bed during your temporary absence. You have the right to return to your bed or the first available bed.

The nursing home is required to give you a notice of its bed-hold policy when it sends you to the hospital.

- Inform the hospital and the nursing home of your rights
- Contact the Ombudsman Program
- File a complaint with the Utah Department of Health and Human Services

If the nursing home wants to discharge you while you're in the hospital, it must follow all discharge requirements. This includes issuing a written 30-day notice of discharge that includes information about the right to appeal the proposed discharge. A hospital is not an appropriate place to discharge you.

Additional Information and Support



The Utah Department of Health and Human Services investigates complaints against nursing homes. If you think the facility is wrongfully discharging you, call **1-800-662-4157**.

LEGAL ASSISTANCE AGENCIES

Legal assistance agencies have attorneys that may give you legal advice or represent you during the appeal process.

- **Disability Law Center** services are free. To talk with someone from the Disability Law Center, call **1-800-662-9080** or use the online contact form: <https://disabilitylawcenter.org/onlinecontactform>.
- **Utah Legal Aid** services are free for those who qualify. To contact Utah Legal Aid and find an office near you, go to: www.legalaidoffices.com/state/utah. You may also ask an Ombudsman for the contact information.
- **Utah Legal Services** may be able to provide free legal help to people 60 years of age or older or other low-income individuals in some cases. To contact someone from Utah Legal Services, call **1-800-662-4245** outside Salt Lake County, or **1-801-328-8891** within Salt Lake County. You can also use the online form that can be found at: www.utahlegalservices.org/node/1/about-utah-legal-services.



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