

Nursing
Home
Residents

We are currently working to update this information. Please check back soon.

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Homes:

Know Your Rights



MARYLAND
LEGAL AID

Advancing Human Rights and Justice for All in Maryland since 1911

Maryland Legal Aid: Who We Are

This brochure was prepared by Maryland Legal Aid, a non-profit organization dedicated to providing high quality legal advocacy to protect and advance human rights for individuals, families, and communities.

Long Term Care Assistance Project

Maryland Legal Aid's Long Term Care Assistance Project provides free legal help for low-income persons to get the long-term health care they need in the setting of their choice, whether that is at home, in the community through assisted living, or in a nursing home.

Know your rights

This brochure is for Maryland residents and contains general information about your rights, but is not meant to be legal advice. Every effort is made to keep this information up to date. However, the law sometimes changes. If you need information about your specific situation, or if you have a pending legal case, you should seek legal counsel from Maryland Legal Aid or another legal resource.



The Maryland State Bar Association Elder Law Section generously funded the production of this brochure.

Your Rights as a Nursing Home Resident

You have many rights as a nursing home resident under both Maryland and federal law. Nursing homes must give you a copy of the "Residents' Bill of Rights" upon admission. Nursing homes also must post the rights. You can get a copy of your rights at www.mhcc.maryland.gov/consumerinfo/nhguide/rights.aspx. A violation of these rights can cost the nursing home up to \$10,000 per incident in fines.

Your rights include:

- The right to receive information about the nursing home;
- The right to participate in your own care;
- The right to privacy and confidentiality;
- The right to be treated with consideration, respect, and dignity;
- The right to be free from physical, verbal, sexual and mental abuse;
- The right to receive visits from friends, family, advocates, ombudsmen, social services providers, and doctors, as you choose;
- The right to make independent choices;
- The right to complain about problems;
- The right to examine your medical records;
- The right to a safe and secure transfer or discharge.

This brochure explains your rights when a nursing home wants to transfer or discharge you.

Can a nursing home transfer or discharge me?

Nursing homes can only discharge or transfer residents for very limited reasons. If you do not agree to leave, it is called an “involuntary transfer” or “discharge.” Federal and state laws have strict rules about involuntary transfers and discharges.

In most cases, there are only five reasons a nursing home can involuntarily transfer or discharge you:

- 1.** *A transfer or discharge is necessary for your welfare and your needs cannot be met by the nursing home.* Your doctor must write in your medical chart why the discharge or transfer is necessary.
- 2.** *The transfer or discharge is appropriate because your health has improved sufficiently so that you no longer need the services provided by the facility.* Your doctor must write in your medical chart why the discharge or transfer is necessary.
- 3.** *You are endangering the health or safety of an individual in the nursing home.* A doctor must write in your medical chart why the discharge or transfer is necessary.

- 4.** *You have failed to pay or have others pay the nursing home for your stay.* The facility must have given you reasonable and appropriate notice of the amount you owe.
- 5.** *The facility has stopped operating or, if you are a Medicare or Medicaid recipient, the facility has been decertified or withdrawn from the program.*

Do I receive advance notice of a discharge or transfer?

The nursing home must give you a written notice at least 30 days before the proposed transfer or discharge date. A continuing care retirement community must provide 60 days notice. The notice must also be sent to the local Long Term Care Ombudsman, the Department of Health and Mental Hygiene, and any of your relatives who have acted as your representative.

What does the notice of discharge or transfer have to say?

The notice must have all the items listed below:

- Each reason for the proposed involuntary discharge or transfer;
- Your right to request a hearing, and how to request a hearing;
- The name, address, and phone number of the Maryland Department of Aging and Long Term Care Ombudsman;
- Your right to consult with a lawyer;
- The name, address and phone number of Maryland Legal Aid, the Older Americans Act Senior Legal Assistance Programs, and other agencies. If you are a person with developmental disabilities or mental illness, the address and phone number of the Maryland Disability Law Center;
- The date on which the proposed transfer or discharge will take place;
- Your rights to a safe and secure transfer or discharge.

If the notice does not contain all the information above, or if it is not sent properly to everyone who should get the notice, you can challenge the discharge, based on the validity of the notice.

Are there any reasons why the nursing home doesn't have to give me notice?

The nursing home does not have to provide you with 30 days notice and an opportunity for a hearing if:

- There is an emergency and the health and safety of you or other residents is in immediate and serious danger;
- You have been at the nursing home for less than 30 days.

How can I stop the nursing home from discharging or transferring me?

There are several ways that you can try to stop the transfer or discharge. As soon as you get the notice of discharge you should:

- **Request mediation and a hearing.** You have 30 days from the date you receive the notice of discharge or transfer to ask for mediation and a hearing. This is also called filing an appeal. Your Notice of Discharge tells you how to file the appeal with the Office of Administrative Hearings. If you file an appeal within 30 days, the nursing home cannot transfer or discharge you until an Administrative Law Judge makes a final decision at your hearing.
- **Contact the Ombudsman.** You should call the Long Term Care Ombudsman for assistance. The Ombudsman is a free advocate for residents who will try to help resolve your problem. They will also report serious cases to the appropriate authorities and may refer you to an attorney. The Ombudsman makes regular visits to nursing homes. To find your local Ombudsman, call the statewide office at 1-800-243-3425, or go to www.aging.maryland.gov/services.html.

What else can I do if the nursing home is not following the proper procedure for transfer or discharge?

- **File a complaint with the Maryland Office of Health Care Quality (OHCQ).** OHCQ investigates complaints about nursing homes. If you file a complaint, it must investigate your matter promptly. OHCQ may impose severe fines if the nursing home is found at fault. These fines can be up to \$10,000. You can file a complaint with OHCQ by calling 1-877-402-8219 or online at dhmh.maryland.gov/ohcq/.
- **File a lawsuit requesting an injunction.** You may file a lawsuit against the nursing home in the state circuit court asking for an “injunction” if you believe that a transfer or discharge violates the law. An injunction is a court order telling the nursing home not to transfer or discharge you. Your agent, your attorney, or the Attorney General on your behalf can also ask for this court order. This is a difficult thing to do by yourself. If you want to file a lawsuit, you should definitely talk to a lawyer as soon as possible.

What happens if I am discharged or transferred?

You may only be transferred or discharged to a **safe and secure place** that can meet your needs. It doesn't matter what the reason is for the transfer or discharge. It doesn't matter how long you were in the nursing home. It doesn't matter if it is an emergency. Your transfer or discharge must be safe and secure. The nursing home must provide you with all of these items:

- Comprehensive medical assessment;
- Post-discharge plan of care;
- Written confirmation from your attending physician that the transfer or discharge complies with the post-discharge plan and that it will not harm your medical condition;
- Statement of medical evaluation;
- List of current medications;
- At least a three-day supply of your current medications;
- The information necessary to assist you in getting additional prescriptions for necessary medication;
- A written statement of the date and time you will be discharged, how you will be discharged, and where you will be sent.

If you don't get something on this list, you can challenge the transfer or discharge.

Where can I get legal help?

If you are facing an involuntary transfer or discharge you should contact Maryland Legal Aid's Long Term Care Assistance Project or a private elder law attorney. The Lawyer Referral Service in your county can help you to find a private attorney.

**Maryland Legal Aid's
Statewide Long Term Care
Assistance Project
1-866-635-2948**

Lawyer Referral Service

For your county, contact the Maryland State Bar Association at 1-800-492-1964
www.msba.org/public/referral.htm.

Maryland Legal Aid Offices

Anne Arundel County

229 Hanover St
Annapolis, MD 21401
(410) 972-2700
(800) 666-8330

Baltimore City

500 East Lexington St
Baltimore, MD 21202

Telephone Intake Lines:

(410) 951-7750
(866) MD LAW 4U
(or 866-635-2948)

Business Line:

(410) 951-7777
(800) 999-8904

Baltimore County

29 W. Susquehanna Ave
Ste 305
Towson, MD 21204
(410) 427-1800
(877) 878-5920

District Court Self-Help Resource Centers

Glen Burnie

7500 Gov. Ritchie Highway
Room 206
Glen Burnie, MD 21061
(410) 260-1392

Upper Marlboro

14735 Main St
Room 069B
Upper Marlboro, MD 20772
(410) 260-1392

Lower Eastern Shore Dorchester, Somerset, Wicomico, Worcester

111 High St
Salisbury, MD 21801
(410) 546-5511
(800) 444-4099

Metropolitan Maryland Prince George's

8401 Corporate Drive
Ste 200
Landover, MD 20785
(301) 560-2100
(888) 215-5316

Howard

3451 Court House Dr
2nd Floor
Ellicott City, MD 21043
(410) 480-1057

Midwestern Maryland Carroll, Frederick, Washington

22 S. Market St, Ste 11
Frederick, MD 21701
(301) 694-7414
(800) 679-8813

Montgomery County

600 Jefferson Plaza
Ste 430
Rockville, MD 20852
(240) 314-0373
(855) 880-9487

Northeastern Maryland Cecil, Harford

103 S. Hickory Ave
Bel Air, MD 21014
(410) 836-8202
(800) 444-9529

Southern Maryland Calvert, Charles, St. Mary's

15364 Prince Frederick Rd
P.O. Box 249
Hughesville, MD 20637
(301) 932-6661
(877) 310-1810

Upper Eastern Shore Caroline, Kent, Queen Anne's, Talbot

106 N. Washington St
Ste 101
Easton, MD 21601
(410) 763-9676
(800) 477-2543

Western Maryland Allegany, Garrett

110 Greene St
Cumberland, MD 21502
(301) 777-7474
(866) 389-5243

Statewide

Farmworker Program

(800) 444-4099

Foreclosure Legal Assistance Project

(888) 213-3320

Long Term Care Assistance Project

(866) 635-2948

Maryland Senior Legal Helpline

(866) 635-2948

Veterans' Hotline

(443) 863-4040

TTY Users: Call Maryland Relay, Dial 7-1-1

Visit www.peoples-law.org
for self-help legal information
and community resources.

For more information visit
www.mdlab.org.