



INVOLUNTARY TRANSFERS OR DISCHARGES: THE REGULATIONS

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SEPTEMBER 2016 JOINT PROVIDER TRAINING



LTC - Involuntary Transfer/Discharge Process

What Constitutes a Transfer?

The term "Transfer" means the movement of a resident from one licensed facility to another, or in certain situations the movement from one certified distinct part of a facility to another certified distinct part of the same facility.

What Constitutes a Discharge?

The term "Discharge" means the movement of a resident out of a licensed facility regardless of the resident's final destination (i.e., home, family member residence, etc).

State Code and Applicable Administrative Rules Regarding Involuntary Transfers and Discharges

- Providers must comply with the following state requirements: Michigan Public Health Code:
 - MCL 333.21773 – Involuntary transfer or discharge of a patient
 - MCL 333.21774 – Resident right to appeal
 - MCL 333.21775 – Continuation of Medicaid funding during appeal
 - MCL 333.21776 – Transfer or discharge of patient, plan, counseling services



State Overview


Providers are required to review the State Rules and Codes to assure compliance.


The following highlights the procedure for involuntary transfers and discharges:





Notification to resident is required at least 30 days prior to involuntary transfer/discharge – Sec. 21773(2)


- Notice must be provided to the resident or responsible party (i.e., guardian, power of attorney) on the department [ITD-502 form](#) – Sec. 21773(3)


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- Copy of the ITD-502 form must be included in the resident's chart - Sec. 21773(5)
 - Notify the Bureau within 48 hours of the Notice being issued


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- Request for hearing ITD-505 form must be provided by the nursing home to the resident or responsible party (i.e., guardian, power of attorney) along with envelope and postage - Sec. 21773(3)

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- Resident has the right to request a hearing within 10 days following receipt of the notice – Sec. 21774(1)
 - Request for a hearing puts on hold the resident discharge/transfer - Sec. 21773(4)

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- If a hearing is requested, a hearing shall be held within 7 days and all parties will be notified by the agency responsible for the hearing - Sec. 21774(2)
 - Even if a hearing is not requested, the resident has the right to an orderly and safe transfer or discharge – Sec. 21776

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- Prior to any involuntary transfer or discharge, the nursing home must submit a ITD-512 check list to the Bureau. The Bureau will notify the nursing home via email or letter of the acceptance of the involuntary transfer/discharge plan.

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- The Bureau may request additional information if needed. The Bureau notification should be placed in the resident's record/file.




Please note that any discharge to a non-nursing home setting will require that the discharge plan clearly demonstrates that the proposed location offers, and has the ability to provide, the necessary services to meet the resident's needs.


F20 I

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;

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- (iii) The safety of individuals in the facility is endangered;
 - (iv) The health of individuals in the facility would otherwise be endangered;
 - (v) (iii) The safety of individuals in the facility is endangered;
 - (iv) The health of individuals in the facility would otherwise be endangered;

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- **(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 nursing facility, the nursing facility may charge a resident only allowable charges under Medicaid; or**
 - **(vi) The facility ceases to operate.**

F202

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...**

F203

Notice Before Transfer

- **Before a facility transfers or discharges a resident, the facility must...**

F204

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.

Contact Information

**Bureau of Community and Health Systems
Attn: LTC Involuntary Transfer/Discharge
Notice**

**611 W Ottawa Street
Lansing, MI 48909
P.O. Box 30664**

**Bureau Main Phone: 517-335-1980
Division Main Phone: 517-241-2638
FAX: 517-241-2635**

Division E-Mail: bchs-help@michigan.gov



Getting to the Root of the Problem an Ombudsman's Perspective

**Dakima Jackson, MHSA
Certified Local Long Term Care Ombudsman**



Does the resident/family member understand what's going on?

F204

§483.12(a)(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.

Let's Look at the Root Cause of the Problem

What is a Root Cause Analysis?

- RCA is a structured facilitated team process to identify root causes of an event that resulted in an undesired outcome and develop corrective actions. The RCA process provides you with a way to identify breakdowns in processes and systems that contributed to the event and how to prevent future events (QAPI).
- Root cause analysis helps identify what, how and why something happened, thus preventing recurrence
(Rooney J. James and Vanden Heuve Lee N.).

What's an involuntary discharge and what's not an involuntary discharge

- Reasons for Discharge (stated earlier)
- Improper reasons for discharge
 - The resident and/or family is difficult to deal with
 - The resident's Medicaid application is in process; and the facility has not been paid

How do we get to the root of the cause?

5 Why's the QAPI Way

- The resident received an involuntary discharge notice? **Why**
- The resident owes a substantial amount of money to the facility? **Why**
- The resident refuses to pay facility? **Why**
 - The guardians and/or responsible party have not paid resident bill? **Why**
- The resident states that she needs to give her son money? **Why**
- The resident states that her son needs help paying the bills? **Why**

What the Ombudsman does? A Person Centered Approach

- We speak to the resident / legal representative and if the resident/legal representative would like ombudsman to advocate then we will.
- We begin by asking questions and gathering facts. **Why and What's happening now**
- We engage the resident by asking the question what they (the resident) would like to their outcome to be.
- We ask the resident about the barriers they face and how to move past the barriers.
- We engage the facility staff by asking questions about what they know about the resident issues.
- We want to ensure the resident have a safe discharge and are informed on their rights

Through discovery

- If the resident has no income --then we engage the facility Social Service staff in assisting the resident with filing for SSI/SSD for eligibility.
- We engage the MDS department to review the MDS/LOCD with the resident to understand the determination process and explain what is medically necessary through the eyes of Medicaid.
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- We may contact local community agencies on the resident's behalf to assist with other community benefits. (**referral to MI Choice Waiver program**)
- We may contact Adult Protective Services on behalf of the resident. Misappropriation of funds by a family member
- We may assist the resident in appealing the Involuntary Discharge

Questions to ask.... Fact Checking,--- Information and Education- A Person Centered Approach

- What do we know about the resident who was just admitted to your facility?
- During the admission process was the resident informed of services cost and public benefits available? Medicaid –up to 45 days , Medicare up to 100 days
- How was the resident informed and by whom? Admissions, social worker, etc....
- When was the resident informed about the involuntary discharge? Day, night , weekend
- Was the resident overwhelmed by the information and/or did they go through a major procedure and is incoherent?
- How was the billing information provided and in what format?

Questions to ask.... Fact Checking,--- Information and Education-A Person Centered Approach

- Is the resident really aware of the consequences for not paying their nursing home bill?
- Have the facility provided counseling to the resident in regards to paying the nursing home bill?
- Does the resident have an unmet need that is not being met?
- Does the family understand elder abuse= misappropriations of funds = elder abuse?
- Does the resident need a conservator?
- Does the resident need a representative payee?

Helpful Suggestions

- Review of admission forms?
- Review what's happening during the admissions process- the day and time of admission, is resident oriented, are they in pain.....
- Conduct a fact finding interview process
- Reach out to your local Area Agency on Aging for Community Resources
- Reach out to your local Centers for Independent Living Agencies (younger disabled residents)
- Reach out to your local Community Mental Health Agency
- Reach out to your local Ombudsman

Community Resources

- **Area Agencies on Aging** <http://mi-seniors.net/regionmap/>
- **AFC/ Homes for the Aged website** http://www.dleg.state.mi.us/brs_afc/sr_afc.asp
- **Centers for Independent Living 's** <http://www.virtualcil.net/cils/query-iandr.php?state=mi>
- **Community Mental Health Programs** http://www.michigan.gov/documents/cmh_8_I_02_37492_7.PDF
- **KNOW YOUR RIGHTS – Your Medicaid Care And Coverage In A Nursing Facility**
http://www.michigan.gov/documents/mdch/Know_Your_Rights_handout_FINAL-08-DCH-73I_173347_7.pdf
- **Long Term Care Ombudsman 1-866-485-9393**
- **Medicare Booklet** <https://www.medicare.gov/Pubs/pdf/I1034.pdf>
- **Medicare and Medicaid Assistance Program 1-800-803-7174**
- **Nursing Facility Eligibility Booklet** http://www.michigan.gov/documents/nursing_fac_elig_134653_7.pdf

Citations

- Centers for Medicare and Medicaid Services (2011). QAPI **Guidance for Performing Root Cause Analysis (RCA) with Performance Improvement Projects (PIPs)** Retrieved from <https://www.cms.gov/medicare/provider-enrollment-and-certification/qapi/downloads/guidanceforrca.pdf>
- Centers for Medicare and Medicaid Services (Rev. 157, 06-10-16.) State Operations Manual Appendix PP - Guidance to Surveyors for Long Term Care Facilities Retrieved from https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf
- Centers for Medicare and Medicaid Services. (2011). QAPI Five Whys Tool for Root Cause Analysis Retrieved from <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/QAPI/downloads/FiveWhys.pdf>
- James J. Rooney and Lee N. Vanden Heuve (JULY 2004.) Root Cause Analysis for Beginners Quality Progress Retrieved from https://www.env.nm.gov/aqb/Proposed_Regs/Part_7_Excess_Emissions/NMED_Exhibit_18-Root_Cause_Analysis_for_Beginners.pdf

Questions

??????????????

Thank you 😊

Involuntary Discharge and Transfers

Practical Application in Long Term Care

K. Harrell, BS NHA, September 2016 Joint Provider Training

Learning objectives

- Learn the Provider requirements for issuing an Involuntary Discharge
- Understand situations that may warrant an Involuntary Discharge

Applicable F-tags

- ◆ F-201 §483.12(a)(1)(2) – Admission, Transfer, and Discharge Requirements
- ◆ F-202 §483.12(a)(3) – Documenting Resident Transfers and Discharges
- ◆ F-203 §483.12(a)(4)-(6) – Notification Requirements Before Transfer or Discharge of a Resident
- ◆ F-204 §483.12(a)(7) – Orientation for Transfer or Discharge

PUBLIC HEALTH
CODE
(EXCERPT)
Act 368 of 1978

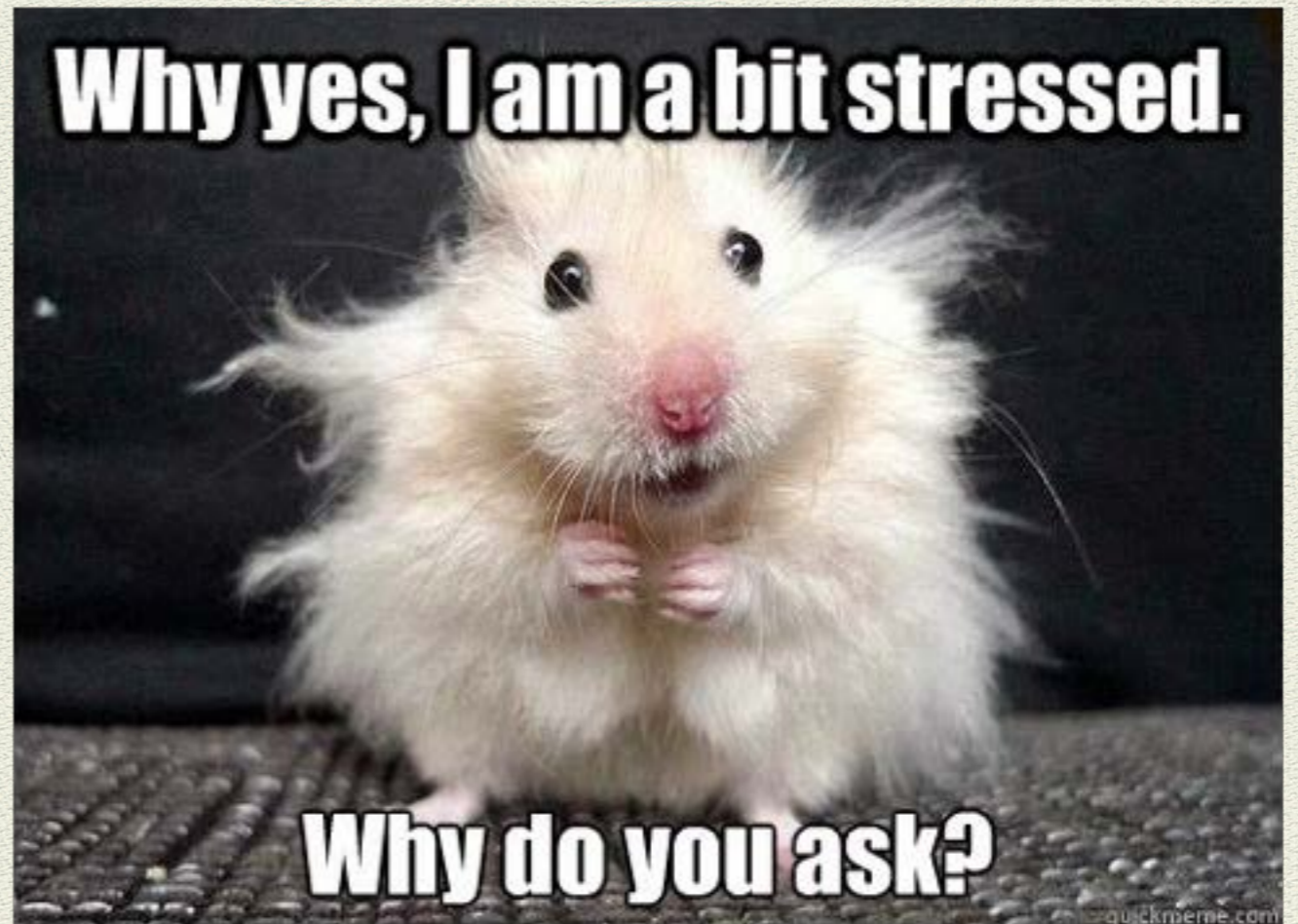
MCL 333.21773



- 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.

ITD Situations

*Scenarios Supporting
Involuntary Discharges*



- ◆ Medical Reasons
- ◆ Patients Welfare
- ◆ Welfare of Other Residents or Staff
- ◆ Non-payment

Medical Reasons

- Patient condition has changed requiring medical services not supported at the Center.
- Requires supporting physician orders and documentation.



Patient's Welfare

- Evidence to support why the residents welfare is at risk or resident presents a danger to self.



Welfare of Others

- ◆ Evidence documented in the clinical record supporting that other residents or staff may be at risk if the resident is not transferred or discharged.



Non-payment

- ◆ Failure to make payments on their accounts including failure to make patient pay amounts (PPA's) when the means to do so are present.



Issuing an IDT

- ◆ At least 12 point type
- ◆ Use ITD-502 form
- ◆ Serve to patient and legal representative.
- ◆ Copy in clinical record
- ◆ Notify Bureau within 48 hours of issuance

NOTICE OF INVOLUNTARY TRANSFER OR DISCHARGE		
DATE DELIVERED: September 20, 2016		
Resident Jane Doe	Guardian/Durable Power of Attorney (DPA) James Doe, Legal Guardian	
From (Nursing Home Administrator) Peter Administrator	Nursing Home Name Great Facility USA	
Nursing Home Contact Person Joe Doe	Contact Person Title Business Office Manager	
Nursing Home Address 1234 Maple Avenue	Contact Person's Telephone Number 555.555.5555	
City Anywhere	State Michigan	ZIP Code 48000
THIS NOTICE IS TO ADVISE YOU THAT:		
You will be transferred or discharged to: Community Placement		
Effective date of Transfer: October 20, 2016		
Reason for Involuntary Transfer/Discharge (MCL 333.21773):		
<input type="checkbox"/> Medical Reasons		
<input type="checkbox"/> Patient's Welfare		
<input type="checkbox"/> Welfare of Other Patients or Nursing Home Employees		
<input checked="" type="checkbox"/> Nonpayment for the Patient's Stay (see Section 21773(d))		
Explanation of Reason Above:		
Resident is not able to make personal/financial decisions for himself. His Guardian, James Doe has resisted discharge planning and has failed to provide necessary financial documentation to satisfy the requirements of a Medicaid application. Currently owes \$4000 which reflects private pay charges for 30 days. Medicare benefits exhausted on July 20, 2016. Guardian has been consistently uncooperative with attempts to secure a secondary payor source.		
LARA-BOHS-LTC-902 (REV 03/11/2016) Authority: P.A. 368 of 1978 as amended Page 1 of 2		
The Michigan Department of Licensing & Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. You may make your needs known to the Agency under the Americans with Disabilities Act if you need assistance with reading, writing, hearing, etc.		

Who gets the ITD Notice.

*Resident

*Resident's legal responsible party

*bchs-help@michigan.gov

*The ombudsman

Resident Rights

- Even if a hearing is not requested through the appeal process, the resident still has the right to an orderly and safe discharge.



Appeal?



Ever get that feeling
that today is going
to be a long day?

Provider Responsibilities:

- ◆ The request for hearing must be provided to the resident or responsible party along with envelope and postage.
- ◆ ITD-505 form must be used.
- ◆ Resident has 10 days from receipt of notice to request the hearing.
- ◆ The appeal request puts a hold on the discharge.

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU COMMUNITY AND HEALTH SYSTEMS

APPEAL OF A NOTICE OF INVOLUNTARY TRANSFER OR DISCHARGE

This form is request a hearing due to a Notice of Involuntary Transfer or Discharge. Request must be sent to the department within 10 days of the Notice. If you have questions, please call (517) 335-1980. Please type or print:

Resident Requesting Hearing:		
Address Where Resident Wants Hearing Correspondence Mailed To:		
City:	State:	Zip Code:
Resident/Guardian/DPA Daytime Telephone Number:		
Nursing Home Name:		
Nursing Home Address:		
City:	State:	Zip Code:
Date When Notice of Involuntary Transfer Or Discharge Was Received:		
Person Requesting Appeal (completion of this section acts as an electronic signature):		
Person requesting a hearing must be one of the following:		
<input type="checkbox"/> Resident <input type="checkbox"/> Durable Power of Attorney (DPA) for Resident		
<input type="checkbox"/> Guardian of Resident		
Return completed form to:		
Michigan Department of Licensing and Regulatory Affairs Bureau of Community and Health Systems Request for Hearing – Involuntary Transfer/Discharge P.O. Box 30664 Lansing, MI 48909 (Street Address: 611 W. Ottawa Street, Lansing, MI 48933) FAX: (517) 241-2635 bchs-help@michigan.gov (Subject Line: LTC Request for Hearing)		

What happens during the hearing?

- Usually a phone conference. Can be held in person at the facility.
- Provide a copy of all supporting documentation to the Administrative Law Judge, and the patient. Assemble all witnesses, as they will have to testify.
- Patient may have their legal representative or advocate present.
- Be able to concisely explain through your opening statement the reason for the Notice.

Safe Discharge

- Importance of early discharge planning.
- Form ITD 512 must be completed and submitted to the state for approval and maintained in the clinical record.
- Keep the care plan updated and notes re: status.



DOCUMENTATION

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS
P.O. BOX 30664, LANSING, MI 48909
Phone: (517) 335-1980 FAX: (517) 241-2635 Email: bchs-help@michigan.gov

FACILITY INVOLUNTARY TRANSFER/DISCHARGE PLAN

Resident Name		Nursing Home Facility Name	
Resident's Guardian/Designated Representative			Telephone Number
Street Address		City	Zip Code
Date(s) counseling provided to resident prior to transfer/discharge:			
Person that Provided Counseling		Title	Telephone Number
Receiving Facility Name			
Date Resident/Guardian Visited Receiving Facility:			
<input type="checkbox"/>	Alternative: Resident/guardian received appropriate information about the receiving facility such as brochure, floor plan, and pictures to familiarize the resident with the new facility.		
<input type="checkbox"/>	Alternative: Site visit was waived in writing by physician, resident, or guardian.		
Date Resident Will Move to New Facility:			
Guardian/family member will accompany resident during move: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Person providing counseling within 72 hours of transfer/discharge:		Title:	Telephone Number:
Signature of Facility Representative		Title	Date
Name of Resident/Guardian/Family Representative		Relationship to Resident	
Signature of Resident/Family Representative			Date
Attach a list of medical needs of resident (i.e., oxygen, tube feedings, catheters, medications, etc.).			
Attach a list of the medical conditions of resident (i.e., wheelchair bound, para/quadruplegic, etc.).			
Attach physician statement indicating how resident's condition and needs will be accommodated during the transfer/discharge and in the new placement.			

Send Involuntary Transfer/Discharge Plan to address above for department review prior to move.

The plan must clearly demonstrate that the proposed location can meet the needs of the resident.

Document Everything!

Case study

- Resident admitted as a short stay resident under Medicare . Made progress in therapy and reached maximum potential. Discharge scheduled.Orders written. Home health set up. On day to go home, stalled stated "not ready to go." Receives social security, pension and annuities. Refuses to participate in further discharge but refuses to pay towards cost of stay. Approaching one month of nonpayment. Reports charges are too much and Insurance should be covering. Son resides in residents home with live-in girlfriend & picks up resident frequently to take her for shopping trips and to the bank "pay bills", in which she transfers in/out of the car independently. Alert and oriented x3, no cognitive deficits.

Proactivity

- ◆ Admissions checklist, discussion of finances and charges early on
- ◆ Early discharge planning, Home Evals
- ◆ Resident Education/Conference
- ◆ Notice of Non-Coverage, Level of Care Determination
- ◆ Community resource connections
- ◆ Representative payee/conservator ship/guardianship

Placement Options

- ◆ Another SNF
- ◆ AFC facility
- ◆ Community Placement
- ◆ Short term residential

Questions

Forms:

http://www.michigan.gov/documents/lara/BCHS-LTC-502_ITD_Notice_516997_7.pdf

http://www.michigan.gov/documents/lara/BCHS-LTC-505_ITD_Hearing_Request_517007_7.pdf

http://www.michigan.gov/documents/lara/BCHS-LTC-512_Facility_ITD_Checklist_516995_7.pdf