



NURSING HOME RESIDENTS FACING DISCHARGE

Know Your Rights

If you live in a nursing home, sometimes called a skilled nursing facility, it is important to know your rights. It is especially important to know when a facility can discharge you, and your rights related to a discharge.

NURSING HOMES CAN ONLY DISCHARGE RESIDENTS FOR CERTAIN REASONS

- Nursing home residents are protected by both state and federal laws. This means that as a nursing home resident in Minnesota, you can only be discharged for one of six reasons:
 - The facility cannot meet your needs.
 - You no longer need nursing facility services.
 - You endanger the safety of others in the facility.
 - You endanger the health of others in the facility.
 - You have failed to pay.
 - The facility is closing.

WHAT TO LOOK FOR IF A NURSING HOME IS DISCHARGING YOU

- If the nursing home states it is discharging you, they must meet one of the criteria listed above.
- Frequently, the nursing home states they can no longer meet your needs. If this is the case:
 - The nursing home must document and explain what it has done to try to meet your needs, and explain how the services in your new facility will meet your needs.
 - Most nursing homes are certified to offer the same type of care, so except for a few very specialized services, many facilities should be able to meet most resident's needs.
- The nursing home cannot simply claim that a resident is "too difficult", "requires too much staff attention", or is "too costly" to provide care.
 - For example, residents with dementia may often wander. Wandering is not enough for a facility to claim they cannot meet a resident's needs.
- Nursing homes **must give a written 30-day notice and a detailed discharge plan** to a resident it is discharging. Look carefully at the reason or reasons the facility is giving for the discharge in the notice.



YOU HAVE THE RIGHT TO APPEAL A DISCHARGE

- If you receive a discharge notice, you do not have to move right away, and you may not have to move. You have the right to appeal the discharge.
- Under an appeal, you can challenge the nursing home's stated reason for the discharge. **You have the right to remain in the facility during an appeal.**
- Appeals may be complicated and timing is critical, but you have the right to ask for help. If you receive a discharge notice you should **immediately** contact one or more of the following:

[Minnesota Elder Justice Center](#) at 651-440-9300

[Ombudsman for Long Term Care](#) at 651-431-2555 or 1-800-657-3591

[Law Help MN](#) to find a local legal aid office

IF YOU ARE ADMITTED TO A HOSPITAL, YOU HAVE THE RIGHT TO RETURN TO YOUR NURSING HOME

- If you must leave the nursing home due to a hospitalization (or other care related reason), you have the right to return to the facility following hospitalization.
- The facility must give you information about your right to return, as well as a copy of its bed-hold policy.
- If you are trying to return and the facility believes they can no longer care for you, it must issue a discharge letter that gives all the notice requirements (including 30-days' notice, and your appeal rights), documentation, and information required under law.

DETAILED DISCHARGE PLANS

- You have the right to participate in all aspects of discharge planning. The written discharge plan must include the new living location, services, care, and medications, if needed.
- The facility must prepare and orient you for a safe and orderly discharge in a language and manner you understand.
- You can ask to visit your proposed new home. This is considered part of the orientation which the nursing home is required to provide.
- You should request a detailed description of how the move will happen. It is the facility's responsibility to ensure that you arrive safely to your new location with your possessions, including transferring any personal funds to you or a new account.

PANDEMIC PROTECTIONS AGAINST EVICTIONS

Since the beginning of the pandemic, there have been special rules in place about evictions. These rules apply to nursing home discharges. Except for a few circumstances, the nursing home cannot discharge you from your setting until those protections are changed or ended.



Other Resident Rights in Nursing Homes

- You have the right to place a camera in your room if you follow instructions on the consent forms that can be found on the [Minnesota Department of Health website](#).
- The nursing home must honor your needs and preferences. This means they must make reasonable changes to their rules like allowing different mealtimes or bedtimes if doing so would help you.
- **A nursing home cannot retaliate against you.** For example, they cannot issue a discharge notice because you are advocating to receive better care, or prevent you or those helping you participate in a care planning meeting.

For a comprehensive list of residents' rights in nursing homes, review the [Minnesota Department of Health Combined Federal and State Bill of Rights](#).

What if I live in an Assisted Living Facility?

Assisted living facilities' rules about discharges are changing on August 1, 2021. While not identical, residents living in an assisted living facility will have similar rights as nursing home residents when it comes to a discharge, termination, or eviction. If you are being discharged, terminated, or evicted from an assisted living facility or have questions about your rights, contact the [Ombudsman for Long Term Care](#) at 651-431-2555 or 1-800-657-3591; or the [Minnesota Elder Justice Center](#) at 651-440-9300.

Links for Reference

LINKS FROM PAGE 2:

[Minnesota Elder Justice Center](https://elderjusticemn.org/our-services/victim-services/) - <https://elderjusticemn.org/our-services/victim-services/>

[Ombudsman for Long Term Care](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4732-ENG) - <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4732-ENG>

[Law Help MN](https://www.lawhelpmn.org/lawhelpmn-guide) - <https://www.lawhelpmn.org/lawhelpmn-guide>

LINKS FROM PAGE 3:

[Minnesota Department of Health](https://www.health.state.mn.us/facilities/regulation/emonitoring/index.html) - <https://www.health.state.mn.us/facilities/regulation/emonitoring/index.html>

[Minnesota Department of Health Combined Federal and State Bill of Rights.](https://www.health.state.mn.us/facilities/regulation/billofrights/docs/borcombined_eng_reg.pdf) -

https://www.health.state.mn.us/facilities/regulation/billofrights/docs/borcombined_eng_reg.pdf

[Minnesota Elder Justice Center](https://elderjusticemn.org/our-services/victim-services/) - <https://elderjusticemn.org/our-services/victim-services/>

[Ombudsman for Long Term Care](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4732-ENG) - <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4732-ENG>