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Involuntary Transfer or Discharge Process

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Regulation of Transfer or Discharge

State Regulations:
MCL 333.21773 – 333.21776
Administrative Rule 325.20116

Federal Regulations:
42 CFR 483.15(c)



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Electronic Location of Regulations

State Regulations:

MCL 333.21773 – 333.21776

Administrative Rule 325.20116

www.Michigan.gov/BCHS

- Select Health Care Providers
- Select Nursing Homes
- Select Involuntary Transfer / Discharge
- Bookmark this page!



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Electronic Location of Regulations

Federal Regulations:

42 CFR 483.15(c) – State Operations Manual (SOM)

www.CMS.gov

- Using the search box, search for Appendix PP.
- The SOM will be displayed, including Appendix PP.
- Click on the link and Appendix PP will be opened.
- The “Find” function within the appendix is the quickest method to specific items regulations.



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Electronic Location of Regulations

Federal Critical Element Pathways

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Nursing-Homes.html>

- Go to the Download Section
- Select LTC Survey Pathways
- Select Discharge Critical Element Pathway



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Statistics

Number Processed

- Fiscal Year 2018
 - 341 Processed ITD Notices
 - 117 Appeal Requests (36.5%)
 - 43 Dismissed (36.8%)
 - 24 Denied (20.5%)
 - 50 Granted (42.7%)

Federal Citation Issued

- Fiscal Year 2018
 - Tag F622 Transfer or Discharge Requirements
 - 20 Citations
 - Tag F633 Notice Requirement Before Transfer / Discharge
 - 68 Citations



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Definitions of Terms

State Regulations

Transfer means the movement of a resident from 1 nursing home to another nursing home or from 1 certified distinct part of a nursing home to another certified distinct part of the same nursing home.

Involuntary transfer means a transfer not agreed to in writing by the resident or, in the case of a plenary guardianship, by the patient's legal guardian.

Federal Regulations

Facility-initiated transfer or discharge means a transfer or discharge which the resident objects to, did not originate through a resident's verbal or written request, and/or is not in alignment with the resident's stated goals for care and preferences.

Resident-initiated transfer or discharge means the resident or, if appropriate, the resident representative has provided verbal or written notice of intent to leave the facility (leaving the facility does not include the general expression of a desire to return home or the elopement of residents with cognitive impairment).



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Definitions of Terms

State Regulations

Discharge means the voluntary or involuntary movement of a patient out of a nursing home regardless of the individual's destination or reason for the movement.



Federal Regulations

Transfer and Discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility. Specifically, transfer refers to the movement of a resident from a bed in one certified facility to a bed in another certified facility when the resident expects to return to the original facility. Discharge refers to the movement of a resident from a bed in one certified facility to a bed in another certified facility or other location in the community, when return to the original facility is not expected.



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Reasons for Transfer or Discharge

State Regulations

- Medical reasons
- Welfare of the resident
- Welfare of other residents and staff
- Nonpayment of resident stay



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Federal Regulations

- Resident's needs or welfare cannot be met in the facility
- Resident no longer needs skilled services
- Safety of other individuals in the facility is endangered due to clinical or behavioral status of resident
- Health of other individuals in the facility is endangered
- Nonpayment of resident stay
- Facility is ceasing to operate

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Required Information on Notice

State Regulations

- The stated reason for the proposed transfer.
- The effective date of the proposed transfer.

Federal Regulations

- The reason for transfer or discharge.
- The effective date of transfer or discharge.
- The location to which the resident is transferred or discharged.



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Required Information on Notice

State Regulations

- A statement identifying resident's appeal rights and the associated timeline for submission of request and the appeal hearing.
- A hearing request form with postage paid, preaddressed envelope addressed to LARA.
- The name, address, telephone number of the responsible office in LARA.

Federal Regulations

- A statement of the resident's appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request.
- The name, address (mailing and email) and telephone number of the Office of the State Long Term Care Ombudsman.



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Required Information on Notice

State Regulations

Federal Regulations

- For nursing facility residents with intellectual and developmental disabilities or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals.
- For nursing facility residents with a mental disorder or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with a mental disorder.



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Federal - Changes in Notice

If information in the notice changes, the facility must update the recipients of the notice as soon as practicable with the new information to ensure that residents and their representatives are aware of and can respond appropriately.

For significant changes, such as a change in the destination, a new notice must be given that clearly describes the change(s) and resets the transfer or discharge date, in order to provide 30 day advance notification.



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Federal Documentation

§483.15(c) Facility Requirements cont.

(2) Documentation. When the facility transfers or discharges a resident under any of the circumstances listed, the facility must ensure that the transfer or discharge is documented in the resident's medical record and appropriate information is communicated to the receiving health care institution or provider.



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Federal Documentation

Documentation in the resident's medical record must include:

- (A) The basis for the transfer
- (B) The specific resident need(s) that cannot be met:
 - Facility attempts to meet the resident needs,
 - The service available at the receiving facility to meet the need(s).



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Federal Documentation

The documentation required must be made by (A) The resident's physician when transfer or discharge is necessary:

- The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
- 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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Federal Documentation

A physician when transfer or discharge is necessary:

- The safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident;
- The health of individuals in the facility would otherwise be endangered;

Reassessment of the resident must be completed after emergency services when the resident returns to facility.



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Notice to Ombudsman

- Notice of Involuntary Transfer or Discharge forms
 - Emailed at the same time as the email to LARA.
- Emergency transfers
 - Summary list identifying residents that were transferred on an emergency basis to hospital or acute care setting submitted monthly.

Admissions, discharges including deaths, and transfers are not to be included on the month list.



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Best Practices to Avoid Citations

- Documentation!!!
 - Identify the needs that could not be met.
 - What actions the facility made to meet the needs.
 - What services are offered at the new facility.



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Notice to Parties

State Regulations

- Notify the resident and the resident's representative(s).
- A copy emailed to LARA.
- A copy in the resident's medical record.

Federal Regulations

- Notify the resident and the resident's representative(s) in a language and manner they understand.
- A copy emailed to the Office of the State Long-Term Care Ombudsman.
- Record the reasons for the transfer or discharge in the resident's medical record.



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Timing of Actions

State Regulations

- 30 days advance notice
 - Transfer or discharge cannot be before:
 - The 34th day following receipt of the notice or
 - The 10th day following appeal hearing decision
 - Always the later date between the two above dates

Federal Regulations

- 30 days advance notice
 - Providing that there are not any significant changes made to the notice.
 - If significant changes are made, an updated notice must be provided to the resident or representative and the 30 day timeline restarts.



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Appeal Request / Hearing

State Regulations

- Appeal request must be received by LARA within 10 days after receiving the notice.
- The appeal hearing, it will be held at least 7 days after the request is received.

Federal Regulations

- Defers to state statutory guidelines for appeal proceedings.
- An emergency transfer can be appealed.



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Preparing for an Appeal Hearing

- Conference call format, unless request for in person hearing.
- Documentation should be submitted in advance.
 - Appearance of Attorney, if applicable.
 - Supporting documentation of reasons identified in the notice.
- During the appeal hearing.
 - Staff that will provide testimony.



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Pending an Appeal Hearing

State Regulations

- Cannot discharge when an appeal is pending unless emergency criteria is met.

Federal Regulations

- Cannot discharge when an appeal is pending unless emergency criteria is met.



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Discharge Plan Criteria

State Regulations

- Meets patient's needs
 - Physician recommendations
- Optimum placement
- Patient or representative involvement
- Counseling session
- Site visit to new location
- Representative or family present for transfer or discharge

Federal Regulations

- Orientation of resident to new discharge or transfer location.



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Difficult to Place Residents

- Assistance with placement
 - Community Mental Health
 - Long Term Care Ombudsman
 - MDHHS for
 - PACE
 - MI Choice



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ITD Form Guidance

Start preparing ITD-100 form.

- Recommendation: Have initial discussion to assist in identification of transfer or discharge location.
- Federal requirement: If the destination changes and this change was initiated by the facility, an updated notice with the new destination must be issued. This type of change restarts the 30-day timeline for transfer or discharge.



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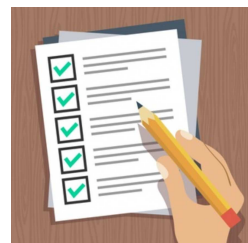
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ITD Form Guidance

Form must be provided to the resident or resident representative at least 30 days prior along with envelope and postage for appeal request.

A copy of the form must be emailed to:

- InvoluntaryTransfer@michigan.gov
- SLTCO@meji.org



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ITD Form Guidance

Prepare ITD-101 form to outline the proposed transfer or discharge plan and submit to:

– LARA-BCHS-InvoluntaryTransfer@michigan.gov

Written approval of the acceptance of the proposed transfer or discharge plan will be provided.



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ITD Form

NOTICE OF INVOLUNTARY TRANSFER OR DISCHARGE FOR NURSING HOMES

Date of Notice	<input type="checkbox"/> Original Notice <input type="checkbox"/> Updated Notice – If the destination changes and this change was initiated by the facility, an updated notice with the new destination must be issued. This type of change restarts the 30-day timeline for transfer or discharge.	
Resident Name		
Guardian/Resident Representative, if applicable	Name	
	Address	
	Email	
	Phone	
Facility Name*		
Administrator	Name	
	Email	
	Phone	
Facility Address		

* This process does not apply to hospital long-term care units for state statutory purposes.



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ITD Form

This is to provide notice that the above resident will be transferred or discharged for the following reason(s):

Reason(s) for Transfer or Discharge, all applicable reasons must be selected.	
State Requirements, MCL 333.21773(1) <input type="checkbox"/> Medical reasons <input type="checkbox"/> Welfare of the resident <input type="checkbox"/> Welfare of other residents and staff <input type="checkbox"/> Nonpayment of resident stay	CMS Requirements, 42 CFR 483.15(c)(1) <input type="checkbox"/> Resident's needs cannot be met in the facility <input type="checkbox"/> Resident no longer needs skilled services <input type="checkbox"/> Safety of other individuals in the facility is endangered due to clinical or behavioral status of resident <input type="checkbox"/> Health of other individuals in the facility is endangered <input type="checkbox"/> Nonpayment of resident stay <input type="checkbox"/> Facility is ceasing to operate



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ITD Form

Additional explanation for the reasons identified above:

This is to identify the destination and date for the proposed transfer or discharge.

Transfer or Discharge Destination	Destination Type	<input type="checkbox"/> Nursing Home	<input type="checkbox"/> Other:
	Facility Name		
	Address		
Proposed Effective Date			



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ITD Form

APPEAL REQUEST FOR NOTICE OF AN INVOLUNTARY TRANSFER OR DISCHARGE

I hereby appeal and request a hearing due to a *Notice of Involuntary Transfer or Discharge* from this facility or a distinct part of the facility.

Date of Notice		
Resident Name		
Person Requesting Appeal <input type="checkbox"/> Resident <input type="checkbox"/> Guardian <input type="checkbox"/> Resident representative <input type="checkbox"/> Other:	Name	
	Address	
	Email	
	Phone	
Facility Name		
Facility Address		
Signature of Person Requesting Appeal		
X		
Date of Appeal Request		

The appeal request must be received by LARA within 10 days of the date of notice.



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Questions and Answers



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