



Iowa Health Care Association  
Iowa Center for Assisted Living  
Iowa Center for Home Care

## **Protocols for Use and Issuance of Nursing Facility Transfer Notices**

*IHCA's Regulatory & Legal Team Work Group*

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## PROTOCOLS FOR USE AND ISSUANCE OF TRANSFER NOTICES

**As part of the CMS revision to rules, corresponding guidance to surveyors and CMS interpretation of those rules, nursing facilities are now required to give a written notice to every resident when the resident is transferred from the facility for purposes of medical care, including emergency acute care, even if the facility expects to re-admit the resident following hospitalization. This notice does not apply to emergency room visits where the resident is not admitted to the hospital.**

### ***From the CMS State Operations Manual:***

Pursuant to F623 [§483.15(c)(3)] Notice before transfer. Before a facility transfers or discharges a resident, the facility must—

- (i) Notify the resident and the resident’s representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.
- (ii) Record the reasons for the transfer or discharge in the resident’s medical record in accordance with paragraph (c)(2) of this section; and
- (iii) Include in the notice the items described in paragraph (c)(5) of this section.

### ***Definitions:***

***“Facility-initiated transfer or discharge”:*** 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. [Surveyor Guidance under F622 and F623].

***“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 - Surveyor Guidance under F622 and F623). Note that other examples of resident-initiated transfers include transfers that were planned in advance by the resident, for example hospitalization for elective surgery, or planned therapeutic leave.

**Note:** The Guidance to Surveyors provides a facility’s obligation to document in the clinical record: “When a resident initiates his or her transfer or discharge, the medical record should contain documentation or evidence of the resident’s or resident representative’s verbal or written notice of intent to leave the facility, a discharge care plan, and documented discussions with the resident or if appropriate his/her representative, containing details of discharge planning, and arrangements for post-discharge care.”

***“Emergent Transfers to Acute Care”:*** Residents who are sent emergently to the hospital are considered facility-initiated transfers because the resident’s return is generally expected [Surveyor Guidance under F622].

***“Emergency Transfers”:*** When a resident is temporarily transferred on an emergency basis to an acute care facility, this type of transfer is considered to be a facility-initiated transfer and a notice of transfer must be provided to the resident and resident representative as soon as practicable, according to 42 CFR §483.15(c)(4)(ii)(D) [An immediate transfer or discharge is required by the

resident's urgent medical needs]. Copies of notices for emergency transfers must also still be sent to the ombudsman, but they may be sent when practicable, such as in a list of residents on a monthly basis [Surveyor Guidance under F623]

***Under these broad definitions, almost every transfer to a hospital will be considered "facility initiated." If there is a doubt as to whether a transfer is facility-initiated, IHCA advises facilities to err on the side of determining that a transfer is facility-initiated and issue the transfer notice.***

The transfer notice must comply with the requirements of [F623] §483.15(c)(5) Contents of the notice. The written notice specified in paragraph (c)(3) of this section must include the following:

- (i) The reason for transfer or discharge;
- (ii) The effective date of transfer or discharge;
- (iii) The location to which the resident is transferred or discharged;
- (iv) 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;
- (v) The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman;
- (vi) 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 with developmental disabilities established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106-402, codified at 42 U.S.C. 15001 et seq.); and
- (vii) 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 established under the Protection and Advocacy for Mentally Ill Individuals Act.

### ***IHCA Transfer and Bedhold Template***

IHCA has prepared the attached written form to comply with the requirement to provide written notice of resident transfers. Because facilities are required to provide bed hold notices at the time of every transfer to a hospital, the form also includes the required information to be provided related to bed hold notices. DIA has reviewed and approved the use of this form.

While the required notice may be confusing to residents and families as it contains information on appealing the transfer, this transfer notice is **NOT** considered an involuntary discharge notice, but is still required to be issued whenever the facility initiates a transfer of a resident when it intends to re-admit a resident following hospitalization or other medical treatment. IHCA has expressed its concerns to DIA and CMS regarding this rule and the likely confusion and emotional response that is likely to occur when residents/family members receives a copy of this notice; but the agencies have informed IHCA that the rule requires this notice to be provided.

If facilities receive complaints about the issuance of the form, facilities should assure residents/families that the notice is not being issued because the facility is intending to

involuntarily discharge the resident, and that the facility intends to re-admit the resident following hospitalization; and that the notice is required by federal regulations.

If a facility is intending to seek involuntary discharge of a resident, it must comply with the applicable federal regulations and state regulations (58.40) and issue a separate involuntary discharge notice pursuant to those regulations, which contain additional requirements.

## **QUESTIONS**

For questions, contact [Mary Jane Carothers](#), VP, Quality Improvement and Clinical Affairs or [Merea Bentrott](#), VP, Government and Regulatory Affairs at 800-422-3106.