

## SHAKER PLACE REHABILITATION AND NURSING CENTER



### Transfer and Discharge Resident Rights

#### **You have the right to:**

- Be given 30 day notice before transfer or discharge except in certain situations,( as outlined below in the section addressing Nursing Home Responsibilities) where such notice shall be provided as soon as practicable but no later than the date a determination is made by the nursing home to transfer/discharge you.
- File an appeal to the New York State Department of Health in response to an involuntary transfer or discharge, for which a hearing can be held under the auspices of the Department; All appeals must be filed within sixty (60) days from the date of receipt of the transfer/discharge notice.
- Examine your own medical records and all documents to be used by the facility at the hearing, at a reasonable time prior to the date of the hearing, at the facility, and during the hearing.
- Remain in the facility pending the appeal determination if the request for an appeal is filed with the Department prior to you being discharged from the facility.
- A post-transfer/discharge appeal determination if the request for an appeal is timely filed with the Department but after you are discharged from the facility.
- Return to the facility to the first available semi-private bed if you win the appeal, prior to the facility admitting any other person.
- Information such as the name, address and telephone number of the New York State Department of Health, the New York State Long Term Care Ombudsman and the Disability Rights New York.

#### **Nursing Home Responsibility**

#### **The nursing home may transfer or discharge you:**

- Only after the interdisciplinary care team, in consultation with you or your representative, determines that:
  1. The transfer or discharge is necessary for your welfare and your needs cannot be met after reasonable attempts at accommodation in the facility.
  2. The transfer or discharge is appropriate because your health has improved sufficiently to the point where you no longer need the services provided by the facility.
  3. Your health or safety or the health or safety of other individuals in the facility would otherwise be endangered.
- When you have failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid or third-party insurance) a stay at the facility. For failure to pay, such transfer or discharge is permissible only if:
  1. A charge is not in dispute.
  2. No appeal of a denial of benefits is pending.

3. Funds for payment are available, but you refuse to cooperate with the facility in obtaining them.
- When the facility discontinues operation and has received approval of its plan of closure from the New York state department of health.

**The nursing home shall:**

- At the time of admission and again at the time of transfer for any reason, inform you and your designated representative both orally and in writing, information that specifies:
  1. The duration of the bed-hold policy during which you are permitted to return and resume residence in the facility; and
  2. The facility's policies regarding bed-hold periods permitting you to return.
- At the time of transfer for hospitalization or for therapeutic leave, provide written notice to you and your designated representative, which specifies the duration of the bed-hold policy.
- Readmit you, pursuant to an established and written policy, immediately to the first available bed in a semi-private room at the facility if you were hospitalized or on therapeutic leave for a period of time that exceeds the bed-hold period, and:
  1. You require the services provided by the facility; and
  2. You are eligible for medicaid nursing home services.
- Readmit you, pursuant to an established and written policy, immediately to the first available bed in a semi-private room at the facility if you have resided in the nursing home for 30 days or more and you have been hospitalized or you have been transferred or discharged on therapeutic leave without being given a bed-hold, and:
  1. You require the services provided by the facility; and
  2. You are eligible for medicaid nursing home services.
- Ensure complete documentation in your clinical record when the facility transfers or discharges you under any of the circumstances specified above. The documentation shall be made by:
  1. Your physician and, as appropriate, interdisciplinary care team, when transfer or discharge is
    - Necessary for your welfare and your needs cannot be met;
    - Appropriate because your health has improved sufficiently so you no longer need services provided by the facility.
  2. A physician when transfer or discharge is necessary due to the endangerment of the health of other individuals in the facility.
  3. Before transferring or discharging you:
    - Notify you and your designated representative, if any, and, if known, your family member of the transfer or discharge and the reasons for the move in writing and in a language and manner the Resident and/or family member understand.

- Record the reasons in your clinical record.
  - Include in the notice the following items:
    - The reason for transfer or discharge;
    - The specific regulations that support, or the change in federal or state law that requires, the action;
    - The effective date of transfer or discharge;
    - The location to which you will be transferred or discharged;
    - A statement that the Resident has the right to appeal the action to the state department of health, which includes:
      - An explanation of the individual's right to request an evidentiary hearing appealing the decision.
      - The method by which an appeal may be obtained.
      - In cases of an action based on a change in law, an explanation of the circumstances under which an appeal will be granted.
      - An explanation that the Resident may remain in the facility (except in cases of imminent danger) pending the appeal decision if the request for an appeal is filed prior to the Resident getting discharged from the facility.
      - In cases of Residents discharged/transferred due to imminent danger, a statement that the Resident may return to the first available bed if he or she prevails at the hearing on appeal.
      - A statement that the Resident may represent him or herself or use legal counsel, a relative, a friend, or other spokesman.
    - The name, address, and telephone number of the State long term care ombudsman;
    - For nursing facility Residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;
    - For nursing facility Residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;
4. Provide its notice of transfer or discharge to you at least 30 days before you are transferred or discharged, except that notice shall be given as soon as practicable before transfer or discharge, but no later than the date on which a determination was made to transfer or discharge you, under the following circumstances:
- The safety of individuals in the facility would be endangered;

- The health of individuals in the facility would be endangered;
  - Your health improves sufficiently to allow a more immediate transfer or discharge;
  - An immediate transfer or discharge is required by your urgent medical needs;
  - The transfer or discharge is the result of a change in the level of medical care prescribed by your physician;
  - You have not resided in the facility for 30 days; or
  - The transfer or discharge is made in compliance with your request.
5. Provide sufficient preparation and orientation to you to ensure safe and orderly transfer or discharge from the facility in the form of a discharge plan which addresses your medical needs and how these will be met after discharge and provide a discharge summary.
  6. Permit you, your legal representative or health care agent the opportunity to participate in deciding where you will reside after discharge from the facility.
  7. Provide written notification to you, your authorized representative, the department of health, and the nys long term care ombudsman of an impending closure at least sixty (60) days prior to the date of the facilities anticipated closure.

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***Updated: July 2022***