
HOUSE BILL 3203

State of Washington 60th Legislature 2008 Regular Session

By Representatives Morrell, Campbell, Green, Lias, McIntire,
VanDeWege, and Wood

Read first time 01/24/08. Referred to Committee on Health Care &
Wellness.

1 AN ACT Relating to residents who are transferred or discharged by
2 nursing facilities; and amending RCW 74.42.450.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 74.42.450 and 1997 c 392 s 216 are each amended to
5 read as follows:

6 (1) The facility shall admit as residents only those individuals
7 whose needs can be met by:

8 (a) The facility;

9 (b) The facility cooperating with community resources; or

10 (c) The facility cooperating with other providers of care
11 affiliated or under contract with the facility.

12 (2) The facility shall transfer a resident to a hospital or other
13 appropriate facility when a change occurs in the resident's physical or
14 mental condition that requires care or service that the facility cannot
15 provide. The resident, the resident's guardian, if any, the resident's
16 next of kin, the attending physician, and the department shall be
17 consulted at least fifteen days before a transfer or discharge unless
18 the resident is transferred under emergency circumstances. The

1 department shall use casework services or other means to insure that
2 adequate arrangements are made to meet the resident's needs.

3 (3) A resident shall be transferred or discharged only for medical
4 reasons, the resident's welfare or request, the welfare of other
5 residents, or nonpayment. A resident may not be discharged for
6 nonpayment if the discharge would be prohibited by the medicaid
7 program.

8 (4) If a resident chooses to remain in the nursing facility, the
9 department shall respect that choice, provided that if the resident is
10 a medicaid recipient, the resident continues to require a nursing
11 facility level of care.

12 (5) If the department determines that a resident no longer requires
13 a nursing facility level of care, the resident shall not be discharged
14 from the nursing facility until at least thirty days after written
15 notice is given to the resident, the resident's surrogate decision
16 maker and, if appropriate, a family member or the resident's
17 representative. A form for requesting a hearing to appeal the
18 discharge decision shall be attached to the written notice. The
19 written notice shall include at least the following:

- 20 (a) The reason for the discharge;
- 21 (b) A statement that the resident has the right to appeal the
22 discharge; and
- 23 (c) The name, address, and telephone number of the state long-term
24 care ombudsman.

25 (6) If the resident appeals a department discharge decision, the
26 resident shall not be discharged without the resident's consent until
27 at least thirty days after a final order is entered upholding the
28 decision to discharge the resident.

29 (7) Before the facility transfers or discharges a resident, the
30 facility must first attempt through reasonable accommodations to avoid
31 the transfer or discharge unless the transfer or discharge is agreed to
32 by the resident. The facility shall admit or retain only individuals
33 whose needs it can safely and appropriately serve in the facility with
34 available staff or through the provision of reasonable accommodations
35 required by state or federal law. "Reasonable accommodations" has the
36 meaning given to this term under the federal Americans with
37 disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other
38 applicable federal or state antidiscrimination laws and regulations.

1 (8) Any resident who is transferred or discharged by the nursing
2 facility and requests a fair hearing challenging the transfer or
3 discharge shall be allowed immediate readmittance into the first
4 available bed in the nursing facility and may remain, pending the
5 issuance of a final order at the fair hearing. However, if the
6 resident was transferred or discharged to a hospital, the resident will
7 be allowed immediate readmittance into the nursing facility after the
8 attending physician determines that the resident has stabilized and
9 that the resident's needs can be met in a nursing facility.

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