

3701-61-03

**Notice and hearing request ~~requirements~~ standards.**

(A) The administrator of the home ~~shall~~is obligated to notify a resident in writing, and the resident's sponsor or legal representative in writing by certified mail, return receipt requested, in advance of any proposed transfer or discharge from the home. In addition to, but not in place of, the written notification by certified mail, the administrator of the home may provide a copy of the written notice through electronic mail to the resident, resident's sponsor or legal representative. The administrator ~~shall~~is obligated to send a copy of the notice to the department. The administrator of the home is obligated to provide the notice ~~shall be provided to~~ the resident, and the resident's sponsor or legal representative, at least thirty days in advance of the proposed transfer or discharge, unless any of the following apply:

- (1) The resident's health has improved sufficiently to allow a more immediate discharge or transfer to a less skilled level of care;
- (2) The resident has resided in the home less than thirty days.
- (3) An emergency arises in which the safety of individuals in the home is endangered;
- (4) An emergency arises in which the health of individuals in the home would otherwise be endangered;
- (5) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In any of the circumstances described in paragraphs (A)(1) to (A)(5) of this rule, the notice ~~shall~~will be provided as many days in advance of the of the proposed transfer or discharge as is practicable. The administrator ~~shall~~is obligated to obtain written ~~acknowledgement~~acknowledgment of receipt of the notice from the resident unless the resident is unable to acknowledge receipt.

(B) The administrator of the home is obligated to provide the following information in the notice required ~~obligated~~ under paragraph (A) of this rule ~~shall include all of the following:~~

- (1) The reasons for the proposed transfer or discharge;
- (2) The proposed date the resident is to be transferred or discharged;
- (3) Subject to paragraph (C) of this rule, a proposed location to which the resident may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;

- (4) Notice of the following information pursuant to this rule and section 3721.161 of the Revised Code:
- (a) The right of the resident, and the resident's sponsor or legal representative to an impartial hearing at the home on the proposed transfer or discharge;
  - (b) The manner in which and the resident or the resident's sponsor may request a hearing pursuant to this rule;
  - (c) The time within which the resident or the resident's sponsor may request a hearing as provided in paragraph (E) of this rule; and
  - (d) The time within which the resident or the resident's sponsor may request a hearing as provided in paragraph (F) of this rule. This information ~~shall~~will be placed in bold type within the notice.
- (5) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;
- (6) The name, address, electronic mail address, and telephone number of the administrator of the facility seeking the transfer or discharge of the resident;
- ~~(6)~~(7) The address and telephone number of the legal services office of the department; and
- ~~(7)~~(8) The name, address, electronic mail address, and telephone number of the state designated regional long-term care ombudsman program serving the area in which the home is located and, if the resident has a developmental disability or mental illness, the name, address, electronic mail, and telephone number of the Ohio legal rights service.
- (C) The proposed location to which a resident may relocate as specified pursuant to paragraph (B)(3) of this rule in the proposed transfer or discharge notice ~~shall be~~is obligated to be capable of meeting the resident's healthcare and safety needs. The proposed location for relocation need not have accepted the resident at the time the notice is issued to the resident or resident's sponsor.
- (D) No home ~~shall be~~is allowed to transfer or discharge a resident before the date specified in the notice ~~required~~required-obligated by this rule unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

- (E) Pursuant to division (A) of section 3721.161 of the Revised Code the resident or resident's sponsor may challenge a proposed transfer or discharge by submitting a written request for a hearing to the department not later than thirty days after the resident or resident's sponsor receive notice of the proposed transfer or discharge, whichever is later. On receiving the request the department ~~shall~~ is obligated to conduct a hearing in accordance with section 3721.162 of the Revised Code and paragraphs (A) to (E) of rule 3701-61-04 of the Administrative Code to determine whether the proposed transfer or discharge complies with division (A)(30) of section 3721.13 of the Revised Code and paragraphs (A)(1) to (A)(7) of rule 3701-61-02 of the Administrative Code.
- (F) Except in the circumstances described in paragraphs (A)(1) to (A)(5) of this rule, if a resident or resident's sponsor submits a written hearing request not later than ten days after the resident or resident's sponsor received notice of the proposed transfer or discharge, whichever is later, the home ~~shall~~ is not allowed to transfer or discharge the resident unless the department determines after the hearing that the transfer or discharge complies with division (A)(30) of section 3721.13 of the Revised Code and paragraphs (A)(1) to (A)(7) of rule 3701-61-02 of the Administrative Code or the department's determination to the contrary is reversed on appeal.
- (G) If a resident or resident's sponsor does not request a hearing pursuant to paragraph (E) of this rule the home may transfer or discharge the resident on the date specified in the notice ~~required~~ obligated by paragraph (A) of this rule or thereafter, unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.
- (H) If a resident or resident's sponsor requests a hearing pursuant to paragraph (E) of this rule and the home transfers or discharges the resident before the department issues a hearing decision, the home ~~shall~~ is obligated to readmit the resident in the first available bed if the department determines after the hearing that the transfer does not comply with division (A)(30) of section 3721.13 of the Revised Code or the department's determination to the contrary is reversed on appeal.
- (I) ~~Transfer or discharge actions shall be documented in the resident's medical record if~~ If there is a medical basis for the discharge of a resident action, the administrator of the home is obligated to ensure that the transfer or discharge reason is documented in the resident's medical record.

Effective:

Five Year Review (FYR) Dates: 11/6/2023

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3721.11  
Rule Amplifies: 3721.13, 3721.16, 3721.161  
Prior Effective Dates: 10/12/1979, 10/14/1999, 03/20/2005, 01/15/2012