

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

ADMISSION & DISCHARGE RIGHTS IN NY STATE NURSING HOMES FACT SHEET

Some nursing homes in New York are telling individuals and families that they only provide short-term rehabilitation services and do not offer long-term care.

This has resulted in two serious problems:

1. Residents who enter a facility for short-term rehab and later need long-term care are told they must transfer elsewhere.
2. Individuals are being told that a nursing home has no place for them because it only provides short-term care or has limited long-term care beds and those beds are full.

These policies violate state and federal requirements. All nursing homes in New York that are certified by the federal government to accept Medicare and Medicaid are prohibited from denying admission or evicting residents based on their source of payment.

This fact sheet contains information on federal and New York State requirements for equal access to quality care regardless of payment source.

Key Legal Protections

The information below quotes directly the New York State regulations and the Code of Federal Regulations (CFR) (emphases added).

Federal: 42 CFR §483.10(a)

*The facility must provide equal access to quality care **regardless of diagnosis, severity of condition, or payment source**. A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services... for all residents regardless of payment source.*

State: N.Y. Comp. Codes R. & Regs. Title 10 §415.3(i)(4)

*With regard to the assurance of equal access to quality care, the facility shall establish and maintain identical policies and practices regarding transfer, discharge and the provision of all required services for all individuals **regardless of source of payment**.*

What to Know

I. Find out if the facility is certified.

- a. If a facility is listed on <https://www.medicare.gov/care-compare/> or <https://nursinghome411.org/states/ny/> it is subject to all federal and state requirements.
- b. Virtually all nursing homes are certified by the federal government to provide Medicare and Medicaid Services.
- c. This fact sheet applies to those nursing homes.

For more information on transfer and discharge rights, visit
[NursingHome411.org/discharges](https://nursinghome411.org/discharges).

- II. **A facility policy of “no long-term care beds” is illegal in nursing homes in New York.** This phrase is commonly used by nursing homes to deny admission or continued care to individuals who are eligible for or expected to rely on Medicaid. However, to be certified as a nursing home, a facility cannot discriminate against someone needing long-term care, whether it is someone who wishes to come in as a new resident or a short-term resident transitioning to long-term care.
- III. **Nursing homes are prohibited from discriminating based on source of payment.** If a nursing home says it does not accept Medicaid it is violating the Key Legal Protections described above.
- IV. **There are only very limited circumstances under which a facility can discharge or transfer a resident.** See our fact sheets and other resources at <https://nursinghome411.org/discharges/> for information on what these circumstances are, the right to appeal a discharge, and other relevant protections.

What You Can Do

If you encounter a situation in which a nursing home claims to have no “long-term care beds” available:

- **If Necessary, Confirm that it is a Federally Certified Facility.** If you are not sure, check to see if they are listed on <https://www.medicare.gov/care-compare/> or <https://nursinghome411.org/states/ny/>. **Note:** All facilities that accept Medicare are federally certified and must comply with the Key Legal Protection described above.
- **Contact the Long-Term Care Ombudsman:** They can provide guidance and may intervene on your behalf. Visit <https://aging.ny.gov/long-term-care-ombudsman-program> to find your Ombudsman.
- **Document Interactions with Facility Staff:** Record dates, times, staff names, and the details of conversations or communications.
- **Contact your state or federal legislator.** You can use the fact sheets at <https://nursinghome411.org/discharges/> to support your request for their help to gain admission to—or remain in—a nursing home.
- **File a Complaint with the NY Dept. of Health (DOH):** Report violations to the DOH, which oversees nursing home compliance. Nursing Home Complaint Line: 1-888-201-4563.
- **Seek Legal Advice:** Consult with an attorney who specializes in elder law to explore potential legal remedies and ensure that the rights of the resident are protected. Free legal services may also be available to assist with issues such as Medicaid denials, healthcare access, and elder abuse.
 - **Center for Elder Law and Justice (CELJ):** Provides free legal services, including assistance with discharges and transfers.
 - **Mobilization for Justice (MFJ):** NYC-based nonprofit that offers free legal representation to support residents against involuntary discharge and improper discharge planning.
 - **New York Legal Assistance Group (NYLAG):** Provides free legal aid for Medicaid appeals, healthcare access, and benefit denials.