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MEMORANDUM

To: Committee on Children and Seniors
From: Office of Revisor of Statutes
Date: January 28, 2021
Subject: House Bill 2004

HB 2004 adds a new section to the adult care home licensure act. The section creates requirements for involuntary transfers and discharges and the right and a process to appeal such transfer or discharge.

Under subsection (a), administrators or operators of adult residential care facilities must ensure that residents are not involuntarily transferred or discharged unless the transfer or discharge is necessary because the facility cannot meet the resident's needs, the health or safety of others are endangered, the resident has not paid charges after reasonable notice or the facility ceases to operate.

Subsection (b) requires that the administrator or operator notify the resident and any known legal representative of any involuntary transfer or discharge and the reason for such transfer or discharge. Except when a facility ceases operations, if the transfer or discharge is for reasons outlined in subsection (a), the resident physician shall document the following in the resident's clinical record:

1. The rationale that the transfer or discharge is necessary for the resident's welfare and that the resident's needs cannot be met by the facility.
2. The rationale if such transfer or discharge is appropriate because the resident's health has improved that the resident no longer needs services provided by the facility.
3. The rationale that such transfer or discharge is necessary to ensure the health or safety of individuals in the facility.

Administrators and operators must provide a written notice of the transfer or discharge that includes the reason, the effective date of the transfer or discharge, contact information of the state long-term care ombudsman, and the resident's right to appeal the involuntary transfer or discharge under this section. If the resident has an intellectual or developmental disability, the notice shall include information of agencies responsible for protection and advocacy of such individuals. If the resident has a mental disorder, the notice shall include information of agencies similarly responsible to such resident. This notice shall be provided to the resident or the resident's legal representative at least 30 days prior to the transfer or discharge, unless the safety of others would be endangered or the resident's needs require immediate transfer to another healthcare facility.

Subsection (d) requires that sufficient preparation and development of a discharge plan shall be provided to the resident, and if practicable, the resident's legal representative and designated family.

Subsection (e) establishes the resident's right to appeal involuntary transfers or discharges that are in violation of this section to the secretary for aging and disability services. A notice of appeal must be filed with the office of administrative hearings within 15 days of receiving the notice of transfer or discharge. Then a hearing shall be held within 30 days of the notice of appeal. When the appeal is pending, the resident is permitted to return and resume resident in the facility.

This section authorizes the secretary for aging and disability services to adopt rules and regulations to implement and administer this section.

The section would take effect upon publication in the statute book.