

INVOLUNTARILY, THE FACILITY SHALL GIVE WRITTEN NOTICE TO THE RESIDENT AND THE NEXT OF KIN OR GUARDIAN OF THE PERSON OF THE RESIDENT.

(2) THE NOTICE SHALL STATE EACH REASON FOR THE TRANSFER OR DISCHARGE.

(3) THE FACILITY SHALL GIVE THE RESIDENT AN OPPORTUNITY FOR A HEARING ON THE PROPOSED TRANSFER OR DISCHARGE.

(C) MEDICAID BENEFITS RECIPIENT.

(1) A MEDICAID CERTIFIED FACILITY MAY NOT:

(I) INCLUDE IN THE ADMISSION CONTRACT OF A RESIDENT ANY REQUIREMENT THAT, TO STAY AT THE FACILITY, THE RESIDENT CONTINUE AS A PRIVATE PAY RESIDENT FOR MORE THAN 1 YEAR, IF THE RESIDENT BECOMES ELIGIBLE FOR MEDICAID ~~BENEFITS~~; BENEFITS; OR

(II) TRANSFER OR DISCHARGE A RESIDENT INVOLUNTARILY BECAUSE THE RESIDENT IS A MEDICAID BENEFITS RECIPIENT.

(2) A MEDICAID CERTIFIED FACILITY IS PRESUMED TO BE TRANSFERRING OR DISCHARGING A RESIDENT IN VIOLATION OF THIS SUBSECTION, IF THE RESIDENT IS OR BECOMES ELIGIBLE FOR MEDICAID BENEFITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 565C(a)(18).

Throughout this section, the term "medicaid benefits" is substituted for "medical assistance, to standardize the references.

In subsection (a) of this section, the defined term "facility" is substituted for the obsolete references to "a skilled nursing facility or intermediate care facility". The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that this substitution excludes intermediate care facilities -- mental retardation, which may have been encompassed by the former reference "intermediate care facility". However, this section is derived from a provision of the patient's bill of rights and a comparable provision does not appear in the bill of rights for residents of other mental retardation facilities. If these limitations on transfer and discharge are intended to apply to intermediate care facilities -- mental retardation, the