

- 5) Clarifies the documents described in subdivisions 2) and 3) are not required to be provided if the resident or the resident's representative request they not be provided or if no discharge is proposed.
- 6) If a transfer or discharge appeal hearing is requested by the resident or the resident's representative, requires the facility to provide the resident or the resident's representative the opportunity to examine all documents and records to be used by the facility at the hearing. Further requires the resident or the resident's representative to provide the facility the opportunity to examine all documents and records to be used by the resident or the resident's representative at the hearing, as specified.
- 7) Requires the facility to promptly (rather than immediately) notify the Office of the State Long-Term Care Ombudsman (LTCO) in every case of involuntary discharge.
- 8) Specifies the above provisions are intended to be consistent with federal law and regulations.

FISCAL EFFECT:

The California Department of Public Health (CDPH) anticipates minor and absorbable costs.

COMMENTS:

- 1) **Purpose.** According to the author:

One of the most common complaints received by California's Long-Term Care Ombudsman programs is related to evictions. Due to the vulnerability of our nursing home residents, it is completely unacceptable for them to not know why they are being turned away from care, because this leaves them and their loved ones unable to fight for their ability to stay. This bill is intended to discourage facilities from pursuing unwarranted evictions, prompt residents to appeal their evictions, and enhance the quality of resident appeals.

- 2) **Background.** Existing law defines a "long-term health care facility" to mean a skilled nursing facility (SNF) or intermediate care facility (ICF), including an ICF for individuals with developmental disabilities, among other facilities. SNFs are health facilities that provide skilled nursing care and supportive care to patients whose primary need is for skilled nursing care on an extended basis. ICFs are health facilities that provide inpatient care to ambulatory or nonambulatory patients who have recurring needs for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care. As health care facilities, SNFs and ICFs are licensed and overseen by CDPH. ICFs for individuals with intellectual disabilities (ICF/IID) are also health facilities licensed by CDPH to provide 24-hour residential habilitative or nursing services. ICF/IIDs are approved by the Department of Developmental Services prior to CDPH licensure.

Existing laws and regulations allow the transfer or discharge of a resident from a long-term health care facility only if (a) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility; (b) the resident's health has improved sufficiently so the resident no longer needs the services of the facility; (c) the safety of individuals in the facility is endangered due to the clinical or behavioral status of the

resident; (d) the health of individuals in the facility would otherwise be endangered; (e) the resident has failed, after reasonable and appropriate notice, to pay for, or to have paid under Medicare or Medicaid, a stay at the facility; or (f) the facility ceases to operate.

Federal law currently requires nursing homes to document the reason and basis for resident evictions in great detail, but is not explicitly required to share that documentation with the resident. This bill requires documentation to be given to the resident and the resident's representative consistent with federal law.

In January of 2021, the Governor released his Master Plan for Aging (MPA). The MPA prioritizes the health and well-being of older Californians and the need for policies that promote healthy aging. This bill aligns with the goals of the MPA.

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