

Legal Update - Health and Safety Code Section 1569.47 - A Way to Get Help From Hospital Discharge Planners

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We have all seen this scenario. An RCFE resident is hospitalized. He or she clearly is no longer appropriate to return to your community, but the resident or the resident's family is insistent on the resident returning. Title 22 Regulations give providers the right to terminate a residency agreement on 30 days notice or, with DSS permission, on 3 days notice. Nothing in Title 22 says that an RCFE residency agreement automatically terminates upon admission to the hospital if the resident no longer meets the RCFE's admission criteria. Thus, the agreement remains in effect.

In this situation, you must use all of your powers of persuasion to keep the resident from returning. If the resident does return to your community, you are responsible for ensuring that his or her needs are met—even if you have made it clear to the family that you cannot meet these needs. Clearly, it is in the best interests of you and the resident for the resident to be moved to in a more appropriate setting.

Hospital discharge planners play a pivotal role in determining the appropriate follow up setting for a hospital patient. We have seen situations in which discharge planners work cooperatively with an RCFE to assure appropriate placement. An effective discharge planner can and should coordinate with the resident's treating physician, the resident's family and various community resources to place the resident in the setting that best meets his or her needs. Unfortunately, we have also witnessed discharge planners who seemed interested only in getting the patient out of the hospital as quickly as possible. RCFEs have reported to us instances in which discharge planners have simply acquiesced to family demands and insisted that residents who were clearly inappropriate for an RCFE setting return there from the hospital. In some cases, residents have been returned from the hospital surreptitiously late at night.

RCFEs that encounter uncooperative discharge planners have a potentially potent tool at their disposal. Health and Safety Code Section 1569.47 states, in pertinent part:

"A placement agency shall not place individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility."

This Code Section defines a "Placement Agency" to include a "general acute care hospital discharge planner or coordinator." It also provides that a violation of Section 1569.47 is a misdemeanor.

Providers that encounter difficulty with a hospital discharge planner are encouraged to bring Section 1569.47 to that person's attention and remind him or her that it is his or her professional and legal responsibility to provide appropriate placement options. In addition, CALA will continue to work with DSS to try to develop regulations that address the re-admission of hospitalized RCFE residents. ■

