The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

A) The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met at the facility

B) The transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility
201 continued:

- C) The health 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. Nonpayment applies if the resident does not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid

- F) The facility ceases to operate
202:

- When the facility transfers or discharges a resident under any of the circumstances listed in F 201, the documentation must be made by the resident’s physician when transfer or discharge is necessary.
202 continued:

- Documentation in green effective 11/28/17:
- Documentation in the resident’s medical record must include:
  - A) The basis for the transfer
  - B) The specific resident needs that cannot be met, facility attempts to meet the resident needs, and the service available at the receiving facility to meet the needs.
202 continued:

- Information provided to the receiving provider must include a minimum of the following:
  - A) Contact information of the practitioner responsible for the care of the resident
  - B) Resident representative information including contact information
  - C) Advance Directive information
  - D) All special instructions or precautions for ongoing care, as appropriate
  - E) Comprehensive care plan goals
  - F) All other necessary information, including a copy of the resident's discharge summary and any other documentation, as applicable, to ensure a safe and effective transition of care.
Before a facility transfers or discharges a resident, the facility must:

1. Notify the resident and the resident’s representative of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy of the notice to a representative of the Office of the State Ombudsman.

2. Record the reasons for the transfer or discharge in the resident’s medical record as outlined in 202.
203 continued:

• The notice of transfer or discharge required under this section must be made by the facility at least 30 days before the resident is transferred or discharged.

• The notice must be as soon as practicable before transfer or discharge when:
  • A) The safety of the individuals in the facility would be endangered
  • B) The health of individuals in the facility would be endangered
  • C) The resident's health improves significantly to allow a more immediate transfer or discharge
  • D) An immediate transfer or discharge is required by the resident's urgent medical needs
  • E) A resident has not resided in the facility for 30 days.

• Note: KSA 39-936(g) supersedes the portion of F203 that says 30 day notice is not required when a resident has resided in a facility less than 30 days. Residents residing in a facility for less than 30 days must receive at least a 30 day notice in the State of Kansas.
203 continued:

- Contents of the notice must include:
  1) The reason for transfer or discharge
  2) The effective date of transfer or discharge
  3) The location to which the resident is transferred or discharged
  4) A statement of the resident’s appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request

March 30, 2017
203 continued:

• 5) The name, address *(mailing and email)* and telephone number of the Office of the State Long Term Care Ombudsman

• 6) For nursing facility residents with intellectual and developmental disabilities or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities.
7) For nursing facility residents with a mental disorder or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection of advocacy of individuals with a mental disorder.

If the information in the notice changes prior to effecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available.

In the case of facility closure, the individual who is the administrator of the facility must provide written notification prior to the impending closure to the State Survey Agency, the Office of the State Long-Term Care Ombudsman, residents of the facility, and the resident representatives, as well as the plan for the transfer and adequate relocation of the residents.
• The facility must provide and document sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility. This orientation must be provided in a form and manner that the resident can understand.
This means the facility informs the resident where he/she is going and takes steps under its control to assure safe transportation. The facility should actively involve, to the extent possible, the resident and the resident’s family in selecting the new residence.
204 continued:

- Some examples of orientation may include: trial visits, if possible, bring the resident to a new location; working with family to ask their assistance in assuring the resident that valued possessions are not left behind or lost; orienting staff in the receiving facility to the resident’s daily patterns; and reviewing with staff routines for handling transfers and discharges in a manner that minimizes unnecessary and avoidable anxiety or depression and recognizes characteristic resident reactions identified by the resident assessment and care plan.
204 continued:

• Social service notes must address the transfer and appropriate referrals including resident counseling if necessary.
The role of the Ombudsman Program in Involuntary Discharge

Joint Provider Surveyor Training
April 4 & 5, 2017
Why is this an Ombudsman issue?

• Provide services to protect the health, safety, welfare, and rights of residents.
• Eviction from one’s residence can create displacement from a resident’s community, family, and friends.
• Relocation often adversely affects the mental and physical health of the resident.
• It’s our number one complaints.
  – In Kansas 10% of all complaint work is involves involuntary discharge.
  – In 2015, Long-Term Care (LTC) Ombudsman programs worked to resolve nearly twelve thousand complaints of residents facing inappropriate discharge or eviction.
What is a Long-Term Care Ombudsman?

• A Long-Term Care Ombudsman (LTCO) is a resident advocate.

• LTCO advocate for quality of care and quality of life of residents in long-term care (nursing homes, assisted living, etc).
Ombudsman Responsibilities

- Identify, investigate and resolve complaints made by or on behalf of residents.
- Provide information to residents about long-term care services.
- Provide technical support for the development of resident and family councils.
- Advocate for changes to improve residents’ quality of life and care.
- Represent resident interest before governmental agencies.
- Seek legal, administrative, and other remedies to protect residents.
- Ensure residents have regular and timely access to the LTCOP.
**LTCO Complaint Investigation**

- LTCO investigate individual complaints and address concerns that impact several or all residents in a facility.
- LTCO can address general concerns they personally observe during a visit (e.g. odors, environmental issues).
- During complaint investigations LTCO cannot share information without resident consent. Some residents ask to remain anonymous.
- Investigate to gather the facts, but the main goal is to resolve the issue to the residents’ satisfaction.
- LTCO call upon others to fulfill their responsibilities to residents.
LTCO Complaint Investigation

• If the complaint is from someone other than the resident, the LTCO will visit the resident in order to understand the resident’s capacity to make decisions.
  – If the resident cannot provide consent, the LTCO will work with the resident’s representative

• Federal & state law grants LTCO access to resident information (with resident permission) and LTCO are required to keep that information confidential.

• In accordance with federal & state law, facilities must provide the LTCOP with immediate access to residents.
Steps in Complaint Processing

The Ombudsman or representative of the Office shall personally discuss the complaint with the resident (and, if the resident is unable to communicate informed consent, the resident’s representative) in order to:

– Determine the perspective of the resident...

– Request the resident ...communicate informed consent in order to investigate the complaint;

– Determine the wishes of the resident ...with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether Ombudsman or representative of the Office may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies.
Complaint processing (continued)

– Advise the resident ...of the resident’s rights;
– Work with the resident...to develop a plan of action for resolution of the complaint;
– Investigate the complaint to determine whether the complaint can be verified and
– Determine whether the complaint is resolved to the satisfaction of the resident...
Advice from Ombudsmen

• Follow the regulations
  – Appropriateness
  – Discharge letter
    • Appeals
    • Location of discharge
  – Discharge Planning
• Last resort
How to Work with the LTCOP

• Keep in mind that LTCO cannot share resident information without their consent. Some residents may choose to remain anonymous during the complaint process.

• Contract the LTCOP if you know a resident that may benefit from a visit with a LTCO

• Share information about the LTCOP with residents, family members and staff.
How to Work with the LTCOP

• When LTCO request information on behalf of a resident or ask questions related to a complaint, please remember that the LTCOP represents residents and advocates on their behalf

• Federal and state law grants the LTCO access to resident information (with resident permission) and the LTCO are required to keep that information confidential

• In accordance with federal and state law, facilities must provide the LTCOP with immediate access to residents.

• Respect the residents right to complain and their right to contact the LTCOP
Where should I send copies of Discharge Notices?

• By Mail
  Office of the Kansas Long-Term Care Ombudsman
  Suite 1041
  900 SW Jackson
  Topeka, Kansas 66612

• By Fax
  785-296-3916

• By Email
  ltco@ks.gov
Resources

• Alzheimer's Association
  Symptoms of Dementia Guide:
  http://www.alz.org/kansascity/in_my_community_professionals.asp#NEUROPSYCHBOOK

• EDGE Project: Electronic Dementia Guide for Excellence
  http://www.health.ny.gov/diseases/conditions/dementia/edge/index.htm

• Consumer Financial Protection Bureau
  Protecting residents from financial exploitation: A manual for Assisted living and nursing facilities

• Hand in Hand Training
  http://cms-handinhandtoolkit.info/

• Kansas Partnership for Better Dementia Care
  http://www.kpidc.org/
Kansas Long-Term Care Ombudsman Program

Barbara J. Hickert
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900 SW Jackson
Topeka, Kansas 66612
785.296.3017
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