

## Long-Term Care Survey Alert

### **?? Reader Question ??: Resident Refuses Release Of Medical Records When Discharged For Nonpayment**

Resident Refuses Release Of Medical Records When Discharged For Nonpayment

Q: What do we do if our facility discharges a resident for nonpayment to another health care setting, and the resident/family refuse to authorize release of the resident's medical records?

A: According to the OBRA resident rights regulations, a resident has the right to approve or refuse the release of his or her medical records to any individual outside the facility but not when the release is required due to transfer to another institution..

Similarly, the HIPAA privacy rule permits the disclosure of medical records without an individual's authorization for purposes of "treatment," the definition of which includes "the referral of a patient for health care from one health care provider to another." Therefore, if the resident is being discharged to another health care provider, an authorization for the release of the resident's records is not required. Generally, if the discharge destination is somewhere other than to another health care provider, then the release of the resident's records to such destination may be inappropriate without an authorization that conforms to the requirements of the HIPAA privacy rule.

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