

Long-Term Care Survey Alert

Reader Question: What to Do When Families Demand Residents Be Hospitalized

Question: How should our facility handle situations in which a resident's family member insists that we send the resident to the hospital or emergency room, but the physician and facility staff don't believe the transfer is warranted?

Answer: The facility should begin to address this situation at the time the resident is admitted to the facility. The admission documents should ask the resident, guardian, person holding the power of attorney or all of them to designate a hospital in the event the resident does require hospitalization -- and a primary care physician to care for the resident.

The designated physician is the person who has the authority to order the nursing home to transfer the resident to the hospital. Obviously, the resident is free to request this as well, as is the resident's court-appointed guardian (if any).

Document the resident's condition at the time of the requested transfer to the hospital. That way, you establish a baseline for comparison purposes. The staff should also notify the resident's physician promptly and request the physician to evaluate the resident to determine whether the resident's condition warrants a transfer to an acute care institution.

If the physician is unable to respond promptly, the nursing facility is under no obligation to transfer the resident -- unless the nursing facility staff, based on their assessment of the resident, believe the resident must be transferred immediately to protect his health. The facility does not need permission from the resident or his/her legal guardian to not transfer the resident to the hospital.

Certainly, the resident or his family member could call an ambulance. However, the question is what the ambulance would do if the facility and the physician do not agree that transfer is necessary. Thus, there are no hard and fast rules to govern these situations. Policies can state how the facility will handle situations of this nature, but staff must deal with each situation as it arises.

-- Expert advice provided by attorney **Harvey Tettlebaum** in Jefferson City, MO.