*** § 2803-z. Transfer, discharge and voluntary discharge requirements for residential health care facilities.** 1. (a) No residential health care facility shall transfer or discharge a resident unless such transfer or discharge is necessary for the resident's health, safety, or welfare, such transfer or discharge is necessary to preserve the health, safety, or welfare of other residents, the facility discontinues operation or the resident has failed to pay or make arrangements for payment for a stay at the facility, unless stated otherwise by this section.

(b) Prior to a facility initiating a transfer or discharge of a resident, the facility shall use its best efforts, including compliance with applicable federal and state regulations, to secure appropriate placement or a residential arrangement for the resident, other than temporary housing assistance. For purposes of this section, "temporary housing assistance" shall include but not be limited to a family shelter, a shelter for adults, a hotel, an emergency apartment, a domestic violence shelter, or a safe house for refugees. No residential health care facility shall initiate a transfer or discharge of a resident to the home of another individual without the written consent of the resident and the other individual and the other individual has received and acknowledged the comprehensive discharge plan to address the resident's needs.

(c) At least thirty days prior to a facility-initiated transfer or discharge, the residential health care facility shall provide written notification of the transfer or discharge to the resident, the resident's lawful representative, if any, a family member of the resident, if known, and the long-term care ombudsman under section two hundred eighteen of the elder law. The notification shall be in a language and manner that is understandable to the resident and shall state the basis for the transfer or discharge, which shall be recorded in the resident's clinical record.

(d) A resident may be transferred or discharged if the facility is unable to meet the needs of the resident. In that case, the resident's clinical record shall document (i) the specific need or needs that cannot be met, (ii) the facility's attempts to meet the resident's needs, and (iii) the services available at the receiving facility.

(e) When a resident is being transferred or discharged because the

resident cannot be cared for safely, or is a danger to others, prior notice may be provided less than thirty days prior to the transfer or discharge but shall be provided as soon as practicable prior to transfer or discharge. The facility shall document in the resident's clinical record the risks to the resident or others if the resident were to remain in the facility.

(f) A residential health care facility may transfer or discharge a resident because the resident does not need residential health care facility services.

2. Where the resident's transfer or discharge is initiated by the resident and the clinical record notes that a family member or designated representative has requested notification, and such notification is otherwise lawful, the residential health care facility shall notify the family member or designated representative of the resident's voluntary transfer or discharge as soon as practicable after the resident initiates the voluntary transfer or discharge process and in no event more than forty-eight hours thereafter. The notice shall not be provided if the resident specifically requests that the family member or designated representative not be notified.

3. A residential health care facility shall not compel or attempt to compel an individual to voluntarily transfer or discharge from the facility. In the event a resident seeks a voluntary transfer or discharge, the facility shall document, as part of the resident's medical records, the reason the resident is seeking a transfer or discharge. If the resident declines to provide a reason, the facility shall document that in the resident's medical record.

4. Nothing in this section shall diminish a resident's rights to independent personal decisions and knowledge of available choices, nor shall it diminish the facility's responsibility to encourage and assist in the fullest possible exercise of those rights under section two thousand eight hundred three-c of this article, or other applicable law.

* NB There are 2 § 2803-z's