What Are the Legal Requirements for Patient Discharge in Massachusetts?

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Seeking medical care only to leave feeling that your concerns were never adequately addressed is frustrating, and it can be dangerous. Being brushed aside in the emergency department or sent home too soon after a major medical event or surgery both carry real risk. Massachusetts and federal law set standards for how treatment and discharge should be handled, along with protections meant to prevent unnecessary and avoidable health complications.

If the hospital discharged you without following the established procedure, a Massachusetts healthcare and nursing home attorney from Cohen Cleary is prepared to speak with you and help you understand your options.

Key Massachusetts Laws Governing Patient Discharge

If you have concerns about how your discharge is being handled, it can be hard to know whether to push back or to simply trust that you no longer need care. It helps to know that you have rights. Under 42 CFR § 482.43, hospitals that participate in Medicare must follow specific discharge planning requirements designed to ensure a safe transition out of the hospital.

Massachusetts adds its own protections. Hospital discharge planning is overseen by the Department of Public Health, and under 105 CMR 130.340, every acute-care hospital must maintain a multidisciplinary discharge planning service to help coordinate your continuing care after you leave. Exactly how this unfolds may vary with your needs or those of your loved one.

The discharge process should be comprehensive and cooperative, and you should have the opportunity to engage with your team and have input on what happens next. The goal is to leave the hospital with an understanding of your condition and what you need to do moving forward, or at least for you to have the information and resources to help you continue care and develop a more long-term plan.

If you are facing housing insecurity, an impending discharge can be significantly more stressful. The hospital should conduct a risk assessment as part of their discharge process, and must take additional steps to support people who are experiencing or at risk of homelessness.

What Must a Massachusetts Hospital Include in a Discharge Plan?

If you are trying to determine what is missing from your discharge plan, or advocate for yourself in a pending discharge, you can expect several things from the discharge process based on standards established in 105 CMR 130.343:

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1. You should receive written information regarding any post-hospital care you may need. This can include medical needs or personal care services you or your loved one may require;
2. The plan should identify any social or other support needs. This may be identifying a caregiver who can stay with you in the hours or days following discharge, or it might include information for support groups or other community resources available;
3. You should be provided with information for any services that have already been put in place or arranged. This might include referrals for home care services or other therapies and necessary support;
4. Your discharge plan should include contact information for your providers. This should include the name, address, and phone number;
5. You should get detailed information about your prescribed medications, including instructions for how they should be used; and
6. You should be provided with a list of any scheduled follow-up appointments.

The transition from the hospital back to your home or facility can be overwhelming and stressful. The discharge information should be a tool to help ease some of that stress and provide a resource to refer back to if you do not remember every detail of what your providers told you about services, medication, or follow-ups.

Understanding the 24-Hour Notice Rule and When the Discharge Plan Needs to Be Delivered?

If you have had a long hospital stay, you may need time to make the right arrangements before heading home. Federal law requires acute care hospitals to plan for a safe discharge, and Massachusetts law goes further on timing: under M.G.L. c. 111, § 51D, a hospital must give a patient who needs help arranging post-hospital care a written, individualized discharge plan at least 24 hours before discharge. This often applies when a patient is expected to transfer to another facility.

Receiving discharge instructions with less than 24 hours notice is not automatically unlawful. The law itself makes an exception for a short length of stay, where 24 hours notice simply is not feasible. Likewise, if a change in your condition requires an amendment to an existing plan, that update can be made within the 24-hour window.

A bed becoming available sooner than expected can also shorten the time between when you receive the plan and when you leave. The important safeguard is that the facility and bed must actually be appropriate for your needs, not just the first opening available.

Who Must Sign Off on a Discharge in Massachusetts?

Communication in the hospital can be disjointed and uncertain, especially when you are getting information from PAs, nurses, admin, and doctors. A well-formed discharge plan with multi-disciplinary input is often critical to a smooth transition from the hospital, and while the content is important, it is also key to make sure the relevant parties have reviewed it. You may find that

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the plan references information and goals provided by various specialists or therapists, but typically, it is the primary attending physician who must sign off.

Additionally, the patient, guardian, or representative should sign the plan. Signature typically means you have seen the plan, but does not always indicate agreement. This means you may still file a complaint or take additional action for a negligent discharge, even if you signed the forms.

It is not uncommon for support staff to create the discharge orders, but this is usually done under the direction and supervision of the physician on the case. This helps ensure the plan addresses the relevant medical concerns and considerations.

Your Rights If You Disagree With Your Discharge Plan

We typically trust the physicians who care for our loved ones and us in the hospital, but this does not mean they are infallible. Unfortunately, when they make mistakes, it can be dangerous, and sometimes even lethal. If you have concerns with any part of your discharge plan, you have the right to say so.

The first step is typically to speak with your doctor to make the necessary adjustments or discuss why the plan is written the way it is. You have the right to request a meeting with your treatment providers and to receive an official written notice of discharge. Depending on your insurance provider, you also may have the right to appeal the discharge.

The decision to discharge a patient should be based on the medical needs and the hospital's ability to meet those needs. Medicare recipients have legal protection from discrimination based on their insurance provider and should not face an early discharge to accommodate patients that may have higher rates.

For individuals with private insurance, the appeal process may be different, but you can get more information by calling the Massachusetts Department of Public Health or speaking with a patient advocate.

Special Rules: Psychiatric and Mental Health Discharge in Massachusetts

Undergoing admission to a psychiatric or mental health facility is often a frightening and disorienting process for everyone involved. You may have concerns about your safety or that of a loved one, and understanding your patient rights and the discharge process can help you plan and prepare accordingly.

If you are the parent of a minor or guardian who initiated a voluntary admission, Chapter 123.10 of Massachusetts General Laws requires a facility to provide 14 days' notice prior to discharge. In most other situations, the facility can implement discharge as soon as it determines the patient no longer needs to be admitted to receive appropriate care.

As a patient requesting discharge, the law requires the patient to provide notice of their intention to leave and allows the facility three days to evaluate the individual and pursue involuntary commitment if they determine they are a threat to themselves or others. This three-

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day period excludes weekends and holidays. If you or your loved one is still determined to need services, the medical staff may take steps to continue with an involuntary admission.

Even though a mental health facility can choose to discharge a patient once services are no longer needed, they must still create a comprehensive discharge plan that includes instructions and resources, and makes every reasonable effort to avoid discharge to the streets or a shelter. Many facilities will conduct a meeting with the patient and their support system(s) prior to discharge to support a smoother transition.

Premature or Wrongful Discharge: When It Becomes Medical Malpractice

Premature or wrongful discharge from a Massachusetts hospital or psychiatric facility can be a scary situation. If you can establish that the physician was negligent in their evaluation or planning, and failed to provide the quality of care that any other doctor would have provided in your situation, it may qualify as medical malpractice. Some indicators that your discharge may be negligent or inappropriate include:

1. Your vitals are still unstable;
2. You are is waiting for test results, or waiting for ordered tests;
3. You still have symptoms that they have not addressed or resolved;
4. The provider has not given you a clear plan after discharge; or
5. They seem to be discharging you to make room for other patients.

None of these things specifically mean malpractice, but they can be indicators to investigate further. To legally support a malpractice claim, you must show that you had an established professional relationship with your doctor that creates a duty of care, examples of decisions or actions that deviate from the standard of care, and evidence that the deviation caused complications. Finally, you should show that your complications resulted in damages.

Medical malpractice can be difficult to clearly establish, but if you worry that your hospital has failed to provide adequate care and comply with Massachusetts law, you may have grounds to seek compensation from the physician or facility with the support of an attorney.

What to Do If You Believe Your Discharge Was Improper

Our society sees physicians as a point of authority, and oftentimes with good reason, but mistakes can still happen. We know that it can be intimidating to stand up to a doctor or hospital, but we are here to help you through the process.

One of the first things you may want to do if you believe your discharge was illegal, negligent, or otherwise improper is to make sure you have addressed emergent health concerns. This may mean pushing for an appeal (if you have Medicare) before you leave the building, or speaking with the hospital's patient advocate or ombudsman to report your concerns. You may also seek out another provider for a second opinion.

Once you have addressed any immediate or life-threatening safety concerns with another

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physician, we often advise clients to ensure they have copies of all their documents and records from the discharge. You may have physical copies or need to download digital versions from a provider portal.

Additionally, it may be helpful to take notes on what happened and monitor and document your overall health and symptoms.

When to Contact a Massachusetts Healthcare Attorney

Many people feel that speaking with an attorney is an overreaction. Our team often sees it as a way to level the playing field. Regardless of how the situation resolves, the hospital likely has a legal team on staff or readily available to consult, putting you at an immediate strategic and legal disadvantage.

If you have concerns that you received substandard care and were discharged prematurely or improperly, you can call us to schedule a case consultation with no obligation to move forward. Speaking with an attorney simply provides you with an opportunity to have a third party review the situation and identify whether the discharge process was in compliance with Massachusetts Law. You don't have to navigate this alone – reach out today.

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