

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 88**

NURSING FACILITIES/LICENSING - TRANSFERS

411-088-0000 Purpose

(Effective 10/1/1993)

These Oregon Administrative Rules, OAR 411-088-0000 through 411-088-0080, shall be known as the "Transfer Rules." The purpose of these rules is to ensure that:

- (1) Unnecessary transfers do not occur;
- (2) When transfers are necessary, precautions are taken by the facility to minimize risk to the resident and to help ensure the transfer will result in an environment that is suited to meet the resident's needs; and
- (3) Residents who leave to go to a hospital, or who choose to go to any other environment (except another nursing facility), may return; and
- (4) Residents are provided with information on their rights relative to the transfer process prior to a voluntary or involuntary transfer.

Stat. Auth.: ORS 410 & ORS 411.055

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0005 Definitions

(Effective 2/15/1995)

As used in OAR Chapter 411, Division 088, unless the context requires otherwise, the following definitions apply:

- (1) "Hearing" means a contested case hearing according to the Administrative Procedures Act and the Rules of the Division.

(2) "Involuntary Transfer" means a transfer which is not a voluntary transfer as defined in this rule.

(3) "Legal Representative" means attorney-at-law, person holding a general power of attorney or power of attorney for health care, guardian, conservator or any person appointed by a court to manage the personal or financial affairs of the resident, or person or agency legally responsible for the welfare or support of the resident, other than the facility.

(4) "Medical Emergency" means a medical condition which, in the exercise of medical judgment, requires immediate health care of a level higher than the facility is capable of delivering.

(5) "Notice" means a notice as specifically described within OAR Chapter 411, Division 088.

(6) "Post-hospital extended care services" means a prescribed course of treatment following discharge from a hospital, or following outpatient surgical services or emergency treatment in a hospital.

(7) "Private Pay Resident" means a resident who does not receive public assistance under ORS Chapters 411, or 414.

(8) "Rehabilitative Services" means specialized services by a therapist or a therapist assistant to a resident to attain optimal functioning including but not limited to physical therapy, occupational therapy, speech and language therapy and audiology.

(9) "Right of Readmission" means the right to occupy the first vacancy in the facility regardless of any other waiting list following the resident's request for readmission.

(10) "Right of Return" means the right of a person to return to his/her nursing facility bed following transfer to a hospital.

(11) "Specialized Services" means a program of care including hospice, rehabilitative services, respite care, a skilled nursing treatment regime, or be a part of a cooperative effort between the nursing facility and a hospital. The skilled treatment regime must be a regime for which the facility has established a specialty and which is designed to heal or stabilize a medical

condition. The cooperative effort between hospital and nursing facility must be for the purposes of assessment and evaluation, monitoring, or for a joint effort in treating a medical condition.

(12) "Transfer" means termination of an individual as a resident of a facility. The term "transfer" does not include death nor does it include a temporary relocation in which the resident's bed remains available for the resident's immediate return.

(13) "Voluntary Transfer" means a transfer for which the resident has given consent after receipt and understanding of the notice, and after the receipt and understanding of the Division's brochure, "Leaving the Nursing Facility".

Stat. Auth.: ORS 411.055 & ORS 411.605

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0007 Voluntary Transfer

(Effective 10/1/1993)

(1) Written Consent Required. Written consent for a voluntary transfer is required. Consent must be in writing on the form provided by the Division on the back page of the brochure, "Leaving the Nursing Facility". If a resident has substantially impaired cognitive powers, consent may only be given by a person designated by the resident to receive notice or, if none, the resident's legal representative.

(2) Documentation. The completed consent form must be kept in the resident's clinical record.

Stat. Auth.: ORS 410 & ORS 441.055

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0010 Involuntary Transfer

(Effective 10/1/1990)

Unless a transfer is voluntary, no resident may be transferred from a facility except for the reasons and according to the procedures described in these Transfer Rules. These rules shall only apply to residents in nursing facility beds or persons returning to nursing facility beds.

Stat. Auth.: ORS 410 & ORS 441

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0020 Basis for Involuntary Transfer

(Amended 04/01/2014)

Upon compliance with these transfer rules (OAR 411-088), an involuntary transfer of a resident may be made when one of the reasons specified in this rule exists.

(1) MEDICAL AND WELFARE REASONS.

(a) A resident may be transferred when the resident's physician states in writing that:

(A) The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or

(B) The facility is unable to meet the resident's needs and the facility has identified another environment available to the resident that may better meet the resident's needs. The Department shall assist the facility in the facility's effort to identify another environment for the resident.

(b) A resident may be transferred when the Department Administrator or the State Fire Marshal states in writing the safety of the resident (or other people in the facility) is endangered and justifies the transfer;

(c) A resident may be transferred when the behavior of the resident creates a serious and immediate threat to the resident or to other residents or people in the facility and all reasonable alternatives to transfer (consistent with the attending physician's orders) have been attempted and documented in the resident's medical record. Such alternatives may include but are not limited to chemical or physical restraints and medication;

(d) A resident may be transferred when the resident has a medical emergency;

(e) A resident may be transferred when governmental action results in a facility's certification or license being revoked or not renewed;

(f) A resident may be transferred when a facility intends to terminate operation as a nursing facility. The facility must:

(A) Certify in writing to the Department the license is to be irrevocably terminated as described in OAR 411-085-0025; and

(B) Establish to the satisfaction of the Department that arrangements to accomplish all necessary transfers are made in a safe manner with adequate resident involvement and follow-up for each resident to minimize negative effects of the transfer;

(g) A resident receiving post-hospital extended care services or specialized services from a facility under a physician's order may be transferred from the facility when, according to the physician's written opinion, the resident has improved sufficiently and no longer needs the post-hospital extended care services or specialized services provided by the facility.

(A) The purpose of the admission, including the projected course of treatment and the expected length of stay, must be agreed to in writing by the resident (or the resident's legal representative who is so authorized to make such an agreement) at or prior to admission.

(B) The facility must identify another environment available to the resident that is appropriate to meet the resident's needs.

(C) The notice of transfer may be issued at the time of admission or later and must be based upon the projected course of treatment.

(2) NON-PAYMENT REASONS. A resident may be transferred when there is a non-payment of facility charges for the resident and payment for the stay is not available through Medicaid, Medicare, or other third party reimbursement.

(a) A resident may not be transferred if, prior to actual transfer, delinquent charges are paid.

(b) A resident may not be transferred for delinquent charges if payment for current charges is available through Medicaid, Medicare, or other third party reimbursement.

(3) CONVICTION OF A SEX CRIME.

(a) A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:

(A) The facility was not notified prior to admission that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime;

(B) The facility learns that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime; and

(C) The resident presents a current risk of harm to another resident, staff, or visitor in the facility as evidenced by:

(i) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature, or verbal threats of a sexual nature; and

(ii) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections, or community corrections agency parole or probation officer that the individual's Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(b) Prior to the move, the facility must contact the Department by telephone and review the criteria in subsection (a) of this section. The Department shall respond within one working day of contact by the facility. The Department of Correction's parole or probation officer must be included in the review, if available. The Department shall

advise the facility if rule criteria for immediate move out are not met. The Department shall assist in locating placement options.

(c) The facility must issue written notice on the Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person to the resident or the resident's legal representative, if applicable. Where a resident lacks capacity and there is no legal representative, a copy of the written notice must be immediately faxed to the State Long-Term Care Ombudsman.

(d) Prior to the move, the facility must orally review the notice and right to object with the resident or if applicable, the resident's legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary transfer. The facility must immediately telephone the Department when a hearing is requested. The hearing must be held within five business days of the resident's move. An informal conference may not be held prior to the hearing.

Stat. Auth.: ORS 441.055, 441.615, and 443.410

Stats. Implemented: ORS 441.055, 441.600, 441.605, 441.615, 443.410, and 181.586

411-088-0030 Considerations Required Prior to Involuntary Transfer
(Effective 10/1/1993)

Prior to issuing a notice for an involuntary transfer, in order to determine the appropriateness of transfer, the facility shall consider the following:

- (1) The availability of alternatives to transfer.
- (2) The resident's ties to family and community.
- (3) The relationships the resident has developed with other residents and facility staff.
- (4) The duration of the resident's stay at the facility.
- (5) The medical needs of the resident and the availability of medical services.

(6) The age of the resident and degree of physical and cognitive impairment.

(7) The availability of a receiving facility that would accept the resident and provide service consistent with the resident's need for care.

(8) The consistency of the receiving facility's services with the activities and routine with which the resident is familiar, and the receiving facility's ability to provide the resident with similar access to personal items significant to the resident and enjoyed by the resident at the transferring facility.

(9) The probability that the transfer would result in improved or worsened mental, physical, or social functioning, or in reduced dependency of the resident.

(10) The type and amount of preparation for the move, including but not limited to:

(a) Solicitation of the resident's friends and/or family in preparing the resident for the move;

(b) Visitation by the resident to (prior to actual transfer) or familiarity of the resident with the place to which the resident is to be transferred.

(11) On-site consultation by an individual with specific expertise in mental health services if the basis for considering transfer is behavioral, e.g., geropsychiatric consultation.

Stat. Auth.: ORS 410 & ORS 441.055

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0040 Involuntary Transfer Prohibited

(Effective 10/1/1993)

(1) The facility shall not involuntarily transfer a resident for medical or welfare reasons under OAR 411-088-0020(1)(a) through (f) if the risk of physical or emotional trauma significantly outweighs the risk to the resident and/or to other residents if no transfer were to occur.

(2) The facility shall not involuntarily transfer a resident for any other reasons under OAR 411-088-0020 if the transfer presents a substantial risk of morbidity or mortality to the resident.

Stat. Auth.: ORS 410 & ORS 441

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0050 Right to Return from Hospital

(Effective 10/1/1993)

(1) If a resident is transferred to a hospital, the facility shall not fill the resident's bed with another person if the resident or the resident's legal representative offers payment, or reimbursement is available from the Division, for the period of the hospital stay. If payment/reimbursement is offered or available, from or on behalf of the resident or the Division or a combination thereof, or if the facility has not complied in full with section (2) of this rule, the resident shall have the right of return to his/her bed immediately after the period of hospital stay.

(2) The Administrator, or his/her designee, is responsible for notifying the resident/legal representative and any agency responsible for the welfare or support of the resident of the option to offer payment to hold the bed prior to filling the bed with another person. This notification shall be documented in the resident's record by either the resident's or legal representative's written agreement to pay or rejection of the option to pay.

(3) If the resident is unable due to physical or mental incapacity to enter such agreement and there is no legal representative known to the facility, this fact shall be documented in the resident's record and the resident's bed may thereafter be filled upon issuance of the notice (Exhibit 2).

(4) If the resident's bed has been given to another person because payment was not offered, the resident shall have priority for readmission over all other persons with a right to readmission and over any other waiting list.

(5) If a former resident or his/her legal representative requests right of return and the facility denies right of return, then the facility shall give written notice (Exhibit 2).

(6) Persons with right of return have priority over all persons with right of readmission.

(7) Residents with a right of return are entitled to return to the facility immediately upon discharge from the hospital unless the resident's bed has been filled in compliance with OAR 411-088-0050 and there is no available bed in the facility.

Stat. Auth.: ORS 410 & ORS 441.055

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0060 Right to Readmission

(Effective 2/15/1995)

(1) Any person transferred from a facility voluntarily or involuntarily shall have the right of readmission to the facility from which the person was transferred, provided that:

(a) A request for readmission is made within 180 days of the date of transfer; and

(b) The person is eligible by means of payment and requires nursing facility care; and

(c) No determination was made at informal conference or hearing that the person would not have the right of readmission.

(2) Section (1) of this rule does not require a facility to accept a person in a bed located in a room which is occupied by a resident of the opposite sex at the time of the request.

EXCEPTION: A facility is required to accept a person to a room occupied by a resident of the opposite sex if the respective resident previously shared a room in the facility and if neither resident objects to the admission.

(3) Section (1) of this rule does not require a facility to accept a person who voluntarily transferred from the facility directly to another nursing facility.

(4) If a person, or his/her legal representative, request readmission, and the facility denies readmission, then the facility shall give written notice (Exhibit 2).

(5) A former resident who receives Medicaid does not have the right to be readmitted to a facility which is not Medicaid certified unless reimbursement is available pursuant to OAR 411-070-0010.

(6) If more than one person has a right of readmission, priority in allocation of vacancies shall be determined by the earliest date of application for readmission.

(7) Exception. A person whose stay(s) in the facility totals 30 or fewer days and was transferred pursuant to OAR 411-088-0070(1)(d) (post-hospital extended care services or specialized services) shall not have a right of readmission.

Stat. Auth.: ORS 441.055 & ORS 441.605

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

411-088-0070 Notice Requirements

(Amended 04/01/2014)

(1) NOTICE LENGTH:

(a) A facility must provide a resident transferred from the facility a minimum of 30 days prior written notice unless otherwise provided under this section.

(b) A resident may be involuntarily transferred under OAR 411-088-0020(1)(b) (Life or Safety Threat) or OAR 411-088-0020(1)(c) (Behavior Problem) with fewer than 30 days prior written notice if the reason for the transfer constitutes an emergency. However, the facility must give as much prior written notice as the emergency permits.

(c) A resident may be involuntarily transferred under OAR 411-088-0020(1)(d) (Medical Emergency) with no prior notice. However, the facility must give written notice before giving the resident's bed to another person.

(d) A resident involuntarily transferred under OAR 411-088-0020(1)(g) (Post-Hospital Extended Care Services or Specialized Services) and cared for in the facility for less than 30 days may be transferred with fewer than 30 days prior written notice.

(A) In such cases, the resident must be provided with written notice no shorter than the length of the resident's current stay in the nursing facility.

(B) The notice may be issued at the time of the resident's admission or as soon as the length of time for projected course of treatment is estimated.

(C) Section (1)(d) of this rule does not apply if the resident had a right of readmission to the same facility as described in OAR 411-088-0060 prior to the hospital, surgical, or emergency department services.

(e) A facility must provide a resident involuntarily transferred under OAR 411-088-0020(1)(b) or (e) (Governmental Action) a minimum of 14 days prior written notice.

(f) A facility must immediately notify a resident denied the right of return or the right of readmission. The facility must also provide the resident written notice that is mailed (registered or certified) or delivered in person within five days from the date of request for return or readmission. A denial of right of return or readmission is allowable only if there is good cause to believe the resident lacks such right (see OAR 411-088-0050, OAR 411-088-0060, and OAR 411-088-0080).

(g) A facility must provide written notice to a resident involuntarily transferred under OAR 411-088-0020(1)(f) (Termination of Operations as a Nursing Facility).

(A) In the case of voluntary closure, written notice must be provided 60 days prior to facility closure.

(B) In the case of involuntary closure, written notice must be provided as determined by the Department.

(h) A facility must provide written notice to a resident voluntarily transferring from a facility pursuant to this rule and must maintain the signed consent form in the resident's medical record.

(2) NOTIFICATION LIST. The facility must maintain and keep current in the resident's record the name, address, and telephone number of the resident's legal representative, if any, and of any person designated by the resident or the resident's legal representative to receive notice of a transfer. The facility must also record the name, address, and telephone number of any person who has demonstrated consistent concern for the resident if the resident has no one who is currently involved and who has been designated by the resident.

(3) NOTICE DISTRIBUTION. Notice must be provided to:

(a) The resident or former resident, as appropriate;

(b) All persons required to be listed in the resident's medical record under section (2) of this rule;

(c) The local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging. The notice does not need to be provided to the local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging if the resident is private pay and the resident's stay in the facility totals 30 days or less; and

(d) The Long-Term Care Ombudsman if there is no one currently involved and designated by the resident. Written notice must be provided to the Long-Term Care Ombudsman In the case of an involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations).

(4) STANDARD NOTICE REQUIRED. Written notice must be provided using Form # 0509 (Notice of Transfer), Form # 0510 (Denial of Readmission/Return), or Form #0509L (Resident Letter Nursing Facility Closure), as appropriate. Forms may be accessed electronically from the

Department's Forms Server (https://aix-xweb1p.state.or.us/es_xweb/FORMS/) or from the Department by request.

(a) The notice provided to a resident and the people required to be listed in the resident's medical record under section (2) of this rule must be accompanied by a copy of the Aging and People with Disabilities Division's brochure, "Leaving the Nursing Facility" (Form #9847).

(b) In the case of involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations), Form #0509L (Resident Letter Nursing Facility Closure) must be distributed with Form #0509 (Notice of Transfer).

(5) NOTICE SERVICE. If the person receiving notice as described in section (3) of this rule is a resident at a facility, the facility must personally serve the written notice to the resident. All other notices required by this rule, including notices to former residents, must be either served personally or delivered by registered or certified mail.

Stat. Auth.: ORS 441.055 and 441.615

Stats. Implemented: ORS 441.055, 441.600, 441.605, and 441.615

411-088-0080 Informal Conference and Hearing

(Amended 04/01/2014)

(1) A resident who is to be involuntarily transferred or refused the right of return or readmission is entitled to an informal conference and hearing as provided in this rule.

(2) CONFERENCE REQUEST.

(a) Upon receipt of a notice, a resident, any designated agency, or person acting on the resident's or former resident's behalf, may request an informal conference on the form provided on the brochure, "Leaving the Nursing Facility".

(A) The request for informal conference must be mailed to the Department within 10 business days of the service or delivery

of the notice. The Department shall immediately notify the licensee of the request.

(B) The Department may extend the time allowed for requesting an informal conference if the Department determines that good cause exists for failure to make a timely request.

(C) Any facility management personnel or employee involved in providing nursing or other direct care who receives any oral or written indication of a desire for an informal conference from a resident must immediately notify the facility administrator. The administrator must immediately thereupon provide notification to the Department.

(b) A resident may not be transferred after having requested an informal conference or after facility staff or the licensee has knowledge of any indication of a resident's desire for an informal conference until:

(A) Disposition of the request has been completed to the satisfaction of all parties; or

(B) Authorization for transfer is provided by a Hearings Officer pursuant to this rule.

(3) INFORMAL CONFERENCE.

(a) The Department shall hold an informal conference as promptly as reasonably possible but in no event later than 10 days after the request is received unless a later date is agreed upon by both the facility and the person or agency requesting the conference. The Department shall give telephone notice (where a telephone number is available) and send written notice of the time and place of the informal conference to the facility and all persons entitled to the notice. The purpose of the informal conference is to resolve the matter without a formal hearing. If a resolution is reached at the informal conference, the resolution shall be reduced to writing and no formal hearing shall be held.

(b) The proceedings shall be conducted at the facility where the resident is located unless an alternate site is agreed upon by both the licensee and the person or agency requesting the informal conference.

(c) If at the end of an informal conference the licensee wishes to proceed with the transfer, the Department shall ask if the resident or any person or agency representing the resident wishes to request a hearing.

(4) HEARING.

(a) A hearing is conducted as a contested case in accordance with the Administrative Procedures Act, ORS Chapter 183, and the rules of the Department adopted there under. Parties to the hearing must be the resident (or former resident) and the licensee. The Hearings Officer is delegated the authority to issue the final order and shall do so.

(b) If, pursuant to section (3) of this rule, the Department receives (orally or in writing) a request for a hearing, the Department shall set the date, time, and place of the hearing as promptly as possible. Unless a later date is agreed upon by both the licensee and the person requesting the hearing, the hearing must be held no later than 30 days after the informal conference.

(c) An expedited hearing must be conducted in the case of an involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations).

(A) To request an expedited hearing, the resident or any agency or person designated to act on the resident's behalf must verbally request or submit a completed and signed Hearing Request form. The request for an expedited hearing must be received by the Department within 10 business days after an informal conference.

(B) The Department may extend the time allowed for requesting an expedited hearing if the Department determines that good cause exists for failure to make a timely request.

(C) An expedited hearing shall be conducted within 5 business days of request. The final order shall be issued within 48 hours following the hearing.

(d) Nothing herein shall be construed to prohibit, at the election of the Department and with the consent of all interested parties, a hearing immediately following an informal conference.

(e) The Department shall provide all persons and entities listed in OAR 411-088-0070(3) and the licensee with notification of a hearing. The hearing notification shall be served on the parties personally or by registered or certified mail.

(f) At the hearing, the facility must proceed first by presentation of evidence in support of the transfer of the resident or of refusal to provide right of return or readmission of the former resident. The person requesting the hearing must follow the facility by presentation of evidence in support of their objection to the transfer or of the request of right of return or readmission.

(A) In a hearing concerning right of readmission, the only questions raised shall be whether the application was timely, whether the former resident is eligible by means of payment, and whether another person was or is entitled to the bed.

(B) In a hearing concerning right of return, the only questions raised shall be whether full payment is or was available for the period of hospital stay and whether there was authority under OAR 411-088-0050(2) for another person to be given the bed.

(C) In a hearing concerning involuntary transfer under OAR 411-088-0020(1)(f) as a result of termination of nursing facility operations, the only question raised shall be whether the proposed transition plan meets the requirements described in OAR 411-085-0025(2)(d).

(g) The licensee has the burden of establishing that the transfer or denial of return or readmission is permitted by law.

(h) The Hearings Officer shall, in determining the appropriateness and timeliness of an involuntary transfer or a refusal of return or readmission, consider factors including but not limited to the factors listed in OAR 411-088-0030. The Hearings Officer may not approve a transfer:

(A) For medical or welfare reasons (under OAR 411-088-0020(1)(a) through (d)) if the risks of physical or emotional trauma significantly outweighs the risk to the resident or to other residents if no transfer were to occur; or

(B) For any other reason if the transfer presents a substantial risk of morbidity or mortality to the resident.

(i) CONCLUSION OF HEARING. The hearing is concluded by the issuance of findings and an order:

(A) Affirming the transfer or the refusal to provide right of return or readmission;

(B) Granting conditional approval of a transfer when necessary or appropriate for the welfare of the resident. Conditions may include without limitation the occurrence of any or all of the following incidents in preparation for a transfer:

(i) Selecting a location for the resident to be placed consistent with the resident's need for care and as consistent as possible with the resident's ties with friends and family, if any;

(ii) Soliciting and encouraging participation of the resident's friends and family in preparing the resident for transfer;

(iii) Visits by the resident to the proposed site of relocation prior to the actual transfer, accompanied by a person with whom the resident is familiar and comfortable, unless the resident is already familiar with the proposed site;

(iv) Arranging at the proposed site of relocation for continuation (as much as possible) of activities and routines with which the resident has become familiar; and

(v) Ensuring that the resident is afforded continuity in the arrangement of an access to personal items significant to the resident.

(C) Ordering the licensee to retain the resident, readmit the former resident if the resident has been transferred, or provide the former resident with the right of return or readmission;

(D) Ordering the licensee to retain the resident and establishing standards of behavior for family members or other visitors necessary for the welfare of residents; or

(E) Making such further provisions as are reasonably necessary to give full force and effect to any order that a licensee retain or readmit the resident or provide the resident the right of return or readmission.

(j) If the Department approves a transfer subject to one or more conditions pursuant to this rule, the transfer may not occur until the licensee has notified the person requesting the hearing and certified to the Department in writing that all of such conditions have been complied with and the Department has acknowledged to the licensee in writing the receipt and sufficiency of such certification. The Department may, upon request, allow verbal certification and give verbal acknowledgement subject to subsequent certification and acknowledgement in writing.

(5) EXCEPTIONS.

(a) A resident who is to be involuntarily transferred or refused the right of return or readmission as a result of governmental action pursuant to OAR 411-088-0020(1)(b) or (e) is not entitled to a hearing prior to transfer.

(b) A resident who is to be involuntarily transferred as a result of termination of nursing facility operations pursuant to OAR 411-088-

0020(1)(f) is entitled to an informal conference and hearing regarding the resident's proposed transition plan but not regarding transfer from the facility that is terminating operations.

Stat. Auth.: ORS 410.070 & ORS 441.055

Stats. Implemented: ORS 441.055, ORS 441.600 & ORS 441.615

EXHIBIT 88-1

NOTICE OF TRANSFER

This notice issued by _____
to _____. Copies of this notice have also been issued to the
following people (include address and relationship to resident) and agencies:

Date of proposed transfer: _____

Location that resident is going to: _____

This action is taken or proposed to be taken because:

✓ Check appropriate box(es)

- Resident's Request
- Medical or Welfare Reasons - OAR 411-088-0020(1)
- Nonpayment - OAR 411-088-0020(2)
- Conviction of a Sex Crime – OAR 411-088-0020(3)
- Other (OAR reference REQUIRED): _____

More specifically, this action is taken/proposed because (include the specific subsection of the OAR which gives the facility the authority to issue the notice):

This notice must be accompanied by a copy of the Seniors and People with Disabilities Division's brochure, "**Leaving the Nursing Facility**" (SDS 9027). This brochure explains any rights you may have to a hearing. If you did not receive a copy of the brochure, you should contact the Seniors and People with Disabilities Division at 1-800-232-3020 immediately.

Date

Signature and Title of Facility Representative

EXHIBIT 88-2

NOTICE OF DENIAL OF READMISSION/RETURN

This notice issued by _____
to _____. Copies of this notice have also been issued to the
following people (include address and relationship to resident) and agencies:

Date resident transferred from this facility: _____

Location to which transferred: _____

This action is taken or proposed to be taken because:

✓ Check appropriate box(es)

Denial of **Right to Return** from the hospital - OAR 411-088-0050

Denial of **Right to Readmission** - OAR 411-088-0060

Request not made within 180 days – OAR 411-088-0060(1)(a)

Not eligible by means of payment – OAR 411-088-0060(1)(b)

No bed available at present time (Will be admitted as soon as bed is
available) – OAR 411-088-0060(2)

Other (OAR Reference Required): _____

More specifically, this action is taken/proposed because (include the specific
subsection of the OAR which gives the facility the authority to issue the notice):

This notice must be accompanied by a copy of the Seniors and People with Disabilities
Division's brochure, "**Leaving the Nursing Facility**" (**SDS 9027**). This brochure
explains any rights you may have to a hearing. If you did not receive a copy of the
brochure, you should contact the Seniors and People with Disabilities Division at 1-
800-232-3020 immediately.

Date

Signature and Title of Facility Representative