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## **KNOW YOUR RIGHTS:**

### **MEDICAL DEPORTATION & YOUR FEDERAL DISCHARGE RIGHTS**

#### **What is Medical Deportation?**

Medical deportation refers to the practice in which hospitals send uninsured undocumented immigrants in need of long-term care back to their home countries outside of the federal immigration process, placing the health and safety of these immigrants in jeopardy.

Nearly all hospitals are required to fulfill certain obligations with respect to how patients are discharged. This fact sheet provides a general overview of these obligations under federal law. Your individual state may have more robust discharge laws that afford patients additional protections. Knowledge of these obligations at both the state and federal level can help prevent unlawful discharges that place the health and well-being of undocumented patients in at risk.

#### **What is Discharge Planning?**

Discharge planning refers to the process by which social workers, nurses and doctors help prepare patients to leave the hospital. Discharge planning services may include helping patients to understand their medication needs or facilitating their transfer from the hospital to nursing homes or rehabilitative centers. In the medical deportation context, many undocumented patients may be discharged without adequate planning and preparation.

#### **What are Your Rights?**

Under federal law, all hospitals must have a discharge planning process that applies to *all* patients – regardless of immigration or insurance status. Any patient (or patient representative) can request a discharge plan, even if hospital staff does not feel that one is necessary. Here are the hospital's discharge responsibilities:

- The hospital must evaluate patients in a timely manner to determine if the patient will negatively affected without adequate discharge planning.

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- The hospital must discuss the results of the evaluation with the patient (or patient's representative) and include a copy in the patient's medical records.
- Upon request of the patient, a family member or the patient's doctor, hospital staff must help arrange for the services the patient needs following discharge.
- The hospital must reassess the appropriateness of the patient's discharge plan if the patient's medical needs change..
- The hospital must counsel the patient and patient's family to help them prepare for discharge.
- The hospital must provide the patient with a list of home health aides or nursing facilities that serve the area the patient lives in and are available to the patient (if such services are specified in the patient's discharge plan).
- Patients can only be discharged to “**appropriate facilities, agencies, or outpatient services**” that can meet the patients' needs and comply with federal and state health and safety standards. This means the hospital cannot simply dump a patient, without helping the patient get the post-discharge care she needs. This requirement is particularly important in the medical deportation context where hospitals send patients back to their home countries without making sure that there are hospitals or agencies available to meet the patients' needs.

If you have any questions about your discharge rights as they relate to the issue of medical deportation or otherwise, please contact the **New York Lawyers for the Public Interest (NYLPI)** at **212-244-4664** and ask for **the Health Justice Program**.