

What Is An Unsafe Discharge From Hospital?

Christy Bieber, J.D.

Editorial Note: We earn a commission from partner links on Forbes Advisor. Commissions do not affect our editors' opinions or evaluations.

State and federal laws generally require hospitals to treat patients in distress and ensure they are stabilized before releasing them. When a hospital or medical care provider accepts someone as a patient, they also assume certain responsibilities to ensure they receive an appropriate level of care.

Unfortunately, sometimes patients are released from the hospital when they shouldn't be. This is called premature discharge or negligent discharge, and it can result in a medical malpractice claim in certain circumstances.

So, what is an unsafe discharge from a hospital and when can you obtain compensation if this happens to you? This guide will explain what a [negligent](#) or premature discharge is and what it means for your legal rights.

An unsafe discharge from hospital occurs if you are discharged, or sent home, when your release from the hospital could adversely affect your health.

An unsafe discharge occurs in situations including if:

- You are sent home prior to being properly diagnosed
- You are sent home when your condition has not yet stabilized
- You are sent home without proper follow-up instructions or an appropriate plan for follow-up care
- You are sent home before all necessary diagnostic testing has been completed
- You are sent home before receiving an appropriate course of treatment

If you should have remained in the hospital because going home would jeopardize your medical situation and you were released instead, this is an unsafe or negligent discharge.

Why Does an Unsafe Discharge from Hospital Happen?

Unsafe discharges from hospitals happen for a wide variety of reasons, including the following:

- The hospital releases you because they aren't sure you'll be able to pay for care or that your insurance will cover your treatment
- Your care provider fails to properly diagnose you or fails to understand the extent of your medical condition
- Your care provider fails to order the required testing or to follow up on test results
- Your care provider botches your treatment and doesn't realize you still need ongoing support
- Lab or radiology errors occur that suggest your condition has improved when it hasn't
- Your care provider misses symptoms that suggest your condition is worsening or that you are at risk of an adverse medical event if you are released

These are just a few of many examples of situations where you may be released from the hospital when you shouldn't be.

How Can You Tell If an Unsafe Discharge from Hospital Occurred?

If you are released from the hospital and your condition immediately worsens or if you must be readmitted shortly after being released, this is a red flag that suggests you are the victim of a negligent discharge.

If you suspect an unsafe discharge occurred, you have the right to request a copy of your medical records. A third-party expert can review your situation and determine if the doctors or care providers who released you from the hospital made a mistake in doing so.

Can You Make a Medical Malpractice Claim for an Unsafe Discharge From Hospital?

An unsafe hospital discharge can give rise to a medical malpractice claim in certain circumstances. You may be able to [sue](#) for premature or negligent discharge if you can prove the following:

- **The doctor or hospital had a duty to you.** This duty comes from accepting you as a patient, or because of federal or state laws that require hospitals to treat patients until they have been stabilized
- **The doctor or hospital breached the duty.** Healthcare providers are subject to a professional duty of care. If no reasonably competent medical professional with the same level of training and experience as your care provider would not have discharged you from the hospital but your provider did, this is a breach of duty
- **You suffered harm as a direct result of the breach.** You must have been damaged in some way by your premature release from the hospital. This could include your condition worsening and becoming more difficult to treat, causing you pain and necessitating more medical bills
- **You should be compensated for the harm.** You will need to show there are actual losses you deserve monetary compensation for that occurred as a result of the premature discharge

In many cases, you can sue the doctor or care provider who facilitated your premature discharge. And you can sue the hospital itself. The hospital does not need to have been negligent for you to make a case against them. In other words, you don't have to show the hospital failed to live up to a professional standard of care (although you do have the option to demonstrate this).

You don't have to specifically show the hospital was negligent because the hospital is vicariously liable for actions its employees take. If a doctor or nurse at the facility is negligent and discharges you when they shouldn't, the hospital is liable for that negligence because the care provider was acting on the hospital's behalf and performing work duties at the time.

Compensation for a Premature Discharge

If you prove that you were negligently discharged from the hospital in a way that was unsafe, you

may be entitled to receive monetary compensation for all resulting losses. This can include payment for:

- Medical bills you incurred due to the unsafe hospital discharge
- Loss of wages resulting from missed work due to the damage caused by your unsafe discharge
- Pain and suffering experienced due to the unsafe discharge
- Emotional distress resulting from the unsafe discharge

A medical malpractice attorney can help you to prove the extent of the losses caused by your premature release from the hospital so you can get the full amount of compensation you deserve.

Frequently Asked Questions (FAQs)

If a hospital determines you no longer need to remain at the facility, you cannot stay there indefinitely. In most situations you can appeal a proposed discharge if you do not feel that you are ready to leave. However, if the hospital determines that you do not need continued care after an appeal, an involuntary discharge can occur.

If you can prove your care providers were negligent in discharging you from the hospital and can show you suffered damages as a result of negligent discharge, you can sue your healthcare provider and the hospital for unsafe discharge. You need to demonstrate the extent of your losses caused by the unsafe discharge in order to recover compensation.

If a hospital has given you a discharge date and you do not feel you are ready to leave, you can appeal the discharge. The process for appealing can vary from facility to facility but patient care advocates or discharge coordinators at your hospital should be able to tell you the steps you need to take in order to appeal.