

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

TOOLKIT

Challenging a Nursing Home Eviction: Facility Claims That It Cannot Meet Resident's Needs, Arguing that Resident and/or Family Members Have Complained About Quality of Care

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THE PROBLEM

You have lived in a nursing home for approximately a year. The quality of care has gotten worse in recent months, due to understaffing, so you made a complaint with the licensing agency. In response, the nursing home is now trying to evict you, arguing that your complaint shows that the facility cannot meet your needs.

THE LAW

Federal nursing home law allows eviction if a resident needs a level of care that the nursing home cannot provide, but a nursing home's inadequate care can't be used to justify a "can't-meet-your-needs" eviction. Also, residents have a right to file complaints and grievances without any retaliation from the nursing home. See sections 483.10(b)(1), (2), (g)(4)(i)(D), (5)(ii), (j) (right to make complaints and grievances without reprisal) and 483.15(c) (eviction protections) of Title 42 of the Code of Federal Regulations.

THREE IMPORTANT THINGS TO KEEP IN MIND

1. A resident has a right to make a complaint or grievance.

Nursing homes are not allowed to punish a resident for filing a complaint or grievance against the facility. Under federal law, a nursing home must provide each resident with written information on how to file complaints against the facility.

2. Nursing homes are required to provide services with a specified quality of care.

A nursing home is required by federal law to provide specified services at the nursing home level of care. A facility cannot evict a resident because the facility fails to provide required services. It would be unfair for a nursing home to justify a resident's eviction because of its failure to provide decent care.

3. A nursing home must attempt to meet a resident's needs.

In order to evict a resident on the grounds that the nursing home cannot meet the resident's needs, the nursing home must have written documentation of 1) the needs that supposedly can't be met, 2) the facility's attempts to address those needs, and 3) the ability of a different facility to meet those needs.

REQUEST AN APPEAL

A resident has a right to an eviction hearing with a state hearing officer. Don't hesitate to request an appeal. Some residents and family members initially think, "If they don't want me, I don't want to stay," but that attitude is counterproductive. When residents win their appeal hearing, the nursing home generally gives the resident more respect and provides better care. Also, appeals are free of charge, and residents have a right to seek assistance from an attorney, nursing home ombudsman, or other advocate.

Improper evictions are a longstanding problem in nursing facilities across the country. This information is part of a toolkit that offers resources for both consumers and professionals. [The full toolkit is available online here.](#)