

TOOLKIT

Challenging a Nursing Home Eviction: Facility Claims That Resident Is Endangering Others

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THE PROBLEM

One afternoon, you receive an urgent call from the administrator of your father's nursing home. Your father, who is 86 years old and has Alzheimer's disease, evidently pushed a nurse aide who was trying to help him with his meal. The administrator explains that your father is being evicted for endangering the health and safety of others.

THE LAW

Federal nursing home law allows eviction of a resident for being a danger to other people's health or safety, but only if the danger is real and significant. Also, the resident has the right to appeal. See section 483.15(c) of Title 42 of the Code of Federal Regulations.

THREE IMPORTANT THINGS TO KEEP IN MIND

1. A resident generally is not endangering anyone when the resident pushes or hits a staff member.

Residents commonly push back against staff members, largely as a result of the resident having some level of dementia. But, due to residents' age and health condition, pushes and other physical contact are generally not dangerous in the least to staff members.

2. Good dementia care can reduce the likelihood that a resident will push or hit.

An incident of pushing or hitting often occurs when the resident is surprised or confused. Staff members can avoid these situations through simple dementia care practices—for example, always approaching the resident in the resident's line of sight and giving the resident a quick advance explanation before touching the resident in any way.

3. A nursing home's first response to a problem should be a care plan meeting, not an eviction.

A care plan meeting offers a good opportunity to discuss options and plan strategies. The care plan meeting should include the resident, the resident's representative, the resident's doctor, and the nursing home staff.

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.](#)