

TOOLKIT

Challenging a Nursing Home Eviction: Nursing Home Claims That Resident Has Broken Facility Rules

JULY 2021

THE PROBLEM

Your grandmother has lived in a nursing home for several years. She has Alzheimer's disease, which has become very severe over the past year. One symptom is that she frequently makes loud, moaning sounds, particularly in the middle of the night. The nursing home now is moving to evict her, based on a facility rule against "disruptive behavior."

THE LAW

Under federal law, a nursing home can evict a resident only for one of six specified reasons. "Breaking facility rules" is not one of those six reasons. Neither is being "disruptive." See section 483.15(c)(1)(i) of Title 42 of the Code of Federal Regulations.

THREE IMPORTANT THINGS TO KEEP IN MIND

1. A nursing home cannot make up its own justifications for eviction.

Federal nursing home law specifically limits eviction to six specified reasons. Nursing homes cannot be allowed to use house rules to create additional reasons for eviction. If eviction were allowed for "breaking the rules," a nursing home could create more reasons for eviction simply by coming up with more house rules.

2. Nursing homes must be skilled in caring for residents with Alzheimer's disease and other dementias.

Nursing homes should not blame residents for behavior related to Alzheimer's disease or other dementias. Instead, nursing home staff should use the care planning process to determine the best ways to meet a resident's needs. As required by federal regulations, all care planning must include the resident and the resident's representatives.

3. Behavior often is an attempt to communicate.

Yelling, moaning, pushing, and other “behaviors” by residents should not be dismissed as irrational or spiteful. Persons with dementia often have difficulty in communicating through speech and will instead try to communicate through noises and physical actions. Family, friends, and nursing home staff should attempt to “listen” to these noises and actions in order to understand what the resident may want.

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.](#)