

# The Basics of Nursing Home Evictions

PRACTICE TIP • November 2021

Eric Carlson, Justice in Aging

Gelila Selassie, Justice in Aging

## Federal Law

Federal law allows eviction from a nursing facility only for six reasons:

1. The resident has failed to pay.
2. The resident no longer needs nursing facility care.
3. The resident's needs cannot be met in a nursing facility.
4. The resident's presence in the nursing facility endangers others' safety.
5. The resident's presence in the nursing facility endangers others' health.
6. The nursing facility is going out of business.

If a nursing facility believes that it has grounds to evict a resident, it must give a written notice to the resident and resident's representative in a language that the resident and representative understand. The notice must include the alleged reason for the eviction, the planned eviction date, the location to which the resident will be transferred, an explanation of the resident's appeal rights, and contact information for the long-term care ombudsman program. In general, the notice must be given at least 30 days before the planned eviction, although in some cases a shorter notice period is allowed.

If the resident appeals, a hearing officer decides whether the nursing facility will be allowed to carry out the eviction. Hearing procedures vary from state to state. Generally the hearing is held in the facility itself.

The relevant federal regulations can be found at section 483.15(c) of Title 42 of the Code of Federal Regulations.

## How to Challenge an Eviction

There are two simple steps in challenging an eviction:

1. Don't move out!
2. Request an appeal hearing.

The "don't move" advice seems obvious but in fact, many residents panic and move out after receiving a notice. Residents should resist any such sense of panic. Residents win most appeal hearings (with state-to-state variance), and there generally is little downside to remaining in the nursing facility and requesting a hearing.

The request for a hearing generally should be made to the designated state agency, which should be identified in the eviction notice. If the notice does not include the necessary information, the resident or representative should make phone calls or do internet research to identify the correct phone number or e-mail address. Understand that the agency conducting the hearings may or may not be the same agency that investigates complaints against nursing facilities. In this case, the resident is requesting a transfer/discharge hearing, which is not the same as filing a complaint.

## Resources

- Justice in Aging: [Defending Against “Bad Behavior” Evictions in Nursing Facilities Webinar](#)
- Justice in Aging: [25 Common Nursing Home Problems—and How to Resolve Them](#)
- NCLER: [Defending Evictions from Nursing Homes and Assisted Living Facilities](#)
- NCLER: [Using Consumer Law to Protect Nursing Facility Residents](#)

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.](#)

Please contact [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov) for free case consultation assistance. Sign up for our email list and access more resources at [NCLER.acl.gov](http://NCLER.acl.gov).