



June 4, 2020

Chair Sanchez, Rep. Keny-Guyer and Members of the Committee:

The Oregon Law Center was asked to respond to some of the questions that came up during the hearing about evictions from Long Term Care facilities. The below information is intended to answer these three questions:

1. How can residents in Long Term Care be evicted with the moratorium on evictions in place?
2. What are residents getting evicted for?
3. Where are residents going to if evicted?

1. How can residents in LTC be evicted with the moratorium on evictions in place?

- Residents of long term care (“LTC”) facilities aren’t classified as residential tenants, and so the terms of EO 20-13 would not apply those facilities. This is because long term care facilities are explicitly excluded from the protections of the landlord tenant act. Instead, LTC residents have the right to ask for a hearing in which the facility has to prove that it meets the regulatory standards for forcing someone to move out of the LTC home involuntarily.
- However, even after the administrative hearing process has been exhausted and an administrative law judge agrees that the facility has met the regulatory standards for requiring someone to move out against their will, LTC facilities are still required to go through the final court eviction process in order to get an order that permits physically removing residents. Because the Chief Justice’s Order has placed court evictions on hold until July 1, court-ordered evictions from LTC facilities should not be happening right now.
- However, not all facilities follow proper legal steps to get a court order before forcing a resident to leave, and so it’s quite possible that LTC residents are getting physically removed, or are convinced that they have to move, without the facility having gotten a court order. In our experience, many LTC residents get an “involuntary move out” notice from their facility and simply believe that they must leave, and therefore do so without a hearing or a court process.

2. What are residents getting evicted for?

- Common reasons for a facility to give a notice of involuntary moveout include the resident's care needs increasing past the level of service the facility can provide, the resident's needs becoming more demanding or expensive, the resident posing a risk of harm to themselves or someone else, or nonpayment of rent or other charges.
- It's also fairly common for a facility to issue a notice of involuntary moveout after a resident has gone to the hospital for medical treatment. The facility can then refuse to allow the resident to move back home if the facility alleges that the resident's care needs have increased. The resident is then stuck in the hospital until there's a decision from an administrative law judge about whether the resident's needs have actually increased past the point that the facility can care for the resident.
- In our experience, many of the reasons that LTC facilities cite as the basis for forcibly evicting a resident are not adequate justification for such a drastic measure. LTC facilities have a high duty to try to meet the needs of their residents through changes to care plans, or through adding staff or particular treatments that would enable the resident to continue to live safely at the facility.

3. Where are residents going to if evicted?

- When a LTC resident is given an involuntary moveout notice, LTC residents have caseworkers who are supposed to help identify alternate placements, particularly when care needs have increased. Some residents may be placed in adult foster homes or other LTC facilities.
- Often when a person needs to find an alternative residence very quickly, due to the pressure of an involuntary move out date, the alternative residence is not an ideal fit for the individual. If no alternative placement is identified, facilities sometimes put residents in taxis or ambulances and send them to the hospital, or in extreme cases simply wheel a resident out to the street. Fortunately those cases are infrequent, but they have happened.
- The very fact of being forced to move out of their home often has serious consequences for an elderly or disabled individual. The phenomenon of "transfer trauma" is well documented in the medical community and can have devastating mental and physical health consequences for some of the most vulnerable people living in LTC. We have long advocated for all Long Term Care residents to have the same basic protections against involuntary eviction as all Nursing Home residents have, which require basic safety considerations such as requiring that transfer trauma potential be considered before allowing an involuntary move, and requiring that a safe transfer plan be in place before any involuntary move out is approved.

Thank you so much for the opportunity to provide this information.

Sincerely,

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