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By MATT SEDENSKY

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NEW YORK — Nursing homes are increasingly evicting their most challenging residents, advocates for the aged and disabled say, testing protections for some of society's most vulnerable.

Those targeted for eviction are frequently poor and suffering from dementia, according to residents' allies. They often put up little fight, and their families are unsure what to do. Removing them makes room for less labor-intensive and more profitable patients, critics of the tactic say, noting it can be shattering.

"It's not just losing their home. It's losing their whole community, it's losing their familiar caregivers, it's losing their roommate, it's losing the people they sit with and have meals with," said Alison Hirschel, an attorney who directs the Michigan Elder Justice Initiative and has fought evictions. "It's completely devastating."

Complaints and lawsuits across the U.S. point to a spike in evictions even as observers note available records only give a glimpse of the problem.

An Associated Press analysis of federal data from the Long-Term Care Ombudsman Program finds complaints about discharges and evictions are up about 57 percent since 2000. It was the top-reported grievance in 2014, with 11,331 such issues logged by ombudsmen, who work to resolve problems faced by residents of nursing homes, assisted living facilities and other adult-care settings.

"When they get tired of caring for the resident, they kick the resident out," said Richard Mollot of the Long Term Care Community Coalition, a New York advocacy group.

That is often because the resident came to be regarded as undesirable — requiring a greater level of care, exhibiting dementia-induced signs of aggression, or having a family that complained repeatedly about treatment, advocates say. Federal law spells out rules on acceptable transfers, but the advocates say offending facilities routinely stretch permitted justifications for discharge. Even when families fight a move and win an appeal, some homes have disregarded rulings.

"It's an epidemic," said Sam Brooks, who has litigated evictions for Community Legal Services of Philadelphia. "It's a hard thing to catch and it's a hard thing to enforce."

He reviewed three years of nursing home violations in Philadelphia and found only one case in which an



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Phyllis Hotchkiss talks to her son, Glen Hotchkiss, at her nursing home in Adrian, Mich. Phyllis, 93, who has dementia and is confined to a wheelchair, was involuntarily discharged from her nursing home earlier in the year, to one farther away from her family.



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"It's a risk they're willing to take," he said, "because no one penalizes them."

The American Health Care Association, which represents nursing homes, defends the discharge process as lawful and necessary to remove residents who can't be kept safe or who endanger the safety of others, and says processes are in place to ensure evictions aren't done improperly.

Dr. David Gifford, a senior vice president with the group, said a national policy discussion is necessary because there is a growing number of individuals with complex, difficult-to-manage cases who outpace the current model of what a nursing home offers.

"There are times these individuals can't be managed or they require so much staff attention to manage them that the other residents are endangered," he said.

The numbers of both nursing homes and residents in the U.S. have decreased in recent years; about 1.4 million people occupy about 15,600 homes now. The overall number of complaints across a spectrum of issues has fallen precipitously in the past decade, though complaints about evictions are down only slightly from their high-water mark in 2007, the federal figures show. The share of complaints that evictions and discharges represent has steadily grown, holding the top spot since 2010.

Whatever a facility's reasons are, involuntary discharges leave families reeling.

When John Wilson, 61, was refused readmission to St. John's Pleasant Valley, a nursing home in Camarillo, California, the facility cited his family's repeated complaints about his care, his son Jeremy Wilson said.

The family sued to get Wilson back into the nursing home, but even when they prevailed, the facility refused. The younger Wilson said his father, who has Lou Gehrig's disease and is unable to speak or walk, was needlessly kept hospitalized for more than seven months until management changed and the home finally relented.

"What they look for and what they want is basically the family to drop Grandpa off at the front door and not be involved," he said. "They don't want anybody monitoring them, they don't want anybody complaining. They just want to take care of that person until they die and collect that check."

Dignity Health, the facility's parent company, said it could not discuss the specifics of the case but that patient care and safety are the top priority.

Advocates say hospitalizations are a common time when facilities seek to purge residents, even though the Nursing Home Reform Act of 1987 guarantees Medicaid recipients' beds must be held in their nursing homes during hospital stays of up to a week.

"You've got facilities that sometimes would prefer that they be rid of certain residents," said Eric Carlson, an attorney who has contested evictions for the advocacy group Justice in Aging. But when they don't have legal cause to move someone out, he said, sometimes "they try and take the easy way out and refuse to let the person back in."

Sara Anderson had been through several transfers of her father, Bruce Anderson, before he ended up at Norwood Pines Alzheimer's Care Center in Sacramento, California. Eventually, she said the facility began insisting it wasn't an appropriate setting for him. After being hospitalized with pneumonia, he wasn't allowed back, she said.

"They just rolled up the welcome mat when he was better," she said.

She saw the action as retaliatory after her repeated complaints about the facility's use of restraints on her 66-year-old father, who suffered a brain injury more than a decade ago during a cardiac arrest. When she appealed the facility's action and won, she said it still refused to let him back. Her father remains in a hospital.

"It doesn't matter if you win or lose it, there's not enforcement of these hearings. We didn't know that the hearing was pointless," she said.

Federal law allows unrequested transfers of residents for a handful of reasons: the facility's closure; failure to pay; risk posed to the health and safety of others; improvement in the resident's condition to the point of no longer needing the home's services; or because the facility can no longer meet the person's needs.

Though that final category is often cited in evictions, advocates dispute how often it fits.

"The majority of the time, it's because the resident is considered difficult," said Tony Chicotel, an attorney for California Advocates for Nursing Home Reform, which represented Wilson and Anderson. "Federal law is pretty clear: They're all required to be able to provide comprehensive, basic care. Every nursing home that takes Medicare or Medicaid funding should be very good or great at providing dementia care."

Chicotel said involuntary discharges are almost entirely focused on Medicaid beneficiaries and that economics sometimes play a role in the ousters. Rather than a long-term Medicaid patient, many facilities would prefer to fill a bed with a private-pay resident or a short-term rehabilitation patient, whose care typically brings a far higher reimbursement rate under Medicare.

Vicki Becker of Sammamish, Washington, said she began receiving pressure from administrators at her mother's assisted living facility about two years ago to have the then-94-year-old transferred elsewhere. For the first six years she had lived in the home, she had paid more than \$5,000 monthly. It was only after Becker's mother exhausted her savings and went on Medicaid that the facility initiated discharge proceedings, making her wonder if money was a factor.

Becker hired a lawyer and enlisted the help of the local ombudsman to fight the eviction. Though the facility eventually dropped the discharge case, it left her feeling as if her mother's rights had been violated.

"It was her home," she said. "What an awful thing to do to somebody."

Glenn Hotchkiss of Temperance, Michigan, unsuccessfully fought the transfer of his mother, a dementia patient, from a nearby home to one about 35 minutes away. He's able to visit far less often because of the distance.

"It's pretty much an emotional roller coaster," he said. "If you have money, you don't get involuntary transfers."

Manpower levels are another factor, according to Charlene Harrington, a University of California-San Francisco professor whose research has focused on nursing homes.

"These worst homes are allowed to have staffing at just dangerously low levels," she said. "If they had staffing at the level that's recommended, they wouldn't be having problems with these patients."

But Gifford of the industry association said the most difficult patients present nursing homes with "a very tricky balancing act" between meeting their needs and denying care to other residents.

"The question becomes, how much do you expect every home to meet every single need in the country out there," he said.

Whatever the explanation, the eviction process can be harrowing.

Penny Monroe's 89-year-old mother came to love her nursing home in Okemos, Michigan, enjoying ceramics classes, trips to the mall and luncheons. News of an impending eviction gave her panic attacks. "She cried and she told them, 'If you send me home, I'm going to die,'" Monroe said. "She was afraid."

Even months after it was resolved, she remains uneasy that she could be thrown out.

Richard Danford of the Center for Independence of the Disabled, who directs the New York City Long Term Care Ombudsman Program, said even small changes can be hard on the most fragile residents, and so an eviction can be devastating.

"It can be traumatic to move a person from one room to another in the same facility, never mind a whole new place," he said. "The most common reaction is a sense of panic."

Agyemang Bediako knows the feeling well. After breaking both legs in a jump from a burning building, he

"I was panicked," he said, describing his thoughts before an ombudsman successfully appealed his case:
"What am I going to do? I couldn't even eat. I became depressed. I wanted to kill myself."

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