**Legal considerations when moving your parent into a nursing home**

*Know Your Legal Rights* is a bi-monthly column distributed by the State Bar of Wisconsin. It is sponsored by the State Bar of Wisconsin’s Lawyer Referral Service (LRS), which connects Wisconsin residents with lawyers throughout the state. To find an attorney in your area, visit [wislaw.org](http://wislaw.org/).

* Download this column as a Word document
* Download headshot

By Atty. Mary Youssi

Your mom’s cognitive decline is becoming more evident each day. After discussions with family members, your mom’s physician, and your mom, it’s become clear she needs a higher level of care than can be provided at home or in assisted living. It may be time to consider a nursing home, where she can receive 24-hour skilled care.

First, understand the difference between assisted living or community-based residential facilities and nursing homes or skilled nursing facilities. Licensed nursing facilities provide continuous coverage by a registered nurse, and only a few offer specialized services, such as ventilator care. If specialized care is needed, call ahead to confirm availability before touring facilities.

Before signing any admissions contract for the nursing home, your family should visit multiple facilities together, looking for a place that offers first-class providers, effective communication, engaging activities, and resident companions for your loved one.

Be sure to look at everything with a critical eye and research tough questions you can ask the admissions director. Listen to them and watch how they react to your questions. Beyond finding the right environment and quality of care, it’s essential to understand the legal aspects involved in the admissions process.

**Who Can Sign an Admissions Contract?**

If your parent is alert and capable, they can sign the admissions contract. If they have a diagnosed cognitive impairment, a designated agent or guardian must sign on their behalf. A power of attorney for health care or finances, if available, will name an authorized agent. If that agent is you, be sure to review the contract terms carefully. If another family member is the agent, be sure to join them in the nursing home tour and review the contract as well.

If no agent or power of attorney exists, you may need to petition the court for guardianship. Guardianship can cover two areas:

* **Person**: Handles health care, placement, and treatment decisions.
* **Estate**: Manages finances, property, and public benefits.

Determine which type your parent’s situation requires based on their assets and needs.

**Reviewing the Admissions Contract**

Examine any private-pay requirements. Some facilities accept residents on Medicaid, while others require a period of private pay (often 18 to 24 months) before Medicaid coverage, or private pay for the full stay. As power of attorney, you should read the contract carefully to understand any financial obligations or liabilities you may incur.

**Know Resident Rights**

Familiarize yourself with your loved one’s rights as a nursing home resident. The Board on Aging and Long Term Care Ombudsman outlines consumer rights at [longtermcare.wi.gov.](https://longtermcare.wi.gov/Pages/Ombudsman/ResidentRights.aspx) For care concerns, start by speaking with their direct aides, nurses, or the director of nursing. Open communication can often resolve issues collaboratively. If your concerns are not being addressed, you have options to report your grievances to the [Division of Quality Assurance](https://www.dhs.wisconsin.gov/dqa/index.htm) within the Wisconsin Department of Health Services.

When deciding on nursing home placement for your loved one, consider their physical care, emotional well-being, location, environment, and legal factors. In my view, the most important consideration is balancing your parent’s autonomy and freedom with their safety and care. For personalized legal guidance, consult an elder law and special needs attorney. You don’t have to face this difficult time alone.

*Mary Youssi is an attorney at Walny Legal Group in Milwaukee and Elm Grove. Her practice areas include probate and trust administration, estate planning, asset protection planning for elders and individuals with special needs, and adult guardianship.* *To find an attorney near you, visit*  [wislaw.org.](http://www.wislaw.org/)