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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

January 29, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
Lawrence Nursing Care Center
350 Beach 54th Street
Averne, New York 11692

Margaret Alade, NHA
Lawrence Nursing Care Center
350 Beach 54th Street
Averne, New York 11692

RE: In the Matter of ██████████ - Discharge Appeal

Dear Parties:

Enclosed please find the Decision After Hearing in the above referenced matter. This Decision is final and binding.

The party who did not prevail in this hearing may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the party wishes to appeal this decision it may seek advice from the legal resources available (e.g. their attorney, the County Bar Association, Legal Aid, etc.). Such an appeal must be commenced within four (4) months from the date of this Decision.

Sincerely,

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB:nm
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

COPY

In the Matter of an Appeal, pursuant to
10 NYCRR 415.3, by

[REDACTED]

ORDER

Appellant,

from a determination by

Lawrence Nursing Care Center

to discharge him from a residential health care facility.

Before: Kimberly A. O'Brien
Administrative Law Judge (ALJ)

Held at: Videoconference via WebEx

Date: January 29, 2024

Parties: [REDACTED]
Lawrence Nursing Care Center
350 Beach 54th Street
Avenue, New York 11692
By: Pro Se [REDACTED]
Support Provided by Jacqueline Lutchmidat, DSW
St. John's Episcopal Hospital
jluchmi@ehs.org

Lawrence Nursing Care Center
350 Beach 54th Street
Avenue, New York 11692
By: Margaret Alade, NHA
margaret@lawrencenursing.com

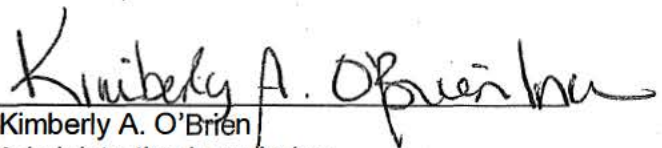
Lawrence Nursing Care Center (facility) is a residential health care facility, also referred to in the New York State Department of Health (Department) Rules and Regulations as a nursing home, which provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. (New York Public Health Law (PHL) § 2801[2][3]; 10 New York Codes Rules, and Regulations (NYCRR) 415.2[k].)

On [REDACTED], 2024 [REDACTED] (resident) left the facility without authorization and he returned approximately 30 minutes later. The facility refused to readmit the resident. The facility provides the resident with medication, assistance with activities of daily living and wound care services. When the resident could not get the care he requires from the facility, he went to [REDACTED] [REDACTED] (hospital). The resident has been receiving care at the hospital because the facility refused to readmit him. The resident appealed the discharge determination to the Department pursuant to 10 NYCRR415.3(i).

A notice of hearing was issued scheduling the hearing for January 29, 2024, at 10:00 am, via WebEx. Under the hearing procedures at 10 NYCRR 415.3(i)(2)(iii), the facility bears the burden to prove a discharge is necessary and appropriate.

The facility has not issued a discharge notice and has no proposed discharge plan, and therefore there is no basis to move forward to a hearing. (10 NYCRR 415.3.) The facility has an available bed and is *ORDERED* to accept the resident back into the facility today January 29, 2024.

DATED: Menands, New York
January 29, 2024


Kimberly A. O'Brien
Administrative Law Judge