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**Department
of Health**

KATHY HOCHUL
Governor

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

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

February 26, 2024

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o St. John's Hospital Riverside
967 North Broadway
Yonkers, New York 10701

Lamin Jabang, SW
St. John's Hospital Riverside
967 North Broadway
Yonkers, New York 10701

Victor Hertz
Adira at Riverside
120 Odell Avenue
Yonkers, New York 10701



RE: In the Matter of [REDACTED] – 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**

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

[REDACTED]

Appellant,

from a determination by

**Adira at Riverside Rehabilitation
and Nursing,**

Respondent,

to discharge her from a residential
health care facility.

COPY

**DECISION
AFTER
HEARING**

#DA24-6270

Hearing before: John Harris Terepka
Administrative Law Judge
February 23, 2024
By videoconference

Parties: Adira at Riverside Rehabilitation and Nursing
120 Odell Avenue
Yonkers, New York 10701
vhertz.adira@gmail.com
By: Victor Hertz, administrator

By: [REDACTED]

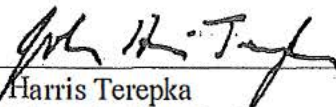
Adira at Riverside Rehabilitation and Nursing (the Respondent), a residential health care facility (RHCF) subject to Article 28 of the Public Health Law, discharged ██████████ (the Appellant) from care and treatment in its nursing home. The Appellant appealed the discharge to the New York State Department of Health pursuant to 10 NYCRR 415.3(i).

A hearing was duly noticed and held on February 23, 2024. The Appellant appeared and was represented by her ██████████. The Respondent failed to appear after advising this bureau by email that it had readmitted the Appellant. The notice of hearing, to which was attached a copy of the ██████████ 2024 discharge notice, was marked as ALJ Exhibit I. A digital recording of the hearing was made. (0h16m.)

At the hearing, the Appellant confirmed that she has been readmitted to the Respondent's nursing home. The ██████████ 2024 discharge notice is accordingly deemed withdrawn and is dismissed. Any further determination by the Respondent to involuntarily discharge the Appellant will require a new notice stating permissible grounds for discharge and an appropriate discharge plan. PHL 2803-z; 10 NYCRR 415.3(i)(1); 42 CFR 483.15(c). The Respondent will have the burden of proving that discharge is necessary and that the discharge plan is appropriate. 18 NYCRR 415.3(i)(2)(iii)(b). The Respondent may not compel or attempt to compel the Appellant to voluntarily transfer or discharge from its nursing home. PHL 2803-z(3).

DECISION: Respondent failed to establish that the discharge of Appellant ██████████ was necessary and that its discharge plan is appropriate. The Respondent is directed to readmit the Appellant.

Dated: Rochester, New York
February 24, 2024



John Harris Terepka
Administrative Law Judge
Bureau of Adjudication