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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

July 3, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Nassau University Medical Center
2201 Hempstead Turnpike
East Meadow, New York 11554

Stacey Rizzuto
Nassau University Medical Center
2201 Hempstead Turnpike
East Meadow, New York 11554

Yehoshua Sauer, NHA
Fulton Commons Care Center
60 Merrick Avenue
East Meadow, New York 11554

Barbara Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive
Lake Success, New York 11042

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: cmg
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

██████████

Appellant,

from a determination by

Fulton Commons,

Respondent,

to discharge him from a residential
health care facility.

COPY

ORDER

#DA24-6400

Hearing before:

John Harris Terepka
Administrative Law Judge
June 28, July 3, 2024
By videoconference

Parties:

Fulton Commons
60 Merrick Avenue
East Meadow, New York 11554
Yehoshua Sauer, Administrator
ssauer@fultoncommons.com
By: Barbara Stegun Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive
Lake Success, New York 11042
BPhair@Abramslaw.com

██████████
Nassau University Medical Center
and
Fulton Commons

Also appearing:


Nassau University Medical Center
2201 Hempstead Turnpike
East Meadow, New York 11554
By: Stacey Rizzuto, LCSWR
srizzuto@numc.edu

Fulton Commons (the Respondent), a residential health care facility (RHCF) subject to Article 28 of the Public Health Law, admitted [REDACTED] [REDACTED] (the Appellant) to its nursing home, and refused to readmit him after a hospital transfer to Nassau University Medical Center. The Appellant appealed the Respondent's determination to the New York State Department of Health pursuant to 10 NYCRR 415.3(i).

A hearing was scheduled, held and recorded by Webex videoconference on June 28 and July 3, 2023. (June 28, 0h9m; July 3, 0h5m.) On June 28, the Respondent appeared by Barbara Stegun Phair, Esq. The Appellant and his [REDACTED] [REDACTED] were not present but Stacey Rizzuto, LCSWR, of Nassau University Medical Center, spoke on their behalf. The hearing was adjourned on the Respondent's request to July 3.

In emails received by the ALJ on the morning of July 3, the Respondent and Nassau University Medical Center reported that the Respondent had agreed to readmit the Appellant to its nursing home at noon that same day. No party appeared at 11am on July 3 for the videoconference hearing which was not adjourned or cancelled. The Respondent having failed to meet its burden of proving that discharge was necessary and the discharge plan appropriate, the Respondent is directed, in accordance with the agreement of the parties and pursuant to 10 NYCRR 415.3(i)(2)(i)(d), to readmit the Appellant on July 3, 2024 and prior to admitting any other person.

Dated: Rochester, New York
July 3, 2024



John Harris Terepka
Administrative Law Judge
Bureau of Adjudication