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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

October 11, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████ ██████████
c/o Rochester Community Nursing & Rehab
989 Blossom Road
Rochester, New York 14610

Jonathan Placito, Esq.
Legal Assistance of Western New York, Inc.
1 West Main Street, Suite 400
Rochester, New York 14614

Barbara Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive, Suite 300
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 :
 :
 :
 [REDACTED] :
 [REDACTED] :
 Appellant, :
 from a determination by :
 :
 Rochester Community :
 Nursing and Rehabilitation Center :
 Respondent, :
 to discharge him from a residential :
 health care facility. :
 :

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DECISION
#DA24-6402

Hearing before: Kendra Vergason
Administrative Law Judge

Hearing date: July 11, 2024
By videoconference

Parties: Rochester Community Nursing & Rehabilitation Center
989 Blossom Road,
Rochester, New York 14610
By: Barbara Stegun Phair, Esq.
Abrams Fensterman, LLP
3 Dakota Drive, Suite 300
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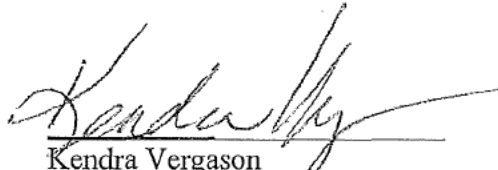
[REDACTED] [REDACTED]
By: Jonathan C. Placito, Esq.
Legal Assistance of Western NY, Inc.
One West Main Street, Suite 400
Rochester, New York 14614
jplacito@lawny.org

By notice dated [REDACTED] 2024, Rochester Community Nursing and Rehabilitation Center (Respondent), a residential health care facility subject to Article 28 of the New York Public Health Law, determined to discharge [REDACTED] [REDACTED] (Appellant) from care and treatment in its facility. The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 NYCRR § 415.3(i).

The hearing was held on July 11, 2024. Evidence was received and witnesses were examined. A recording of the proceedings was made. At the conclusion of the hearing, the parties reached a tentative settlement and requested a continuance to ensure the agreement could be implemented. On consent of both parties, the record remained open until October 10, 2024. By email dated October 10, the Respondent confirmed that it has withdrawn the June 18, 2024, notice of discharge and this matter has resolved per the settlement agreement.

There is no issue to be decided. Any further determination by the Respondent to discharge the Appellant will require a new discharge notice.

Dated: Rochester, New York
October 11, 2024


Kendra Vergason
Administrative Law Judge