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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

September 26, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Weill Campus, NY Presbyterian Hospital
525 E. 68th Street
New York, New York 10065

Tammy Lawlor, Esq.
Sara O'Connor, Esq.
Miller and Milone, P.C.
100 Quentin Roosevelt Blvd. #2
Garden City, NY 11530

Joshua Rahमान, NHA
Schervier Nursing Care Center
2975 Independence Avenue
Bronx, New York 10463

Amy Saltzman, Esq.
11 Times Square, 10th Floor
New York, NY 10036

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

■■■■

DECISION

Appellant,

from a determination by

SCHERVIER NURSING CARE CENTER,

Respondent,

to discharge him from a residential health care facility.

Before: Tina M. Champion
Administrative Law Judge

Held at: Videoconference via WebEx

Dates: August 14, 2024
September 12, 2024
September 18, 2024
September 26, 2024


Parties: ■■■■ ■■■■
c/o Weill Campus, NY Presbyterian Hospital
525 E. 68th Street
New York, NY 10065
By: Pro se

Schervier Nursing Care Center
2975 Independence Avenue
Bronx, NY 10463
By: Joshua Rahमान, NHA

On [REDACTED] 2024, [REDACTED] [REDACTED] (Appellant) was transported from Schervier Nursing Care Center (Facility), a residential care facility subject to Article 28 of the New York Public Health Law (PHL), to New York Presbyterian Hospital. The Appellant had resided at the Facility since [REDACTED] [REDACTED] 2021. The Facility has not issued a discharge notice to the Appellant, nor has it accepted him back to the Facility. New York Presbyterian Hospital, on behalf of the Appellant, initiated an appeal of the Facility's discharge to the New York State Department of Health (Department) pursuant to 10 New York Codes Rules, and Regulations (NYCRR) 415.3(i). Evidence was received (ALJ Exhibits I – Letter with Notice of Hearing [8/13/24] and ALJ Exhibit II – Subsequent scheduling letters [8/16/24, 8/30/24, 9/13/24, & 9/18/24].) A recording of the proceeding was made.

The Appellant is currently the subject of a pending guardianship proceeding in the Supreme Court of New York County. The assigned justice in that matter has declined, to date, to appoint a Temporary Guardian of the Appellant. The Appellant has not authorized anyone to speak on his behalf in this matter. The Appellant has unequivocally stated that he does not desire to return to the Facility and does not want to pursue the discharge appeal. Accordingly, there is no issue to be decided and this matter is dismissed.

DATED: Albany, New York
September 26, 2024


Tina M. Champion
Administrative Law Judge

TO:

■■■■ ■■■■
c/o Weill Campus, NY Presbyterian Hospital
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