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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 19, 2024

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Surge Rehabilitation and Nursing
49 Oakcrest Avenue
Middle Island, New York 11953

Ahmed Joudah, LNHA
Surge Rehabilitation and Nursing
49 Oakcrest Avenue
Middle Island, New York 11953

██████████
██████████
██████████

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

In the matter of an appeal, pursuant to
10 NYCRR 415.3, by

██████████

Appellant,

from a determination by

**Surge Rehabilitation
and Nursing Center,**

Respondent,

to discharge her from a residential
health care facility.

COPY

Decision

DA24-6440

Hearing before: John Harris Terepka
Administrative Law Judge

Held at: New York State Department of Health
by videoconference
September 18, 2024

Parties: Surge Rehabilitation and Nursing Center
49 Oakcrest Avenue
Middle Island, New York 11953
By: Ahmed Joudah, administrator
Ajoudah@surgerehab.com

██████████
Surge Rehabilitation and Nursing Center
By: ██████████

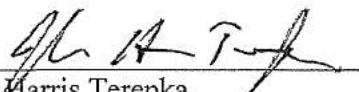
By notice dated [REDACTED] 2024, Surge Rehabilitation and Nursing Center (the Respondent), a residential health care facility subject to Article 28 of the Public Health Law, determined to discharge [REDACTED] (the Appellant) from care and treatment in its nursing home. The notice stated the reason for discharge as: "Family Request/Resident Request – Team in agreement with established date." (Exhibit ALJ I.) Pursuant to 10 NYCRR 415.3(i), the Appellant appealed the discharge determination to the New York State Department of Health.

A hearing was held on September 18, 2024, at which the Respondent withdrew the [REDACTED] 2024 notice of discharge. (Hearing recording, 9m08s.) The parties have expressed their willingness to work together on further care planning. If the Respondent and Appellant cannot agree upon a plan either for a voluntary discharge or for the Appellant to remain at the nursing home, and the Respondent determines to proceed with a discharge, it must issue a new discharge notice stating appropriate grounds and with an appropriate discharge plan.

DECISION: The Respondent is not authorized to discharge the Appellant in accordance with its [REDACTED], 2024 notice.

This decision is made by John Harris Terepka, Bureau of Adjudication, who has been designated to make such decisions.

Dated: Rochester, New York
September 18, 2024


John Harris Terepka
Administrative Law Judge