

cc: Ms. Suzanne Caligiuri/Division of Quality & Surveillance by scan
SAPA File
BOA by scan



**Department
of Health**

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

January 29, 2025

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o Foltsbrook Center
104 North Washington Street
Herkimer, New York 13350

Mark Scalise, Administrator
Foltsbrook Center
104 North Washington Street
Herkimer, New York 13350

RE: In the Matter of [REDACTED] – Discharge Appeal

Dear Parties:

Enclosed please find the Stipulation and Order in the above referenced matter. The Order is final and binding.

Either party may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. A party that wishes to appeal this decision 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 Order.

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 [REDACTED]
Foltsbrook Center
104 Washington Street
Herkimer, New York 13350

Stipulation of Settlement

Appeal from a Nursing Home Resident
Discharge pursuant to Title 10 (Health) of the
Official Compilation of Codes, Rules and
Regulation of the State of New York (NYCRR)
§415.3

Before: Kimberly A. O'Brien
Administrative Law Judge (ALJ)
New York State Department of Health
Via Webex Videoconferencing

Facility: Mark Scalise, Administrator
Foltsbrook Center
104 Washington Street
Herkimer, New York 13350

Resident: [REDACTED]
C/o Foltsbrook Center
104 Washington Street
Herkimer, New York 13350

Foltsbrook Center, Herkimer, New York (Facility) holds licensure as a skilled nursing facility in the State of New York and operates pursuant to the New York State Nursing Home Code, including those provisions of the Code relating to discharge and transfer at Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) § 415.3. [REDACTED] (Appellant) has been a resident at the Facility since [REDACTED] 2020. The Facility Administrator Mark Scalise and Appellant (Parties) were sworn and

AGREED:


1. On [REDACTED], 2024, the Facility issued a Notice of Discharge (discharge notice) because the Appellant no longer requires the care that the Facility provides and proposes to discharge Appellant to [REDACTED] Assisted Living Facility, [REDACTED] New York ([REDACTED] ALF.)
2. Appellant is in the process of applying for an apartment at [REDACTED], New York ([REDACTED]) and would like to be discharged there.
3. The Facility has withdrawn its discharge notice.
4. The Parties agree to work together to complete forms and supply necessary information to secure an apartment at [REDACTED].
5. The Facility agrees to allow the Appellant to remain at the Facility at least until [REDACTED] 2025, but if Appellant secures an apartment at [REDACTED] before that time the Appellant agrees to be discharged there.
6. If [REDACTED] notifies the Parties that an apartment will become available to Appellant soon after [REDACTED] 2025 the Facility agrees to allow the Appellant to remain at the Facility and discharge the Appellant to [REDACTED].
7. If on [REDACTED] 2025 an apartment at [REDACTED] is not imminently available for Appellant, the Facility may discharge the Appellant to [REDACTED] ALF.

8. If a placement for Appellant at [REDACTED] ALF is not available on or after [REDACTED] 2025, the Facility will identify a new discharge location that is available and appropriate to meet Appellant's needs, and it will issue a new discharge notice.
9. If the Facility issues a new discharge notice and Appellant disagrees with the proposed discharge she can appeal and request a hearing.

This verbal stipulation is memorialized on the audio-recording which is contained on a compact disc in the hearing record.

NOW; after considering the parties verbal Stipulation of Settlement it is SO ORDERED.

Dated: January 29, 2025
Albany, New York



Kimberly A. O'Brien
Administrative Law Judge