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**Department  
of Health**

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, MD, MPH**  
Commissioner

**JOHANNE E. MORNE, MS**  
Executive Deputy Commissioner

March 6, 2025

**CERTIFIED MAIL/RETURN RECEIPT**



Suzanne Hogan, NHA  
Bellhaven Center for Rehab & Nursing Care  
110 Beaver Dam Road  
Brookhaven, New York 11719

**RE: In the Matter of [REDACTED] – 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  
CC: Carolyn Hill, Esq.  
Stony Brook Hospital  
Enclosures

**STATE OF NEW YORK  
DEPARTMENT OF HEALTH**

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

[REDACTED]

Appellant,

from a determination by

**Bellhaven Center for Rehabilitation  
and Nursing Care,**

Respondent,

to discharge him from a residential  
health care facility.

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**DECISION  
AFTER HEARING**

#DA25-6535

Hearing before: John Harris Terepka  
Administrative Law Judge

Held at: New York State Department of Health  
by videoconference  
March 5, 2025

Parties: Bellhaven Center for Rehabilitation and Nursing Care  
110 Beaver Dam Road  
Brookhaven, New York 11719  
By: Suzanne Hogan, administrator  
[shogan@bellhavencenter.com](mailto:shogan@bellhavencenter.com)

[REDACTED]  
Stony Brook Hospital

By: [REDACTED]

Also appearing: Stony Brook Hospital  
101 Nicolls Road  
Stony Brook, New York 11794  
By: Carolyn A. Hill, Esq.  
[Carolyn.hill@stonybrookmedicine.edu](mailto:Carolyn.hill@stonybrookmedicine.edu)



██████████ ██████████ is his health care proxy, power of attorney and primary contact person. (Exhibits 1, B, C.)

3. By notice dated ██████████, 2024, the Respondent advised the Appellant of its determination to discharge him on ██████████, 2024 on the grounds that his health has improved sufficiently that he no longer needs the services provided by the facility. The notice also bore a notation "Resident insists on going home." The discharge location on the notice was his ██████████ home at ██████████. (Exhibit ALJ I.)

4. The Respondent was aware, having met with her, that the Appellant's ██████████ and designated representative, ██████████ did not agree that discharge was appropriate. The discharge notice was not provided to the ██████████ or to any other family member, nor was it mailed to the NYS Long Term Care Ombudsman.

5. The Appellant signed the discharge notice himself and was transported to his ██████████ home by bus on ██████████. He immediately began refusing medications and displaying ██████████ and ██████████. His ██████████ called ██████████ County for crisis intervention services, and the next day he was transported and admitted to Stony Brook Hospital where he remains. (Exhibits E, G, H.)

6. On ██████████, 2025, 59 days after the date of the discharge notice, the Appellant's ██████████ who had not been provided with the notice and only discovered it in her ██████████ papers after he was hospitalized, requested this hearing in accordance with the instructions on the discharge notice.

7. The Appellant remains at Stony Brook Hospital pending the outcome of this hearing. The hospital, and his treating ██████████ have concluded that he does not

require hospitalization in an acute care facility but cannot safely be returned to his home and remains in need of long-term nursing home care. (Exhibits F, H.)

### ISSUES

Has the Respondent established that the Appellant's discharge is authorized and that the discharge plan is appropriate?

### APPLICABLE LAW

A residential health care facility (RHCF), or nursing home, is a residential facility providing nursing care to sick, invalid, infirm, disabled or convalescent persons who need regular nursing services or other professional services but who do not need the services of a general hospital. PHL 2801; 10 NYCRR 415.2(k). Transfer and discharge rights of nursing home residents have been codified in Public Health Law 2803-z and set forth in Department regulations at 10 NYCRR 415.3(i) and federal regulations at 42 CFR 483.15(c). Discharge does not include transfer or discharge made in compliance with a request by the resident, the resident's legal representative or health care agent, as evidenced by a signed and dated written statement. 10 NYCRR 415.3(i).

Before it discharges a resident, the facility must notify the resident and designated representative, if any, and, if known, family members of the resident of the discharge and the reasons for the move in writing. 10 NYCRR 415.3(i)(1)(iii). The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman. 42 CFR 483.15(c)(3)(i). A resident has the right to request a hearing at any time within 60 days from the date the notice is received. 10 NYCRR 415.3(i)(2)(i)(a).

A residential health care facility may transfer or discharge a resident because the resident does not need residential health care facility services. PHL 2803-z(1)(f). The

resident may be discharged when the interdisciplinary care team, in consultation with the resident or the resident's designated representative, determines that the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility. 10 NYCRR 415.3(i)(1)(i)(a)(2). The facility must ensure complete documentation in the resident's clinical record, made by the resident's physician, when seeking to discharge a resident on these grounds. 10 NYCRR 415.3(i)(1)(ii)(a).

The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility, in the form of a discharge plan which addresses the medical needs of the resident and how these will be met after discharge. 10 NYCRR 415.3(i)(1)(vi). The facility must also permit residents and their representatives the opportunity to participate in deciding where the resident will reside after discharge. 10 NYCRR 415.3(i)(1)(vii).

The facility has the burden of proving that the discharge or transfer is necessary and that the discharge plan is appropriate. 18 NYCRR 415.3(i)(2)(iii)(b).

### DISCUSSION

The Respondent claims that the Appellant's discharge home on [REDACTED] was voluntary and requested by the Appellant. The Respondent has not, however, produced the required signed and dated written statement documenting such a request. 10 NYCRR 415.3(i). The Respondent knew that the Appellant's [REDACTED] who is his power of attorney and designated representative, opposed the discharge but she was not given notice of and did not sign any consent to it. The Appellant suffers from [REDACTED] [REDACTED] (Exhibits 1, E, F), and his undated signature on the

discharge notice fails to establish more than an acknowledgement of receiving the notice. The evidence fails to establish a knowing, signed written request for discharge obtained with appropriate notice to the Appellant's family and designated representative.

The Respondent also maintains that the discharge on [REDACTED] was appropriate because the Appellant was no longer in need of nursing home care. It claims that at the time of discharge he was medically stable, physically stable, and independent with care needs, but ignores that he also suffers from [REDACTED] including [REDACTED]. The Appellant's [REDACTED] repeatedly expressed her concerns about his condition and advised that his [REDACTED] year-old [REDACTED] at home also has numerous and significant health and [REDACTED] of her own and is unable to provide appropriate care for him. When the [REDACTED] would not agree to pick him up and bring him to his [REDACTED] home, the Respondent simply allowed him to go there by bus. The inappropriateness of the discharge home was immediately evident, emergency services were called, and the next day the Appellant ended up at Stony Brook Hospital where he remains because he cannot be returned home safely and he requires residential health care. (Exhibit H.)

The Appellant's hospitalization almost immediately after his discharge home, and the evidence of Stony Brook Hospital (Exhibits E-K), clearly establish that discharging this [REDACTED] year-old resident with significant medical, [REDACTED] home to his [REDACTED] year-old [REDACTED] who also has [REDACTED], solely because he indicated a desire to go there, and against the wishes of his [REDACTED] health care proxy and designated representative, was inappropriate. Stony Brook Hospital, and the Appellant's treating [REDACTED] since 2018 (Exhibit F), are both of the opinion that the

Appellant is unable to function independently and needs long term care placement. (Testimony, Drautz, Bronson; Exhibit F.)

The only documentation from any physician presented by the Respondent to support the grounds for discharge was an undated note by a Dr. Chandrasekaran in discharge planning instructions created █ 2024 and completed █ 2025, which reads:

This █ years old male was treated for █, Admitted to SAR for restorative physical therapy for functional decline. Having achieved the required goal he was discharge home to the care of his PMD. (Exhibit 2, page 5.)

This does not constitute complete documentation in the resident's clinical record, made by the resident's physician, as required by 10 NYCRR 415.3(i)(1)(ii)(a).

In addition to failing to give the required written notice of discharge to the Appellant's representative or family members, the Respondent has failed to prove appropriate grounds for discharge or that the discharge plan was appropriate.

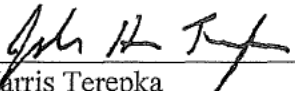
The Respondent is directed, pursuant to 10 NYCRR 415.3(i)(2)(i)(d), to readmit the Appellant immediately. Any further determination by the Respondent to discharge the Appellant will require a new notice of discharge setting forth permissible grounds for discharge and an appropriate discharge plan, in accordance with the requirements of PHL 2803-z, 10 NYCRR 415.3(i) and 42 CFR 483.15(c).

**DECISION:**

Respondent Bellhaven Center for Rehabilitation and Nursing Care did not provide proper notice of and has failed to establish valid grounds or an appropriate discharge plan for the discharge of Appellant ██████████. The Respondent is directed to readmit the Appellant to the first available semi-private bed prior to admitting any other person to the facility.

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

Dated: Rochester, New York  
March 5, 2025

  
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John Harris Terepka  
Administrative Law Judge  
Bureau of Adjudication