

cc: DOH.sm.DCAppeals@health.ny.gov 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

April 3, 2025

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]

Shaina Olton, Administrator
Sodus Rehabilitation & Nursing Center
6884 Maple Avenue
Sodus, New York 14551

John F. Darling, Esq.
Bond Schoeneck and King, PLLC
350 Linden Oaks, 3 FL
Rochester, New York 14625

Patrick Sloan, Ombudsman
psloan@lifespan-roch.org

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: nm
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH

COPY

In the Matter of [REDACTED]
Sodus Rehabilitation and Nursing Center
6884 Maple Avenue
Sodus, New York 14551

Decision

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:

Shaina Olton, Administrator
Sodus Rehabilitation and Nursing Center
6884 Maple Avenue
Sodus, New York 14551
By: John F. Darling, Esq. (Facility Counsel)
Bond Schoeneck and King, PLLC
350 Linden Oaks, 3 FL
Rochester, New York 14625

Resident:

[REDACTED]

INTRODUCTION

Sodus Rehabilitation and Nursing Center, Sodus, 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) was admitted to the Facility on [REDACTED] 2024.

FINDINGS OF FACT

1. On [REDACTED] 2025, the Facility issued a Discharge Notice to the Appellant stating that he no longer requires the care that the Facility provides. The Facility secured a placement for Appellant at [REDACTED], New York (ALF.) ALJ Exhibit 1 – *Notice of Hearing with Discharge Notice*.
2. The Appellant appealed the discharge. He did not wish to be discharged to the ALF and was actively looking for an apartment. On March 7, 2025 a Notice of Hearing was issued with a hearing scheduled on April 1, 2025. The ALJ's Office emailed the Notice of Hearing to the Facility and the Appellant. Ombudsman Patrick Sloan (Ombudsman), who was working with the Appellant, was included on this and other email communications with the parties. The Facility hand delivered a hard copy of the Notice of Hearing to the Appellant. ALJ Exhibit 1; ALJ Exhibit 2 - *Emails*.
3. The Appellant notified the facility that he found an apartment in the community and provided the address: [REDACTED] New York (apartment.) On [REDACTED], 2025, the Appellant left the Facility to reside at his apartment. The Facility arranged for the Appellant to be transported to the apartment but he declined. ALJ Exhibit 2.
4. On March 25, 2025 the Facility notified the ALJ's Office that the Appellant voluntarily left the Facility to reside at his apartment. The Facility requested that the hearing be cancelled. ALJ Exhibit 2.

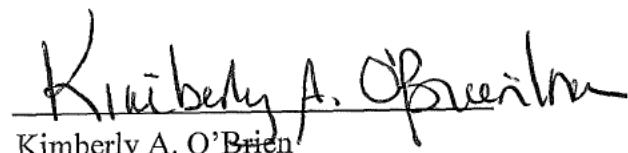
5. On March 26, 2025 the Appellant requested that the hearing be held. ALJ Exhibit 2.
6. The ALJ notified the parties and the Ombudsman that the hearing would proceed on April 1, 2025. ALJ Exhibit 2.
7. On April 1, 2025 the Facility, Facility Counsel and the Ombudsman appeared at the hearing. The Appellant did not appear. At the hearing Facility Counsel confirmed that the Appellant apprised the Facility that he found an apartment and provided the address, and he left the Facility on [REDACTED] 2025. ALJ Exhibit 2; See Finding of Fact 2&3.

CONCLUSIONS

The record reflects that the Appellant no longer requires the care the Facility provides. The Appellant was accepted by the ALF, he was actively looking for an apartment in the community, he found an apartment, and voluntarily left the Facility. The Appellant expressed his wish to proceed with the hearing and was aware that it would be held on April 1, 2025 and he failed to appear. The audio-recording of the hearing is memorialized and contained on a compact disc in the hearing record.

NOW; after considering the record the ALJ has determined that the Appellant has *abandoned* his request for a hearing and is no longer a resident of the Facility.

Dated: April 2, 2025
Albany, New York


Kimberly A. O'Brien
Administrative Law Judge

TO:

[REDACTED]
[REDACTED]
[REDACTED]
Shaina Olton, Administrator
Sodus Rehabilitation & Nursing Center
6884 Maple Avenue
Sodus, New York 14551
solton@sodusrehab.com

John F. Darling, Esq.
Bond Schoeneck and King, PLLC
350 Linden Oaks, 3 FL
Rochester, New York 14625
darlinj@bsk.com

Patrick Sloan, Ombudsman
psloan@lifespan-roch.org