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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

March 24, 2025

CERTIFIED MAIL/RETURN RECEIPT

Izzy Zeigler, Associate Administrator
University Nursing Home
2505 Grand Avenue
Bronx, New York 10468



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

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

[REDACTED]

Appellant,

from a determination by

University Nursing Home,

Respondent,

to discharge her from a residential
health care facility.

COPY

DECISION
AFTER HEARING

#DA25-6541

Hearing before:

John Harris Terepka
Administrative Law Judge

Held at:

New York State Department of Health
by videoconference
March 18 & 24, 2025

Parties:

University Nursing Home
2505 Grand Avenue
Bronx, New York 10468
By: Izzy Zeigler, associate administrator
IZiegler@Universitynh.com

[REDACTED]
University Nursing Home

By: [REDACTED]

JURISDICTION

University Nursing Home (the Respondent), a residential health care facility (RHCF) subject to Article 28 of the Public Health Law, determined to discharge [REDACTED] (the Appellant) from care and treatment in its nursing home. The Appellant appealed the discharge determination to the New York State Department of Health pursuant to 10 NYCRR 415.3(i).

HEARING RECORD

Respondent witnesses: Cynthia Sudar Singh Prabahar, MD, attending physician
German Arzu, director of social services
Respondent exhibits: 1-6
Appellant witnesses: [REDACTED]
Appellant exhibits: None
ALJ exhibit: ALJ I (hearing notice with notice of discharge)

The hearing was held and recorded by Webex videoconference. (3/18:1h27m. 3/24:0h48m.) The Department provided a [REDACTED] interpreter for the Appellant.

SUMMARY OF FACTS

1. The Respondent is a residential health care facility, specifically a nursing home within the meaning of PHL 2801.2 and 10 NYCRR 415.2(k), located in the Bronx, New York.
2. Appellant [REDACTED] age [REDACTED] was admitted to the Respondent in [REDACTED] 2020 for short-term rehabilitation after hospitalization for a [REDACTED]. Her diagnoses included [REDACTED]. (Exhibit 1.)
3. By notice dated [REDACTED], 2025, the Respondent advised the Appellant of its determination to discharge her on [REDACTED] 2025 on the grounds that her health has

improved sufficiently that she no longer needs the services provided by the facility. (Exhibit ALJ I.)

4. The Appellant is not in need of nursing home care. She is medically stable, independent with care needs and activities of daily living, self-medicates, and is ambulatory with a [REDACTED]. She has been discharged from facility rehabilitation. Her medical needs can be met on an outpatient basis. Her treating physician at the facility, Cynthia Sudar Singh Prabahar, MD, has determined and documented in the facility clinical record that the Appellant is not in need of nursing home care and that discharge to a community shelter is medically safe. (Exhibits 2,3, 5; Testimony, Prabahar.)

5. The discharge notice advised the Appellant she would be discharged to [REDACTED] Shelter [REDACTED] New York. The discharge plan includes appropriate arrangements for transportation, necessary equipment, medication, medical care, and social services referrals. (Exhibit 6; Testimony, Arzu.)

6. The Appellant remains at Respondent University Nursing Home pending the outcome of this hearing.

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).

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 shall use its best efforts to secure appropriate placement or a residential arrangement for the resident, other than temporary housing assistance such as a shelter. PHL 2803-z(1)(b).

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 has established that the Appellant is not in need of nursing home care. She has been discharged from therapies, is independent with activities of daily living (ADL), ambulatory, and she receives custodial care only. The Respondent has established and documented in her clinical record the professional opinion of the facility's care team, including her treating physician, that she is not in need of nursing home care and that discharge to the ██████ Shelter is medically safe. The Appellant presented no medical opinion to refute the care team's professional opinion, and her ██████ concedes that nursing home care is no longer medically necessary. Appropriate grounds for discharge have been established.

With regard to the discharge plan, the Appellant objects to being discharged to the ██████ Shelter. At the time she was admitted to University Nursing Home in 2020 the Appellant had an apartment. That apartment is no longer available to her. Her ██████ who also lives in the ██████ and participated in this hearing, is not offering to take her in, and she has no other housing options available.

The Appellant's ██████ expressed concerns that the shelter discharge arrangements made for the Appellant are not adequate. The first day of the hearing was adjourned to afford the Appellant and her ██████ an additional opportunity to review her record and to further discuss the discharge planning arrangements with the Respondent. On the second day of this hearing the Appellant's ██████ again agreed that discharge was appropriate but asked for more time to find housing other than the shelter. The Respondent did not agree to extend the discharge date, pointing out that it

has already been attempting to work with the Appellant and her [REDACTED] for over two years to secure other arrangements.

The Respondent has complied with its obligation to permit the Appellant and her [REDACTED] to participate in deciding where she will reside after discharge by making efforts to include them in discharge planning and to assist them in finding her a place to live other than temporary housing. Efforts to develop a plan started as far back as [REDACTED] 2022, when they were referred to [REDACTED] for housing assistance. [REDACTED] has been working with them since then without success. (Exhibit 6.) [REDACTED] reported to the Respondent's social services director, Mr. Arzu, that the lack of success is at least in part due to the Appellant and her [REDACTED] failing to follow up and participate in these efforts. (Exhibit 6, page 2.)

The Appellant is not entitled to remain in nursing home care she no longer requires. Resort was had to the shelter only after efforts by the Respondent to develop another plan with the Appellant and her [REDACTED] were unsuccessful. The Appellant and her [REDACTED] have not identified any other options for the Respondent to explore. In the absence of a demonstrable and realistic option for another discharge plan, referral to the [REDACTED] Shelter is appropriate. The discharge plan will include appropriate referrals for medical care. Further housing assistance and social services resources will be available to the Appellant at the shelter. She will be provided with a supply of medications, necessary equipment, and appointments for follow up medical care if requested.

Under these circumstances, the Respondent's discharge plan is appropriate and the Respondent is entitled to proceed with it, provided the shelter will accept the Appellant. On the second day of this hearing the Respondent's social services director

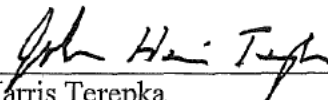
testified that he had submitted the necessary referral to the shelter had not yet received a response, but expected one by the end of the week. If the [REDACTED] Shelter accepts the referral, the discharge may proceed in accordance with the discharge notice. If the [REDACTED] Shelter does not accept the Appellant, the Respondent may not discharge the Appellant without developing a new discharge plan and issuing a new notice.

DECISION: Respondent University Nursing Home has established valid grounds for the discharge of Appellant [REDACTED] and has established that its discharge plan is appropriate.

The Respondent is authorized to discharge the Appellant on [REDACTED] 2025 in accordance with the discharge notice, provided the [REDACTED] Shelter accepts the referral.

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

Dated: Rochester, New York
March 24, 2025



John Harris Terepka
Administrative Law Judge
Bureau of Adjudication