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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

April 29, 2025

CERTIFIED MAIL/RETURN RECEIPT

[REDACTED]
c/o The Pearl Nursing Center
1335 Portland Avenue
Rochester, New York 14621

Choyce Staten, DSW
The Pearl Nursing Center
1335 Portland Avenue
Rochester, New York 14621

Karen Kammholz, Esq.
Legal Assistance of Western New York
1 West Main Street, Suite 400
Rochester, New York 14614

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
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

The Pearl Nursing Center Respondent,
to discharge him from a residential
health care facility.

COPY

DECISION
#DA25-6559

Hearing before: Jeanne T. Arnold
Administrative Law Judge
April 29, 2025
By WebEx videoconference

Parties: The Pearl Nursing Center
1335 Portland Avenue
Rochester, New York 14621
By: Choyce Staten, Social Work Director

██████████
c/o The Pearl Nursing Center
By: Karen Kammholz, Esq.
Legal Assistance of Western New York
1 West Main Street
Suite 400
Rochester, New York 14614

By notice of discharge dated ██████████, 2025, The Pearl Nursing Center (Facility), a residential health care facility subject to Article 28 of the Public Health Law (PHL), proposed to discharge ██████████ (Appellant) from its nursing home to ██████████. The Appellant appealed the discharge to the New York State Department of Health pursuant to 10 NYCRR 415.3(i). A hearing was held and recorded by Webex videoconference on April 29, 2025. (0h3m.)

The parties were served with a Notice of Hearing dated April 2, 2025, and attached notice of discharge, scheduling the hearing for April 19, 2025. (ALJ Exhibit I.) The parties consented to an adjournment in contemplation of settlement and were notified of the adjourned date of April

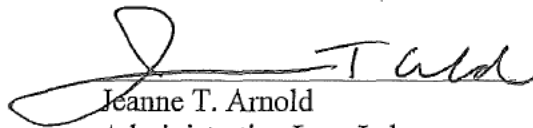
29, 2025. Approximately one week prior to the scheduled hearing, the Appellant's counsel indicated by email that a settlement had been reached but she wanted to confirm that the Facility was withdrawing its discharge notice prior to the Appellant withdrawing his appeal. The Facility did not respond to this email correspondence. A Webex Videoconference invitation, therefore, was emailed to the parties.

On April 29, 2025, the Appellant's counsel appeared and, on the record, reiterated that she believed a settlement had been reached but that the Facility had not responded to her query. The Facility did not appear on April 29, 2025 and did not submit any documentary evidence.

The Facility must prove both that the discharge is necessary and the discharge plan appropriate. 10 NYCRR 415.3(i)(2)(iii)(b). As the Facility submitted no evidence, it did not meet its burden. Consequently, its determination to discharge the Appellant pursuant to its notice of discharge dated [REDACTED] 2025 is denied and the notice dismissed.

Any further determination by the Facility 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).

Dated: Rochester, New York
April 29, 2025


Jeanne T. Arnold
Administrative Law Judge

TO:

The Pearl Nursing Center
1335 Portland Avenue
Rochester, New York 14621
Attn: Choyce Staten, Social Work Director
cstaten@pearlnursing.com

Karen Kammholz, Esq.
Legal Assistance of Western New York
1 West Main Street
Suite 400
Rochester, New York 14614
kkammholz@lawny.org