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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

June 2, 2025

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o A Holly Patterson Extended Care Facility
875 Jerusalem Avenue
Uniondale, New York 11553

Andrea Rauchbauer, SW
A Holly Patterson Extended Care Facility
875 Jerusalem Avenue
Uniondale, New York 11553

RE: In the Matter of ██████████ – 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

[REDACTED]

Appellant,

from a determination by

A. HOLLY PATTERSON EXTENDED CARE FACILITY,

Respondent,

to discharge him from a residential health care facility.

Before: Tina M. Champion
Administrative Law Judge

Date: May 29, 2025

Held at: Videoconference via WebEx

Parties: [REDACTED]
c/o A. Holly Patterson Extended Care Facility
875 Jerusalem Avenue
Uniondale, New York 11553
By: Pro se

A. Holly Patterson Extended Care Facility
875 Jerusalem Avenue
Uniondale, New York 11553
By: Andrea Rauchbauer, Social Worker

COPY

DECISION

JURISDICTION

By notice dated [REDACTED] 2025, A. Holly Patterson Extended Care Facility (Facility), a residential care facility subject to Article 28 of the New York Public Health Law (PHL), determined to discharge [REDACTED] (Appellant). The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 New York Codes, Rules and Regulations (NYCRR) 415.3(i).

HEARING RECORD

Facility Exhibits: 1 – Face Sheet
2 – BIMS
3 – Physicians Progress Note
4 – Social Work Notes
5 – Therapy Discharge Summaries

Facility Witnesses: Andrea Rauchbauer, Social Worker
Dalbir Chhabra, MD
Karleen Volcy, RN Supervisor

Appellant Exhibits: A – [REDACTED] Note

Appellant Witnesses: [REDACTED] Appellant

ALJ Exhibits: I – Letter with Notice of Hearing and Transfer/Discharge Notice

A digital recording of the hearing was made. (50:27 in duration.)

ISSUES

Has the Facility established that its determination to discharge the Appellant is correct and that its discharge plan is appropriate?

FINDINGS OF FACT

1. The Appellant is a [REDACTED]-year-old male who was initially admitted to the Facility on [REDACTED] 2025, for rehabilitation following hospitalization due to a [REDACTED]. (Exhibits [Exs.] 1, 5.)

2. The Appellant received physical therapy (PT) and occupation therapy (OT) while at the Facility. He was discharged from OT on [REDACTED] 2025, and PT on [REDACTED], 2025, after meeting his rehabilitation goals and having achieved his highest practical level. (Ex. 5; Testimony [T.] Rauchbauer.)

3. The Appellant ambulates independently. (Ex. 5; T. Rauchbauer, [REDACTED])

4. The Appellant has a wound on his [REDACTED] that, as of his [REDACTED] appointment on [REDACTED] 2025, needed [REDACTED] therapy [REDACTED] and an oral antibiotic for one week to aid in healing as it appears to have stalled. The Appellant is to follow up with [REDACTED] one week from that appointment. (Ex. A.)

5. The Appellant has [REDACTED] and requires [REDACTED]. (T. Chhabra, Volcy, [REDACTED])

6. The Appellant is capable of managing his oral and [REDACTED] medications. (Ex. 2; T. Volcy, [REDACTED])

7. The Appellant does not have a home in the community or income to secure housing. (T. Rauchbauer, [REDACTED])

8. On [REDACTED] 2025, the Facility issued a Transfer/Discharge Notice to the Appellant which proposed discharge to the Department of Social Services in [REDACTED] New York, for placement in a shelter. (ALJ Ex. I.)

9. The Transfer/Discharge Notice states that the Appellant will be discharged on [REDACTED] 2025, because his health has improved sufficiently so that he no longer needs the services provided by the Facility. (ALJ Ex. I.)

10. The Appellant timely appealed the Facility's discharge determination.

11. The Appellant has remained at the Facility during the pendency of the appeal.

APPLICABLE LAW

A residential health care facility, also referred to in the Department's Rules and Regulations as a nursing home, is a facility which provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. (PHL § 2801[2][3]; 10 NYCRR 415.2[k].)

A resident may only be discharged pursuant to specific provisions of the Department's Rules and Regulations. (10 NYCRR 415.3[i][1].)

Pursuant to 10 NYCRR 415.3(i)(1)(i)(a)(2), a resident may be discharged because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility.

A Facility must ensure complete documentation in the resident's clinical record when a resident is discharged. (10 NYCRR 415.3[i][1][ii].)

Facilities are also required to "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].)

Under the hearing procedures at 10 NYCRR 415.3(i)(2)(iii), the Facility bears the burden to prove a discharge is necessary and appropriate.

DISCUSSION

The Facility has determined to discharge the Appellant to the Department of Social Services in [REDACTED] New York for placement in a homeless shelter on [REDACTED], 2025, on the grounds that his health has improved and that he no longer needs skilled nursing services. The Appellant's Social Worker at the Facility, Andrea Rauchbauer, testified that the Appellant has reached his therapy goals and has been discharged from PT and OT. She testified that he is

independent with his activities of daily living (ADLs) and that he can ambulate without any assistive devices although he has a cane to use if he prefers. Ms. Rauchbauer testified that the Appellant leaves the Facility on pass, ambulating independently.

Dalbir Chhabra, MD, testified that she last examined the Appellant on [REDACTED], 2025, and that he had a [REDACTED] wound that was [REDACTED] on his [REDACTED]. Dr. Chhabra testified that the Appellant is capable of dressing the wound himself and is medically stable for discharge to the community. She further testified that he is capable of learning to administer his own [REDACTED] and that she will prescribe [REDACTED] to address the Appellant's concerns with being able to clearly visualize the markings on a [REDACTED]. Dr. Chhabra also testified that the Appellant can follow up with all his healthcare providers while in the community.

Karleen Volcy, RN Supervisor, testified consistent with Dr. Chhabra that the Appellant is capable of being trained on how to perform [REDACTED].

The Appellant testified on his own behalf and stated that he has an [REDACTED] wound on his [REDACTED] that needs treatment. The Appellant maintains that the wound has been about the same size for quite some time and is not healing. The Appellant offered into evidence the medical note from his appointment with [REDACTED], MD, in the [REDACTED] unit at [REDACTED] [REDACTED] the day prior that supports his testimony about his wound. (Ex. A.). Regarding [REDACTED] [REDACTED] the Appellant testified that he would be unable to use a [REDACTED] to administer his own [REDACTED] due to issues with his [REDACTED] but that he would be able to utilize an [REDACTED]. The Appellant testified that he lacks balance while walking and needs to hold onto a wall or cane.

The evidence shows that the Appellant's [REDACTED] [REDACTED] wound, last evaluated on [REDACTED], 2025, should be treated with [REDACTED] therapy and one week of oral antibiotics. Dr. [REDACTED] has requested that the Appellant follow up with [REDACTED] one week from that appointment, which is [REDACTED], 2025. The Facility has proposed that the Appellant be discharged from the Facility on

██████████ 2025, which is two weeks after the Appellant is due to have completed his oral antibiotics and after the Appellant is to follow up with Dr. ██████████

The evidence supports that the Appellant is medically stable for discharge pending completion of the wound therapy, antibiotic treatment and ██████████ follow-up as recommended by Dr. ██████████. The evidence also supports that the Appellant is functionally able to be discharged to the community. The Facility has met its burden to show that the Appellant's health has improved sufficiently such that discharge is permissible pursuant to 10 NYCRR 415.3(i)(1)(i)(a)(2) as of ██████████, 2025, provided the Appellant receives the treatment recommended by Dr. ██████████ in the interim. The Facility has also shown that a homeless shelter is the only viable discharge option for the Appellant, and it is a safe and appropriate discharge location for the Appellant.

DECISION

The A. Holly Patterson Extended Care Facility has established that its determination to discharge the Appellant is permissible, and that its discharge plan is appropriate.

1. The Appellant may be discharged on or after ██████████, 2025, in accordance with the Transfer/Discharge Notice dated ██████████ 2025, provided the Facility provides the treatment recommended by Dr. ██████████ in the interim.
2. This decision may be appealed to a court of competent jurisdiction pursuant to Article 78 of the New York Civil Practice Law and Rules.

DATED: June 2, 2025


Tina M. Champion
Administrative Law Judge

TO:


c/o A. Holly Patterson Extended Care Facility
875 Jerusalem Avenue
Uniondale, New York 11553

Andrea Rauchbauer, Social Worker
A. Holly Patterson Extended Care Facility
875 Jerusalem Avenue
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