

cc: Ms. Suzanne Caligiuri/Division of Quality & Surveillance 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

June 23, 2025

CERTIFIED MAIL/RETURN RECEIPT

Jennifer Singer, DSW
Smithtown Center for Rehabilitation
391 North Country Road
Smithtown, New York 11787

[REDACTED]
c/o Smithtown Center for Rehabilitation
391 North Country Road
Smithtown, New York 11787

Christine Boccafola, Ombudsman
Family Service League
1444 5th Avenue
Bay Shore, New York 11706

RE: In the Matter of [REDACTED] – Discharge Appeal

Dear Parties:

Enclosed please find the Stipulation and Order in the above referenced matter. The Order is final and binding.

Either party may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. A party that wishes to appeal this decision 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 Order.

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

**Smithtown Center for Rehabilitation
and Nursing Care**

Respondent,

to discharge her from a residential
health care facility.

COPY

**STIPULATION
AND
ORDER**

#DA25-6612

Hearing Before: Natalie J. Bordeaux
Administrative Law Judge

Held via: Webex videoconference

Hearing Date: June 20, 2025

Parties: Smithtown Center for Rehabilitation and Nursing Care
391 N. Country Road
Smithtown, New York 11787
By: Jennifer Singer, Director of Social Work

[REDACTED]
Pro se

Also Present: Christine Boccafola, Ombudsman
Family Service League
1444 5th Avenue
Bay Shore, New York 11706

JURISDICTION

Smithtown Center for Rehabilitation and Nursing Care, a residential health care facility subject to Article 28 of the New York Public Health Law, determined to discharge [REDACTED] (Appellant). The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 NYCRR § 415.3(i).

HEARING RECORD

Facility witnesses: Jennifer Singer, Director of Social Work

Facility exhibits:

- 1 – Social work progress note dated [REDACTED], 2025
- 2 – Discharge notice dated [REDACTED] 2025
- 3 – Brief Interview for Mental Status (BIMS) dated [REDACTED], 2025
- 4 – Physical therapy discharge summary
- 5 – Nursing progress note dated [REDACTED] 2025
- 6 – Medical orders for [REDACTED]
- 7 – Resident face sheet
- 8 – Occupational therapy discharge summary
- 9 – Social services progress note dated [REDACTED], 2025
- 10 – Progress note by Eoin O'Neill, NP, dated [REDACTED], 2025

Appellant witnesses: [REDACTED] Appellant

Appellant exhibits: None

The Notice of Hearing and accompanying cover letter were entered into the hearing record as ALJ Exhibit I. A digital recording of the hearing was made (38:23 in duration).

ISSUES

Has Smithtown Center for Rehabilitation and Nursing Care established that its determination to discharge the Appellant is authorized and that its discharge plan is appropriate?

FINDINGS OF FACT

1. The Appellant is a [REDACTED]-year-old female who was transferred from [REDACTED] Hospital to Smithtown Center for Rehabilitation and Nursing Care (Facility) on [REDACTED], 2023

for rehabilitation. She has been diagnosed with

(Exhibit 7.)

2. By notice dated 2025, the Facility advised the Appellant that she would be discharged on 2025 because the safety of individuals in the facility would be endangered; and the health of individuals in the facility would be endangered. The notice informed the Appellant that she would be discharged to her home in New York. (Exhibit 2.)

3. At the hearing, the Facility agreed to withdraw its discharge notice. This Stipulation and Order memorializes that agreement.

APPLICABLE LAW

A residential health care facility (also referred to in the regulations as a nursing home) is a facility which provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. Public Health Law §§ 2801(2)-(3); 10 NYCRR § 415.2(k).

Transfer and discharge rights of residential health care facility residents have been codified in Public Health Law § 2803-z and are set forth in Department regulations at 10 NYCRR § 415.3(i). The regulation states, in pertinent part:

(1) With regard to the transfer or discharge of residents, the facility shall:

(i) permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless such transfer or discharge is made in recognition of the resident's rights to receive considerate and respectful care, to receive necessary care and services, and to participate in the development of the comprehensive care plan and in recognition of the rights of other residents in the facility:

(a) the resident may be transferred only when the interdisciplinary care team, in consultation with the resident or the resident's designated representative, determines that:

(3) the safety of individuals in the facility is endangered; or

(4) the health of individuals in the facility is endangered.

When the facility determines that a resident's transfer or discharge is warranted because the safety or health of individuals in the facility is endangered, the documentation in the resident's clinical record to support this basis for transfer or discharge must be made by a physician. 10 NYCRR § 415.3(i)(1)(ii)(b); *see also* 42 CFR § 483.15(c)(2)(ii)(B).

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 residential health care facility must prove that the discharge was necessary and the discharge plan appropriate. 10 NYCRR § 415.3(i)(2)(iii)(b).

DISCUSSION

The Facility determined that the Appellant's discharge is necessary because the health and safety of individuals in the nursing home is endangered. (Exhibit 2.) The Appellant's record contains documentation from her interdisciplinary team regarding the discharge determination and proposed discharge plan, but it does not contain documentation made by her physician regarding the stated discharge bases, as required by 42 CFR § 483.15(c)(2)(ii)(B); 10 NYCRR §

415.3(i)(1)(ii)(b). (Exhibits 1-10.) Jennnifer Singer, the Facility's Director of Social Work, therefore, agreed to withdraw the ██████████, 2025 discharge notice.

STIPULATION AND ORDER

1. Pursuant to the parties' agreement, Smithtown Center for Rehabilitation and Nursing Care has withdrawn its ██████████ 2025 discharge notice.

2. Smithtown Center for Rehabilitation and Nursing Care is prohibited from discharging the Appellant pursuant to the ██████████, 2025 discharge notice.

3. In the event Smithtown Center for Rehabilitation and Nursing Care determines anew to discharge the Appellant for any reason, it must issue a new discharge notice.

Dated: June 20, 2025
Menands, New York



Natalie J. Bordeaux
Administrative Law Judge

To:

Jennifer Singer, Director of Social Work
Smithtown Center for Rehabilitation and Nursing Care
391 N. Country Road
Smithtown, New York 11787

██████████
c/o Smithtown Center for Rehabilitation and Nursing Care
391 N. Country Road
Smithtown, New York 11787

Christine Boccafola, Ombudsman
Family Service League
1444 5th Avenue
Bay Shore, New York 11706