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Department of Health

KATHY HOCHUL
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Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

July 22, 2025

CERTIFIED MAIL/RETURN RECEIPT

██████████
c/o Sapphire Nursing
at Meadow Hill
172 Meadow Hill Road
Newburgh, New York 12550

Nyoki Tate, LNHA
Sapphire Nursing
at Meadow Hill
172 Meadow Hill Road
Newburgh, New York 12550

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,

COPY

from a determination by

DECISION

Sapphire Nursing at Meadow Hill
Respondent,

to discharge him from a residential health care facility.

Hearing Before: Jean T. Carney
Administrative Law Judge

Held via: Cisco WebEx videoconference

Hearing Date: July 17, 2025

Parties: [REDACTED] Appellant, *Pro se*

[REDACTED]
Sapphire Nursing at Meadow Hill
By: Nyoki Tate, MHA, LNHA, Administrator
ntate@newburghcare.com

JURISDICTION

Saphire Nursing at Meadow Hill (Facility or Respondent), a residential care facility subject to Article 28 of the New York Public Health Law, determined to discharge [REDACTED] [REDACTED] (Appellant or Resident) from the Facility. The Appellant appealed the discharge determination to the New York State Department of Health (Department) pursuant to 10 NYCRR § 415.3(i).

HEARING RECORD

In support of its determination, the Facility presented documents (Exhibits 1-5 and 13¹); and the testimony of Ion Oltean, MD, Medical Director; Jean Kueneker, Certified Occupational Therapy Assistant; Londe Selmon-Givan, Rehabilitation Supervisor; Mary Martin, Assistant Director of Nursing (ADON); and Crystal Lusk, Director of Social Work. The Appellant testified in his own behalf. The Notice of Hearing with Discharge Notice and Resident's face sheet were admitted into evidence as ALJ I and ALJ II respectively. The hearing was digitally recorded and made part of the record.

ISSUES

Has the Facility established that the Appellant's discharge is necessary, and the discharge plan is appropriate?

FINDINGS OF FACTS

Citations in parentheses refer to the testimony of the witness ("T") at the hearing and exhibits ("Exh") found persuasive in arriving at a particular finding. An opportunity to be heard having been afforded the parties, and evidence having been duly considered, it is hereby found:

1. The Appellant is a [REDACTED]-year-old male who was initially admitted to the Facility on [REDACTED] 2023, and most recently was re-admitted on [REDACTED], 2025, for rehabilitation services after [REDACTED] surgery. (ALJ II).

¹ Exhibits 6-12 were marked for identification but not admitted into evidence.

2. By notice dated [REDACTED] 2025, the Facility determined to discharge the Appellant on the grounds that her health has improved sufficiently so she no longer needs the services provided by the facility. The proposed discharge location is to the [REDACTED], New York. (ALJ I; T Ms. Selmon-Givan).

3. The Appellant was discharged from physical therapy on [REDACTED], 2025, having reached his highest practical level. The Appellant ambulates [REDACTED] feet with a two-wheeled walker, he is not a risk for falls, and transfers independently. (Exh 3; T Ms. Selmon-Givan).

4. The Appellant was discharged from occupational therapy on [REDACTED], 2025, having reached his highest practical level. The Appellant is independent in his activities of daily living (ADLs), such as toileting, ambulating, feeding and dressing himself. He has no cognitive impairments, is alert and oriented to time, place, events, and is able to advocate for himself. (Exhs 2, and 13; T Dr. Oltean, and Ms. Kueneke).

5. The Appellant is medically stable and can be safely discharged to the community. He has no current needs for skilled nursing care, is capable of administering his medications, makes his own medical appointments, and transfers independently. (Exhs 1 and 5; T Dr. Oltean and ADON Martin).

6. The Facility began discharge planning with the Appellant in 2024. (Exhs 2 and 3; T Mr. Patterson and Appellant).

APPLICABLE LAW

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

Pursuant to 10 NYCRR § 415.3(i)(1)(i)(a), a resident may only be discharged when the interdisciplinary care team determines that:

- (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met after reasonable attempts at accommodation in the facility;
- (2) 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;
- (3) the safety of individuals in the facility is endangered; or
- (4) the health of individuals in the facility is endangered.

Additionally, 10 NYCRR § 415(i)(1)(ii) requires that the facility ensures complete documentation in the resident's clinical record when transferring or discharging a resident under the above circumstances. The documentation shall be made by:

- (a) the resident's physician and, as appropriate, interdisciplinary care team, when transfer or discharge is necessary under subclause (1) or (2) of clause (a) of subparagraph (i) of this paragraph; and
- (b) a physician when transfer or discharge is necessary due to the endangerment of the health of other individuals in the facility under subclause (3) of clause (a) of subparagraph (i) of this paragraph.

The burden is on the Facility to prove by substantial evidence that the discharge is necessary, and the plan is appropriate. (10 NYCRR § 415.3(i)(2)(ii); New York State Administrative Procedure Act [SAPA] § 306[1]). Substantial evidence means such relevant proof as a reasonable mind may accept as adequate to support conclusion or fact; less than preponderance of evidence, but more than mere surmise, conjecture or speculation and constituting a rational basis for decision. (*Stoker v. Tarantino*, 101 A.D.2d 651, 475 N.Y.S.2d 562 [3rd Dept. 1984], *appeal dismissed* 63 N.Y.2d 649[1984]).

DISCUSSION

The Facility has met its burden of showing that the discharge is necessary, and the discharge plan is appropriate. A discharge plan must "[address] the medical needs of the resident and how these will be met after discharge." (10 NYCRR § 415.3[i][1][vi]). The evidence establishes that the Appellant's medical needs can be met in the community, and he no longer needs the services provided in the Facility. The Occupational Therapist's testimony establishes that the Appellant is independent in his ADLs and IADLs. The Physical Therapy Supervisor testified that the Appellant is independent in transfers, and ambulates with a rolling walker. His gait pattern is stable over level and uneven surfaces. The ADON testified that the Appellant can manage his medications independently, he makes his own appointments, and advocates for himself. Dr. Arora testified that the Appellant is medically stable and can manage his needs in the community. The Facility presented documentation from the Appellant's clinical record corroborating the treatment team's testimony that the Appellant's health has improved sufficiently so that he no longer needs the services provided by the Facility.

The Facility has also met its burden in demonstrating that the discharge location is appropriate. The Facility applied to several Assisted Living Facilities (ALFs) in the local geographic area; but the Appellant was either found not appropriate due to his age, or he declined the placement. The Appellant testified that he does not have any family members living in this area. He does not want to impose on his children, and his friends' residences are not appropriate discharge locations. Having explored all other options, discharging the Appellant to the Department of Social Services is the only available alternative.

The Appellant maintains that he is not ready to be discharged, citing pain in his [REDACTED], and asserts he will need surgery on his [REDACTED] as well. He testified that he fell approximately [REDACTED] months ago, and claims that he occasionally

needs assistance getting out of bed or getting dressed. The evidence does not support these claims.

The evidence establishes that the Appellant was discharged from rehabilitation services, is medically stable, and has no skilled nursing needs. The evidence also establishes that the Facility has worked with the Appellant to explore other discharge locations; but at this time, discharge to the Department of Social Services is the only available option.

ORDER

Sapphire Nursing at Meadow Hill has established that its determination to discharge the Appellant is necessary, and that the discharge location is appropriate.

1. The Facility is authorized to discharge the Appellant as provided in the Discharge Notice dated [REDACTED], 2025.
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: July 22, 2025
Albany, New York


JEAN T. CARNEY
Administrative Law Judge

TO: Nyoki Tate, Administrator
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