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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

July 22, 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

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

COPY

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

DECISION

[REDACTED]

Appellant,

from a determination by

A. HOLLY PATTERSON EXTENDED CARE FACILITY,

Respondent,

to discharge her from a residential health care facility.

Before: Tina M. Champion
Administrative Law Judge

Date: July 16, 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

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 – Physician Progress Report
4 – Social Work Notes
5 – Physical Therapy Screen

Facility Witnesses: Andrea Rauchbauer, Social Worker
Javida Rizvon, MD, Medical Director
Bill Schade, Director of Physical Therapy
Karleen Volcy, RN Supervisor

Appellant Exhibits: None

Appellant Witnesses: [REDACTED] Appellant

ALJ Exhibits: 1 – Letter with Notice of Hearing and Transfer/Discharge Notice

A digital recording of the hearing was made. (50:51 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 female who was initially admitted to the Facility on [REDACTED] 2022, for rehabilitation following hospitalization. (Exhibit [Ex.] 1.)

2. The Appellant ambulates with a rolling walker and is unable to navigate stairs. (Exs. 3, 5; Testimony [T.] Schade, [REDACTED])
3. The Appellant is independent in all activities of daily living. (Exs. 3, 5; T. Rauchbauer, Rizvon, Schade, Volcy.)
4. The Appellant is capable of managing her own medication. (Ex. 2; T. Volcy.)
5. The Appellant has no skilled nursing needs and has been determined medically stable for discharge by her unit physician at the Facility. (Exs. 3, 5; T. Rauchbauer, Rizvon, Schade, Volcy.)
6. On [REDACTED] 2025, the Facility issued a Transfer/Discharge Notice to the Appellant which proposes discharge to the Department of Social Services in Uniondale, New York, for placement in a shelter. (ALJ Ex. I.)
7. The Transfer/Discharge Notice states that the Appellant will be discharged on [REDACTED] 2025, because her health has improved sufficiently so that she no longer needs the services provided by the Facility. (ALJ Ex. I.)
8. The Appellant timely appealed the Facility's discharge determination.
9. 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 shelter on [REDACTED], 2025, on the grounds that her health has improved and that she no longer needs skilled nursing services.

Andrea Rauchbauer, the Appellant's current social worker at the Facility, testified that the Appellant has no skilled nursing needs, is independent with her activities of daily living, and has been cleared by a physician for discharge. Ms. Rauchbauer testified that she has been the Appellant's social worker for over a year and that she has worked to secure lower-level care housing for the Appellant, as have three prior social workers assigned to the Appellant since 2022. Ms. Rauchbauer testified that the Appellant has repeatedly refused other living arrangements that have been offered because she does not want to share living space with another individual, describing the Appellant's actions as sabotaging all avenues. Ms. Rauchbauer testified that the Department of Social Services in [REDACTED] requests referrals for placement not more than 48

hours before discharge and that she will note on the referral the need for the Appellant to be placed in a setting accessible without stairs. Ms. Rauchbauer testified that she has never had an issue with that Department of Social Services not accommodating specific requirements of a to-be-discharged resident (i.e., handicap accessibility, refrigeration requirements for medication, etc.), but that the Facility will nonetheless only discharge the Appellant to the Department of Social Services if the referral is accepted.

Javida Rizvon, MD, testified that the Appellant does not need to be at the Facility. She elaborated that the Appellant is independent in her activities of daily living and is able to go to appointments in the community on her own. Dr. Rizvon testified that the Appellant is able to make her own decisions.

Karleen Volcy, RN Supervisor, testified that the Appellant handles all her needs on her own and is independent in her activities of daily living. She elaborated that the Appellant showers herself, feeds herself, transfers by herself, and uses a rolling walker to ambulate by herself. Ms. Volcy testified that the Appellant has no wounds or other skilled nursing needs, and that she is capable of managing her medications on her own.

Bill Schade, Director of Physical Therapy, testified that the Appellant is able to transfer and to walk on her own with a rolling walker. He described the Appellant as self-directed and self-motivated, noting that she plans out her own day. Mr. Schade testified that he has observed the Appellant on many occasions and that she is independent with mobility.

The Appellant testified on her own behalf. She maintains that she is not ready for discharge from the Facility. The Appellant cited to aches and pains including numerous [REDACTED] complaints and a [REDACTED] causing pain in her [REDACTED] and hindering mobility on the [REDACTED] of her body as reasons that she should stay at the Facility. The Appellant testified that she should be allowed to stay until she receives the results of [REDACTED] testing performed by a

community physician on [REDACTED] 2025, and has various [REDACTED] issues treated by community physicians. The Appellant testified that she suffers from [REDACTED] that makes it difficult for her to be housed with another person, and states that she has declined placement in lower-level care settings and/or the community for this reason. She also testified that she is currently getting assistance from an ombudsman with locating solo housing.

The totality of evidence supports that the Appellant has no skilled nursing needs, is independent with all activities of daily living, and is medically stable for discharge to the community. The Appellant is able to follow-up with and receive any necessary medical care for her ongoing ailments with her physicians in the community post discharge from the Facility. 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). The Facility has also shown that Department of Social Services housing is the only viable discharge option for the Appellant, and that it is safe and appropriate, provided it is accessible to the Appellant without the use of stairs. While the Appellant's preference to live in a solo setting without a roommate or housemate is understandable, particularly in light of her [REDACTED], there is no medical evidence indicating that a shared living arrangement is not safe or appropriate for the Appellant.

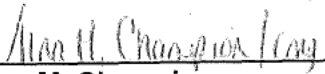
DECISION

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 [REDACTED] 2025, in accordance with the Transfer/Discharge Notice dated [REDACTED] 2025, provided that the Facility's forthcoming referral to the Department of Social Services in [REDACTED] identifies that placement without stairs is required and said referral is accepted by the Department of Social Services in [REDACTED]

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


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
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