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Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

September 3, 2025

CERTIFIED MAIL/RETURN RECEIPT

Bridget Gallo
Sunharbor Manor Nursing Home
255 Warner Avenue
Roslyn Heights, New York 11577

[REDACTED]
c/o Sunharbor Manor Nursing Home
255 Warner Avenue – Room [REDACTED]
Roslyn Heights, New York 11577

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

Sunharbor Manor Nursing Home
Respondent,

to discharge her from a residential
health care facility.

COPY

DECISION
AFTER
HEARING

#DA25-6639

Hearing before: Shelby L. Foster
Administrative Law Judge

Held via: Webex Videoconference

Hearing Date: September 2, 2025

Parties: Sunharbor Manor Nursing Home
255 Warner Avenue
Roslyn Heights, New York 11577
By: Bridget Gallo

██████████
c/o Sunharbor Manor Nursing Home
255 Warner Avenue – Room ████████
Roslyn Heights, New York 11577
By: pro se

JURISDICTION

By notice dated ██████████ 2025, Sunharbor Manor Nursing Home (Respondent), a residential health care facility subject to Article 28 of the New York Public Health Law (PHL), determined to discharge ██████████ (Appellant) from care and treatment in its facility. The Appellant appealed the determination to the New York State Department of Health (Department) pursuant to 10 New York Codes, Rules, and Regulations (NYCRR) § 415.3(i).

The hearing was conducted pursuant to 10 NYCRR 415.3(i). Evidence was received and witnesses were examined.

HEARING RECORD

ALJ Exhibits: I – Notice of Hearing and Notice of Discharge or Transfer

Respondent's Witnesses: Sheryl Molina, Director of Rehabilitation
Alyssa Noriega, Case Manager
Alireza Shirvani, MD, Attending Physician

Respondent's Exhibits: 1 – Face Sheet
2 – BIMS Assessment
3 – Health Care Proxy
4 – Social Work Note – Discharge Planning
5 – Discharge Notice
6 – Social Work Note – Location
7 – Notice of Denial
8 – Therapy Progress Notes
9 – Social Work Note – Discharge Agreement
10 – Therapy Review
11 – Social Work Review
12 – Medical Review

Appellant's Witnesses: ██████████ Appellant

Appellant's Exhibits: None

A digital recording of the hearing was made. (35:57 in duration.)

ISSUES

Has the Respondent 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 admitted to the Respondent facility for short-term rehabilitation on [REDACTED], 2025, with a diagnosis of [REDACTED]. (Exhibits [Exs.] 1, 12; Testimony [T.] Shirvani.)
2. The Appellant also presented with [REDACTED] which had been a recurring issue for the Appellant. (Ex. 10; T. Molina.)
3. The Appellant has met all established short-term and long-term goals but continues to receive physical therapy (PT) and occupational therapy (OT) until discharge to maintain progress. (Ex. 10; T. Molina.)
4. The Appellant has a BIMS score of [REDACTED] out of 15. She is fully independent in her ADLs and can ambulate over [REDACTED] feet with a rollator. (Exs. 2, 4, 10, 12; T. Molina.)
5. By notice dated [REDACTED], 2025, the Respondent advised the Appellant of its determination to discharge her on [REDACTED] 2025, on the grounds that the resident's health has improved sufficiently so that the resident no longer needs the services of the facility. (ALJ Ex. 1; Ex. 5.)

6. The discharge notice advised the Appellant that she would be discharged to her residence located at ██████████ New York ██████████ (ALJ Ex. I; Ex. 5.)

7. The Appellant signed the discharge notice on ██████████ 2025, agreeing to be discharged on ██████████ 2025. (ALJ Ex. I; Exs. 4, 5, 12.)

8. The Appellant timely appealed the Respondent's discharge determination and proposed discharge location.

9. The Appellant remains at the Respondent facility pending the outcome of this hearing.

APPLICABLE LAW

A residential health care facility, or nursing home, is a residential facility providing nursing care to sick, invalid, infirm, disabled, or convalescent persons who need regular nursing services or other professional services but who do not need the services of a general hospital. PHL §§ 2801(2), (3); 10 NYCRR 415.2(k).

Transfer and discharge rights of nursing home residents are set forth at 10 NYCRR 415.3(i), which provides, 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:

- ...
 - (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

When the facility transfers or discharges a resident because the resident's health has improved sufficiently that the resident no longer needs the services provided by the facility, the facility shall ensure that the resident's clinical record contains complete documentation made by the resident's physician and, as appropriate, the resident's interdisciplinary care team. 10 NYCRR § 415.3(i)(1)(ii)(a).

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 Respondent has the burden of proving that the discharge or transfer is necessary and that the discharge plan is appropriate. 18 NYCRR 415.3(i)(2)(iii)(b).

DISCUSSION

The Appellant is a [REDACTED]-year-old female admitted for short-term rehabilitation on [REDACTED] 2025, with a diagnosis of [REDACTED]. She also presented with [REDACTED] [REDACTED] [REDACTED], which had been an intermittent, long-standing issue for the Appellant. While at the facility, she received medication management and restorative PT and OT. (T. Shirvani, Molina.)

Cheryl Molina, Respondent's Director of Rehabilitation, testified that the Appellant has met all of the established PT and OT short-term and long-term goals, but continues to receive therapy while she remains at the facility, for maintenance until discharge.

Alyssa Noriega, Case Manager and Respondent's Discharge Planner, testified that the Appellant no longer requires the services of a skilled nursing facility. Alireza Shirvani, MD, Attending Physician, testified that the Appellant is medically stable for discharge and can continue her care on an outpatient basis in the community. (Ex. 12.)

Ms. Noriega testified about an interdisciplinary discharge meeting with the Appellant on [REDACTED], 2025. The Appellant agreed to be discharged and signed the discharge notice. (ALJ Ex. 1, Ex. 5.) Later that day, the Respondent received notice that the Appellant had appealed the discharge notice. When Ms. Noriega met with her to discuss the appeal request, the Appellant stated she "filed the appeal because she likes it here and wants to walk further distance." When asked why she didn't raise this during the discharge meeting, the Appellant replied, "I like it here." The Appellant later raised concerns about returning home as repairs

needed to be made in the basement; however, she does not reside in the basement. (Ex. 11.)

Social Worker, Amy Gonzalez, met with the Appellant on ██████████, 2025, to discuss returning to her residence. The Appellant reported that her residence is safe for discharge, and her previous concerns regarding repairs in the basement had been resolved. She again agreed to be discharged. (Ex. 9.)

The Appellant testified that she requested this appeal because she still needed help with ██████████ problems, and she wanted to ensure she was "completely OK" before discharge. However, she also testified that she has scheduled appointments with ██████████ and pain management providers in the community, and more than once stated that she is "OK." The record shows that the Appellant agrees with the discharge, and her concerns regarding her ██████████ do not require continued placement at the Respondent facility.

The Respondent has established that its determination to discharge the Appellant is necessary and that discharging the Appellant to her residence is an appropriate discharge plan.

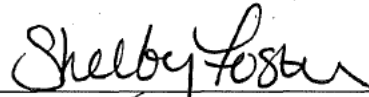
DECISION

Sunharbor Manor Nursing Home has established that the Appellant's discharge plan is appropriate.

1. Sunharbor Manor Nursing Home is authorized to discharge the Appellant pursuant to the Notice of Discharge dated ██████████ 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: Menands, New York
September 3, 2025



Shelby L. Foster
Administrative Law Judge

To: Bridget Gallo
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Roslyn Heights, New York 11577
Email: BGallo@sunharbormanor.com

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