

cc: Ms. Suzanne Caligiuri/Division of Quality & Surveillance by scan  
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# Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Commissioner

**JOHANNE E. MORNE, M.S.**  
Acting Executive Deputy Commissioner

November 22, 2023

**CERTIFIED MAIL/RETURN RECEIPT**

██████████ ██████████  
c/o Dr. Susan Smith McKinney Nursing  
and Rehabilitation  
594 Albany Avenue  
Brooklyn, New York 11203

Briyana Henry, LMSW  
Dr. Susan Smith McKinney Nursing  
and Rehabilitation  
594 Albany Avenue  
Brooklyn, New York 11203

**RE: In the Matter of ██████████ ██████████ – 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: cmg  
Enclosure

COPY

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

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

██████████

Appellant,

STIPULATION & ORDER

from a determination by

Dr. Susan Smith McKinney Nursing and Rehabilitation,

Respondent,

to discharge them from a residential  
health care facility.

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Hearing Before: Kimberly A. O'Brien  
Administrative Law Judge (ALJ)

Hearing Date: November 21, 2023  
By WebEx Videoconference

Parties: Dr. Susan Smith McKinney Nursing and Rehabilitation  
594 Albany Avenue  
Brooklyn, New York  
By: Briyana Henry, LMSW  
[henryb4@nychhc.org](mailto:henryb4@nychhc.org)

██████████

Dr. Susan Smith McKinney Nursing and Rehabilitation

████████████████████

██████████

Dr. Susan Smith McKinney Nursing and Rehabilitation (Respondent or facility), a residential health care facility subject to Article 28 of the Public Health Law (PHL), determined to discharge ██████████ ██████████ (Appellant) from care and treatment in its nursing home. Pursuant to 10 NYCRR 415.3, the Appellant appealed the discharge determination to the New York State Department of Health. The Appellant, age ██████████ was admitted to the facility for short term rehabilitation after hospitalization. By notice dated ██████████, 2023, Respondent advised the Appellant that it had determined to discharge them on the grounds that their health has improved sufficiently that they no longer need the services provided by the facility, and that they were accepted by and would be discharged to the ██████████ Shelter, ██████████ ██████████ ██████████ (shelter). (ALJ Exhibit 1.)<sup>1</sup>

The Appellant and Briyana Henry, LMSW<sup>2</sup> were sworn and agreed to the stipulation and settlement terms herein, and a recording was made, 6 minutes and 13 seconds.

1. The Appellant has withdrawn their discharge appeal and agrees that they no longer require the services the facility provides.
2. Respondent agrees to allow the Appellant to remain at the facility until ██████████, 2023.

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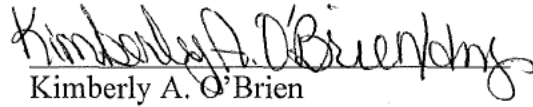
<sup>1</sup> The notice of hearing and the discharge notice are incorporated by reference and made part of this Stipulation & Order and marked as ALJ Exhibit 1.

<sup>2</sup> Ms. Henry affirmed that she is authorized by the Respondent to agree to the stipulation and settlement terms herein.

3. The Appellant has an appointment with a [REDACTED] on [REDACTED] 2023. If the [REDACTED] determines that the Appellant's stay should be extended the Respondent will allow the Appellant to remain at the facility for the recommended period.
4. If the [REDACTED] does not recommend an extended stay, the facility will discharge the Appellant to the shelter on or after [REDACTED], 2023. Upon discharge the facility will make a follow-up appointment for the Appellant with a primary care physician in the community, provide the Appellant with their medications and prescriptions, and schedule transportation to the shelter.

The above stipulation and settlement terms as agreed are SO ORDERED.

Dated: Albany, New York  
November 22, 2023

  
Kimberly A. O'Brien  
Administrative Law Judge  
Bureau of Adjudication