

cc: Ms. Suzanne Caligiuri/Division of Quality & Surveillance by scan
SAPA File
BOA by scan



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

November 8, 2022

CERTIFIED MAIL/RETURN RECEIPT

██████████ ██████████
c/o New York Presbyterian Hospital
Columbia Campus
622 West 168th Street
New York, New York 10032

Catherine Delisi, SW
New York Presbyterian Hospital
Columbia Campus
622 West 168th Street
New York, New York 10032

Reuben Barkhordar, NHA
New Riverdale Rehabilitation and Nursing
641 West 230th Street
Bronx, New York 10463

RE: In the Matter of ██████████ ██████████ – Discharge Appeal

Dear Parties:

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

The party who did not 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 Order 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 the Order.

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

New Riverdale Rehabilitation and Nursing

to discharge him from a residential health care facility.

COPY

ORDER

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

Held at: Videoconference via WebEx

Date: November 8, 2022

Parties: ██████████
New Riverdale Rehabilitation and Nursing
641 West 230th Street
Bronx, New York 10463
By: Pro Se
Support Provided by Catherine Delisi, LCSW
New York Presbyterian Hospital
Columbia Campus

New Riverdale Rehabilitation and Nursing
641 West 230th Street
Bronx, New York 10463
By: Mr. Osu, Assistant Director of Nursing (ADON)

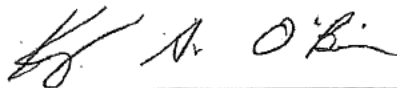
New Riverdale Rehabilitation and Nursing (facility) is a residential health care facility, also referred to in the New York State Department of Health (Department) Rules and Regulations as a nursing home, which provides regular nursing, medical, rehabilitative, and professional services to residents who do not require hospitalization. (New York Public Health Law (PHL) § 2801[2][3]; 10 New York Codes Rules, and Regulations (NYCRR) 415.2[k]).

On [REDACTED], 2022 the facility determined that it would not readmit [REDACTED] (resident) to the facility when he returned from an approved out on pass. The facility provides the resident with, among other things [REDACTED], [REDACTED] medication and wound care (services). When the resident could not get these services from the facility, he went to New York Presbyterian Hospital (hospital). The resident has been receiving services at the hospital because the facility refused to readmit him. The hospital contacted the facility to arrange for the resident's return and the facility again refused to readmit him. The resident appealed the discharge determination to the Department pursuant to 10 NYCRR 415.3(i).

A notice of hearing was issued scheduling the hearing for November 8, 2022, at 10:00 am, via Webex. 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. Rueben Barkhodar, Nursing Home Administrator, the designated representative of the facility failed to appear at the hearing and, upon information and belief, delegated his responsibility to the ADON.

The facility has not issued a discharge notice and has no proposed discharge plan, and therefore there is no basis to move forward to a hearing. (10 NYCRR 415.3). The facility is *ORDERED* to accept the resident back into the facility today November 8, 2022.

DATED: Menands, New York
November 8, 2022



Kimberly A. O'Brien
Administrative Law Judge