

Administrative Hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. § 42-35-1 et. seq. and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issue is whether there is sufficient evidence and compliance with the rules and regulations, to permit the involuntary discharge of the Appellant.

IV. PARTIES AND EXHIBITS

██████████, Administrator, and ██████████, Substance Abuse Counselor, attended the hearing and provided testimony on behalf of the Facility. The Facility offered the following into evidence.

- Exhibit #1 - 30-day Notice.
- Exhibit #2 - Signed document entitled Smoking Rules and Safety Agreement.
- Exhibit #3 - Signed document entitled No Harm Agreement.
- Exhibit #4 - Smoking Violation Communication sheets dated February 11, 2026, and March 3, 2026.
- Exhibit #5 - Nurses/Progress Notes.
- Exhibit #6 – Admissions record.

Beth Mantia, Long-Term Care Ombudsman, and ██████████, Appellant, appeared and provided testimony. The Appellant provided the following into evidence:

- Exhibit #1 - Regulation 210-RICR-50-00-71 Requirements for Safe Discharge.

V. RELEVANT LAW/REGULATIONS

Under 210-RICR-50-00-7, there is a set of requirements, both procedural and substantive, an institution, such as a nursing home or an assisted living facility, must take to involuntarily discharge a patient. This process is not limited to Medicaid patients.

210-RICR-50-00-7.6 specifically lays out the notice requirements to involuntarily discharge someone from a nursing home. These include:

1. Written notice being given to the patient (and, if known, a patient representative)

The notice must:

- a. Be in a language and manner the patient understands.
 - b. List the reason for the transfer/discharge.
 - c. List the effective date of the transfer/discharge.
 - d. List the location the patient is being transferred/discharged to.
 - e. Contain a statement of the patient's appeals rights including the name, mailing address, email address, and telephone number of the entity that receives such appeals.
 - f. Contain information on how to obtain the appeal form and on how to get assistance in completing the appeal if needed.
 - g. Contain the name, mailing address, email, and telephone number of the Office of the State Long-Term Care Ombudsman.
 - h. Be provided at least 30 days in advance of the transfer, except in certain cases.
2. Notification of the pending discharge must be provided to the Office of the State Long-Term Care Ombudsman. The Ombudsman is part of and operates out of the Alliance for a Better Long-Term Care.
 3. The patient also needs to receive a notice of appeal rights at the time of the discharge notice.

Finally, there is a requirement for the discharge to be a safe one. Federally, 42 C.F.R. 483.15(c)(7) requires the facility to provide (and document) sufficient preparation and orientation to the residents to ensure a safe and orderly transfer or discharge from the facility. This orientation must be provided in a form and manner that the resident can understand.

VI. FINDINGS OF FACT

1. The Appellant has been a resident of the Facility since September 29, 2025.
2. A Pre-Transfer or Pre-Discharge 30-day Notice was issued by the Facility to the Appellant on March 11, 2026. It stated the reason for discharge was that the health and/or safety of other individuals in the facility is endangered.
3. The Facility maintains that the Appellant had three or more violations of the Facility's smoking policy, specifically, the Appellant was smoking marijuana at the facility when such activity is not permitted. The Facility stated because he violated the smoking policy, a 30-day discharge notice was issued because he continues to have smoking material that is required to be secured, and his access to items such as lighters and marijuana presents a danger to himself and others.
4. The Appellant filed a timely appeal, received in the EOHHS Appeals Office on March 25, 2026.
5. The Facility permits smoking under certain conditions. The Appellant was made aware of the smoking policy, including that marijuana was not permitted on the property, and that cigarettes, lighters, and other smoking materials would be stored in a locked area by the staff and made available only during designated smoking times.
6. On February 4, 2026, the Appellant signed the Facility's No Harm Agreement agreeing to no illicit substance use, marijuana use, or smoking in the building. The

Appellant also agreed to the Facility's implementation of safety measures to prevent any harm to himself or any other residents. The agreement further stated that if he failed to abide by the terms of the No Harm Agreement it could result in the Administrator issuing a 30-day discharge notice.

7. A copy of the Smoking Rules and Safety Agreement, signed by the Appellant and submitted by the Facility clearly states that any violation of the Smoking Policy will result in confiscation of all smoking materials, room searches, temporary or permanent suspension of smoking privileges, and/or transfer or discharge from the facility.
8. According to the Summit Commons Smoking Violation Communication sheets, the Appellant received a violation on February 11, 2026, for having a lighter and refusing to hand it in to the smoking attendant. His second violation was on March 3, 2026, when he was found with cigarettes and a lighter in his possession.
9. According to a nurse's note dated March 4, 2026, a physician issued an order following the March 3, 2026, incident, directing nursing staff to search the Appellant's room. The police were notified and present. The search subsequently resulted in the discovery and confiscation of marijuana, cigarettes and lighters.
10. The 30-day Notice also identifies Crossroads as the discharge location. The Facility testified that they attempted to find other discharge locations but due to the Appellant not having any income they are having difficulty finding a bed for him. The Facility further testified they are helping the Appellant to file for social security benefits, which could provide an income source for the Appellant.

11. Ombudsman Mantia argues that discharge to a shelter is not appropriate or safe as the Appellant is a diabetic. Ombudsman Mantia further argues that the Appellant has a foot lesion requiring daily dressing changes and until his Social Security benefits are approved and he is adequately trained to perform his own wound care, discharging the Appellant to Crossroad would not be a safe discharge.

VII. DISCUSSION

Facilities are allowed to involuntarily discharge residents when the residents' continued presence in the facility endangers the safety of other individuals in the facility. Prior to the transfer/discharge, the Facility must provide the resident with a formal written notice of intent to transfer/discharge; provide a copy of that notice to the Office of the State Long Term Care Ombudsman; and have the reasons for the transfer/discharge documented in the resident's medical record by a physician.

A review of the record of hearing finds that a Pre-Transfer/Pre-Discharge 30 Day Notice was given to the Appellant on March 11, 2026. The Notice informed the Appellant that he would be discharged due to the endangerment of the health and/or safety of other individuals in the Facility. The Notice was dated and signed by a physician on March 11, 2026, with a brief explanation for the discharge which the Facility stated that the Appellant had three or more violations of the Facility's smoking policy. Although the Facility permits smoking in a designated area on its property, the Facility maintains that the Appellant's continued failure to comply with the smoking policy warrants discharge. The Facility further asserts that the Appellant violated their smoking policy on multiple occasions by failing to secure his smoking material with staff and by being in possession of marijuana, which is prohibited. The Appellant does not dispute that he was in possession of marijuana, cigarettes and lighters at the time his

room was searched. In fact, he admitted on the record of hearing that he was fully aware of the smoking policy and acknowledged that having the smoking material was a violation of the Facility's policy. The Appellant argues, however, that the discharge should not be allowed because he was not smoking when the smoking materials were found.

While Ombudsman Mantia argued that any such discharge to a shelter is not appropriate and/or safe, the Appellant's only specific medical needs are that he is diabetic, and he has a lesion on his foot that requires daily wound care.

In summary, the Appellant's non-compliance, specifically his refusal and/or failure to abide by the Facility's rules and policies related to smoking, endanger the safety of others in the Facility. Despite the Facility's multiple attempts to inform and instruct the Appellant as to the Facility's rules and policies, the evidence established that the Appellant had marijuana in his possession when it was not permitted, and continued to store smoking paraphernalia in his room, when the Facility's policy required it to be in a locked box.

VIII. CONCLUSION OF LAW

As to the Facility's issuance of the Pre-Discharge Notice, the intended involuntary discharge of the Appellant from the Facility for endangering the safety of other residents is supported by the evidence and allowed per State and Federal regulations. The Appellant was given adequate, proper, and timely notice of the intended discharge in accordance with State and Federal regulations by means of the Pre-Discharge Notice. Furthermore, the Facility has taken appropriate steps to ensure a safe discharge.

IX. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, and testimony it is found that a final order be entered that the regulatory criteria for involuntary discharge from a Nursing Facility has been met. The Appellant's request to nullify the 30-Day Notice is denied.

APPEAL DENIED

/s/ Vermont Richardson
Appeals Officer

NOTICE OF APPELLATE RIGHTS

This decision is a final order under R.I.G.L. § 42-35-12. Under R.I.G.L. § 42-35-15, this Order may be appealed to court within thirty (30) days of the mailing of this decision. Such appeal, if taken, must be completed by filing a complaint in court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of eighteen (18) and/or appeals of a DCYF action may need to be filed in Providence Family Court. If you have any questions about which court a complaint for appeal should be made, you should seek the advice of an attorney, Rhode Island Legal Services, or the clerk of the court where you wish to file your appeal. The courts' contact information can be found on the judiciary's website (<https://www.courts.ri.gov>). Copies of the appeal must be served upon all parties in your case within ten (10) days of the filing of your appeal.

If you exercise any of these appellate rights, please inform the EOHHS appeals office of this so we can prepare a copy of the record for the court. You can contact the Appeals Office at

OHHS.AppealsOffice@ohhs.ri.gov, 401.462.2132 (Phone), 401.462.0458 (Fax), or at 3 West Road, Virks Building, Cranston, RI 02920.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]

[REDACTED]

and Beth Mantia, Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, copies were sent, via email, to Beth Mantia at beth@alliancebltc.org and to [REDACTED]

[REDACTED] on the 23rd day of April, 2026.


