

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE

[REDACTED]

v.

DOCKET No. 26-4771

[REDACTED]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was held on August 13, 2026, and the Appellant did not elect the option for a video hearing. [REDACTED] (Appellant) initiated this matter to appeal a decision made by [REDACTED] to transfer/discharge him to Fatima hospital for a non-medical reason, on July 29, 2026. The Appellant is looking to return to the Nursing Facility upon his discharge from the hospital. For the reasons discussed in detail below, the Appellant's appeal is denied.

II. JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. § 42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 § 2.4.8 to be the entity responsible for appeals and hearings related to involuntary transfers or discharges of all residents of Nursing Facilities, regardless of whether or not they are Medicaid recipients. The

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 on Appeal 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

██████████, Director of Nursing, and ██████████, Administrator, attended the hearing and provided testimony on behalf of the Facility. The Facility offered the following into evidence:

- Exhibit #1: Summary of events written by the facility's Administer.
- Exhibit #2: Nursing Notes from ██████████.
- Exhibit #3: Appellant's criminal record from ██████████
- Exhibit #4: Continuity of Care Acute Care Transfer form.
- Exhibit #5: Transfer/ Discharge report from ██████████.
- Exhibit #6: ██████████ Order Summary Report.

The Appellant, ██████████, did not attend the hearing. Beth Mantia, Long-Term Care Ombudsman and his sister ██████████ appeared and provided testimony on behalf of the Appellant. The Appellant provided the following into evidence:

- Exhibit #1: Regulation 210-RICR-50-00-7.4 Discharge Criteria.

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.

Furthermore, 210-RICR-50-00-7.6 lays out several procedural requirements to discharge someone from a nursing home involuntarily. These include:

A. Before transferring or discharging a resident, a long-term care facility must notify the resident (and, if known, a resident representative) of the transfer or discharge and of the reasons for the discharge in a language and manner they understand. The long-term care facility must also notify the Office of the State Long-Term Care Ombudsman.

B. The written notice must include the following:

1. The reason for transfer or discharge;
2. The effective date of transfer or discharge;
3. The location to which the resident is transferred or discharged;
4. A statement of the residents' appeal rights, including the name, address (mailing and email), and telephone number of the entity that receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request;
5. The name, address (mailing and email) and telephone number of the Office of the State Long-Term Care Ombudsman;
6. For nursing facility residents with intellectual and developmental disabilities or related disabilities, the mailing and email address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities; and
7. For nursing facility residents with a mental disorder or related disabilities, the mailing and email address and telephone number of the agency responsible for

the protection and advocacy of individuals with a mental disorder.

- C. In most circumstances, the long-term care facility must notify the resident at least thirty (30) days in advance of the resident's transfer or discharge.
- D. At the time the resident receives the discharge notice, s/he must receive a notice of appeal rights.
- E. Thirty (30) days advance notice is not required under the following circumstances:
 - 1. In the event of danger to the safety or health of the individuals in the long-term Care facility;
 - 2. When the residents health improves sufficiently to allow a more immediate transfer or discharge;
 - 3. Where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs;
 - 4. When the resident has not resided in the long-term care facility for a period of at least thirty (30) days.
 - 5. In the case of such exceptions (as above), notice must be given as many days before the date of the move as is practicable, and include all of the information set forth in § 7.6(B) of this Part.

VI. FINDINGS OF FACT

- 1. The Appellant was initially a resident at [REDACTED] from May 20, 2025, through January 23, 2026.
- 2. On January 23, 2026, [REDACTED] was closed due to a facility wide evacuation order issued by the Rhode Island Department of Health and Fire Marshal.
- 3. From January 23, 2026, through July 13, 2026, the Appellant was a resident of

██████████, an ██████████ sister facility.

4. On February 1, 2026, ██████████ was purchased and ownership was transferred to ██████████.
5. ██████████ reopened and began to readmit the former residents who had been displaced during the closure. The facility, under new management, began to conduct detailed chart reviews and audits to ensure all required documentation had been received and appropriately completed.
6. During the review of the Appellant's file, the facility became aware of concerns related to the Appellant's documented sexually inappropriate behaviors, which include touching his genitals in public spaces and making sexual comments that made staff and residents feel uncomfortable while at ██████████. As part of the facility's review process the facility completed a sex offender registry check. The Appellant was identified as a registered sex offender in the state of ██████████ and was listed on the national registry. Law enforcement was contacted regarding the finding.
7. According to the facility on July 29, 2026, they consulted with their Medical Director and interdisciplinary team due to the criminal findings, reported sexual behaviors while he was at ██████████, and concern regarding whether the facility could provide the Appellant with adequate and appropriate care. Subsequently, he was transported to Fatima Hospital. It is unclear why Fatima Hospital would have admitted the Appellant if his admission was not medically indicated.
8. The Appellant filed an emergency appeal, received in the EOHHS Appeals Office on August 4, 2026.
9. Ombudsman Mantia testified that discharge to a hospital for a non-medical reason is

not appropriate and that the Appellant should have been issued a 30-Day Notice.

The Ombudsman argues that the Appellant has no reported issues at the facility that would warrant the transfer or discharge.

VII. DISCUSSION

The Facility testified that subsequent to the Appellant's admission, they discovered that he had a criminal record due to a conviction for a sex crime, and because of that, they felt it necessary to discharge him for the safety of their other residents. Furthermore, the Facility testified that due to staffing issues they were unable to meet his need for 1:1 care by a male staff, which he required and received at [REDACTED]. The Facility asserts that the Appellant was verbally made aware of why he was being discharged and that several attempts were made to find him somewhere to go. Due to the unsuccessful attempts to find him placement, and with the guidance of their Medical Director and interdisciplinary team, a decision was made to transfer the Appellant to Fatima hospital. Ombudsman Mantia argued that any such discharge to the hospital for a non-medical reason was not appropriate, and therefore, the facility must take the Appellant back and properly provide him with the 30-Day Notice before discharge per the regulations.

Facilities are allowed to involuntarily discharge a resident, when the resident's 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 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. While some discharges require notice at least thirty (30) days in advance of the

resident's transfer or discharge, in some instances, such as when there is a risk of danger or safety to others in the facility, 30 days advance notice is not required, but must be given as soon as is practicable.

A review of the record of hearing shows that while the facility did attempt to assist the resident with discharge planning, there is no evidence that the Appellant agreed to leave the facility voluntarily. The fact that he filed an appeal suggests his transfer was not voluntary. Therefore, since it is an involuntary transfer there must be a written notice of discharge. While the Facility verbally advised the Appellant of the intended discharge, there is no evidence that a written notice of discharge was ever provided to the Appellant or the Ombudsman. The Continuity of Care Acute Care Transfer form is the form hospitals use when moving a patient between health facilities and does not satisfy the written notice requirement to the resident.

VIII. CONCLUSION OF LAW

It is clear that the facility failed to provide the Appellant with written notice of the discharge in accordance with State and Federal regulations. However, in light of the fact that the Facility produced sufficient evidence to substantiate its concern that the Appellant's presence at the facility endangers the safety of the other residents, the facility is not required to re-admit the appellant. Moreover, because the Facility verbally discussed the Appellant's discharge with him prior to the transfer to the hospital, the fact that the ombudsman was made aware of the discharge and the Appellant filed a timely appeal, the Appellant was not prejudiced by the lack of written notice.

IX. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, it is found that a final order be entered that the facility failed to comply with the requirements for an involuntary

discharge from a long-term care facility. Specifically, the Facility failed to provide written notice of the intent to discharge to the Appellant. The Appellant's request for readmission to Advinia Orchard View, however, is denied in the interest of the other residents' safety.

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 02908.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]
[REDACTED] Authorized Representative [REDACTED]; Beth Mantia Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888, copies were sent, via email, to [REDACTED], Beth Mantia at beth@alliancebltc.org and to [REDACTED] on this 20th day of August, 2026.

