STATE OF RHODE ISLAND

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

APPEALS OFFICE

[redacted]

v. DOCKET No. 26-4627

[redacted]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was held on September 16, 2026, and the Appellant did not elect the option for a video hearing. [redacted] (Appellant) initiated this matter to appeal a "Rhode Island Department of Human Services Pre-Transfer or Pre-discharge Notice" (30- day notice) issued by [redacted] (Facility), on July 15, 2026. The Appellant seeks to have the Pre-Discharge Notice nullified. For the reasons discussed in detail below, the Appellant's appeal is granted.

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

IV. PARTIES AND EXHIBITS

[redacted], Director of Social Services and [redacted], Director of Nursing attended the hearing and provided testimony on behalf of the Facility. The Facility offered the following into evidence:

- Exhibit #1: Nursing progress notes.
- Exhibit #2: Department of Health (DOH) report dated July 10, 2026.
- Exhibit #3: [redacted] plan of correction.

The Appellant attended the hearing, represented by Michael Castner, Esq. and Beth Mantia, Long-Term Care Ombudsman. The Appellant appeared and provided testimony. The Appellant provided the following into evidence:

- Exhibit #1: Notice of Bankruptcy Case Filing.

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.

Finally, there is a requirement for the discharge to be 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.

VI. FINDINGS OF FACT

1. The Appellant has been a resident of the Facility since October 2025.
2. According to the DOH complaint dated July 10, 2026, the Appellant and another resident was having a verbal disagreement when the Appellant told the other resident "I will make sure you die overnight". No physical contact was noted during the incident.

3. A Pre-Transfer or Pre-Discharge 30-day Notice was issued by the Facility to the Appellant on July 15, 2026. It stated the reason for discharge was that the health and/or safety of the other individuals in the Facility is endangered.
4. The Facility writes that the Appellant made statements that were interpreted as threats of bodily harm towards another resident and due to concerns regarding safety of all residents, the Facility has determined it is unable to meet the Appellant's current needs.
5. The Appellant filed a timely appeal, received in the EOHHS Appeals Office on July 29, 2026.
6. The 30-day Notice also identifies [redacted] as the discharge location. The Facility testified that they have attempted to find other discharge locations but the Appellant refused one and stated she and her family needed to research the other.
7. Ombudsman Mantia testified that she listened to the recording and confirmed she heard the Appellant say words to the effect "you will die overnight". While the recording was not submitted into evidence both the NF and Ombudsman report the same threat was heard on the recording that the Appellant had provided.
8. The Appellant submitted a Notice of Bankruptcy Case Filing. She states that the court automatic stay or pause prevents the NF from discharging her as they are listed as one of her creditors. This appeal is not related to any collection attempts or payment disputes.

VII. DISCUSSION

Facilities are allowed to involuntary 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 State Long Term Care Ombudsman; and have the reason 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 July 15, 2026. The notice informed the Appellant that she 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 July 15, 2026, with a brief explanation for the discharge which the facility stated that the Appellant made statements that were interpreted as threats of bodily harm toward another resident and due to concerns regarding the safety of all residents the Facility determined it is unable to meet the resident's needs.

Ombudsman Mantia concedes that she listened to the audio recording multiple times and confirmed the Appellant was heard on the recording making the threat. Ombudsman Mantia argues the statement was made in the heat of the moment and that due to the Appellant's physical limitations she is unable to act on the threat. She further argues that any discharge from the facility must be a safe and orderly discharge.

The Appellant submitted a Notice of Bankruptcy Case Filing and argues that an automatic stay or pause prevents the NF from discharging her as they are listed as one of her creditors. The administrative hearing was held solely to fulfill its statutory duties under Rhode Island law to oversee long-term care facility discharges. See R.I. Gen. Laws § 42-7.2-6.1; 210 RICR 10-05-2 § 2.4.8; 210 RICR 50-00-7 § 7.7(B). The automatic stay does not apply to involuntary nursing home discharge actions.

In summary, the record does not satisfy the requirements of an involuntary discharge as it does not support the Facility's position that the Appellant poses a health and safety risk to others. No evidence was submitted that the Appellant's statement was anything other than an empty threat as there was no evidence that the Appellant had the actual intent or ability to harm the other resident. That being said, the analysis would be different if the Appellant made multiple threats, threatened other residents, or if there was additional evidence that the resident had the intent and ability to carry out a threat of harm to another resident. In addition, the Facility presented no evidence that they attempted to work with the Appellant to address the behavior in question or that she has had any other documented incidents where she has threatened other residents or staff in this facility. This appears to be an isolated incident between two residents, where neither was in physical danger. Moreover, the Facility did move the Appellant to another floor, and the health and safety of the alleged victim is now protected.

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 not supported by the evidence submitted in connection with this appeal and not allowed per State and Federal regulations.

IX. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, it is found that a final order be entered that the Appellant's request to rescind the 30-day Notice is granted.

APPEAL GRANTED

/s/ *Velmont 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]; and to 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@allianceltc.org, [redacted] on this 21st day of SEPTEMBER, 2026.