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

[redacted]

v. DOCKET NO. 26-5419

[redacted]

[redacted]

I. INTRODUCTION

An in-person hearing was held on September 21, 2026. [redacted] (Appellant), initiated this matter to appeal The Pre-Transfer or Pre-Discharge 30-Day Notice issued by [redacted] (Facility.) The Appellant is seeking to have the pre-discharge notice nullified and remain at the facility. For the reasons discussed in more details 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 to be the entity responsible for appeals and hearings related to involuntary transfers and discharges for all patients from nursing homes regardless of whether they are on Medicaid or not. 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 is sufficient evidence and compliance with State and Federal policies and regulations to permit the involuntary discharge of the Appellant.

IV. PARTIES AND EXHIBITS

Present were Lori Light from the Long-Term Care Ombudsman's Office (Alliance), the Appellant's Authorized Representative's [redacted], and [redacted]; [redacted], and [redacted] were present for the Facility. The following exhibits were submitted by the Facility:

- Pre-Transfer or Pre-Discharge 30 Day Notice dated August 26, 2026.
- Facility summary to support the Pre-Transfer or Pre-Discharge 30 Day Notice
- Most recent BIMS score
- Relevant progress notes summary
- Staff statements regarding threats made about the Facility Administrator
- DOH incident report from July 25, 2024
- DOH incident report from July 7, 2026
- DOH incident report from January 20, 2026
- Psychiatric notes from June 2026-current
- Medication adjustment summary
- Medication adjustment documentation
- Medication adjustment additional notes

The Alliance presented on behalf of the Appellant and submitted the following exhibits:

- All Facility progress notes from June 15, 2026, through August 27, 2026
- The Appellant's Plan of Care (POC)
- PASRR Level II Notification

The Alliance submitted additional evidence that was duplicative of the Facility's evidence and therefore will not be listed here.

V. RELEVANT LAW/REGULATIONS

Under 210-RICR-50-00-7, there is a set of requirements, both procedural and substantive, a nursing home must take to involuntarily discharge a patient. This process is not limited to Medicaid patients. Facilities are not allowed to discharge patients involuntarily, except in certain cases. 210-RICR-50-00-7.4(A). These cases include when the health and/or safety of other individuals in the facility are endangered, the health and safety of the resident is endangered by remaining in the facility, or when the discharge is necessary for medical reasons.

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

1. Written notice being given to the patient and any representative they have. 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 discharged to.

e. Contains a statement of the patient's appeal 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 how to get assistance in completing the appeal form, if needed.

g. Contain the name, mailing address, email address, 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 of:

   i) danger to the safety or health of the individuals in the facility.

   ii) when the patient's health improves sufficiently to allow a more immediate transfer or discharge.

   iii) when a more immediate transfer or discharge is needed based on the patient's urgent medical needs.

   iv) when the patient has not been in the facility for a period of at least 30 days.

i. For intellectually and/or developmentally disabled patients, the notice also needs to include the mailing address, email address, and telephone number of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals' Division of Developmental Disabilities.

j. 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 Better Long-Term Care.

k. 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 discharge. Federally, 42 C. F. R. § 483.15(c)(7) requires the facility must provide (and document) sufficient preparation and orientation to the patient to ensure a safe and orderly transfer or discharge. This must be in a form and matter that the patient can understand. On the State level, 210-RICR-50-00-7.5(B) lays out the requirements of a safe discharge. This includes 1) contact information for the practitioner responsible for the patient's care, 2) the patients' representatives' information, including contact information, 3) any advance directives of the patient 4) any special instructions or precautions for ongoing care, 5) comprehensive care plan goals, and 6) all other necessary information and documentation to ensure a safe and effective transition of care. This includes a copy of the discharge summary.

VI. FINDINGS OF FACT

- The Appellant has been a resident at the Facility since December 29, 2023.
- On August 26, 2026, the Facility issued a 30 Day Pre-Discharge Notice to the Appellant stating that the health and safety of other individuals in the facility were endangered by his repeated accusatory and threatening conduct, as well as his verbal and physical aggression towards staff and others.
- Psychiatric evaluations reveal the Appellant is capable of making his own decisions regarding his care.
- The Appellant has voiced several allegations of abuse and/or neglect since his admission, resulting in multiple different interventions to attempt to rectify his concerns and behavioral issues, including changes in his POC, staffing adjustments, and staff re-education.

- Due to numerous threats and accusations regarding Facility staff, the Facility now has two staff during all interactions with the Appellant to safeguard against false accusations.
- There have been three incidents reported to the Department of Health (DOH).
- A DOH report dated July 28, 2024, states that on July 25, 2026, the Appellant was "praying over" another resident who had experienced a medical emergency. The Appellant reported that a staff member grabbed his hand and another grabbed his shoulder, causing pain in his back. The two staff involved reported they were trying to redirect the Appellant away from the compromised resident due to HIPPA regulations and privacy issues. There were no physical injury to the Appellant and DOH determined that no physical abuse occurred.
- A second DOH reported incident occurred on July 7, 2025. The Appellant had entered another resident's room requesting the volume of that resident's TV be turned down. The Appellant alleged the other resident threw a trash can at his head, causing a laceration to the Appellant's forehead. The other resident reported that the Appellant grabbed his shirt, was taking all of his belongings, and making threats. The Appellant received seven sutures to his head. The Facility offered room changes to both residents and the other resident changed his room. There have been no subsequent issues between these residents, or any other residents.
- The third report to DOH occurred on January 20, 2026. The Appellant reported to State surveyors that a nurse had been verbally abusive to him and was also kicking his door and blocking the door with a wheelchair. The staff member who allegedly was verbally abusive to the Appellant had been no longer assigned to the Appellant at the time of the

accusation due to prior allegations. The Appellant expressed he was sorry that this had caused an investigation to occur.

- On August 19, 2026, a Quarterly Note was entered into the Appellant's file. The Note stated that the Appellant's BIMS (Brief Interview for Mental Status) was 15/15, demonstrating cognitively intact responses; this was reported to be higher than his baseline range. The Appellant reports moderately severe depressive symptoms. The Note goes on to state that "behaviors observed include physical aggression towards others, refusing care, refusing showers,.... sexually inappropriate comments, making false accusations, and confabulations" (stating distorted memories without the intent to deceive, such as going out with his girlfriend when he did not).
- On August 23, 2026, the Appellant approached a Facility staff and told her he did not like the way Administrator ran the Facility. The Appellant stated he did not know what he would do the next time he saw the Administrator, was afraid he would "snap", and that the Administrator "should be kept away from him because he might end up at the ACI" (Adult Correctional Institute).
- On August 26, 2026, the Facility issued a 30 Day Pre-Discharge Notice to the Appellant.

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 the 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. On the Appellant's discharge notice the discharge location is stated to be "any appropriate SNF or ALF in Rhode Island."

A review of the record of hearing finds that a Pre-Discharge 30 Day Notice was given to the Appellant on August 26, 2026, and was signed by a physician on August 26, 2026. The notice informed the Appellant that he would be discharged due to the endangerment of the health and/or safety of others. Attached to the notice was a typed statement explaining the reason why the discharge was warranted, stating the Appellant has made repeated accusatory and threatening statements towards others, including a desire to cause physical harm to others; statements that he is "going to snap" and that he may end up at the ACI because of this; physical aggression towards other residents which required an ongoing need for a private room and increased safety precautions. Because of the behaviors noted above, the Facility feels that the Appellant creates a substantial and ongoing safety risk.

The Appellants' medical and psychiatric needs are being met at the Facility and he is followed closely by his providers. He is able to self-advocate when he is feeling anxious by requesting to talk to staff, asking for medication when he needs it, or going to his room to relax. The records show multiple changes in interventions, including both pharmacological and non-pharmacological, which the Facility has implemented to accommodate the Appellant's changes in mood and behavior.

The Facility maintains that the Appellant has a documented history of physical aggression towards other residents, aggression and accusations toward staff, and sexually inappropriate comments. The Facility's basis for the discharge is an ongoing pattern of these documented behaviors rather than a single isolated incident. A thorough review of the Facility progress notes does not show any documented incidents of sexually inappropriate comments.

There is one documented incident of a physical altercation in July 2025, in which the Appellant went into another resident's room requesting the TV be turned down. Different versions of this incident were given by the Appellant and the other resident. The Appellant asserts that when he entered the other resident's room the other resident threw a trash bucket at him, causing a laceration to the Appellant's head, which required seven stitches. The other resident stated that the Appellant grabbed him by the shirt and therefore he acted in self-defense. While the Appellant should not have gone into another resident's room, it is unclear who the initial aggressor was in that incident. The other two reported incidents involved the Appellant making accusatory statements to and/or about staff but were not incidents of physical aggression.

All parties acknowledged that the Appellant has made numerous accusations towards staff. Investigations by both the Facility and DOH have not found the accusations to be true. It is also undisputed that the Appellant made numerous threats towards both residents and staff. The record shows that the Appellant has never had a specific plan of harm, rather they are hollow threats about how he is "becoming unhinged", he feels as if he is "going to snap", and he "may end up at the ACI". The Appellant is noted to apologize for his behavior and state he did not have the intent to cause someone to be afraid.

The Quarterly note's statements that the Appellant has shown physical aggression and sexually inappropriate comments are not supported in the case notes found in the Appellant's file. In fact, the case notes show that the Appellant's last, and only documented physical aggression occurred on July 7, 2025. There are no notes documenting that the Appellant made sexually inappropriate comments of any kind towards either residents or staff.

The Facility has not demonstrated an inability to meet the Appellant's needs as they claim on the discharge notice, based on the records submitted into evidence, the Facility is

working with the Appellant when he becomes emotionally charged to de-escalate the situation and his needs are being met. 42 C. F. R. § 483.25 outlines what a facility must provide in order to meet a resident's needs. The regulation lists several categories of medical and psychiatric needs which must be met, and the Facility is in accordance with those regulations.

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 statements were anything but empty threats as there was no evidence that the Appellant had the actual intent or ability to harm other residents or staff. If there was additional evidence that the Appellant had the intent and ability to carry out a threat of harm to others, it was not submitted or testified to. In addition, the Facility has implemented several strategies that have been shown to be effective in assisting the Appellant to improve control over his behavior. The one isolated incident of physical aggression cannot be established by a preponderance of the evidence that it was the Appellant who was the aggressor, and it also occurred over one year prior to the discharge notice being issued.

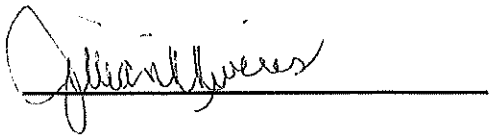
VIII. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, the Facility's issuance of the Pre-Discharge Notice, the intended involuntary discharge of the Appellant for endangering the health and safety of others is not supported by a preponderance of the evidence submitted in connection with this appeal and is not permitted under State and Federal regulations.

IX. DECISION

Based on the foregoing Findings of Fact, Conclusions of Law, evidence, and testimony, it is found that a final order be entered that there is not sufficient evidence to support the involuntary discharge of the Appellant.

APPEAL GRANTED



Jillian R. Rivers,

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], his Authorized Representative's Lori Light, C/O Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888 and [redacted]; copies were sent, via email, to Lori Light at lori@alliancebltc.org, [redacted] on this 28TH day of SEPTEMBER, 2026.

