# STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS 55 FARMINGTON AVENUE HARTFORD, CONNECTICUT 06105-3725

2020 Signature Confirmation

CL ID # Request ID #149534

## **NOTICE OF DECISION**

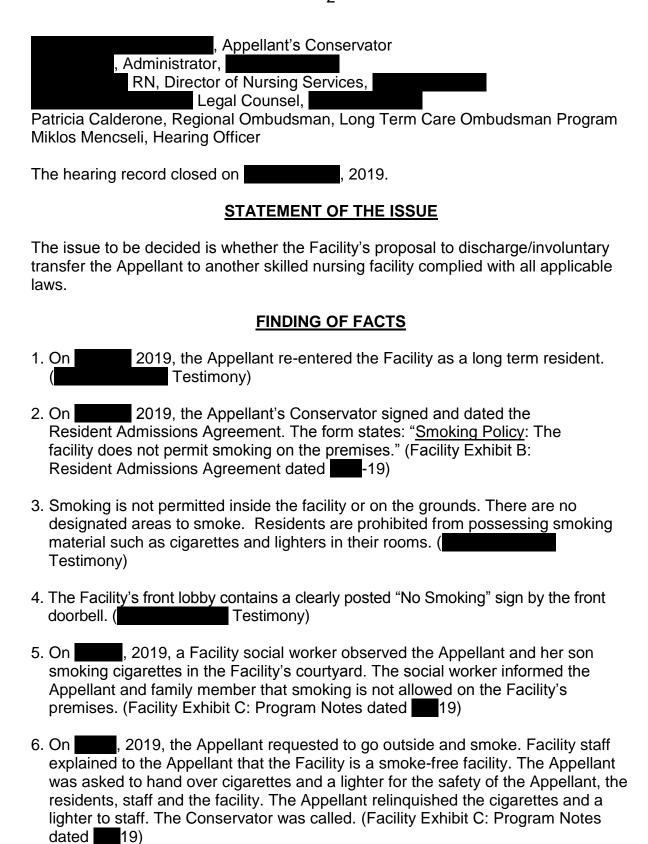
## **PARTY**

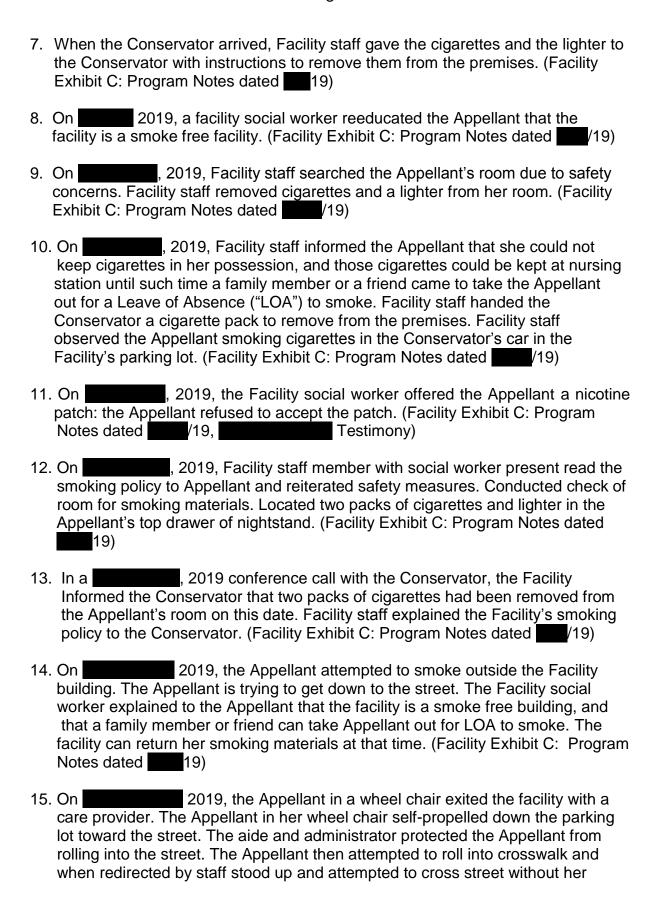


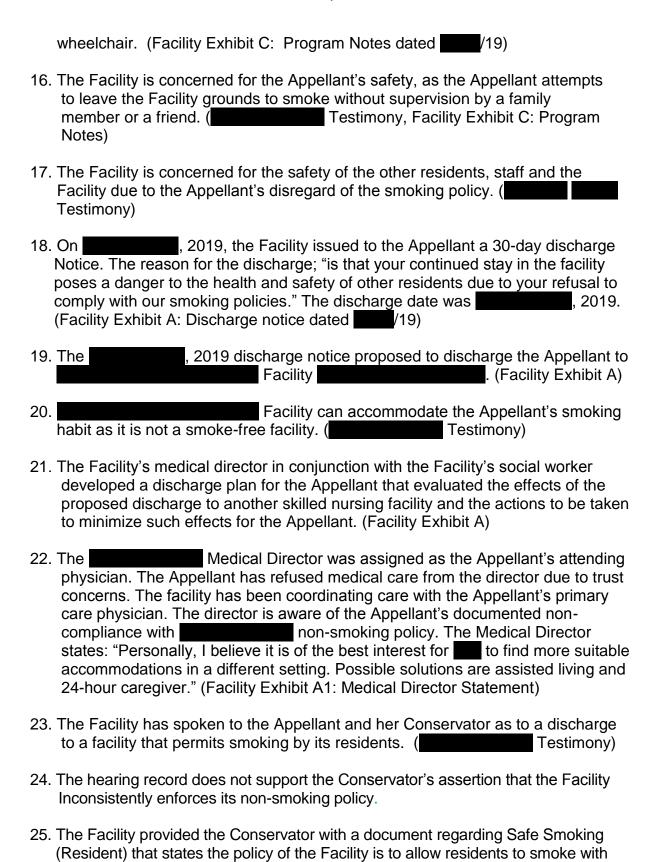
, Appellant

# PROCEDURAL BACKGROUND

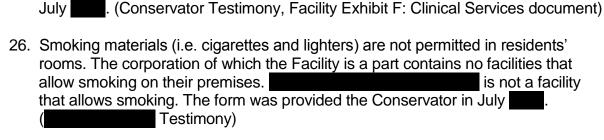
On, (the "Facility") issued a letter proposing to involuntarily discharge (the "Appellant") to Facility.
On 2019, the Appellant requested an administrative hearing to contest the Facility's proposed discharge.
On, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for, 2019.
On 2019, in accordance with Connecticut General Statutes § 19a-535 and § 4-176e to § 4-189, inclusive, OLCRAH held an administrative hearing at .
The following individuals were present at the hearing:

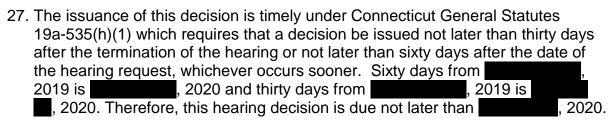






the opportunity to do so within a framework to ensure their safety and well-being in





#### **CONCLUSION OF LAW**

- 1. Section 19a-535(h)(1) of the Connecticut General Statutes (Conn. Gen. Stat.) authorizes the Commissioner of the Department of Social Services to hold a hearing to determine whether the transfer or discharge is in accordance with this section.
- 2. Conn. Gen. Stat. §19a-535(c)(1) provides that before effecting a transfer or discharge of a resident from the facility, the facility shall notify, in writing, the resident and resident's guardian or conservator, if any, or legally liable relative or other responsible party if known, of the proposed transfer or discharge the reasons therefore, the effective date of the proposed transfer or discharge, the location to which the resident is to be transferred or discharged, the right to appeal the proposed transfer or discharge and the procedures for initiating such an appeal as determined by the Department of Social Services, the date by which an appeal must be initiated in order to preserve the resident's right to an appeal hearing and the date by which an appeal must be initiated in order to stay the proposed transfer or discharge and the possibility of an exception to the date by which an appeal must be initiated in order to stay the proposed transfer or discharge for good cause, that the resident may represent himself or herself or be represented by legal counsel, a relative, a friend or other spokesperson, and information as to bed hold and nursing home readmission policy when required in accordance with section 19a-537. The notice shall also include the name, mailing address and telephone number of the State Long-Term Care Ombudsman. If the resident is, or the facility alleges a resident is, mentally ill or developmentally disabled, the notice shall include the name, mailing address and telephone number of the Office of Protection and Advocacy for Persons with Disabilities. The notice shall be given at least thirty days and no more than sixty days prior to the resident's proposed transfer or discharge, except where the health or safety of individuals in the facility are endangered, or where the resident's health improves sufficiently to allow a more immediate transfer or discharge, or where immediate transfer or discharge is necessitated by urgent

medical needs or where a resident has not resided in the facility for thirty days, in which cases notice shall be given as many days before the transfer or discharge as practicable.

3.	The Facility's	2019 notice doe	es not meet the crite	eria provided in	
	Conn. Gen. Stat. § 19a-535	$\overline{(c)}(1)$ , as the notice	ce was not issued <u>a</u>	t least 30 days	
	prior to the Appellant's propo	osed discharge da	ite of	2019. The	
	Facility's notice was issued 29 days prior to the Appellant's proposed date of				
	discharge to the		Facility.		

4. The Facility's proposed discharge/involuntary transfer the Appellant to another skilled nursing facility that permits smoking on that facility's premises does not meet the statutory guidelines of Conn. Gen. Stat. § 19a-535 (e).

#### **DECISION**

The Appellant's appeal is GRANTED.

#### <u>ORDER</u>

- 1. The Facility will rescind in writing its discharge the Appellant to discharge the Appellant to Facility. The Facility will issue its rescission to the Appellant and to the Conservator.
- 2. Within 14 days of the date of this decision, documentation of compliance with this order is due to the undersigned.

Miklos Mencseli Hearing Officer

C: Patricia Calderone, LTC Ombudsman Program

### **RIGHT TO REQUEST RECONSIDERATION**

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

#### **RIGHT TO APPEAL**

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.