

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 807774

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

Kerry-Ann Henry, Social Worker
Chelsea Place
25 Lorraine Street
Hartford, CT 06105

PROCEDURAL BACKGROUND

On ██████████ 2017, Chelsea Place Care Center, (the "Facility") issued a 30 Day Discharge Notice to ██████████ (the "Appellant") indicating its intent to involuntarily discharge the Appellant on ██████████ 2017 because the Appellant's current medical condition does not meet the need for skilled nursing care and the health or safety of individuals in the facility is endangered due to the Appellant's actions.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Facility's proposed discharge.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing at the Facility for ██████████ 2017.

On ██████████ 2017, in accordance with Connecticut General Statutes, sections 19a-535 and 4-176e to 4-184, inclusive, OLCRAH held an administrative hearing to address the Facility's intent to discharge the Appellant.

The following individuals were present at the hearing:

██████████ the Appellant
Kerry-Ann Henry, Facility Social Worker
Marlene Aquino, Facility Case Manager
Ron Nudd, Director of Social Services for the Facility
Christopher Turner, Hearing Officer

The hearing record remained open to allow the Appellant to review and remark on evidence presented at the hearing. On [REDACTED] 2017, the record closed without comment from the Appellant.

STATEMENT OF THE ISSUE

The issue is whether the Facility acted in accordance with state law when it proposed to involuntarily discharge the Appellant to a homeless shelter.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to the Facility for short-term care to treat symptoms of autonomic neuropathy. (Facility's testimony)
2. On [REDACTED] 2016, the Appellant signed a notification of contraband as presented to her by the facility. (Exhibit 1: Contraband policy)
3. On [REDACTED] 2016, the Appellant was found unresponsive on the floor of a peer's room. Narcan was administered. Narcan is used for the emergency treatment of known or suspected opioid overdose. The Appellant was transported to St. Francis Hospital. (Exhibit 2: Nurse notes; Exhibit 4: Social worker notes; Exhibit 5: Physicians order sheet)
4. On [REDACTED] 2016, the Appellant was readmitted to the Facility from St. Francis Hospital after a two-day hospitalization. (Exhibit 2; Exhibit 6: Hospital discharge notes)
5. The Appellant denies having overdosed and believes she fainted. The Appellant testified she has had a similar episode in the past. (Exhibit 6; Appellant's testimony)
6. On [REDACTED] 2017, the Appellant was cited for a violation of the Facility's contraband policy. The Facility determined the Appellant knowingly blocked the door of a resident's room preventing facility staff to enter the resident's room. The Appellant denies knowingly blocking the door but acknowledges her friend was smoking though she was not. (Exhibit 2; Appellant's testimony)
7. On [REDACTED] 2017, the Facility issued a Notice of Discharge to the Appellant, indicating that she would be discharged to a homeless shelter to be determined, as the health or safety of individuals in the facility was endangered due to her actions and no longer needing the services of a skilled nursing facility. (Exhibit: Notice of Discharge dated [REDACTED]/17)
8. On [REDACTED] 2017, the Appellant requested an administrative hearing to contest the Facility's intent to discharge her to a homeless shelter in Hartford, CT. (Record; Appellant's hearing request)

9. The Appellant has a past medical history of Urinary tract infection; Liver disease; early onset cerebellar ataxia; acute pancreatitis; Gastroesophageal reflux disease; Anxiety; Hallucinations; Bipolar 1 disorder. (Exhibit 6)
10. Facility staff testified the Appellant no longer needs the constant care provided by the Facility and believe the Appellant's medical needs can be met by community outpatient services. (Testimony)
11. The Appellant is independent with all of her activities of daily living. (Facility's testimony; Appellant's testimony)
12. The Facility's social worker, Kerry-Ann Henry, has met with the Appellant several times since her facility admission to discuss discharge matters. (Facility's testimony; Appellant's testimony)
13. The Appellant has scheduled and attended her physical therapy sessions outside of the Facility. (Facility's testimony; Appellant's testimony)
14. The Appellant states she is prepared to live in the community if discharged to the proper setting with appropriate support services. (Appellant's testimony)
15. The Facility has arranged appropriate support services for the Appellant effective upon her discharge. (Facility's testimony)
16. The Appellant is working with Money Follows the Person program ("MFP"). (Facility's testimony; Appellant's testimony)
17. As of the date of the hearing, the Appellant is waiting for a suitable apartment setting. (Facility's testimony; Appellant's testimony)

CONCLUSIONS OF LAW

1. Section 19a-535 (h) (1) of the Connecticut General Statutes ("CGS") authorizes the Commissioner of Social Services or the commissioner's designee to hold a hearing to determine whether a transfer or discharge is being affected in accordance with this section.
2. Section 19a-535 (a) (4) of the CGS provides "discharge" means the movement of a resident from a facility to a non-institutional setting.
3. Section 19a-535 (b) of the CGS provides that a facility shall not transfer or discharge a resident from the facility except to meet the welfare of the resident which cannot be met in the facility, or unless the resident no longer needs the services of the facility due to improved health, the facility is required to transfer the resident pursuant to section 17b-359 or section 17b-360, or the health or safety of individuals in the facility is endangered, or in the case of a self-pay resident, for

the resident's nonpayment or arrearage of more than fifteen days of the per diem facility room rate, or the facility ceases to operate. In each case, a physician shall document the basis for transfer or discharge in the resident's medical record. In each case where the welfare, health or safety of the resident is concerned the documentation shall be by the resident's physician. A facility which is part of a continuing care facility which guarantees life care for its residents may transfer or discharge (1) a self-pay resident who is a member of the continuing care community and who has intentionally transferred assets in a sum which will render the resident unable to pay the costs of facility care in accordance with the contract between the resident and the facility, or (2) a self-pay resident who is not a member of the continuing care community and who has intentionally transferred assets in a sum which will render the resident unable to pay the costs of a total of forty-two months of facility care from the date of initial admission to the facility.

4. Section 19a-535(c)(1) of the CGS provides that before effecting any transfer or discharge of a resident from the facility, the facility shall notify, in writing, the resident and the resident's guardian or conservator, if any, or legally liable relative or other responsible party if know, 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.
5. The Facility failed to provide the Appellant at least 30 days prior notice, in writing, of the effective date of the proposed discharge. The Facilities discharge notice affords the Appellant only 26 days' notice instead of 30 days' notice.


6. The Facility's proposal to discharge the Appellant does not comply with state statute.

DECISION

The Appellant's appeal is **granted**.

ORDER

The Facility is ordered to rescind the Appellant's proposed discharge notice.


Christopher Turner
Hearing Officer

Cc: Kerry-Ann Henry, Social Worker,
Chelsea Place, 25 Lorraine Street, Hartford, CT 06105

Desiree Pina, LTC Ombudsman Program,
Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105

Barbara Cass, Section Chief, Facility Licensing and Investigations Section,
Connecticut Department of Public Health, 410 Capitol Avenue, Hartford, CT.

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, law, and 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 specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what 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, if 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.