

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2302526
<b>Decision Date:</b>	4/12/2023	<b>Hearing Date:</b>	04/11/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**

*Via telephone*



**Appearance for Nursing Facility:**

*Via telephone*

Alfonso Vasquez, Administrator  
Kathy McNeill, Social Worker



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Expedited Nursing Facility Discharge
<b>Decision Date:</b>	4/12/2023	<b>Hearing Date:</b>	04/11/2023
<b>Nursing Facility's Reps.:</b>	Alfonso Vasquez, Administrator; Kathy McNeill, Social Worker	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center Room 1 (remote)	<b>Aid Pending:</b>	No

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated March 28, 2023, Advinia Care Salem (“the nursing facility”) issued a Notice of Intent to Discharge Resident With Less Than 30 Days’ Notice (Expedited Appeal), to Salem Hospital for the specific reason: “the safety of the individuals in the facility would be endangered due to clinical or behavioral status of the resident.” (130 CMR 456.702(B); 130 CMR 610.029(B); Exhibit 1). The Appellant filed this appeal in a timely manner on March 29, 2023. (130 CMR 610.015(F); Exhibit 2<sup>1</sup>). An attempt to discharge a nursing home is valid grounds for appeal. (130 CMR 456.703; 130 CMR 610.032(C)).

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<sup>1</sup> 130 CMR 610.015(F) Expedited Appeals for Discharges and Transfers from a Nursing Facility Under 130 CMR 610.029(B) or (C). A resident may request an expedited appeal when a nursing facility notifies a resident of a discharge or transfer under the time frames of 130 CMR 610.029(B) or (C). When such a request is made, BOH will schedule a hearing as soon as possible, but no later than seven days from the date BOH receives the request. The hearing officer must render a final decision as soon as possible, but no later than seven days from the date of the hearing. These time limits may be extended pursuant to 130 CMR 610.015(D). Appeal requests made under 130 CMR 610.015(F) automatically waive the requirement for ten-day advance notice of the scheduled hearing date under 130 CMR 610.046(A),

## Action Taken by the Nursing Facility

The nursing facility issued a Notice of Intent to Discharge Resident With Less Than 30 Days' Notice (Expedited Appeal) to a hospital for the specific reason: "the safety of the individuals in the facility would be endangered due to clinical or behavioral status of the resident."

## Issue

The appeal issue is whether the nursing facility was correct, pursuant to 130 CMR 456.702(B); 130 CMR 610.029(B), in notifying the Appellant of its intent to discharge him with less than 30 Days' notice to an emergency shelter because "the safety of the individuals in the facility would be endangered due to clinical or behavioral status of the resident."

## Summary of Evidence

The nursing facility was represented by the facility administrator and social worker.<sup>2</sup> Through a notice dated March 28, 2023, the nursing facility issued a Notice of Intent to Discharge Resident With Less Than 30 Days' Notice (Expedited Appeal) to a hospital for the specific reason "the safety of the individuals in the facility would be endangered due to clinical or behavioral status of the resident." (Exhibit 1). The Appellant is over the age of 65 and was admitted to the nursing facility on [REDACTED], with a diagnosis of Dementia. The administrator testified that on March 25, 2023, the Appellant was displaying signs of aggressive and destructive behavior. Further, the administrator testified that the Appellant pushed another resident and when he was first admitted to the facility (on [REDACTED]) the Appellant smelled of alcohol. Additionally, the nursing facility's social worker testified that he was threatening to kill (staff) and was destructive to property.<sup>3</sup> The facility's social worker further testified that the Appellant's significant other (Power of Attorney or POA) was able to calm him down. The facility's social worker explained that she spoke to the Appellant's POA last evening whereupon the Appellant's POA stated that she did not want the Appellant to return there. The facility's administrator reiterated that the Appellant's POA grabbed the Appellant's belongings so the nursing facility thought that she did not want the Appellant to return there.

The Appellant was represented by his POA, and two (2) Authorized Representatives, specifically, a case management director and social worker from a hospital where the Appellant currently remains. The Appellant's POA testified that the Appellant was diagnosed with Dementia approximately two (2) years ago and has been going downhill ever since. As to the allegations of aggression and

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<sup>2</sup> A hearing was initially held on April 5, 2023. At the time of that hearing the nursing facility was represented by a nurse. Due to conflicting testimony received during that hearing, *inter alia*, another hearing was scheduled for April 11, 2023 which included additional evidence, representatives and testimony.

<sup>3</sup> The record does not include any physician notes, nursing notes, social service notes nor any documentation regarding the discharge or transfer plan. At the hearing, in response to inquiry made, the administrator testified that he would provide notes after the hearing. No documentation was received from the nursing facility.

destruction,<sup>4</sup> the Appellant's POA testified that the Appellant never exhibited signs of aggression. She explained that the Appellant lived at home for 16 years prior to being placed into a nursing facility. Therefore, he probably got a little upset, however, the nursing facility should be able to handle that. The Appellant's POA reiterated that she did not believe he would destruct property or hit anyone. Moreover, upon calling the nursing facility, the Appellant's POA was told that the Appellant was still there when in fact he was not. Thus, the Appellant's POA ran around trying to ascertain where the Appellant actually was located. Eventually, she found out that the Appellant was sent to the hospital by the nursing facility (on [REDACTED]).<sup>5</sup>

The Appellant's Authorized Representative (Hospital Director of Case Management) testified as to a timeline of events that were documented from the Appellant's medical record. Her testimony includes the following:

- The patient was sent to the hospital emergency room on [REDACTED] for a psychiatric evaluation. Records from the psychiatric triage department indicate that the Appellant received an evaluation after the nursing facility reported that he was aggressive.
- The psychiatric triage department evaluated the Appellant and cleared him.
- The Appellant has shown no behaviors while he has been in the hospital.
- The Appellant's medical condition was evaluated because that can sometimes cause patients to act out or have a delirium. In this case, the Appellant was medically cleared.
- That same day ([REDACTED]), the psychiatric triage mental health counselor spoke to a Registered nurse at the nursing facility and indicated that the patient should return to the facility.
- In response, the nursing facility asked the hospital to hold the patient a little longer due to concerns of his behavior.
- The Appellant was held for further observation by the hospital until [REDACTED].
- The Appellant was seen and cleared by both hospital medicine and psychiatry for return to the nursing facility.
- The Appellant was not admitted to an inpatient unit at the hospital so he was observed in the emergency department.
- On [REDACTED], multiple attempts were made to contact the nursing facility because the Appellant was cleared for discharge.
- The Appellant was sent back to the nursing facility on [REDACTED] via ambulance. Upon arrival, the EMT's were told by the nursing facility that it would not accept the Appellant for (re)admission and in fact its plan was to discharge the Appellant from the facility.
- The Appellant then returned to the hospital by the same ambulance (that same day) whereupon case management reached out to the administrator of the nursing facility to express concern that the Appellant was refused readmittance.
- In response, the nursing facility explained that it was concerned about the Appellant's behaviors and did not want to accept him back.

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<sup>4</sup> With respect to the allegation of smelling of alcohol, the Appellant's POA vehemently denied the Appellant had alcohol in his system.

<sup>5</sup> At the April 5, 2023 hearing, the representative of the nursing facility initially testified that the Appellant was still at the nursing facility when in fact the Appellant was not at the facility.

- The nursing facility indicated that it would look for another facility within its organization to transfer the Appellant.
- That same day ( [REDACTED] ) the hospital's director of case management requested the nursing facility to submit the notice of intent to discharge if it intended to follow through with discharging the Appellant.
- The notice of intent was not received until the following day, March 28, 2023.
- Upon receipt, the Appellant was moved to an in-patient floor where he currently remains. The Appellant has been at the hospital since (18 days).
- The Appellant has been psychiatrically cleared, has no medical issues, no behaviors and no changes in medication.

The Appellant's Authorized Representatives further testified to the following: After speaking to the nursing staff on the floor and following the Appellant for the last two and one half (2 ½) weeks, there have been no concerns with his behavior. There have been no reports made, the Appellant has not been verbally assaultive nor aggressive. The Appellant has not destroyed any property, nor has he attempted to hurt, threaten or posture any staff. The Appellant has an observer simply due to his confusion. Further, upon meeting with the Appellant this morning, the Appellant was pleasant and told her to look both ways before crossing the street. She explained that she worked on a geriatric inpatient psychiatric floor for 5 years as a case manager and therefore is very familiar with aggressive Dementia patients. In this case, she cannot see any reason why the Appellant, a gentleman, would not be able to return to the nursing facility with proper supports and training in place because he has no behavioral concerns whatsoever.

The nursing facility representatives reiterated that the Appellant's POA took the Appellant's clothes and therefore they thought that she did not want the Appellant to return there. In response, the Appellant's POA denied stating to the facility that she did not want him to return. She explained that the nursing facility told her that it did not want the Appellant to return. Upon inquiry, the Appellant's POA stated that she never received anything in writing from the nursing facility that explained why the Appellant was refused readmittance.

The Appellant's Authorized Representatives further testified to the following:

- The electronic discharge module indicates that on [REDACTED], the Appellant was returned to the nursing facility.
- At 4:06 p.m. on [REDACTED], EMT's were told "I'm sorry, cannot take the patient back."
- A notice of intent to discharge was requested by the hospital from the nursing facility.
- The nursing facility assured the hospital that it would look into other facilities within the network for the Appellant.
- On April 5, 2023, the hospital requested the nursing facility to reconsider because the hospital had a significant number of days with the Appellant and no behaviors were displayed in this timeframe.
- It is not uncommon to have a rough landing when patients are admitted into a nursing facility for the first time.
- Often, patients are sent to a hospital for evaluation and upon their return to a nursing

facility are very successful.

- It is hard to understand what is so different about the Appellant and why he was refused readmittance back to the nursing facility.
- The hospital has also made inquiry on the Appellant's behalf.
- The Appellant, a gentleman, was seen by physical therapy and has no short-term rehabilitation needs at this time and therefore, is only in need of a long-term care.
- The hospital has looked into all options.
- Currently, the Appellant is in a hospital room but there is no reason for him to be there because he was medically cleared on [REDACTED].
- The hospital kept him, in good faith, until [REDACTED], returned him to the nursing facility on [REDACTED] whereupon the Appellant was sent back to the hospital emergency department after the nursing facility indicated that they would not take him back.
- The Appellant has been at the hospital since then.
- The hospital requested a notice of intent to discharge from the nursing facility on [REDACTED].
- The notice of intent was not received until March 28, 2023.

The nursing facility representatives made inquiry as to whether the Appellant's medication has since changed. In response, the Appellant's representatives stated that it has not. The nursing facility representatives then made inquiry as to whether returning the Appellant back to the facility would be in his best interests. The Appellant's representatives responded that it is not in his best interests to stay in an acute hospital bed where he is in one room with no access to socialization. Further, the Appellant's representatives explained that it would be in the Appellant's best interests to return to the place where he will settle and live. While there may have been a behavioral upset, which happens, the Appellant was cleared and has been in the hospital for 18 days with no behaviors displayed.

The nursing facility representatives testified that the Appellant was screaming that he did not want to be there and when the Appellant's clothes were taken out of his room, they were told that the Appellant's POA did not want him there. Additionally, the Appellant smelled of alcohol during his admission and upon return from the hospital. In response, the Appellant's representatives testified that they have a negative tox screen for alcohol dated March 25, 2023. The nursing facility representatives clarified that the Appellant smelled of alcohol on March 28, 2023, upon his return from the hospital. The Appellant's representatives testified that on March 28, 2023, the Appellant was in the hospital though. On [REDACTED], the day prior, the Appellant was transported from the hospital (by ambulance) to the nursing facility, was refused readmittance, and was transported right back to the hospital. Thus, the nursing facility staff did not see the Appellant on March 28, 2023 because no one from the nursing facility went to the hospital. The Appellant was gone from the hospital for less than an hour and a half.

## Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The Appellant is over the age of 65 and was admitted to a nursing facility on [REDACTED] with a diagnosis of Dementia. (Testimony; Exhibit 3).
2. On [REDACTED], the nursing facility sent the Appellant to a hospital for an evaluation due to behavioral concerns (Testimony; Exhibit 3).
3. On [REDACTED], the hospital medically cleared the Appellant to be sent back to the nursing facility. (Testimony).
4. At the request of the nursing facility, the Appellant was kept at the hospital for further evaluation until [REDACTED]. (Testimony).
5. The Appellant was sent by ambulance back to the nursing facility on [REDACTED]. (Testimony).
6. Upon his arrival, the Appellant was refused readmittance. (Testimony).
7. The Appellant was then taken back to the hospital's emergency department by ambulance. (Testimony).
8. Through a notice dated March 28, 2023, the nursing facility issued a Notice of Intent to Discharge Resident With Less Than 30 Days' Notice (Expedited Appeal) to a hospital for the specific reason "the safety of the individuals in the facility would be endangered due to clinical or behavioral status of the resident." (Testimony; Exhibit 1).
9. The nursing facility did not submit any written documentation noting its concerns regarding the Appellant or any incidents that occurred.
10. The nursing facility did not submit any written documentation that the health or safety of individuals in the nursing facility is endangered by the Appellant.

## **Analysis and Conclusions of Law**

The federal Nursing Home Reform Act (NHRA) of 1987 guarantees all residents the right to advance notice of, and the right to appeal, any transfer or discharge action initiated by a nursing facility. Massachusetts has enacted regulations that follow and implement the federal requirements concerning a resident's right to appeal a transfer or discharge, and the relevant regulations may be found in both (1) the MassHealth Nursing Facility Manual regulations at 130 CMR 456.000 et seq., and (2) the Fair Hearing Rules at 130 CMR 610.000 et seq.<sup>6</sup>

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<sup>6</sup> The regulatory language in the MassHealth Nursing Facility Manual, found in 130 CMR 456.000 et seq. has regulations which are nearly identical to counterpart regulations found within the Commonwealth's Fair Hearing Rules at 130 CMR 610.001 et seq. and corresponding federal government regulations. Because of such commonality, the remainder of regulation references in this Fair Hearing decision will only refer to the MassHealth

**Before** a nursing facility discharges or transfers any resident, the nursing facility must hand deliver to the resident and mail to a designated family member or legal representative a notice written in 12-point or larger type that contains, in a language the member understands, the following:

- (1) the action to be taken by the nursing facility;
- (2) the specific reason or reasons for the discharge or transfer;
- (3) the effective date of the discharge or transfer;
- (4) the location to which the resident is to be discharged or transferred;
- (5) a statement informing the resident of his or her right to request a hearing before the Division's Board of Hearings including:
  - a) the address to send a request for a hearing;
  - b) the time frame for requesting a hearing as provided for under 130 CMR 456.702; and
  - c) the effect of requesting a hearing as provided for under 130 CMR 456.704;
- (6) the name, address, and telephone number of the local long-term-care ombudsman office;
- (7) for nursing-facility residents with developmental disabilities, the address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. s. 6041 et seq.);
- (8) for nursing-facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. s. 10801 et seq.);
- (9) a statement that all residents may seek legal assistance and that free legal assistance may be available through their local legal-services office. The notice should contain the address of the nearest legal-services office; and
- (10) the name of a person at the nursing facility who can answer any questions the resident has about the notice and who will be available to assist the resident in filing an appeal.

(130 CMR 456.701(C)) (emphasis added).

Further, the notice requirements set forth in 130 CMR 456.701(A) state that a resident may be transferred or discharged from a nursing facility only when:

- (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing facility;
- (2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services



- provided by the nursing facility;
- (3) **the safety of individuals in the nursing facility is endangered** (emphasis added);
  - (4) the health of individuals in the nursing facility would otherwise be endangered;
  - (5) the resident has failed, after reasonable and appropriate notice, to pay for (or failed to have the Division or Medicare pay for) a stay at the nursing facility; or
  - (6) the nursing facility ceases to operate.

(See, 130 CMR 610.028(A); 130 CMR 456.701(A)).

When the facility transfers or discharges a resident under any of the circumstances specified in 130 CMR 456.701(A)(1) through (5), the resident's clinical record **must contain documentation to explain the transfer or discharge**. The documentation must be made by:

- (1) the resident's physician when a transfer or discharge is necessary under 130 CMR 456.701(A)(1) or (2); and
- (2) a physician when the transfer or discharge is necessary under 130 CMR 456.701(A)(3) or (4).

(130 CMR 456.701(B)) (emphasis added).

130 CMR 456.702: Time Frames for Notices Issued by Nursing Facilities: <sup>7</sup>

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<sup>7</sup> See also 130 CMR 610.029: Time Frames for Notices Issued by Nursing Facilities

(A) The notice of discharge or transfer required under 130 CMR 610.028 must be made by the nursing facility at least 30 days before the date the resident is to be discharged or transferred, except as provided for under 130 CMR 610.029(B) and (C).

*(B) In lieu of the 30-day-notice requirement set forth in 130 CMR 610.029(A), the notice of discharge or transfer required under 130 CMR 610.028 must be made as soon as practicable before the discharge or transfer in any of the following circumstances, which are considered to be emergency discharges or emergency transfers.*

- (1) The health or safety of individuals in the nursing facility would be endangered and this is documented in the resident's record by a physician.*
- (2) The resident's health improves sufficiently to allow a more immediate transfer or discharge and the resident's attending physician documents this in the resident's record.*
- (3) An immediate transfer or discharge is required by the resident's urgent medical needs and this is documented in the medical record by the resident's attending physician.*
- (4) The resident has not lived in the nursing facility for 30 days immediately before receipt of the notice.*

(C) When the transfer or discharge is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, the notice of transfer or discharge, including that which is required under 130 CMR 456.429: *Medical Leave of Absence: Failure to Readmit*, must comply with the requirements set forth in 130 CMR 456.701: *Notice Requirements for Transfers and Discharges Initiated by a Nursing Facility*, and must be provided to the resident and an

(A) The notice of discharge or transfer required under 130 CMR 456.701(C) must be made by the nursing facility at least 30 days prior to the date the resident is to be discharged or transferred, except as provided for under 130 CMR 456.702(B).

***(B) Instead of the 30-day-notice requirement set forth in 130 CMR 456.702(A), the notice of discharge or transfer required under 130 CMR 456.701 must be made as soon as practicable before the discharge or transfer in any of the following circumstances, which are emergency discharges or emergency transfers.***

***(1) The health or safety of individuals in the nursing facility would be endangered and this is documented in the resident's record by a physician.***

(emphasis added)

(2) The resident's health improves sufficiently to allow a more immediate transfer or discharge and the resident's attending physician documents this in the resident's record.

(3) An immediate transfer or discharge is required by the resident's urgent medical needs and this is documented in the medical record by the resident's attending physician.

(4) The resident has not resided in the nursing facility for 30 days immediately prior to receipt of the notice.

**(C) When the transfer or discharge is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, the notice of transfer or discharge, including that which is required under 130 CMR 456.429, must comply with the requirements set forth in 130 CMR 456.701 and must be provided to the resident and an immediate family member or legal representative at the time the nursing facility determines that it will not readmit the resident. (emphasis added).**

#### 130 CMR 456.704: Stay of a Transfer or Discharge from a Nursing Facility Pending Appeal

(A) If a request for a hearing regarding a discharge or transfer from a nursing facility is received by the Board of Hearings during the notice period described in 130 CMR 456.703(B)(1), the nursing facility must stay the planned discharge or transfer until 30 days after the decision is rendered. While this stay is in effect, the resident must not be transferred or discharged from the nursing facility.

(B) If a hearing is requested, in accordance with 130 CMR 456.703(B)(2), and the request is received prior to the discharge or transfer, then the nursing facility must

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immediate family member or legal representative, if such person is known to the nursing facility, at the time the nursing facility determines that it will not readmit the resident.

(D) Appeals of discharges and transfers listed in 130 CMR 610.029(B) and (C) are handled under the expedited appeals process described in 130 CMR 610.015(F).

stay the planned transfer or discharge until five days after the hearing decision.

**(C) If the request for a hearing is received within the applicable time frame but after the transfer, the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed in the facility. (emphasis added).**

**(D) In the case of a transfer or discharge that is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, if the request for a hearing is received within the applicable time period as described in 130 CMR 456.703(B)(3), the nursing facility must, upon receipt of the appeal decision favorable to the resident, promptly readmit the resident to the next available bed. (emphasis added).**

130 CMR 456.429: Medical Leave of Absence: Failure to Readmit

(A) When a nursing facility is notified that the resident is ready to return to the facility, the nursing facility must readmit the resident following a medical leave of absence. If the nursing facility does not allow the resident to be readmitted following hospitalization or other medical leave of absence, the nursing facility's failure to readmit the resident is deemed a transfer or discharge. **The nursing facility must then provide the resident and an immediate family member or legal representative with a notice explaining its decision not to readmit the resident.** The notice must comply with the requirements set forth in 130 CMR 456.701, and must be provided to the resident and an immediate family member or legal representative at the time such determination is made. (emphasis added).

**(B) A nursing facility that fails to readmit a member who requires nursing facility services or otherwise violates these provisions may be subject to administrative action. (emphasis added).**

(130 CMR 456.429).

The nursing facility must also comply with all other applicable state laws, including M.G.L. c.111, §70E. The key paragraph of this statute, which is directly relevant to any type of appeal involving a nursing facility-initiated transfer or discharge, reads:

A resident, who requests a hearing pursuant to section 48 of chapter 118E, shall not be discharged or transferred from a nursing facility licensed under section 71 of this chapter, unless a referee determines that the nursing facility has provided sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the facility to another safe and appropriate place.<sup>8</sup>

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<sup>8</sup> See also 42 USC 1396r(c)(2)(C) which requires that a nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

In the present case, on March 28, 2023, the nursing facility issued a Notice of Intent to Discharge Resident With Less Than 30 Days' Notice (Expedited Appeal), to Salem Hospital for the specific reason: "the safety of the individuals in the facility is endangered due to the clinical or behavioral status of the resident." The notice, which is treated as an emergency transfer, triggers specific regulatory timeframes and requirements outlined above. A nursing facility resident can only be discharged for specific reasons also outlined above. The regulations require that when initiating a discharge with less than 30-days' notice because the health or safety of individuals in the nursing facility would be endangered, **it must be documented in the resident's record by a physician.** The Appellant's record submitted into evidence does not include documentation by a physician that the health or safety of individuals in the nursing facility would be endangered if the Appellant is not discharged. Moreover, when the transfer or discharge is the result of a nursing facility's failure to readmit a resident following hospitalization or other medical leave of absence, the notice of transfer or discharge, including that which is required under 130 CMR 456.429, must comply with the requirements set forth in 130 CMR 456.701 and must be provided to the resident and an immediate family member or legal representative **at the time the nursing facility determines that it will not readmit the resident.** Here, the nursing facility did not provide notice until one (1) day after the Appellant was refused readmittance to its facility.<sup>9</sup>

The Appellant's appeal is APPROVED in accordance with the order below.

## Order for Nursing Facility

Rescind the March 28, 2023 Notice of Intent to Discharge/Transfer Resident with Less than 30 Days Notice and comply with all requirements set forth above, specifically, in 130 CMR 456.704.<sup>10</sup>

## Compliance with this Decision

If this nursing facility fails to comply with the above order, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

## Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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<sup>9</sup> While the nursing facility would not specifically affirm that it refused readmittance to the Appellant, the expedited notice of intent to discharge issued fails regulatory requirements regardless.

<sup>10</sup> The nursing facility is strongly encouraged to work with all parties to ensure that the Appellant is safely and properly cared for.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

[REDACTED]