



**Department  
of Health**

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

June 29, 2018

**CERTIFIED MAIL/RETURN RECEIPT**

Rayna Terry-Taylor  
Director of Social Services  
1249 5<sup>th</sup> Avenue  
New York, New York 10029

[REDACTED]  
Bronx-Lebanon Hospital  
1265 Franklin Avenue  
Bronx, New York 10456

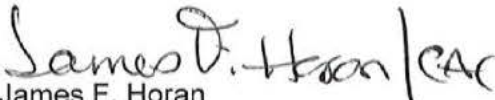
**RE: In the Matter of [REDACTED] - Discharge Appeal**

Dear Parties:

Enclosed please find the Interim Decision After Hearing in the above referenced matter. This Decision is final and binding.

The party who did not prevail in this hearing may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the party wishes to appeal this decision it may seek advice from the legal resources available (e.g. their attorney, the County Bar Association, Legal Aid, etc.). Such an appeal must be commenced within four (4) months from the date of this Decision.

Sincerely,

  
James F. Horan  
Chief Administrative Law Judge  
Bureau of Adjudication

JFH: cac  
Enclosure

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

In the Matter of an Appeal, pursuant to  
10 NYCRR § 415.3, by

[REDACTED]

Appellant,

from a determination by

**Terence Cardinal Cooke  
Health Care Center**

Respondent,

to discharge her from a residential  
health care facility.

**COPY**

**INTERIM  
DECISION**

Hearing Before: Natalie J. Bordeaux  
Administrative Law Judge

Hearing Location: Bronx-Lebanon Hospital  
1265 Franklin Avenue  
Bronx, New York 10456

Hearing Date: June 18, 2018

Parties: Terence Cardinal Cooke Health Care Center  
By: Rayna Terry-Taylor, Director of Social Services  
1249 5<sup>th</sup> Avenue  
New York, New York 10029

[REDACTED]  
*Pro Se*

**JURISDICTION**

By notice dated [REDACTED] 2018, Terence Cardinal Cooke Health Care Center (the Facility), a residential health care facility subject to Article 28 of the New York Public Health Law (PHL), determined to discharge [REDACTED] (the Appellant). The Appellant appealed the discharge determination to the New York State Department of Health (the Department) pursuant to 10 NYCRR § 415.3(h).

**HEARING RECORD**

Facility witnesses: Rayna Terry-Taylor, Director of Social Services  
Tiffany Hinds, Director of Nursing  
Linda Watson, Nurse Manager

Facility exhibits: 1 [REDACTED] 2018 discharge notice)  
2 (resident face sheet)

Appellant witnesses: [REDACTED] Appellant  
Andy Benejam, Director of Social Work, Bronx-Lebanon Hospital  
Elba Contreras, Social Worker, Bronx-Lebanon Hospital

Appellant exhibits: A (Appellant's shelter packet submitted on [REDACTED] 2018 to the [REDACTED] Shelter)

The notice of hearing and discharge notice were marked as ALJ Exhibit I. A transcript (T) of the hearing was made.

**ISSUES**

Has Terence Cardinal Cooke Health Care Center established that its determination to discharge the Appellant was necessary and the discharge plan appropriate?

**FINDINGS OF FACT**

1. The Appellant is a [REDACTED]-year-old [REDACTED] female who was admitted to the Facility on [REDACTED] 2017. (Facility Exhibit 2.)

2. The Appellant's admitting diagnoses were [REDACTED] pain due to [REDACTED]

[REDACTED]  
and [REDACTED] (Facility Exhibit 2; T Hinds.)

3. By notice dated [REDACTED] 2018, the Facility advised the Appellant of its determination to discharge her the same day because her health has improved sufficiently so that she "no longer needs the services of the facility." The notice advised the Appellant that she would be discharged to [REDACTED] Shelter located at [REDACTED] [REDACTED] Facility Exhibit 1.)

4. The Appellant was transported to [REDACTED] Shelter that same day. When she arrived, shelter staff contacted the 911 emergency call center to have the Appellant transported to Bronx-Lebanon Hospital (Bronx-Lebanon.) (T Benejam.)

5. The Appellant remains at Bronx-Lebanon pending the outcome of this appeal.

#### APPLICABLE LAW

Regulations at 10 NYCRR § 415.3(h) describe the transfer and discharge rights of residential health care facility residents. At a hearing to review a residential health care facility's determination to discharge a resident, the facility must prove by substantial evidence that the discharge was necessary, and the discharge plan was appropriate. 10 NYCRR § 415.3(h)(2)(iii); State Administrative Procedure Act § 306(1).

#### DISCUSSION

A hearing was held on June 18, 2018 to review the Facility's [REDACTED] 2018 discharge determination and discharge plan. This interim order is issued in advance of receipt of the hearing transcript. A final decision and order will be issued after the transcript is received.

The Facility failed to substantiate that the Appellant no longer requires the assistance of a skilled nursing facility. The Appellant was receiving continuous [REDACTED] care at the Facility, until it was abruptly discontinued by medical staff. She still requires medical maintenance of her [REDACTED] conditions. [REDACTED] In addition, she needs assistance with [REDACTED] [REDACTED] diaper changes, transfers, and bathing. [REDACTED] (Hinds.)

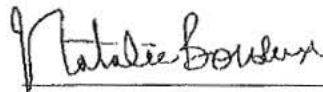
As noted above, the Facility discharged the Appellant to [REDACTED] Shelter, an intake facility, and not a shelter designated for individuals with specific medical needs, such as the Appellant. (Appellant Exhibit A.) The Facility's determination is not sustained.

**DECISION AND ORDER**

Terence Cardinal Cooke Health Care Center has not established that its determination to discharge the Appellant was necessary and its discharge plan appropriate.

1. Terence Cardinal Cooke Health Care Center is directed to readmit the Appellant to the first available semi-private bed prior to admitting any other person to the facility, pursuant to 10 NYCRR § 415.3(h)(2)(i)(d).

Dated: June 27, 2018  
New York, New York



---

Natalie J. Bordeaux  
Administrative Law Judge