

**BEFORE THE OKLAHOMA STATE DEPARTMENT OF HEALTH  
STATE OF OKLAHOMA**

In the Matter of the Involuntary Discharge of \_\_\_\_\_ )  
from \_\_\_\_\_, a nursing facility. ) ID-201\_-\_\_\_\_

**SUMMARY ORDER OVERRULING INVOLUNTARY DISCHARGE**

On \_\_\_\_\_, \_\_\_\_\_ (“resident”), requested an involuntary discharge hearing to determine whether or not the involuntary discharge of resident from \_\_\_\_\_ (“facility”) is within the purview of the Nursing Home Care Act 63 O.S. §1-1901 et seq. and OAC 310:675-7-4. All facilities are licensed by the state. If the facility receives federal funds, 42 C.F.R. §483.12 and other applicable federal law will also apply.

The Court finds an involuntary discharge hearing is not required because the facility failed to comply with the provisions of 42 C.F.R. 483§12(a)(6), regarding a written notice, as indicated below:

- (i) An explanation of the reason(s) for the transfer or discharge for reasons as specified at 42 C.F.R. 483§12(a)(2)(i-iv);
- (ii) The effective date of transfer or discharge;
- (iii) The location to which the resident is transferred or discharged;
- (iv) A statement that the resident has the right to appeal the action to the State;
- (v) The name, address and telephone number of the State Long Term Care ombudsman;
- (vi) For nursing facility residents with developmental disabilities, the mailing 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; and
- (vii) 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.
- 42C.F.R.483§12(a)(5)(i). Except when specified in paragraph (a)(5)(ii) of this section, the notice of transfer or discharge required under paragraph (a)(4) of this section must be made by the facility **at least thirty (30) days** before the resident is transferred or discharged.
- OAC 310:675-7-4(b)(3)(E). Information that the resident's representative or person responsible for payment of the resident's care who is aggrieved by the facility's decision, may file **within ten (10) days** of notice a written request for a hearing with the Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.
- OAC 310:675-7-4(b)(2). . . . The facility shall not use a discharge to a hospital as a reason for failing to re-admit a resident after release from the hospital to the first available bed in a semi-private room. Such action shall be considered to be an involuntary discharge subject to all the requirements of this section, unless the discharge was required by the Department.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the facility shall not involuntarily discharge this resident without obtaining a written order of this Court allowing same in strict accordance to federal and state regulations.

**IT IS FURTHER ORDERED ADJUDGED AND DECREED** that, since the discharge was not according to law, the Department shall review, investigate and issue deficiencies as appropriate pursuant to the Oklahoma Administrative Code, Section 310:675-7-4(b)(10), if deemed necessary.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that, if the facility finds itself aggrieved by this decision and has a valid, legal and meritorious reason why this Order should be changed, it may, on or before \_\_\_\_\_, file a request for a hearing to show cause why this order should

not remain in full force and effect. A request for a show cause hearing shall not stay the order and it shall remain in full force and effect until further action of the court.

\_\_\_\_\_  
Administrative Law Judge

Under Oklahoma law, any party to a proceeding who is not an individual is prohibited from representing itself before this Court.

### **NOTICE TO ALL PARTIES**

Parties shall be aware of Standing Orders issued by the Office of Administrative Hearings. All Standing Orders, as well as answers to commonly asked questions, directions to the court and other information may be found on the Oklahoma State Department of Health website at [http://www.ok.gov/health/organization/Office of Administrative Hearings/](http://www.ok.gov/health/organization/Office_of_Administrative_Hearings/). If a party does not have access to the internet, they may request a copy of the Standing Orders as follows:

Office of Administrative Hearings  
Oklahoma State Department of Health  
1000 N.E. 10<sup>th</sup> Street  
Oklahoma City, OK 73117-1299  
Telephone: 405-271-1269; Telefax: 405-271-1268  
E-mail: OAH@health.ok.gov

### **CERTIFICATE OF MAILING**

I certify that on \_\_\_\_\_ a true and correct copy of the above and foregoing *Summary Order Overruling Involuntary Discharge* was sent by facsimile and certified mail, restricted delivery, to:

A courtesy copy was sent to first class mail to:

\_\_\_\_\_  
Marcia Johns, Hearing Clerk

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Oklahoma State Department of Health  
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