

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

990.2

TP 20-00137

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, NEMOYER, AND TROUTMAN, JJ.

IN THE MATTER OF BERNARD MARTIN, PETITIONER,

V

ORDER

HOWARD ZUCKER, COMMISSIONER, NEW YORK STATE
DEPARTMENT OF HEALTH, RESPONDENT.

NEIGHBORHOOD LEGAL SERVICES, INC., BUFFALO (DIANA C. PROSKE OF
COUNSEL), FOR PETITIONER.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF COUNSEL),
FOR RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [Mark A. Montour, J.], entered January 24, 2020) to review a determination of respondent. The determination denied a prior approval request for a Quantum Q6 Edge power wheelchair with power tilt, swing away joystick mount and attendant control on the ground that medical necessity was not established.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on September 17 and 18, 2020,

It is hereby ORDERED that said proceeding is unanimously dismissed without costs upon stipulation.

Entered: November 13, 2020

Mark W. Bennett
Clerk of the Court