

**STATE OF TENNESSEE
HEALTH FACILITIES COMMISSION
BEFORE THE BOARD FOR LICENSING HEALTH CARE FACILITIES**

In The Matter of:	)	
	)	
Brooks Family Care	)	
Home For The Aged	)	
License No. 27,	)	Case No. 2023014361
	)	
Respondent.	)	
	)	
Nashville, Tennessee	)	

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities ("Board"), pursuant to the request of the Tennessee Health Facilities Commission ("Commission"), by and through the Office of Legal Services, and Brooks Family Care ("Respondent") that the Board adopt this Consent Order, the terms of which have been agreed upon by the parties, as signified by their signatures below.

I. JURISDICTION

1. The Board has the power to license and regulate hospitals, recuperation centers, nursing homes, homes for the aged, residential HIV supportive living facilities, assisted care living facilities, home care organizations, residential hospices, birthing centers, prescribe childcare centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential home. T.C.A. § 68-11-202(a)(1).
2. Upon a finding by the Board that a residential home for the aged has violated any provision of the Board's rules, action may be taken, upon proper notice to the licensees, to impose a

civil penalty and/or deny, suspend, or revoke its license. Tenn. Comp. R. & Reg. 0720-21-.03. The Board has the authority to suspend or revoke the license of any facility licensed under T.C.A. § 68-11-201.

3. The Commission has the authority to conduct reviews of Homes for the Aged to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).
4. The Commission shall conduct on-site inspections and investigations as may be necessary to safeguard and ensure at all times, the public's health, safety, and welfare. T.C.A. § 68-11-210(c).
5. A Residential Home for the Aged is authorized to administer medications to residents **only if it employs or contracts with** a physician, nurse, or physician assistant to administer medications to residents; T.C.A. § 68-11-201(20)(C).
6. "Activities of Daily Living" (ADL's) means those personal functional activities which indicate an individual's independence in eating, dressing, personal hygiene, bathing, toileting, and moving from one place to another. Tenn. Comp. R. & Regs. 0720-21-.01(2).
7. "Ambulatory resident" means a resident who is physically and mentally capable under emergency conditions of finding a way to safety without physical assistance from another person. An ambulatory resident may use a cane, wheelchair or other supportive device and may require verbal prompting. Tenn. Comp. R. & Regs. 0720-21-.01(7).
8. "Holding Out to the Public" means advertising or soliciting the public through the use of personal, telephone, mail or other forms of communication to provide information about services provided by the facility. Tenn. Comp. R. & Regs. 0720-21-.01(26).

9. "Home for the Aged" means a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care, with primarily being defined as 51% or more of the population of the home for the aged. It provides room, board and personal services to four (4) or more nonrelated persons. The term home includes any building or part thereof which provides services as defined in these rules. T.C.A. § 68-11-201(20)(A) and Tenn. Comp. R. & Regs. 0720-21-.01(27).
10. "Home for the Aged Resident" means a person who is ambulatory and who requires permanent, domiciliary care but who will be transferred to a licensed hospital, licensed nursing home or licensed assisted care living facility when health care services are needed which must be provided in such other facilities. Tenn. Comp. R. & Regs. 0720-21-.01(28).
11. "Personal Services" means those services that are rendered to residents who need supervision or assistance in activities of daily living. Personal services must include protective care of the resident, responsibility for the safety of the resident when in the facility, daily awareness of the resident's whereabouts and the ability and readiness to intervene if crises arise. Personal services do not include nursing or medical care. Tenn. Comp. R. & Regs. 0720-21-.01(38).
12. The ACLF shall provide on-site to its residents' room and board and non-medical living assistance services appropriate to each resident's needs, such as assistance with bathing, dressing, grooming, preparation of meals and other activities of daily living. T.C.A. § 68-11-201(4)(B) and Tenn. Comp. R. & Regs. 0720-26-.02(2).
13. Upon a finding by the Board that an RHA has violated any provision of Tenn. Code Ann. §§ 68-11-201, et seq., or the rules promulgated pursuant thereto, action may be taken, upon

proper notice to the licensee, to impose a civil penalty, deny, suspend, or revoke its license.

T.C.A. § 68-11-207. Tenn. Comp. R. & Regs. 0720-21-.03 et seq.

II. STIPULATIONS OF FACT

14. At all times pertinent hereto, Respondent, Brooks Family Care, 926 Jackson Street Nashville, Tennessee 37208, was licensed by the Board as an RHA, having been granted license number 27 on August 22, 1988, which currently has an expiration date of June 10, 2024.
15. On or about August 31, 2022, State surveyors conducted an inspection and survey of the Respondent noting several deficiencies on the State 2567 form, a copy of which was left with the Respondent. To date, no Plan of Correction has been received by the Commission. A Plan of Correction has been requested at least four times by Commission staff since completion of the survey.

III. GROUND FOR DISCIPLINE

The facts in Section II are sufficient to establish that grounds exist for the discipline of Respondent's RHA license. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

16. The facts in paragraphs fifteen (15) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.03(3), DISCIPLINARY PROCEDURES, the relevant portion of which reads as follows:

- (3) Failure to timely submit an acceptable plan of correction shall subject the home's license to possible disciplinary action.

IV. REPRESENTATIONS OF RESPONDENT

17. Respondent understands and admits the allegations, charges, and stipulations in this Order.
18. Respondent understands the rights found in the Code, Rules, and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 thru 4-5-404, including the right to a hearing, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Respondent voluntarily waives these rights in order to avoid further administrative action.
19. Respondent agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.
20. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
21. Respondent also agrees that the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party.

22. Respondent agrees that the facility has not received any threats or promises of any kind by the State or any agent or representative thereof, except such as is detailed herein.

V. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

23. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)**. This CMP is issued for the failure to timely submit a Plan of Correction after multiple requests to do so by the Commission and for the facts noted and acknowledged in the Stipulation of Facts above.
24. Respondent is hereby ordered to appear at **each and every** meeting of the Board for Licensing Healthcare Facilities for the next **six (6)** months starting on **January 1, 2024** after this Order has been approved by the Board in order to provide the status of the facility and any disciplinary issues to the Board/Commission.
25. All prior noted deficiencies on the State 2567 dated August 31, 2022, must be corrected within **thirty (30) calendar days** of the effective date of this Order, or the Commission **may take steps to suspend or revoke** the Respondent's license.
26. Payment shall be submitted to the following address within **sixty (60) calendar days** of the effective date of this Order.

**Tennessee Health Facilities Commission
Attention: Licensure and Regulation- Discipline
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

**PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT
ORDER HAS BEEN RATIFIED AND APPROVED BY THE BOARD**

27. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

APPROVED FOR ENTRY:



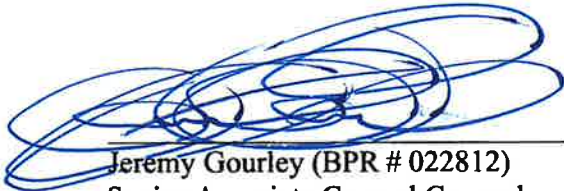
Brooks Family Care

License No. 27

Signature of Authorized Representative
Respondent


Printed Name of Authorized Representative


Title of Authorized Representative



Jeremy Gourley (BPR # 022812)
Senior Associate General Counsel
Health Facilities Commission
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Jeremy.J.Gourley@tn.gov

Approval by the Board

Upon the agreement of the parties and the record as a whole, this **CONSENT ORDER** was approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board for Licensing Health Care Facilities at a public meeting of the Board and signed this 1st day of Nov., 2023.

ACCORDINGLY, IT IS ORDERED that the agreement of the parties does hereby become the Final Order of the Board.



Chairperson
Board for Licensing Health Care Facilities

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Brooks Family Care, c/o Administrator, Lisa B. Brooks, 126 Braxton Park Lane, Goodlettsville TN, 37072, by delivering same in the United States regular mail and United States certified mail, number **7022 3330 0001 2193 7936**, return receipt requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: brooksfamilycare@hotmail.com.

This 1st day of November, 2023.



Jeremy Gourley
Senior Associate General Counsel