STATE OF TENNESSEE
BEFORE THE HEALTH FACILITIES COMMISSION

In The Matter of:	)	
	)	
ALTERNATIVE CARE, INC.	)	
Home for the Aged	)	
License No. 507,	)	**Case No. 2024029811**
	)	
Respondent.	)	
	)	
Nashville, Tennessee	)	

FINAL ORDER OF SUMMARY SUSPENSION

This cause came to be heard on the 25th day of September, 2024, at a public disciplinary meeting, before the Tennessee Health Facilities Commission ("Commission"), upon the application of the Commission's Office of Legal Services ("State"), for a summary suspension of Respondents' license pursuant to Tennessee Code Annotated Section ("T.C.A. §") 4-5-320(c).

I. JURISDICTION

1. The Commission 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.

2. The Commission has the authority to conduct reviews of all facilities licensed under this part in order to determine compliance with fire and life safety code regulations promulgated by the Commission. T.C.A.§ 68-11-202(b)(1)(A).

3. A residential home for the aged ("RHA") is a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care. "Primarily aged persons" means at least 51% or more of the census of the home for the aged is primarily aged. The RHA provides room, board, and personal services to at least four (4) or more non-related persons. The term "home" includes any building or part thereof which provides services as defined in the Commission's rules. Tenn. Comp. R. & Regs. 0720-21-.01(27).

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. Upon a finding by the Commission 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.

6. The Commission has the authority to suspend or revoke the license of any facility licensed under T.C.A. § 68-11-201(18).

7. No revocation, suspension, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct that warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare **imperatively requires emergency action**, and incorporates a finding to that effect in its order, summary action, **including suspension of a license** or other licensure restriction or action as may be appropriate to protect the public, may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and

determined. T.C.A. § 4-5-320(c).

II. STIPULATIONS OF FACT

8. At all times pertinent hereto, Respondent, Alternative Care, Inc., 525 Galesberg Court, Nashville, Tennessee 37217, was licensed by the Commission as a residential home for the aged, having been granted license 507 on March 15, 2007, which currently has an expiration date of June 30, 2025.

9. On or about May 22, 2024, a Health survey and a Life Safety survey of the facility were completed resulting in multiple deficiencies being cited, including failure to properly assess and monitor residents with dementia to determine whether the residents were appropriately admitted and/or retained, failure to maintain signed admission agreements for residents, failure to ensure that residents could administer their own medications or that resident medications were administered by a registered nurse, failure to maintain the facility's physical environment in a safe manner, and failure to obtain written approval from the Commission prior to conducting major alterations to the structure and failure to conduct required fire drills.

HEALTH DEFICIENCIES

10. Resident #1 (as identified in the May 2024 survey) was admitted to the facility with a diagnosis of Mental Retardation.

    a. The resident's file contained no admission agreement signed by Resident #1 or the person who was responsible for the resident's finances.

    b. The resident's file contained no documentation showing Resident #1 was able to self-administer medications and, in fact, the resident was unable to administer their own medication.

11. Resident #2 (as identified in the May 2024 survey) was admitted to the facility with a diagnosis of Dementia.

c. The resident's file contained no admission agreement signed by Resident #2 or the person who was responsible for the resident's finances.

d. The facility failed to have an initial Interdisciplinary Team ("IDT") meeting to review whether Resident #2 was appropriate for placement in the facility. The facility also failed to hold required quarterly IDT meetings for continued review of the resident's condition.

e. The resident's file contained no documentation showing Resident #2 was able to self-administer medications and, in fact, the resident was unable to administer their own medication.

12. Resident #3 (as identified in the May 2024 survey) was admitted to the facility with a diagnosis of Prostate Cancer.

f. The resident's file contained no admission agreement signed by Resident #3 or the person who was responsible for the resident's finances.

g. The resident's file contained no documentation showing Resident #3 was able to self-administer medications and, in fact, the resident was unable to administer their own medication.

13. Resident #4 (as identified in the May 2024 survey) was admitted to the facility with a diagnosis of Dementia.

h. The resident's file contained no admission agreement signed by Resident #4 or the person who was responsible for the resident's finances.

i. The facility failed to have an initial IDT meeting to review whether Resident #4 was appropriate for placement in the facility. The facility also failed to hold required quarterly IDT meetings for continued review of the resident's condition.

j. The resident's file contained no physician order showing Resident #4 was able to self-administer medications and, in fact, the resident was unable to administer their own medication.

14. Resident #5 (as identified in the May 2024 survey) was admitted to the facility with a diagnosis of Dementia.

k. The resident's file contained no admission agreement signed by Resident #5 or the person who was responsible for the resident's finances.

l. The facility failed to have an initial IDT meeting to review whether Resident #5 was appropriate for placement in the facility. The facility also failed to hold required quarterly IDT meetings for continued review of the resident's condition.

m. The resident's file contained no documentation showing Resident #5 was able to self-administer medications and, in fact, the resident was unable to administer their own medication.

15. The facility administrator, who was not a licensed nurse, placed medications in daily planners for the five (5) aforementioned residents.

LIFE SAFETY DEFICIENCIES

16. The bedroom doors were not self-closing throughout the facility.

17. The rear deck, which contains the facility's accessible wheelchair ramp, was unstable and contained uneven boards and soft areas. The accessible wheelchair ramp also lacked handrails or edge protection.

18. The facility failed to replace an electrical outlet equipped with an expiring Ground Fault Circuit Interrupter in one bathroom.

19. The facility was conducting extensive renovations, including replacement of the front exit door with a window, relocation of an interior wall, relocation and replacement of

plumbing and electrical, and substantial renovations to two (2) of three (3) bathrooms in the facility, one of which is the designated Americans with Disabilities Act accommodated bathroom per the facility's original approved plans. None of these renovations had been submitted to or approved by the Commission.

20. The facility failed to conduct fire drills during sleeping hours during 2023 and the first four (4) months of 2024.

21. The facility failed to conduct fire drills of any kind during February, June, July, September, October, November and December of 2023. The facility also failed to conduct fire drills of any kind during February and March of 2024.

22. The facility failed to maintain clear paths of egress from the living room to the rear exit doors. The paths were obstructed by furniture and construction materials/debris.

23. The facility failed to maintain fire safety equipment in safe operating condition. Two manual fire alarm boxes and one smoke detector were disconnected from the alarm panel and had "NOT USED" written on them.

24. As a result of these survey findings, the facility was required to provide a Plan of Correction ("POC") to the Commission, outlining the facility's plan to come into compliance. The facility has not submitted a POC of any kind to the Commission.

FOLLOW-UP SURVEY

25. On or about September 5, 2024, a Health survey and a Life Safety survey of the facility were completed resulting in multiple deficiencies being re-cited. Specifically, the facility still had unapproved renovations in progress, improperly installed smoke alarms, no documentation of required fire drills, resident medications were still being administered by the unlicensed owner/administrator of the facility, and residents with Dementia were still residing in the facility with no IDT review.

26. One bathroom and the rear deck of the facility were renovated (still without obtaining approval from the Commission), however the new shower is not ADA compliant, and the

new accessible wheelchair ramp still lacks handrails, edge protection, is not properly sloped and does not contain non-slip surfacing.

27. The follow-up survey also resulted in the citing of new deficiencies, including failure to submit a POC to the Commission, failure to identify residents who should be transferred to a higher level of care, and the facility owner/administrator acting as a court-appointed guardian, trustee, or conservator for Resident #5 (as identified in the September 2024 survey).

28. Resident #1 (as identified in the September 2024 survey) is regularly left alone outside the facility, in a completely unsecured area, despite the fact that the facility is aware of the resident's frequent exit-seeking behavior and a psychiatric in-patient hospital note from August of 2024, describing Resident #1 as an elopement risk.

29. Resident #1 has a prescription for Depakote (among other medications), which is administered by the facility's owner/administrator. The facility could provide no lab work or other documentation to show Depakote levels were monitored to ensure a therapeutic drug level was maintained.

30. Resident #5's rent was paid monthly by the owner/administrator of the facility by transferring money from the resident's checking account to the owner/administrator's checking account. The owner/administrator was unable to provide documentation showing the bank transfers for the resident's rental payments. The owner/administrator represented herself as an appointee over the resident's monthly federal beneficiary funds but was unable to provide documentation of being appointed as a representative/trustee/conservator for Resident #5.

III. CONCLUSIONS OF LAW

The facts listed above are sufficient to establish that the Respondent has violated the following statutes or rules for which disciplinary action, including summary suspension, by the Commission

is authorized:

31. The facts in paragraphs eleven (11), thirteen (13) and fourteen (14) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.05(7) [formerly cited as 1200-08-11-.05(7)], the relevant portion of which reads as follows:

> A home for the aged shall not admit or retain residents who pose a clearly documented danger to themselves or to other residents in the home. Persons in the early stages of Alzheimer's Disease and Related Disorders may be admitted only after it has been determined by an interdisciplinary team that care can appropriately and safely be given in the facility. The interdisciplinary team must review such persons at least quarterly as to the appropriateness of placement in the facility. The interdisciplinary team shall consist of, at a minimum, a physician experienced in the treatment of Alzheimer's Disease and Related Disorders, a social worker, a registered nurse, and a family member (or patient care advocate).

32. The facts in paragraphs ten (10) through fifteen (15) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.06(2) [formerly cited as 1200-08-11-.06(2)], the relevant portion of which reads as follows:

> Medications shall be self-administered. If the home chooses to employ a currently licensed nurse, medications may be administered by the nurse.

33. The facts in paragraphs ten (10) through fourteen (14) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.10(1)(h) [formerly cited as 1200-08-11-.10(1)(h)], the relevant portion of which reads as follows:

> An individual resident file shall be maintained for each resident in the home. Personal information shall be confidential and shall not be disclosed, except to the resident, the department and others with written authorization from the resident. These files shall be retained for one (1) year after the resident is transferred or discharged. The resident file shall include:
> . . .
>
> (h) A copy of the admission agreement signed and dated by the resident.

34. The facts in paragraphs sixteen (16) through eighteen (18) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.07(1) [formerly cited as 1200-08-11-.07(1)], the relevant portion of which reads as follows:

> An RHA shall construct, arrange, and maintain the condition of the physical plant and the overall RHA environment in such a manner that the safety and well-being of the patients are assured.

35. The facts in paragraph nineteen (19) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.07(5) [formerly cited as 1200-08-11-.07(5)], the relevant portion of which reads as follows:

> No new RHA shall be constructed, nor shall major alterations be made to an existing RHA without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new RHA is licensed or before any alteration or expansion of a licensed RHA can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

36. The facts in paragraphs twenty (20) and twenty one (21) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.08(2) [formerly cited as 1200-08-11-.08(2)], the relevant portion of which reads as follows:

> The residential home for the aged shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. Fire drills shall be held at least quarterly for each work shift for residential home for the aged personnel in each separate building. There shall be one fire drill per quarter during sleeping hours. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years.

37. The facts in paragraph twenty two (22) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.08(8) [formerly cited as 1200-08-11-.08(8)], the relevant portion of which reads as follows:

> Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.

38. The facts in paragraph twenty three (23) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.08(21) [formerly cited as 1200-08-11-.08(21)], the relevant portion of which reads as follows:

> All safety equipment shall be maintained in good repair and in a safe operating condition.

39. The facts in paragraphs twenty eight (28) and twenty nine (29) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.05(3)(a), the relevant portion of which reads as follows:

(3) The home shall:

(a) Be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and those residents who should be transferred to a higher level of care.

40. The facts in paragraph thirty (30) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-21-.04(6)(h) [formerly cited as 1200-08-11-.04(6)(h)], the relevant portion of which reads as follows:

Each home for the aged shall:

...

(h) Not allow an owner, responsible attendant, employee or representative thereof to act as a court-appointed guardian, trustee, or conservator for any resident of the facility or any of such resident's property or funds, except as provided by rule 0720-21-.10.

IV. POLICY STATEMENT

The summary suspension statute requires a showing that protection of "public health, safety, or welfare imperatively requires emergency action." T.C.A. § 4-5-320(c). Respondent's **repeated and ongoing failure to provide a safe environment for residents due in part to a failure to obtain Commission approval for major renovations, failure to conduct appropriate fire drills and maintain properly functioning fire alarms/smoke detectors, failure to admit and retain only those residents that are appropriate for an RHA, failure to have a licensed nurse administer resident medications to those residents who cannot administer their own medications, and failure to provide any Plans of Correction over several months of continued noncompliance,** constitute an immediate threat to the public health, safety, and welfare. The Commission's position is that the severity of the Respondent's conduct constitutes a serious threat to the public health, safety, and welfare.

V. ORDER

In consideration of the evidence presented, and pursuant to the authority granted under T.C.A. § 4-5-320(c), T.C.A. §§ 68-11-207(a), the Commission hereby preliminarily finds that the misconduct of Respondent, **Alternative Care, Inc.**, are so severe that it imperatively requires emergency action in order to protect the public health, safety and welfare prior to the initiation of formal disciplinary charges.

It is therefore **ORDERED** that:

41. Respondent's license as a Residential Home for the Aged, License No. 507, is hereby **SUMMARILIY SUSPENDED**, effective immediately.

42. Respondent **SHALL** immediately cease all construction/renovations of any kind until written approval is obtained from the Commission.

43. Beginning the effective date of this Order, Respondent **SHALL NOT** accept any new residents.

44. Respondent **SHALL** immediately begin the safe transfer of its residents to appropriate facilities. All residents must be removed from the facility by **October 11, 2024.**

45. Respondent **SHALL** provide, in writing, the name and contact information of the individual who shall participate in daily calls with Commission administrative staff. These daily calls shall be to assist with the safe transfer of the residents.

46. Respondent **SHALL** complete a resident roster on the template provided by the Commission. The resident roster must be updated daily, and an updated copy provided to Commission administrative staff before each daily call.

47. Respondent **SHALL** have a monitor, approved by the Health Facilities Commission, placed in the facility, and the monitor shall remain in the facility until the facility is in substantial compliance with all licensure requirements OR until the facility has safely relocated all residents.

48. Respondent **SHALL** be responsible for the cost of any monitoring.

49. The suspension **MAY** be stayed, and the facility's RHA license shall be probated, if the following conditions are met:

a. Submit all plans for past (current) construction, as well as future construction projects, and come into compliance with all applicable safety/zoning codes.

b. Maintain adequate records for all residents.

c. Employ licensed nurse for medication administration, unless future residents can self-administer their medications.

d. The facility will be subject to a minimum of two (2) unannounced inspection surveys in the twelve (12) month period following the effective date of this order.

e. Remain deficiency free on all Health and Life Safety surveys and abide by all terms and conditions required to continue operations as an RHA, after a period of reasonable assurance.

f. Respondent's failure to comply with the terms of this Order shall result in the immediate lifting of the stay of suspension without further action of the Commission.

50. If the suspension is stayed, the facility's RHA license **SHALL** be placed on probation for at least twelve (12) months.

g. Prior to submitting a petition for an Order of Compliance, the facility must maintain compliance during the entire probation period.

51. 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.

SO ORDERED, this 25th day of September, 2024.

Chairperson
Health Facilities Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Alternative Care, Inc., c/o Administrator, Everechi Onyejiaka, 525 Galesberg Court, Nashville, Tennessee 37217, by delivering same via FedEx, tracking number 7788 2405 9340 with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: alt.care@hotmail.com.

This 25th day of September, 2024.

Vishan J. Ramcharan
Associate General Counsel