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

In The Matter of:	)	
	)	
Shelby Gardens Place	)	
Assisted Care Living Facility	)	
License No. 26,	)	**Case No. 2023018751**
	)	
Respondent.	)	
	)	
Cordova, 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 Shelby Gardens Place ("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. The Commission has the authority to conduct reviews of assisted care living facilities to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A.§ 68-11-202(b)(1)(A).

3. An assisted care living facility ("ACLF") is a facility, building, establishment, complex or distinct part thereof that accepts primarily aged persons for domiciliary care and services. T.C.A.§ 68-11-201(4)(A) and Tenn. Comp. R. & Regs. 0720-26-.02(7).

4. "Primarily aged" means at least fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age. Tenn. Comp. R. & Regs. 0720-26-.02(34).

5. 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).

6. 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).

7. Upon a finding by the Board that an ACLF 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.

II. STIPULATIONS OF FACT

8. At all times pertinent hereto, Respondent, Shelby Gardens Place, 1535 Appling Care Lane Cordova, Tennessee 38018, was licensed by the Board as an ACLF, having been granted

license number 26 on July 1, 1998, which currently has an expiration date of August 12, 2024.

9. On or about June 8, 2023, the State surveyor reviewed the facility policy titled "Elopement Risk Evaluation Policy," dated June 13, 2022, which stated ""...communities will complete the Elopement Risk Evaluation in an effort to identify and prevent elopement attempts. The evaluation will be completed as follows...Pre-Move-in ...Upon Move-in ...Newly diagnosed with dementia or related disorder ...Increased exit seeking and/or wandering behavior ...Elopement Risk Evaluation Guidelines ...30-35 points: Red flag for behaviors ...the risk of elopement will be noted on the Care Plan ...An elopement drill should be conducted quarterly on each shift...".

A review by the surveyor of the medical record for Resident #4 revealed that the resident had a mental state score of below normal. In reviewing the elopement risk evaluation form dated April 21, 2023, for Resident #4, the surveyor noted the Resident had a history of exit-seeking behavior. Further medical record review showed confusion or dementia issues and a history of falls for the Resident. The surveyor found no documentation regarding appropriate interventions for Resident #4's potential for elopement.

10. In review of facility records, on or about June 8, 2023, the surveyor found record of the elopement of Resident #4 by way of an unlocked outside door on April 27, 2023. The resident was noted to have left the building for approximately forty-five (45) minutes. The facility issued a code pink alert and contacted 9-1-1 after about fifteen minutes of searching for the Resident. On the night of the elopement, it was noted that it was raining. When the Resident was found at a busy street intersection, they were wearing damp clothing and shoes and had apparently fallen injuring their knees.

11. The State surveyor, on or about June 8, 2023, found in their review of an "Assessment and Negotiated Service Plan Summary" with a date range of 4/21/2023 - 4/28/2023, that there were no interventions in place for confusion, dementia, or elopement risk for Resident #4. During a telephone interview, on or about June 12, 2023, the Care Services Manager admitted to the surveyor that Resident #4 should have had interventions in place for the resident's confusion, dementia and elopement risk. The surveyor found no documentation by the facility in their review of Resident #4's records that elopement precautions had been planned for this resident and that no updates to the Plan of Care had been made.

III. GROUNDS FOR DISCIPLINE

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

12. The facts in paragraphs nine (9) through ten (10) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg.0720-26-.07(a)(2) the relevant portion of which reads as follows:

> (7) An ACLF shall provide each resident with at least the following personal s services:
>
> (a) Each ACLF shall provide each resident with at least the following personal services:
>
> 2. Safety when in the ACLF;

13. The facts in paragraphs ten (10) through eleven (11) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Regs. 0720-26-.12 (5)(a) Resident Records, the relevant portion of which reads as follows:

> (5) Plan of Care.
>
> > (a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident ' s legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above-appropriate individuals.

IV. REPRESENTATIONS OF RESPONDENT

14. Respondent understands and admits the allegations, charges, and stipulations in this Order.

15. 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.

16. 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.

17. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.

18. 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.

19. 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:

20. Respondent is hereby assessed one collective (1) Civil Monetary Penalty in the amount of **six-thousand dollars ($6,000.00)**. This collective CMP is issued for the deficiencies cited on June 12, 2023, and noted above in paragraphs twelve (12) and thirteen (13).

21. Payment shall be submitted to the following address within **thirty (30) calendar days** of the effective date of this Order.

Tennessee Health Facilities Commission
Attention: Disciplinary Coordinator
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

22. 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:

Shelby Gardens Place
Representative
License No. 26
Signature of Authorized Representative
Respondent

Rodney L Baker
Printed Name of Authorized

Executive Director
Title of Authorized Representative

Jeremy Gourley (BPR # 022812)
Senior Associate General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
Office: (615) 741-7221
Fax: (615) 741-7051
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 7th day of February, 2024.

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, Shelby Gardens Place, c/o Administrator, Angela Hall, 1535 Appling Care Lane Cordova, Tennessee 38018, and by delivering same in the United States regular mail and United States certified mail, number **7022 3330 0001 2193 5199,** return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: LegalHelp@enlivant.com.

This 7th day of February, 2024.

Jeremy Gourley
Senior Associate General Counsel