

**STATE OF TENNESSEE
BEFORE THE HEALTH FACILITIES COMMISSION**

In The Matter of:	)	
	)	
Legacy Village of Hendersonville,	)	
Assisted Care Living Facility,	)	
License No. 141,	)	Case No. 2024016101
	)	
Respondent.	)	
	)	
Hendersonville, Tennessee	)	

CONSENT ORDER

This matter came to be heard before the Tennessee Health Facilities Commission (“Commission”), by and through the Office of Legal Services, and Legacy Village of Hendersonville (“Respondent”) that the Commission 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 Commission is empowered 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, prescribed childcare centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential homes. T.C.A. § 68-11-202(a)(1).
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 rules as promulgated by the Commission. T.C.A. § 68-11-202(b)(1)(A).

3. “Assisted-care living facility” (“ACLF”) means 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 that a minimum of 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. An assisted-care living facility 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 Commission 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, Legacy Village of Hendersonville, 674 East Main Street Hendersonville, Tennessee 371075, was licensed by the Commission as an ACLF, having been granted license number 141 on May 3, 2000, which currently has an expiration date of May 31, 2025.
9. On or about April 29, 2024, Commission surveyors conducted an annual survey at Respondent’s facility.

10. Resident #1's Plan of Care (POC) required a one-person assist for all transfers and a two-person assist for showering.
11. Resident #1 did not meet the criteria to qualify as an Assisted-Care Living Facility Resident as defined under Tenn. Comp. R. & Regs. 0720-26-.02(9), which requires the resident to be able to self-transfer.
12. On or about April 29, 2024, Respondent's Executive Director (E.D.) admitted that he was unaware that Resident #1 was ineligible for admission to the facility.
13. Respondent's Licensed Practical Nurse (LPN) #1 failed to renew their nursing license on February 29, 2024.
14. Respondent failed to ensure that Licensed Practical Nurse (LPN) #1 had an active nursing license before allowing them to administer medications to residents.
15. Respondent allowed LPN #1 to continue to administer medications and work outside their scope of practice from February 29, 2024, until they were sent home by Respondent's Executive Director on April 29, 2024.
16. On or about April 29, 2024, Respondent's E.D. admitted that LPN #1's nursing license had expired and on February 29, 2024, and had not been renewed after the expiration date.

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 Commission is authorized.

17. The facts in paragraphs ten (10) through twelve (12) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.05(5) [Regulatory Standards], the relevant portion of which reads as follows:

- (5) Civil Penalties. The Commission may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), in addition to or in lieu of other lawful disciplinary action, assess civil penalties for violations of statutes, rules or orders enforceable by the Commission in accordance with the following schedule:

T.C.A. § 68-11-213(i)(2) \$0-\$3000 (Admission or Retention of Inappropriately Placed Resident.) Each resident shall constitute a separate violation.)

18. The facts in paragraphs thirteen (13) through sixteen (16) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.07(5)(b) [Services Provided], the relevant portion of which reads as follows:

- (5) Resident medication. An ACLF shall:
- (b) Ensure that all drugs and biologicals shall be administered by a licensed or certified health care professional operating within the scope of the professional license or certification and according to the resident ' s plan of care.

IV. REPRESENTATIONS OF RESPONDENT

19. Respondent understands and admits the allegations, charges, and stipulations in this Order.
20. 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.

21. Respondent agrees that presentation of this Order to the Commission and the Commission's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Commission 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.
22. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
23. Respondent also agrees that the Commission may issue this Order without further process. If the Commission rejects this Order for any reason, it will be of no force or effect for either party.
24. 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:

25. Respondent is hereby assessed one (1) Civil Monetary Penalty (CMP) in the amount of **one thousand five-hundred dollars (\$1,500.00)**. This CMP is issued for a violation of Tenn. Comp. R. and Regs. 0720-26-.05(5) [Regulatory Standards].
26. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)**. This CMP is issued for a violation of Tenn. Comp. R. and Regs. 0720-26-.07(5)(b) [Services Provided].
27. The total assessed CMP amount is **twenty-five hundred dollars (\$2,500.00)**. 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 COMMISSION**

28. 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:



Signature of Authorized Representative
Legacy Village of Hendersonville
License No. 141
Respondent



Printed Name of Authorized Representative



Title of Authorized Representative



Jeremy Gourley (BPR # 022812)
Senior Associate General Counsel
Health Facilities Commission
Office of Legal Services
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243
Office: (615) 741-2364
Fax: (615) 741-9884
Email: Jeremy.J.Gourley@tn.gov

Approval by the Commission

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 Health Facilities Commission at a public meeting of the Commission and signed this 28 day of August, 2024.

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



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, Legacy Village of Hendersonville, c/o Administrator, John Pugh, 674 East Main Street Hendersonville, Tennessee 371075, and Legacy Village of Hendersonville, c/o Registered Agent, Nathional Registered Agents, Inc., 300 Montvue Road Knoxville, Tennessee 37919-5546 by delivering same in the United States regular mail and United States certified mail, numbers **7007 1490 0004 1087 4459** and **7007 1490 0004 1087 4466**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: jpugh@legacyhendersonville.net and blakcray@legacyvl.net.

This 28th day of August, 2024.



Jeremy Gourley
Senior Associate General Counsel