

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

In The Matter of:

**Belvedere Commons of Franklin,
Assisted Care Living Facility,
License No. 157,**

Respondent.

Franklin, Tennessee

Case No. 2024003861

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 Belvedere Commons of Franklin ("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, Belvedere Commons of Franklin, 303 South Royal Oak Blvd, Franklin, Tennessee 37064, was licensed by the Board as an ACLF,

having been granted license number 157 on March 28, 2000, which currently has an expiration date of June 16, 2024.

9. On or about January 8, 2024, Resident #12 suffered an injury, and the injury was being treated by a home health agency. Resident #12 did not receive appropriate care, which led to an amputation. On November 29, 2023, the Executive Director (ED) admitted that she had no idea that a home health agency was providing treatment to the resident.
10. On or about December 14, 2023, the Wellness Director admitted that the facility staff would ignore the presence of home health and did not follow-up on the care provided by outside agencies, and that the Respondent had no policy for outside vendors providing services in the facility.
11. On or about December 20, 2023, the ED admitted that she was over all the operations for the facility and that she should have been aware of everything happening in the facility.
12. On or about January 8, 2024, the Respondent failed to provide protective care following a suspected sexual assault for 1 of 15 residents (Resident #17) reviewed for abuse.
13. The notes of the Nurse Practitioner date October 22, 2023, found that Resident #12 was reported to have been involved with a sexual encounter with Resident #17, who is unable to consent due to mental health status. Resident #17 continued to reside in the Assisted Living Facility without intervention by the facility staff.
14. The Respondent failed to notify law enforcement or Adult Protective Services of the alleged sexual assault, and there were no interventions documented in the plan of care to protect Resident #17 from Resident #12.
15. The Respondent failed to ensure safety for 3 of 15 (Resident #2, #3, and #17) residents reviewed.

16. On or about September 13, 2023, Resident #1 was found by a caregiver on top of Resident #2 with their hands around Resident #2's neck. LPN #1 admitted the facility was short-staffed when she received a call about Resident #1 attacking Resident #2, and that she arrived after the fight had been broken up by staff.
17. On or about December 4, 2023, Resident #3 was found by staff with their head back in wheelchair with mouth open, not responding. RA #1 admitted that she found Resident #3 in an unresponsive state and that she had called multiple times for assistance from the nurse. The nurse did not immediately respond after assistance was requested. The RA further admitted that by the time the nurse arrived the resident was in serious condition and had to be transported to the hospital.
18. On or about January 8, 2024, the Respondent failed to maintain awareness of a resident's whereabouts for 1 of 15 (Resident #13) residents reviewed.
19. Resident #13 required a conservator over their person and on August 22, 2023, Respondent's staff were unable to locate the resident and called law enforcement. Resident #13 was found the next day at their old personal residence and returned to the facility by Court Order by law enforcement.
20. After the elopement of Resident #13 on August 22, 2023, the Respondent failed to make any interventions in the Care Plan for Resident #13 regarding elopement risk, dementia, or need for closer supervision.
21. On or about November 21, 2023, Resident #13 failed to return from a dental appointment where he had been dropped off. Resident #13 left the dental office and got a ride to their old house to pick up their vehicle. The Respondent's Executive Director admitted that they

did not consider Resident #13's failure to return an elopement because Respondent's staff were talking on the phone with the resident.

22. The Respondent failed to maintain a clean and sanitary kitchen on November 27, 2023, November 28, 2023, November 29, 2023, and December 20, 2023. On these days, there was a black build up on stove and oven surfaces, large amounts of food and debris in the grease trap, burnt crumbs in the deep fryer, a black substance on the floor and under the deep fryer, a brown substance dripping down a kitchen wall, build up in the stand-up ovens, crumbs, debris, and a brown substance on the floor and walls of the walk-in freezer, and a pink and gray substance on the water curtain of the ice machine.
23. On or about November 28, 2023, Respondent's kitchen was found in an unsanitary condition, which included dirty dishes with a thick brown substance, old wet food build-up in the food trap of the dish machine, staff who were unable to check PH levels of water in the sink, improper handling of clean dishes, improper wash temperatures, lack of sanitizer, failure to properly dry dishes. On or about November 29, 2023, the ED admitted the dishwasher has temperature problems, there were no test strips, the 3-compartment sink did not work correctly, the dishwasher lacked proper cleaning chemicals, the staff did not use clean gloves when handling dishes. The Dietary Manager (DM #1) admitted that the kitchen needed a deep cleaning. DM #2 admitted the kitchen was filthy.
24. The Respondent failed to review and/or revise the plan of care as changes in the residents' needs occurred related to wandering, sexual, and aggressive behaviors, medications, and dementia for 6 of 16 (Resident #1, #12, #13, #14, #17, and #19) residents reviewed.
25. The Respondent failed to put interventions in place for Resident #1's wandering behavior. The Respondent failed to put interventions in place for Resident #12's injury or sexual

assaults on other residents. Resident #13 was not found to have interventions for elopement in their plan. Resident #14 was found not to have interventions for their physically aggressive behaviors. Resident #17 was found not to have any interventions to protect them from inappropriate sexual behaviors of other residents. Resident #19 was found not to have any no interventions for their behavior of crawling on the floor.

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.

26. The facts in paragraphs nine (9) through eleven (11) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.07(3), Services Provided, the relevant portion of which reads as follows:

- (3) Oversight of medical services in an ACLF shall be consistent with oversight provided in private residential settings as defined through rules and regulations promulgated by the applicable licensing boards and shall ensure quality of care to residents.

27. The facts in paragraphs twelve (12) through fourteen (14) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.07 (7)(a)(1) Services Provided, the relevant portion of which reads as follows:

- (7) An ACLF shall provide personal services as follows:
 - (a) Each ACLF shall provide each resident with at least the following personal services:
 - 1. Protective care

28. The facts in paragraphs twelve (12) through seventeen (17) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.07 (7)(a)(2) Services Provided, the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(a) Each ACLF shall provide each resident with at least the following personal services:

2. Safety when in the ACLF

29. The facts in paragraphs seventeen (17) through twenty-one (21) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.07(a)(3), Services Provided, the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(a) Each ACLF shall provide each resident with at least the following personal services:

3. Daily awareness of the individual 's whereabouts

30. The facts in paragraphs twenty-two (22) through twenty-three (23) are sufficient to constitute one collective violation of:

Tenn. Comp. R. and Regs. 0720-26-.07 (7)(c)(1), Services Provided, the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(c) Dietary services.

1. An ACLF shall have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the ACLF on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section while providing for constant liaison

with the ACLF for recommendations on dietetic policies affecting resident treatment.

Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(4)(i), Services Provided, the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(c) Dietary services.

4. An ACLF shall:

(i) Provide at least three (3) meals constituting an acceptable and/or prescribed diet per day. There shall be no more than fourteen (14) hours between the evening and morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140°F. or above) or cold (41°F. or less) as appropriate. The food must be adapted to the habits, preferences and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to residents with special dietary needs or upon request.

Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(5), Services Provided, the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(c) Dietary services.

5. An ACLF shall maintain a clean and sanitary kitchen..

31. The facts in paragraphs twenty-four (24) through twenty-five (25) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 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

32. Respondent understands and admits the allegations, charges, and stipulations in this Order.
33. 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.
34. 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.
35. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.

36. 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.
37. 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:

38. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.07(3), Oversight of Medical Care cited on January 8, 2024.
39. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.07 (7)(a)(1) Protective Care cited on January 8, 2024.
40. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **two thousand dollars (\$2,000.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.07 (7)(a)(2) Safety in ACLF cited on January 8, 2024.
41. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.07(a)(3) Daily Awareness cited on January 8, 2024.
42. Respondent is hereby assessed one (1) collective Civil Monetary Penalty in the amount of **three thousand dollars (\$3,000.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.07 (7)(c)(1), 0720-26-.07 (7)(c)(4)(i), and 0720-26-.07 (7)(c)(5) Dietary Services cited on January 8, 2024.

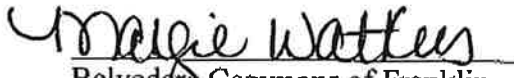
43. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **three thousand dollars (\$3,000.00)**. This CMP is issued for the violation of Tenn. Comp. R. and Regs. 0720-26-.12 (5)(a) Plan of Care cited on January 8, 2024.
44. The total assessed Civil Monetary Penalty amount is **nine thousand five hundred dollars (\$9,500.00)**. 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 BOARD**

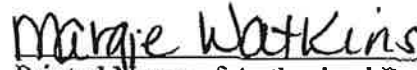
45. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition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

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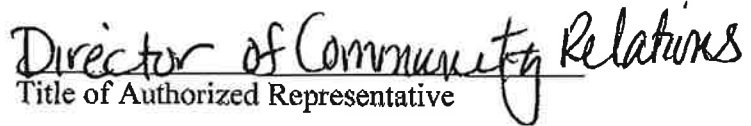
APPROVED FOR ENTRY:

Belvedere Commons of Franklin
License No. 157

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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Email: 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 5th day of June, 2024.

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

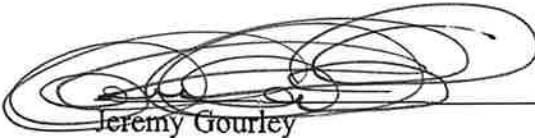


Chairperson
Board for Licensing Health Care Facilities

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Belvedere Commons of Franklin, c/o Administrator, Margie Ann Watkins, 303 South Royal Oak Blvd, Franklin, Tennessee 37064, by delivering same in the United States regular mail and United States certified mail, number **7020 0640 0001 4807 0076**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: aharwood@opalst.com.

This 5th day of June, 2024.



Jeremy Gourley
Senior Associate General Counsel