

**STATE OF TENNESSEE
HEALTH FACILITIES COMMISSION**

In The Matter of:)
)
Sunset Gardens,)
Assisted-Care Living Facility,)
License No. 497,)
)
Respondent.)
)
Mountain City, Tennessee)

NOTICE OF SUSPENSION OF ADMISSIONS

The investigations and surveys, with exit dates of July 24, 2024, and July 26, 2024, revealed violations of licensure statutes and regulations that are considered **detrimental to the health, safety, or welfare of the residents**. Pursuant to T.C.A. § 68-11-252(a), whenever the Executive Director determines that conditions in an assisted-care living facility are, or are likely to be, detrimental to the health, safety, or welfare of the residents, the Executive Director shall have the authority to suspend new admissions of residents to the facility, pending a prompt hearing.

Based upon the surveyors' findings and recommendations, the Executive Director has exercised the authority to **suspend admissions** to the facility, **effective July 31, 2024, at 5:00 p.m. C.T.**

I. PARTIES

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. For the purposes of this action, the address for the Executive Director and Commission is Tennessee Health Facilities Commission, Office of Legal Services, 502 Deaderick Street, 9th Floor, Nashville, Tennessee 37243.
3. At all times pertinent hereto, Respondent, Sunset Gardens, was licensed by the Commission as an Assisted-care Living Facility in the State of Tennessee, having been granted license number 497 on October 08, 2018, which currently has an expiration date of October 7, 2024.

II. JURISDICTION

4. “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).
5. “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).
6. The Commission has the authority to conduct reviews of facilities licensed under this part to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).
7. 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).
8. The executive director has the authority to suspend the admission of any new patients or residents to any facility or licensee in those cases where the executive director has

a factual basis upon which to believe that the conditions in any such facility or licensee are, or are likely to be, detrimental to the health, safety, or welfare of a patient or resident. T.C.A. § 68-11-252(a).

9. For the purposes of this section, “facility or licensee” means any entity licensed under this part. The executive director **may suspend admissions** pending a prompt hearing before the commission, or an administrative judge if the commission cannot be convened promptly. T.C.A. § 68-11-252(b).
10. Any facility or licensee subject to a suspension of admissions by the executive director has the right to contest the factual or legal basis for a suspension of admission imposed against it through a prompt contested case hearing before the commission, or an administrative judge if the commission cannot be convened promptly. T.C.A. § 68-11-252(f).
11. All contested cases pursuant to subsection (f) must be conducted according to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, and must be **heard within thirty (30) calendar days** of the health facilities commission's **filing of a notice of hearing**, unless otherwise agreed to by both parties. T.C.A. § 68-11-252(g) and 2024 Public Chapter 932.
12. An order in all cases contesting a suspension of admissions must be issued within **twenty (20) working days after the receipt of the trial transcript and proposed findings of fact and conclusions of law**, regardless of whether the hearing is conducted before the commission or an administrative judge. The order must determine whether the suspension of admissions was **initially valid** and whether conditions at the facility or licensee **continue to be detrimental to the health, safety, or welfare** of a patient or resident to justify the continuation of the suspension

of admissions **if not previously lifted**. T.C.A. § 68-11-252(h) and 2024 Public Chapter 932.

13. **Within ten (10) days of receiving the executive director's order** to suspend admissions, any facility or licensee for which admissions have been suspended pursuant to this section **shall submit a corrective action plan** to the commission delineating the measures to be taken to address violations and associated time frames. If it is deemed by the commission to be necessary to ensure the health, safety, and welfare of patients or residents, the executive director may require any facility or licensee for which admissions have been suspended to take all necessary actions to correct violations immediately. The commission **may also set a lesser time frame than ten (10) days** for the facility or licensee to submit a corrective action plan when it deems necessary to ensure the health, safety, and welfare of residents.
14. 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.
15. In accordance with Public Chapter 1119 (2022), all rule citations cited as 1200-08-25, shall now be referenced as 0720-26.

III. FACTS

16. Complaint surveys were conducted on the premises of the facility and the life safety survey team exited on July 24, 2024, and the health survey team exited on July 26, 2024, resulting in deficiencies cited which affect the health, safety, and welfare, of the residents within the assisted-care living facility. A copy of the State Life Safety Statement of Deficiencies was mailed to the Respondent on July 24, 2024, and a copy

of the State Health Statement of Deficiencies was mailed to the Respondent on July 30, 2024.

17. The Respondent failed to have policies and procedures in place for the safe evacuation from the facility.
18. The Respondent failed to have a capable and responsible person to act on administrative matters, while the current administrator was out of the country on vacation.
19. The Respondent failed to always have an attendant that is able to provide necessary services and is above the age of eighteen (18) years of age. Respondent allowed a sixteen (16) year old and seventeen (17) year old to operate the facility without anyone over the age of eighteen (18) years old present and providing oversight in the facility.
20. The Respondent allowed non-licensed, non-certified personnel to administer prescription medications, as there was not a licensed nurse available to assist with medication administration.
21. The Respondent failed to properly store resident prescription medication, so that it was out of sight of other residents and secure. The medication was removed from pharmacy packaging and placed into pill planners or cups for administration by non-licensed, non-certified personnel.
22. The Respondent's administrator made herself representative payee for social security payments, as well as taking possession and control of food benefits, and other personal property of the residents.
23. On July 30, 2024, the Executive Director of the Health Facilities Commission issued the eight (8) day Notice Letter, and it is hereby incorporated in its entirety by reference and attached hereto as Attachment 1.

IV. CAUSE OF ACTION

The facts stated in the Section III, *supra*, are sufficient to establish that grounds for the Suspension of Admissions by the Executive Director against Respondent's assisted-care living facility license. Specifically, Respondent has violated the following statutes and/or rules, for which executive action is authorized:

24. The facts in paragraph seventeen (17) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.08(7) the relevant portion of which reads as follows:

(7) An ACLF shall have documented plans and procedures to show evacuation of all residents.

25. The facts in paragraphs seventeen (17) through twenty-one (21) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.06(1)(a)(1) and (3) the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(a) Staffing Requirements:

(1) The licensee must designate in writing a capable and responsible person to act on administrative matters and to exercise all the powers and responsibilities of the licensee as set forth in this chapter in the absence of the licensee.

(3) An ACLF shall have an identified responsible attendant who is alert and awake at all times and a sufficient number of employees to meet the residents ' needs, including medical services as prescribed. The responsible attendant and direct care staff must be at least eighteen (18) years of age and capable of complying with statutes and rules governing ACLFs.

26. The facts in paragraphs seventeen (17) through twenty (20) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.06(1)(a)(4) the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(a) Staffing Requirements:

(4) An ACLF shall have a licensed nurse available as needed.

27. The facts in paragraphs nineteen (19) through twenty-one (21) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 0720-26-.07(5)(b), (d), and (e), 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;

(d) Store all medications via a locked or closed container and/or room which includes, but is not limited to, some type of box, piece of furniture, an individual resident room, and/or a designated room within the facility which maintains resident medication out of the sight of other residents; and

(e) Ensure that facility staff shall not repackage medication and shall not administer medication from repackaging.

28. The facts in paragraph twenty-two (22) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 0720-26-.06(1)(e) the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(e) No person associated with the licensee or ACLF shall act as a court-appointed guardian, trustee, or conservator for any resident of the ACLF or any of such resident's property or funds, except as provided by rule 0720-26-.14(1)(i).

V. ORDER

29. Pursuant to T.C.A. § 68-11-252(a), and based upon the aforementioned facts as incorporated by reference herein, the Executive Director has ordered that the admission of new residents at Sunset Gardens be **suspended, effective on the July 31, 2024, at 5:00 p.m. C.T.**

30. Pursuant to T.C.A. § 68-11-221, which provides that whenever admissions at a health care facility are suspended under the authority of T.C.A. § 68-11-207, the Executive

Director shall appoint one or more special monitors if the deficiencies threaten serious bodily harm to the residents at the facility, the Executive Director hereby **appoints a monitor or monitors** to be present in the facility for a **minimum of twenty (20) hours per week** in order to observe the operation of the facility and to submit written reports on the operations of the facility to the Commission. The monitor(s) shall have the power to observe and review all of the facility's operations with attention to those aspects for which the Suspension of Admissions was imposed. The facility shall be liable for the cost of the special monitor(s) until it is determined by the Commission that all the deficiencies which caused the appointment of the monitor(s) have been corrected.

31. The facility is hereby **ordered** to submit a Correction Action Plan delineating the measures to be taken to address violations and associated time frames to the Commission within ten (10) calendar days of issuance of this Order, pursuant to T.C.A. § 68-11-252(j).
32. The facility is hereby **ordered to post a copy of this Order** upon the public entrance doors of the facility and prominently display it there for so long as it remains effective. During the Suspension of Admissions, the facility shall inform any person who enquires about the admission of a new resident of the provisions of the order and make a copy of the order available.
33. In order for this Suspension of Admissions to be lifted, the **cited conditions must be corrected** so as to remove the detriment to the health, safety, or welfare of the residents, as **verified by a follow-up survey** of the facility conducted by the Commission.

VI. NOTICE OF RIGHTS

The Commission hereby gives notice to the Respondent of the following rights:

34. In accordance with 2023 Public Chapter 466, the Health Facilities Commission assumed jurisdiction over licensing Health Care Facilities. Because of this suspension of admissions, this nursing home has the right to a prompt hearing before the Health Facilities Commission. If the Commission cannot convene promptly, this hearing may be held before an administrative judge. If the facility disagrees with this decision and requests such a hearing, the Commission or Administrative Judge would then have the authority to continue, revoke or modify the suspension of admissions; to revoke, suspend or condition the license held by the facility, and to enter such other orders as deemed necessary. Tenn. Code Ann. ("T.C.A.") §§ 68-11-207 and 252.

35. The Corrective Action Plan shall be submitted to the East Tennessee Regional Office and to the disciplinary Coordinator at following addresses:

Health Facilities Commission
East Tennessee Regional
7175 Strawberry Plains Pike, Suite 103
Knoxville, Tennessee 37914

Courtney Lilly, Disciplinary Coordinator
Health Facilities Commission
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243

36. Should the facility wish to demand a hearing, the demand and a copy of the demand should be mailed respectively to the following addresses:

a. Caroline Tippens, Director of Licensure and Regulation
Health Facilities Commission
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243

b. Health Facilities Commission
Office of Legal Services
502 Deaderick Street, 9th Floor
Nashville, Tennessee 37243

37. Hearings requested shall be conducted as a contested case proceeding as provided by the Administrative Procedures Act, T.C.A. §§ 4-5-301, et. seq., and by and by Tenn. Comp. R. & Regs. 1360-4-.01 et. seq. Any such hearing shall be conducted within **thirty (30) days of the filing of the notice of charges** and an Order shall be issued within **twenty (20) working days after the receipt of the trial transcript and proposed** findings of fact and conclusions of law. T.C.A. § 68-11-252 and 2024 Public Chapter 932.

Entered this 30th day of July, 2024.

A handwritten signature in black ink, appearing to read 'Logan Grant', written over a horizontal line.

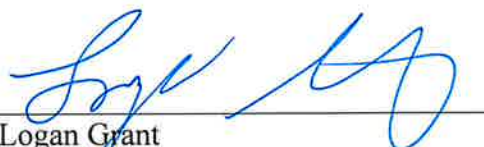
Logan Grant
Executive Director
Health Facilities Commission

xc: Caroline R. Tippens, Director of Licensure & Regulation
Ann R. Reed, Deputy Director of Licensure & Regulation
Courtney Lilly, Disciplinary Coordinator
Health Facilities Commission, East Tennessee Regional Office
Health Facilities Commission, Office of Legal Services

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Sunset Gardens, c/o Wendy Henley, Administrator, 3683 Highway 421 South, Mountain City, Tennessee 37683, by delivering same in the United States regular mail and United States certified mail, number **7020 0640 0001 4807 0427**, return receipt requested, with sufficient postage thereon to reach its destination. A copy was **SERVED** via electronic mail to: sunsetgardens19@gmail.com.

This the 30th day of July, 2024.



Logan Grant
Executive Director
Health Facilities Commission