

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

In The Matter of:	)	
	)	
Sunset Gardens,	)	
Assisted Care Living Facility,	)	
License No. 497,	)	Case No. 2025011401
	)	
Respondent.	)	
	)	
Mountain City, Tennessee	)	

CONSENT ORDER

This matter came to be heard before the Tennessee Health Facilities Commission (“Commission”), pursuant to the request of the Commission, by and through the Office of Legal Services, and Sunset Gardens (“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.

Respondent, by signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review of this matter.

Respondent agrees that presentation to and consideration of this Consent Order by the Commission for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Commission or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should the Consent Order not be ratified. Likewise, all matters, admissions, and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

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.

8. The Executive Director may suspend admissions pending a prompt hearing before the Commission, or an administrative judge if the Commission cannot be convened promptly. (Tenn. Code Ann. 68-11-252(b).)
9. Pursuant to Tenn. Code Ann. § 68-11-252(c), the Executive Director shall initiate a suspension of admissions by delivering to the facility or licensee a notice stating the Executive Director's decision to suspend the admissions of new patients. The Executive Director's notice to suspend admissions must:
 - (1) Detail what conditions are considered detrimental to the health, safety, or welfare of the patients;
 - (2) Provide an explanation of the specific time frame when and conditions under which the facility or licensee can reasonably expect the suspension to be lifted; and
 - (3) Be received by the facility or licensee within ten (10) business days of the conclusion of the Commission's survey.
10. The Executive Director is authorized, at any time prior to a hearing, based on information presented to the Executive Director showing that such conditions have been and will continue to remain corrected, to revoke the suspension of admissions. Tenn. Code Ann. § 68-11-252(i).
11. During a suspension of admissions pursuant to § 68-11-252, the Executive Director shall appoint one (1) or more special monitors, if the deficiency threatens serious bodily harm to the patients or residents of the facility, and costs related to the special monitor(s) shall be recoverable in certain circumstances. Tenn. Code Ann. § 68-11-221.

12. All Board authority was transferred to the Commission on July 1, 2024, pursuant to Public Chapter 466 of 2023.

II. STIPULATIONS OF FACT

13. At all times pertinent hereto, Respondent, Sunset Gardens, 3683 Highway 421 South Mountain City, TN 37683, was licensed by the Commission as an ACLF, having been granted license number 497 on October 8, 2018, which currently has an expiration date of October 7, 2025. Specifically, Respondent's Administrator was designated as Wendy Lee Henley.
14. On or about June 2024, upon receipt of an Adult Protective Services ("APS") referral, the TBI investigated and discovered that Respondent's Administrator used a resident's insurance benefits card to purchase items for the facility.
15. On or about July 2024, the TBI and APS visited Respondent to speak with Respondent's Administrator and discovered that seventeen (17) residents, including two (2) hospice residents, had been left in the care of two (2) juveniles who were not authorized to provide direct patient care services.
16. On or about July 25, 2024, a Health survey of the facility was completed resulting in numerous deficiencies being cited for failure to have in writing, and readily available, a designee responsible to act on behalf of the Respondent's Administrator in the RA's absence; failure to ensure a sufficient number of staff who were at least eighteen (18) years of age who were available to meet the medical needs of the residents; failure to have a licensed nurse available for eighteen (18) residents, who was available to administer medications for eighteen (18) residents; failure to ensure the Social Security and Financial Representative Payee was not associated with the Assisted Care Living Facility ("ACLF")

RA or licensee for one (1) resident (“Resident #13”); failure to provide medical services using appropriately licensed or qualified staff for eighteen (18) residents and follow policy to have all staff CPR certified; failure to present any licensed staff; failure to securely maintain resident narcotic medication storage for one (1) resident (“Resident #7”); and failure to maintain resident’s medication(s) in the original packaging.

17. On or about July 24, 2024, Respondent showed no documentation posted or readily available of the designated staff in charge in the absence of the Respondent’s Administrator, and upon entrance to the facility one (1) unlicensed caregiver, an underage minor (16 years old) was the only caregiver/only staff in charge at the facility at the time of entrance.
18. On or about July 24, 2024, Respondent’s time sheets and employee records demonstrated two (2) unlicensed, underage caregivers (17 and 16 years old) were left alone, in charge of the facility, for multiple days.
19. On or about July 24, 2024, observation revealed no licensed nursing staff were employed by Respondent or available in the RA’s absence, and two (2) caregivers revealed that two (2) underage, unlicensed caregivers both administered medications to residents and there was never a nurse to administer the residents their medications or provide assistance when needed.
20. On or about July 24, 2024, during an interview two (2) caregivers confirmed they were never informed not to provide medications to residents. Both unlicensed caregivers also confirmed the Respondent’s Administrator directed staff to give medications to residents when they were needed.

21. On or about July 24, 2024, two (2) caregivers admitted to witnessing Respondent's Administrator provide Resident #13 with a blank check for signature. Both caregivers also indicated that when asked by residents about cost of rent, and they were unable to provide this information to the residents and Respondent's Administrator instructed the caregivers that RA took care of all the money.
22. On or about July 24, 2024, in connection with a complaint investigation that Respondent's Administrator had been taking the resident's money, checks, and food stamp benefits, two (2) caregivers acknowledged that RA was in charge of some of the residents' money and took food stamp benefits from some residents.
23. On or about July 24, 2024, employee files revealed that all listed employees of the facility were unlicensed caregivers except for one (1) CNA and the Respondent's Administrator. RA was an RN/NP, and her NP license was suspended. Further review confirmed that neither of the two (2) unlicensed, underage caregivers were CPR certified nor had any CPR training.
24. On or about July 24, 2024, both of the two (2) unlicensed, underage caregivers confirmed that they had never seen Respondent's Administrator nor the CNA work in the facility providing resident care. Both aforementioned caregivers confirmed they were the only staff in the facility to provide care to residents, and both confirmed they administered medications to residents of the facility.
25. On or about July 24, 2024, unlicensed facility caregivers confirmed medication administration to facility residents, by way of removing narcotic medications from their prescription bottles by unlicensed staff and provided to residents at their request. These

medications were counted and signed out by the unlicensed staff. This included medication administration by the underage, unlicensed caregivers.

26. On or about July 24, 2024, an unlicensed facility caregiver and Surveyor entered the nurse's station through an open door and observed a container of medication on a windowsill, easily accessible for any resident, staff member, or visitor. The aforementioned caregiver confirmed that the nurse station door was unlocked and open consistently.
27. On or about July 24, 2024, observation revealed individual resident medications from a two-drawer filing cabinet were scattered in unsecure locations and had been placed in containers out of their original pharmacy filled containers, with no identifying information. Other medications were observed in zip lock bags with first names of residents without description or dosage information, or with lack of expiration. An unlicensed caregiver was observed opening several pouches of medications without using a key or other device to open them.
28. On or about July 24, 2024, two (2) caregivers confirmed during an interview that the medication observed on the windowsill should have been secured behind a double lock system. They also confirmed that the facility had not maintained resident medications in the original prescription bottles nor securely stored these medications.

CURRENT FACILITY STATUS

29. As of September 16, 2025, Respondent has indicated that residents are no longer living in the facility, and the facility has ceased operations.

III. GROUND 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.

30. The facts in paragraphs seventeen (17), eighteen (18), and twenty-nine through thirty-one (29-31) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 0720-26-.06(1)(a)(1), (2), & (3), the relevant portion(s) 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.
2. If the licensee is a natural person, the licensee shall be at least eighteen (18) years of age, of reputable and responsible character, able to comply with these rules...
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.

30. The facts in paragraphs nineteen (19) and 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:

1. An ACLF shall have a licensed nurse available as needed.

31. The facts in paragraphs twenty-one (21) and 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).

32. The facts in paragraphs twenty-three (23) and twenty-four (24) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.07(2)(a) through (e), the relevant portion(s) of which reads as follows:

(2) Medical services in an ACLF shall be provided by:

(a) Appropriately licensed or qualified staff of an ACLF;

(b) Appropriately licensed or qualified contractors of an ACLF;

(c) A licensed home care organization;

(d) Another appropriately licensed entity; or

(e) Appropriately licensed staff of a nursing home.

33. The facts in paragraphs twenty-five (25) through twenty-eight (28) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.07(5)(b), (d) through (e), the relevant portion(s) 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.

IV. REPRESENTATIONS OF RESPONDENT

34. For the sole purpose of resolving this administrative matter, Respondent understands and acknowledges the allegations, charges, and stipulations in this Order.
35. 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.
36. 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.
37. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.

38. 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.
39. 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.

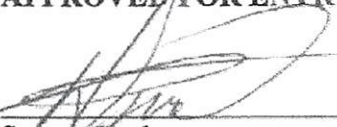
V. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

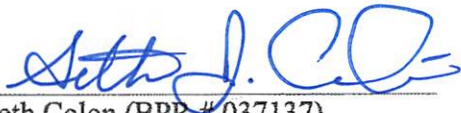
40. Respondent's license to operate as an ACLF shall be and is hereby **VOLUNTARILY SURRENDERED**, beginning the effective date of this Order. A voluntary surrender has the same effect as revocation.

[THIS SECTION LEFT INTENTIONALLLY BLANK]

APPROVED FOR ENTRY:


Sunset Gardens
Representative
License No. 497
Signature of Authorized Representative
Respondent

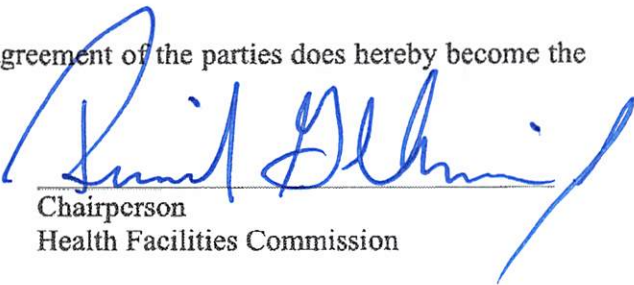
DONALD E. SPURREN
Printed Name of Authorized
BPR # 01810, 128 EAST MARKET ST.
JOHNSON CITY, TN 37604
ATTORNEY FOR SUNSET GARDENS
Title of Authorized Representative


Seth Colon (BPR # 037137)
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: seth.colon@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 24th day of September, 2025.

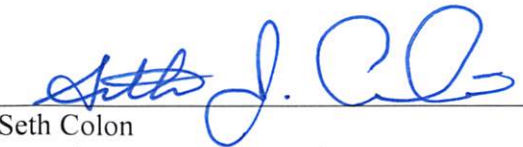
ACCORDINGLY, IT IS ORDERED that the agreement of the parties does hereby become the Final Order of the Commission.


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, Sunset Gardens, c/o Administrator, Wendy Henley, 3683 Highway 421 South Mountain City, TN 37683, and Sunset Gardens, c/o Registered Agent, Wendy Lee Henley, 2989 Highway 67 W, Mountain City, Tennessee 37683 by delivering same in the United States regular mail and United States certified mail, numbers **7020 0640 0001 4807 5866** and **7020 0640 0001 4807 5897**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: sunsetgardens19@gmail.com.

This 24th day of September, 2025.



Seth Colon
Associate General Counsel