

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

5/25/16

IN THE MATTER OF:

Autumn Hills Assisted Living
1010 CAMILLA CALDWELL LANE
Nashville, TN 37218

License No. 00000079

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Health Care Facilities

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 8th day of February, 2017, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **AUTUMN HILLS ASSISTED LIVING** (hereinafter "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.

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 Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board 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

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independently entered into evidence or introduced as admissions.

JURISDICTION

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, prescribed child care centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential homes. Tenn. Code Ann. § 68-11-202. Further, TENN. CODE ANN. § 68-11-202(b)(1)(A) gives the Department of Health ("Department") the authority to conduct reviews of assisted-care living facilities to determine compliance with fire and life safety code regulations promulgated by the Board.

Tenn. Code Ann. § 68-11-210 provides that the Department 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. The Board has the authority to suspend or revoke the license of any facility licensed under Tenn. Code Ann. § 68-11-201 *et. seq.* The Board may also place a facility on probation. Tenn. Code Ann. § 68-11-207(f)(2). If the Board determines during or at the end of the probation that the facility is not taking steps to correct non-compliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law. Tenn. Code Ann. 68-11-207(f)(8).

The Board is also authorized to establish a system for assessing civil monetary penalties for assisted-care living facilities, adult care homes and traumatic brain injury residential homes that are in serious violation of state laws and regulations, resulting in endangerment to the health,

safety and welfare of residents. Tenn. Code Ann. § 68-11-213(i)(2) and Tenn. Comp. R. & Reg. 1200-08-25-.05(4),(5).

Upon a finding by the Board that an assisted-care living facility has violated any provision of the Health Facilities and Resources Act, Part 2 – Regulation of Health and Related Facilities 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. Tenn. Comp. R. & Reg. 1200-08-25-.05(4). The Board has established by rule a schedule designating the minimum and maximum civil penalties which may be assessed. Tenn. Code Ann. § 68-11-213(i)(2) and Tenn. Comp. R. & Reg. 1200-08-25-.05(4),(5)

Proceedings for disciplinary action against a facility are conducted in accordance with the Tennessee Administrative Procedures Act, Title 4, Chapter 5, of Tenn. Code Ann. Tenn. Comp. R. & Regs. 1200-08-25-.05(7). A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the Board, to present witnesses, to have subpoenas issued and to receive thirty (30) days' notice of the charges before being required to appear for a hearing. A Respondent who cannot afford legal counsel may be eligible for free or low-cost counsel. Tenn. Code Ann. § 4-5-101, *et seq.*

STIPULATIONS OF FACT

1. At all times pertinent hereto, Autumn Hills Assisted Living, 1010 CAMILLA CALDWELL LANE , Nashville, TN 37218 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000079 on September 2, 1998. Respondent has an active license with an expiration date of May 24, 2017.
2. On or about September 27, 2016, Department surveyors conducted complaint survey on

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the Respondent facility. During this survey, the surveyors observed serious violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

3. Based on observation and interview, the Respondent failed to maintain resident menus for one (1) week. The Respondent also failed to ensure changes to the menu were approved by the dietitian.
4. The Respondent failed to serve food to the residents which was of good quality, variety, and was adapted to the physical needs of the residents.
5. The Respondent failed to monitor refrigerator temperatures.
6. The Respondent failed to maintain a clean and sanitary kitchen and nutrition room, in order to accommodate the dietary needs and services of the residents.
7. The Respondent also failed to document two (2) residents' (Residents #6 and Resident #7) nursing home preferences of eight (8) resident files reviewed.
8. The Respondent failed to have a completed Physician Orders for Scope of Treatment (POST) form for one (1) resident (Resident #6) of eight (8) resident files reviewed.

GROUNDS FOR DISCIPLINE

The facts stated in the Stipulations of Fact section, *supra*, are sufficient to establish that grounds for the discipline of Respondent's Assisted-Care Living Facility license exist. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

9. The facts stated in paragraph three (3) are sufficient to establish that Respondent has

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violated the provisions of Rule 1200-08-25-.07(c)(3)(iv)[SERVICES PROVIDED], the relevant portion of which reads as follows:

(3) An ACLF shall ensure that menus meet the needs of the residents as follows:

(iv) Menus shall be planned one week in advance.

10. The facts stated in paragraph four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(c)(4)(i) [SERVICES PROVIDED], the relevant portion of which reads as follows:

(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.

11. The facts stated in paragraphs five (5) and six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(c)(5) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

12. The facts stated in paragraph seven (7) are sufficient to establish that Respondent has violated the provisions of 1200-08-25-.12(2)(c) [RESIDENT RECORDS], the relevant portion of which reads as follows:

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(2) Personal record. An ACLF shall ensure that the resident's personal record includes at a minimum the following:

(c) Name and address of the resident's preferred physician, hospital, pharmacist and nursing home, and any other instructions from the resident to be followed in case of emergency.

13. The facts stated in paragraph eight (8) are sufficient to establish that Respondent has violated the provisions of 1200-08-25-.12(2)(g)[RESIDENT RECORDS], the relevant portion of which reads as follows:

(2) Personal record. An ACLF shall ensure that the resident's personal record includes at a minimum the following:

(g) A copy of any advance directives, DNR Order, Durable Power of Attorney, or living will, when applicable, and made available upon request.

ORDER

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

7. The assessment of five (5) civil monetary penalties in the amount of five hundred dollars (\$500.00) for a total assessment of twenty-five hundred dollars (\$2,500.00).

Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

**Tennessee Department of Health
Division of Health Care Facilities
Attn: Eddie J. Stewart
665 Mainstream Drive, Second Floor**



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Nashville, Tennessee 37243

8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

Upon the agreement of the parties, this **CONSENT ORDER** is 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 8th day of February, 2017.

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

AGREED TO:


Melvin Corlew, Administrator
Autumn Hills Assisted Living
Respondent

12-28-2016
Date


Caroline R. Tippens (BPR #: 030375)
Assistant General Counsel
Department of Health
665 Main Stream Dr., 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

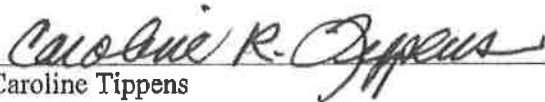
2-8-2017
Date

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CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Autumn Hills Assisted Living Facility, Michael E. Hampton, Administrator, 1010 Camilla Caldwell Lane, Nashville, TN 37218, by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination.

This 9th day of February, 2017.


Caroline Tippens
Assistant General Counsel

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