

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:

Beehive Homes of Powell
1301 West Beaver Creek
Powell, TN 37849

License No. 00000457

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Case #: 201902324

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 2nd day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Beehive Homes of Powell** (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 independently entered into evidence or introduced as admissions.

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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, **Beehive Homes of Powell**, 1301 West Beaver Creek Drive, Powell, TN 37849 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000457 on May 18, 2018. Respondent has an active license with an expiration date of May 17, 2020.
2. On or about April 26, 2019, surveyors conducted a survey at 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. The Administrator confirmed that no performance improvement plan had been developed for Respondent facility. Assisted care living facilities shall develop and implement an effective facility-wide performance improvement plan that addresses plans for improvement for self-identified deficiencies and documents the outcome of such remedial action.
4. Surveyors observed Caregiver #3 fail to remove gloves worn to clean a resident's room. Instead, Caregiver #3 exited the resident's room and went to assist with the morning narcotic count. The facility failed to utilize standard precautions for hand hygiene.
5. Resident #5 was admitted to the facility in December 2018 with anemia, diabetes, high blood pressure, and malnutrition.
6. Resident #5's physician ordered that Resident #5 be given blood pressure medications by mouth every morning, but such blood pressure medications should be held when Resident #5's blood pressure fell below 110.
7. Caregiver #1 failed to take Resident #5's blood pressure before administering blood pressure medications. Caregiver #1 is not a licensed healthcare professional.
8. LPN #1 confirmed that licensed professional did not administer resident medications in Respondent facility. The facility failed to ensure Resident #5's medications were administered by a licensed professional.
9. Surveyors observed a caregiver performing food preparation and cooking on April 23-24, 2019. The same caregiver who performed all food preparation was also assigned to clean and provide resident support services. The facility failed to employ a qualified director of food and dietary service.
10. Observation of the facility's dishwasher revealed the minimum wash temperature for the

dishwasher was to be 120 degrees Fahrenheit and the minimum rinse temperature was to be 140 degrees Fahrenheit. Surveyors also observed that dishwasher utilized by the facility revealed a wash cycle temperature of 107 degrees Fahrenheit. Further, the dishwasher temperature log from April 2019 revealed wash temperatures below 120 degrees Fahrenheit for six (6) days prior. The facility failed to ensure utensils and dishes were properly sterilized before use.

11. On or about December 13, 2018, Resident #5's family member informed the Administrator that Resident #5 was missing gift cards, a credit card, and cash.
12. On or about January 22, 2019, a caregiver stole credit cards, cash, and change from Resident #2.
13. On or about April 23, 2019, the Administrator confirmed that the Administrator failed to report misappropriation of Resident #5 and Resident #2's property to the Department of Health, pursuant to Tenn. Code Ann. § 68-11-211.

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.

14. The facts stated in paragraph three (3) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(1)(b)(2) [ADMINISTRATION], the relevant portion of which reads as follows:

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

(b) Policies and Procedures

- (2) An ACLF shall develop and implement an effective facility wide performance improvement plan that addresses plans for improvement for self-identified deficiencies and documents the outcome of remedial action.

15. The facts stated in paragraph four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(5)(c)(1) [ADMINISTRATION], the relevant portion of which reads as follows:

(5) Infection Control:

- (c) An ACLF and its employees shall adopt and utilize standard precautions in accordance with guidelines established by the Centers for Disease Control and Prevention (CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:

- (1) Use of alcohol based hand rubs or use of non-microbial or antimicrobial soap and water before and after each resident contact if hands are not visibly soiled.

16. The facts stated in paragraphs five (5) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.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.

17. The facts stated in paragraph nine (9) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(2) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(2) An ACLF shall have an employee who:

- (i) Serves as director of the food and dietetic service;
- (ii) Is responsible for the daily management of the dietary services and staff training; and
- (iii) Is qualified by experience or training.

18. The facts stated in paragraph ten (10) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(6) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(6) Employees shall wash and sanitize equipment, utensils, and dishes after use.

19. The facts stated in paragraphs eleven (11) through thirteen (13) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.13(1) [REPORTS], the relevant portion of which reads as follows:

(1) The ACLF shall report all incidents of abuse, neglect, and misappropriation to the

ORDER

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

20. The assessment of three (3) civil monetary penalties in the amount of five hundred dollars each (\$500.00), for a total assessment of one thousand five hundred dollars (\$1,500.00).

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
Nashville, Tennessee 37243**

21. 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 2nd day of October, 2019.

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:

Kelly A. Lohman
Kelly A. Lohman, Administrator
Beehive Homes of Powell
Respondent

7/13/19
Date

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

10-02-19
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Beehive Homes of Powell, ATTN: Kelly A. Lohman, 1301 West Beaver Creek Drive, Powell, TN 37849 and Hollybrook Care, Inc., 7815 Bishop Road, Knoxville, TN 37939 by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail # 7018 2290 0001 1403 5137 and 7018 2290 0001 1403 5144

This 2nd day of October, 2019.

Caroline R. Tippens
Caroline Tippens
Assistant General Counsel

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