

**BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES**

IN THE MATTER OF:

**Carriage Court of Memphis
1645 West Massey
Memphis, TN 38120**

License No. ACLF 00000061

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Case Number: 201905353

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 5th day of February, 2020, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Carriage Court of Memphis** (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 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, Carriage Court of Memphis, located at 1645 West Massey, Memphis, TN 38120, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000061 on September 11, 1998. Respondent has an active license with an expiration date of May 12, 2020.
2. On or about October 21-23, 2019, surveyors conducted Respondent facility's annual health and life safety surveys.

3. Surveyors found that twenty-two (22) residents reside on the secured unit of Respondent facility-
4. On or about October 21, 2019, surveyors observed Resident Aides #1 and #2 watching television in the television room with the residents. The surveyors walked passed the Resident Aides and walked out the South hall security door. The exit door alarm sounded. Surveyors stated that upon hearing the alarm sound, Resident Aide #1 came out of the television room and asked what the alarm noise was and the Executive Director then informed the Resident Aide that the alarm was important. A Unit Nurse Manager then checked the security door, but did not verify if residents had gone outside.
5. According to the surveyor, during an interview with the Executive Director, she indicated that staff will need to be in-serviced on the door alarms.
6. The facility did not provide for the safety of residents on the secured unit because two staff members working on the locked secure unit lacked the appropriate knowledge and education to properly respond when the locked secure unit door alarm sounded..
7. The facility failed to maintain a clean and sanitary kitchen, as surveyors noted that the kitchen staff were failing to follow the "Sanitation-Dish Machine Monitoring Policy," as the facility had failed to record dishwasher temperatures for multiple days in September and October 2019. Surveyors also observed that a window next to the stove was propped open while food was cooking on the stove, a door between the kitchen and service hall was also propped open with a piece of wood, and packages of potato chips which were open but undated were found underneath tables in the kitchen.
8. The facility failed to ensure a written assessment of all residents within seventy-two (72) hours of admission was completed for Residents #1, 2, 3, 4, 5, 7, 8, 9, and 14.

9. The facility failed to ensure an individualized care plan was completed with input and participation from the resident or resident's legal representative, physician, or other licensed health care professional within five (5) days of admission for Residents #1, 2, 3, 4, 7, 8, 9, 10, and 14.
10. The plan of care (Individualized Service Plan or ISP) for Resident #4 was not current and the facility did not update the ISP to reflect that Resident #4 had elected hospice services.
11. On or about October 22, 2019, life safety surveyors observed that the exit stairwell across from the locker rooms had been obstructed by tables, flooring, and garbage cans which prevented means of egress.
12. Life safety surveyors also observed a portable safety heater in resident room 367.
13. The facility also failed to provide documentation that fire drills had taken place on:
 - a. The first shift, fourth quarter of 2018;
 - b. 2nd shift, fourth quarter of 2018;
 - c. 3rd shift, fourth quarter of 2018.
14. Life safety surveyors also found multi-plug adapters being used in Rooms 172, 219, 211, 221, 226, 230, 265, 367, 332, and 349. Extension cords were also found to be in use in Rooms 332, 334, 229, 23. 234, 249 and kitchen pantry storage.
15. On a revisit survey conducted on or about January 22, 2020, surveyors re-cited the deficiency for failure to maintain a clean and sanitary kitchen, as surveyors noted that the kitchen staff were failing to follow the "Sanitation-Dish Machine Monitoring Policy." The facility had failed to record dishwasher temperatures for December 13-16, 2019, December 19-20, 2019, December 23, 2019, December 25, 2019, December 29, 2019.

January 5-6, 2020, January 11-12, 2020, January 14, 2020, January 17-18, 2020, and January 20, 2020.

• 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.

16. The facts stated in paragraphs two (2) through six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(a)(2)[Services Provided]:

- (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.

17. The facts stated in paragraphs seven (7) and fifteen (15) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(6)[Services Provided]:

- (7) An ACLF shall provide personal services as follows:
 - (c) Dietary services.
 - (5.) An ACLF shall maintain a clean and sanitary kitchen.

18. The facts stated in paragraph eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(4)[Resident Records]:

- (4) An ACLF shall complete a written assessment of the resident to be conducted by a direct care staff member within a time period determined by the ACLF, but no later than seventy-two (72) hours after admission.

19. The facts stated in paragraph eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(9)(a)[Admissions, Discharges, and Transfers]:

(9) An ACLF utilizing secured unites shall provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents at its annual survey;

- (a) Documentation that an interdisciplinary team consisting of at least a physician, a registered nurse, and a family member (or patient care advocate) has evaluated each secured resident prior to admittance to the unit.

20. The facts stated in paragraph nine (9) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(a)[Resident Records]:

(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.

21. The facts stated in paragraph ten (10) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(b)[Resident Records]:

(5) Plan of Care.

- (b) The Plan of Care shall describe:

(1) The needs of the resident, including the activities of daily living and medical services for which the resident requires assistance, i.e., what assistance/care, how much, who will provide the assistance/care, how often, and when.

22. The facts stated in paragraph eleven (11) and fourteen (14) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.09(1)[Building Standards]:

- (1) An ACLF shall construct, arrange, and maintain the condition of the physical plant and the overall ACLF living facility environment in such a manner that the safety and well-being of residents are assured.

23. The facts stated in paragraph twelve (12) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.10(2)(h)[Life Safety]:

(2) An ACLF shall ensure fire protection for residents by doing at least the following:

(h) Prohibit open flame and portable space heaters.

24. The facts stated in paragraphs thirteen (13) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.10(3)(d)[Life Safety]:

(3) An ACLF shall conduct fire drills in accordance with the following:

(d) An ACLF shall maintain records that document and evaluate these drills for at least three (3) years.

ORDER

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

The assessment of eight (8) civil monetary penalties in the amount of five hundred dollars (\$500.00) and the assessment of one civil monetary penalty in the amount of one thousand dollars (\$1,000.00) for a total assessment of five thousand dollars (\$5,000.00) in civil monetary penalties. 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**

25. 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 5th day of February, 2020.

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:



Lisa Taylor Bobal, Administrator
Carriage Court of Memphis

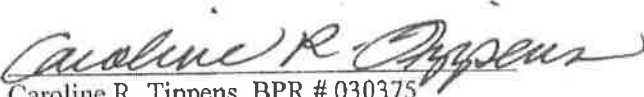
02-03-2020

Date



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Feb 4, 2020



Caroline R. Tippens, BPR # 030375
Senior Associate General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

2/5/2020

Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Carriage Court of Memphis, by and through their counsel, Christopher C. Puri, Bradley Arant Boult Cummings LLP, Roundabout Plaza, 1600 Division Street, Suite 700, Nashville, TN 37203 by delivering same in the United States mail, certified return receipt number # 7019 0700 0001 2470 9414 and via United States Postal Service first class, with sufficient postage thereon to reach its destinations.

This 10th day of February, 2020.


Caroline R. Tippens
Senior Associate General Counsel

