

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

IN THE MATTER OF:

**Creekside at Three Rivers
2744 Ashers Fork Road
Murfreesboro, TN 37128**

License No. ACLF 00000308

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Case Number: 201901580

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 June, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Creekside at Three Rivers** (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.

BB Initial

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, Creekside at Three Rivers, located at 2744 Ashers Fork Road, Murfreesboro TN 37128, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000308** on December 9, 2010. Respondent has an active license with an expiration date of April 15, 2020.
2. On or about March 6, 2019, the Department conducted a complaint survey at the Respondent facility.
3. Resident #5 was admitted to the facility in May 2018 and discharged in July 2018.

Resident #4's diagnoses included atrial fibrillation, Alzheimer's, and dementia with behavioral disturbances.

4. In May 2018, Resident #4's care plan revealed that Resident #4 was independent with ambulation and transfers, but needed assistance with activities of daily living.
5. In July 2018, Resident #4 was ordered Ativan 0.5 milligrams to be given by mouth three times a day. Medication administration records revealed that a nurse at the facility documented that Resident #4 was administered Ativan on July 4-7, 2018.
6. However, Resident #4 was sent to the hospital on July 7, 2018. A urine drug screen revealed that Resident #4 was negative for Ativan.
7. The facility failed to ensure that medication for Resident #4 was administered per Resident #4's plan of care.
8. Resident #12 was admitted to the facility in March 2018 with diagnoses of dementia, depression, anxiety, aphasia, atrial fibrillation, and impaired gait. Resident #12 was on hospice for congestive heart failure and was on oxygen.
9. Per her October 2018 care plan, Resident #12 a licensed nurse was to administer Resident #12's medications.
10. On October 22, 2018, Resident #12's physician ordered that Resident #12 receive multiple medications:
 - a. Cefdinir (antibiotic) 300 milligram (mg) to be given every twelve (12) hours for three (3) days;
 - b. Resident # 12's Lisinopril 40 mg was decreased to 10 mg, to be administered once a day;
 - c. Tylenol 500 mg one or two tablets every six (6) hours for elevated temperature and discomfort;
 - d. Carvedilol 12.5 mg twice a day;
 - e. Cetirizine 10 mg;
 - f. Docusate Sodium 100 mg capsule daily;
 - g. Escitalopram oxalate 10 mg once daily for depression;

- h. Albuterol inhalation 0.5mg-3mg, every four hours as needed,
 - i. Oxygen two to four liters daily or shortness of breath and to maintain oxygen saturation;
 - j. Pantoprazole 40 mg at breakfast; and
 - k. Xarelto 15 mg daily.
11. On October 25, 2018, Resident #12's hospice physician ordered that Resident #12's narcotics and Tylenol were discontinued, per her daughter's request. Resident #12 was to also to be put to bed by 6:00 PM daily and her nursing visits were to be increased.
12. Review of Resident #12's Medication Administration Record revealed that she did not receive any of her other medications from October 23, 2018 through October 28, 2018.
13. The facility could not provide a Physician Order to discontinue all medications for Resident #12 after October 23, 2018. The facility failed to ensure Resident #12's medications were administered per her plan of care.

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 paragraphs three (3) through thirteen (13) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(5)(a)[Services Provided], the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

- (a) Ensure that medication shall be self-administered in accordance with the resident's plan of care.

ORDER

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

15. The assessment of one civil monetary penalty in the amount of five hundred dollars (\$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**

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 5th day of June, 2018.

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:


Brent Wesley Brewer, Administrator
Creekside at Three Rivers

Date

June 5, 2019

BWB Initial

Caroline Tippens

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

6/5/2019

Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Creekside at Three Rivers, ATTN: Brent Wesley Brewer, 2744 Ashers Fork Road, Murfreesboro, TN 37128 and Creekside at Three Rivers, LLC, 1610 S. Church Street, Suite C, Murfreesboro, TN 37130 by delivering same in the United States mail, certified return receipt #s *701822900011403* and *701822900011403* and via United States Postal Service first class, with sufficient postage thereon to reach its destination.

This *6th* day of *June*, 2019.

Caroline Tippens

Caroline R. Tippens
Assistant General Counsel

BWB Initial