

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

IN THE MATTER OF:

**Culpepper Place of Bartlett
7480 Highway 70
Bartlett, TN 38135**

License No. 00000393

)
)
)
)
)
)
)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 7th day of February, 2018, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Culpepper Place of Bartlett** (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.

 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 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, Culpepper Place of Bartlett, TN, 7480 U.S. Hwy 70, Bartlett, TN 38133 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000393 on June 21, 2016. Respondent has an active license with an expiration date of June 20, 2018.
2. On or about December 5, 2017, Department surveyors conducted an annual licensure survey on the Respondent facility. During this survey, the surveyors observed serious violations of state laws and regulations resulting in endangerment to the health, safety

 Initial

and welfare of residents.

3. During the course of the survey, surveyors observed unlicensed medication technicians administering eye drops directly into residents' eyes, placing medication in medication containers for residents, and administering medication to residents at the facility.
4. Interview with the Director of Nursing confirmed that unlicensed personnel were administering resident medications.
5. Resident #1 had diagnoses of diabetes, hypertension, and chronic kidney disease. Resident #1's treating physician ordered that Resident #1 be on a no added salt diet. Medical record review revealed that Resident #1's chart within Respondent facility indicated a regular diet, a diabetic diet, or no concentrated sweet diet. Resident #1's record did not indicate Resident #1 was receiving a no salt added diet. Upon further review, medical records revealed that Resident #1 had an elevated glucose level, along with a very high hemoglobin A1C.
6. Resident #4 had diagnoses of diabetes, chronic kidney disease, hypertension, and dementia. The resident had a physician diet order for no added salt, mechanical soft diet with a fluid restriction of 800 cc per day.
7. During an interview with the Food Service Director, she stated that she did not have any residents on a fluid restriction, including Resident #4.
8. The facility failed to meet nutritional needs of Residents #1 and #4 in accordance with dietary practices and physician orders.
9. The Director of Nursing confirmed that she sometimes gives diet orders verbally, rather than writing down a specific physician approved diet.
10. As such, the Respondent facility failed to provide the physician prescribed diet for

Resident #4.

GROUND 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.

11. The facts stated in paragraphs two (2) through ten (10) 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 professional operating within the scope of the professional license and according to the residents' plans of care.

12. The facts stated in paragraphs two (2) through ten (10) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(3)[SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

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

- (ii) An ACLF shall meet nutritional needs, in accordance with the recognized dietary practices and in accordance with orders of

 Initial

the practitioner or practitioners responsible for the care of the residents.

13. The facts stated in paragraphs two (2) through ten (10) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(3)(iii)[SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

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

(iii) An ACLF shall have current therapeutic diet manual approved by the dietitian readily available to all ACLF personnel.

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 three (3) civil monetary penalties in the amount of five hundred dollars (\$500.00) each 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**

 Initial

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 7 day of February, 2018.

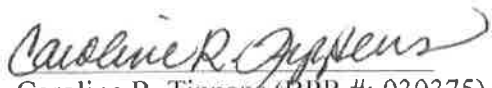
ACCORDINGLY, IT IS ORDERED that the agreement of the parties does hereby become the Final Order of the Board.


Chairperson
Board for Licensing Health Care Facilities

AGREED TO:


Michelle Motes, Administrator
Culpepper Place of Bartlett
Respondent

January 24, 2018
Date


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

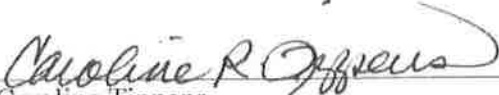
February 7, 2018
Date

 Initial

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Culpepper Place of Bartlett, c/o Michelle Motes, Administrator, by sending via United States Mail certified return receipt # 7016 1970 06011324 6470 to 7480 U.S. Hwy 70, Bartlett, TN 38133 and by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination.

This 8th day of February, 2018.



Caroline Tippens
Assistant General Counsel

 Initial