

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

IN THE MATTER OF:

**Dominion Senior Living of Crossville
887 Woodlawn Road
Crossville, TN 38555**

ACLF License #00000422

CASE # 201802894

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, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Dominion Senior Living of Crossville** (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).

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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, Dominion Senior Living of Crossville has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000422 on July 12, 2016. Respondent has an active license with an expiration date of July 11, 2019.
2. On or about June 12, 2018, surveyors conducted a licensure and complaint survey on the Respondent facility. During this survey, the surveyors observed violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

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3. Resident #3 was admitted to the secure facility in August 2017 with diagnoses of dementia with behaviors.
4. A November 2017 care plan reflected that Resident #3, due to her dementia, occasionally put herself at risk and required monitoring, guidance, and occasional redirection from staff.
5. On or about December 2, 2017, Caregiver #1 let a resident's family member into see their family. The family was asking Caregiver #1 questions and Caregiver #1 was momentarily distracted. Caregiver #1 shut the door after letting the family in the secured unit, but forgot there was a fifteen (15) second delay in the door to the secured unit locking.
6. Shortly thereafter, Caregiver #1 realized that Resident #3 was missing. The building was searched and Resident #3 could not be located. Resident #3 had eloped from the facility. The facility then sent staff to search for Resident #3 outside the premises of the facility.
7. A family member of another resident arrived at the facility and noted that he had seen an elderly lady walking near the gas company. A caregiver, who was searching for the resident in a vehicle, located Resident #3 and returned her to the facility. A head to toe assessment was performed and Resident #3 was unharmed.
8. The facility was cited for failure to provide safety to Resident #3 and for failure to maintain daily awareness of the whereabouts of Resident #3.

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.

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Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

9. The facts stated in paragraphs three (3) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(a)(2)[Services Provided], the relevant portion of which reads as follows:

(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 while in the ACLF.

10. The facts stated in paragraphs three (3) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(a)(3)[Services Provided], the relevant portion of which reads as follows:

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

(a) Each ACLF shall provide each resident with at least the following personal services:

(3) Daily awareness of the individual's whereabouts.

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 two (2) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand dollars (\$1000.00) in civil monetary penalties.

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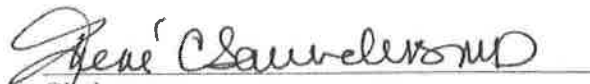
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

**Tennessee Department of Health
Division of Health Care Facilities
Attn: Eddie J. Stewart
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

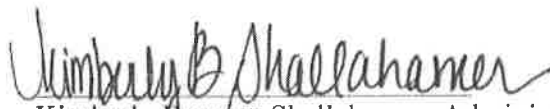
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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 5 day of February, 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:


Kimberly Burgess Shallahamer, Administrator
Dominion Senior Living of Crossville
Respondent

01/24/2019
Date

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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

2/5/19
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Dominion Senior Living of Crossville, by and through its Administrator, Kimberly Burgess Shallahamer, 887 Woodland Road, Crossville, TN 38555 and also Dominion Crossville, LLC, located at PO Box 50123, Knoxville, TN 37950 by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail, Return Receipt #s 70142290 00011403 0224 and 70182290 000114030231

This 6th day of February, 2019.

Caroline R. Tippens

Caroline Tippens
Assistant General Counsel

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