

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

IN THE MATTER OF:

**Heritage Assisted Living
273 S. Peters Road
Knoxville, TN 37923**

License No. ACLF 00000070

Case Number 201904416

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 13th day of March, 2020, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Heritage Assisted Living** (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

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independently entered into evidence or introduced as admissions.

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. § 68-11202(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. § 6811210 provides that the Department shall conduct onsite 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, **Heritage Assisted Living**, located at 273 S. Peters Road, Knoxville, TN 37923 been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000070** on October 28, 1998. Respondent has an active license with an expiration date of July 1, 2020.
2. From on or about September 4, 2020 the Department conducted an annual survey at

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Respondent facility.

3. Resident #1 was admitted to the facility in February 2017 with diagnoses of Alzheimer's and discharged to a hospital on May 27, 2019.
4. A review of Resident #1's care plan revealed that Resident #1 required medication administration.
5. From May 11, 2019 through May 26, 2019, Resident #1 was administered medications by an unlicensed caregiver.
6. Resident #1's medical record contained no assessment that Resident #1 was an elopement risk. Resident #1 ambulated utilizing a walker.
7. On or about February 17, 2019, Resident #1 eloped after church. Resident #1 was seen heading over a hill toward a four lane road when staff caught up with her.
8. No interventions were put in place for increased supervision of Resident #1 following her elopement.
9. Resident #1 continued to exhibit exit-seeking behavior from February 27, 2019 through March 5, 2019.
10. From March 11, 2019 through April 15, 2019, Resident #1 continued exhibiting exit-seeking behaviors and appeared frequently agitated.
11. On or about April 17, 2019, Resident #1 again eloped the facility. Resident #1 was found at the end of the facility's driveway. Resident #1 expressed anger when staff attempted to bring her back to the facility.
12. No interventions were put in place after Resident #1's second elopement.
13. On or about April 28, 2019, Resident #1 could not be located. Resident #1 was found in the parking lot of a pharmacy approximately .4 miles away from the facility.

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14. Following the third elopement, no new interventions were put in place to prevent Resident #1's elopement.
15. Resident #1 was placed on hospice on May 6, 2019.
16. No physician's certification documenting that Resident #1's needs could be met in the facility was found in Resident #1's medical record. Further, the facility also could not provide surveyor's with a hospice plan of care.
17. Resident #2 was admitted to the facility in March 2019 with diagnoses of vascular dementia. Resident #2 was often alert, confused, and forgetful.
18. Resident #2 was administered medications by an unlicensed caregiver in August 2019.
19. Resident #4 was admitted to the facility in October 2018 with diagnoses of schizoaffective disorder and bipolar disorder.
20. The facility failed to assess whether or not Resident #4 could self-administer medications since Resident #4's admission.
21. Resident #4 was administered multiple medications in August 2019 by an unlicensed caregiver.
22. Resident #5 was admitted to the facility in August 2019 with diagnoses of dementia, anxiety, and diabetes.
23. Resident #5 required administration of medication.
24. Resident #5's medication administration record revealed that Resident #5 was administered multiple medications by an unlicensed caregiver.
25. Payroll records from the facility confirm that no licensed nurse was on duty from August 1-4, 2019, August 14-16, 2019, and on August 28, 2019.

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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.

26. The facts stated in paragraphs two (2) through twenty-five (25) 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.

27. The facts stated in paragraph six (6) through fourteen (14) 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.

28. The facts stated in paragraph fifteen (15) and sixteen (16) are sufficient to establish that

Respondent has violated the provisions of Rule 1200-08-25-.08(5)(a)[ADMISSIONS, DISCHARGES, AND TRANSFERS], the relevant portion of which reads as follows:

- (5) An ACLF resident qualifying for hospice care shall be able to receive hospice care services and continue as a resident if the resident's treating physician certifies that such care can be appropriately provided in the ACLF.
 - (a) In the event that the resident is able to receive hospice services in an ACLF, the resident's hospice provider and the ACLF shall be jointly responsible for a plan of care that is prepared pursuant to current hospice guidelines promulgated by the Centers for Medicaid and Medicare and ensures both the safety and well-being of the resident's living environment and provision of the resident's health care needs.

29. The facts stated in paragraphs six (6) through fourteen (14) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(a)[RESIDENT RECORDS], the relevant portion of which reads as follows

- (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 (6) 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.

ORDER

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

30. The assessment of four (4) civil monetary penalties, with one (1) in the amount of one thousand dollars (\$1,000.00), and three (3) in the amount of five hundred dollars (\$500.00) each for a total assessment of two thousand five hundred dollars (\$2,500.00).

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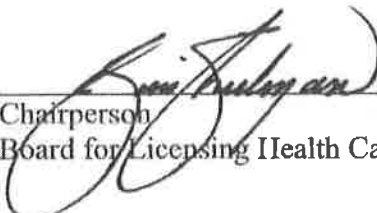
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

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

31. 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 13th day of March, 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

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AGREED TO:



Angel Palmer, Administrator
Heritage Assisted Living
Respondent

Date

2-18-2020



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

Date

March 13, 2020

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served HERITAGE ASSISTED LIVING,
273 S. PETERS ROAD, Knoxville, TN 37923, Attn: Angel Palmer and HERITAGE AT S
PETERS, 4310 DALTON PIKE SE, Cleveland, TN 37323 865-888-0307 by delivering same in
the United States mail, certified return receipt

7019 2970 0002 1304 5209 and

7019 2970 0002 1304 5219 via United States Postal Service first class, with
sufficient postage thereon to reach its destination.

This 16th day of March, 2020.



Caroline R. Tippens
Senior Associate General Counsel

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