STATE OF TENNESSEE
DEPARTMENT OF HEALTH
DIVISION OF HEALTH CARE FACILITIES

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| **IN THE MATTER OF:** | ) | |
| | ) | **DOCKET NO. 17.17-156393A** |
| **Legacy Assisted Living and Memory Care** | ) | |
| **6551 Knight Arnold Road** | ) | |
| **Memphis, TN 38115** | ) | |
| **License No. ACLF 00000279** | ) | |

## AGREED 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 **LEGACY ASSISTED LIVING & MEMORY CARE** (hereinafter "Respondent") that the Board adopt this Agreed Order, the terms of which have been agreed upon by the parties, as signified by their signatures below.

Respondent, by signature to this Agreed 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 Agreed 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 Agreed 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.

## I. JURISDICTION

1. The Board for Licensing Health Care Facilities (hereinafter "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.
2. 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.
3. 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).
4. 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).
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).
6. 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.*

## II. FINDINGS OF FACT

1. At all times pertinent hereto, **Legacy Assisted Living & Memory Care at Lenox Park,** located at 6551 Knight Arnold Road, Memphis, TN 38115 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000279** on June 13, 2006. Respondent has an active license with an expiration date of May 29, 2019.

2. On or about November 1, 2017 through December 4, 2017, surveyors conducted a complaint survey at Respondent facility. The surveys revealed serious deficiencies which affected the health, safety, and welfare of the residents of Legacy Assisted Living.

3. As a result of the 2017 survey, the facility entered into a Consent Order which was approved and ratified by the Board in April 2018. The terms of the Consent Order are as follows:

    a. Respondent shall hire a qualified consultant, at its expense, to enter the facility and work with the facility for a period of six (6) months to cure any remaining deficiencies and to submit an acceptable Plan of Correction (POC). At the outset of this period, the consultant will work with the facility to establish a work plan for curing any remaining deficiencies with specific, measureable goals. A copy of the work plan will be shared with the State within forty-five (45) days of the entry of this Consent Order. The acceptable POC must be submitted within six (6) months

of the Board's Order.

b. For the first two (2) months following the entry of the Consent Order, this consultant will work on site at the facility for a minimum of two (2) days per week and shall be available and involved in the operation of the facility even when not on site including direct contact with the Administrator and Director of Nursing ("DON"). This consultant will report to the owner-operators on a daily basis. The consultant will also submit a weekly report to the owner-operators addressing issues of concern or areas of improvement. The facility will update the State every two (2) weeks with a report that has been approved by the consultant.

c. After the first two (2) months, the owner-operators and consultant will reassess the level of achievement in moving through the performance improvement plan and determine what level of continued involvement is appropriate to achieve any remaining objectives on the performance improvement plan. However, the consultant will continue to work on site at the facility for a minimum of one day per week and shall continue to be available and involved in the operation of the facility even when not on site. The consultant will also continue to submit a weekly report to the owner-operators addressing issues of concern or areas of improvement. The facility will continue to update the State every month with a report that has been approved by the consultant.

d. During the six (6) month period, any new serious violation affecting the health, safety, and welfare of residents within the facility shall result in a suspension of admissions pending a prompt hearing by the Board.

e. Following the initial six (6) month period, Respondent shall appear before the

Board and submit quarterly reports until the end of calendar year 2019, prepared by the Respondent, regarding the adherence of the facility to the regulations cited in the December 2017, February 2018, and March 2018 Statement of Deficiencies.

f. Respondent shall ensure that all staff undergo in-service training regarding recognition of changes in patient condition, updates to the plan of care, and medical record-keeping and documentation. Respondent shall provide written proof of completion of such training to the Board within the six (6) months of the date of the Board's Order.

g. Respondent facility agreed to pay the assessment of nine (9) civil monetary penalties in the amount of five hundred dollars ($500.00) each for a total assessment of four thousand five hundred ($4,500.00) dollars.

4. On or about June 6, 2018, the Board of Licensing for Health Care Facilities heard statements from both the facility and Department of Health surveyors that deficiencies cited on the May 22-23, 2018 were serious deficiencies affecting the health, safety, and welfare of the residents.

5. From March 2018 until the revisit survey in May 2018, Legacy Assisted Living reduced the number of cited deficiencies from thirty (30) to fourteen (14). Pursuant to Tenn. Code Ann. § 68-11-207(6), the Board determined that the conditions in Legacy Assisted Living were or were likely to be, detrimental to the health, safety, or welfare of the residents and suspended the admissions to the facility, effective June 6, 2018 at 5:00 P.M.

6. On July 16, 2018 through July 24, 2018 surveyors were present at the facility for a revisit survey to determine if the plan of corrections had been implemented and to investigate six (6) new complaints.

7. Surveyors exited the facility on August 7, 2018. In a statement of deficiencies, surveyors re-cited several of the deficiencies from the May 2018 survey and cited additional deficient practice. Surveyors felt these deficiencies affected the health, safety, and welfare of the residents residing in the facility and recommended that the facility remain under a Suspension of Admissions, which the facility did not contest.

8. On or about August 16, 2018, the facility submitted a Plan of Corrections. A revisit survey was scheduled for September 2018.

9. On or about September 13, 2018 surveyors exited the facility.. Cited deficiencies at the facility were reduced from three (3) to only one (1) deficiency. Surveyors re-cited the facility for failure to correct their deficiencies and a deficiency related to the complaint.

10. On or about October 3, 2018, the facility appeared before the Board and entered into a new Consent Order regarding the September 2018 deficiencies. The terms of the October 3, 2018 Consent Order are as follows:

    a. Respondent's license to operate as an assisted care living facility shall be placed on probation for an additional four (4) months. As such, the total timeframe that Respondent shall be on probation is ten (10) months. During the period of probation, the Respondent shall submit an acceptable Plan of Correction ("POC").

    b. Respondent agrees to remain under the Board's assessed Suspension of Admissions until the facility's Plan of Correction is accepted and all deficiencies have been corrected.

    c. Respondent agrees to pay costs for subsequent revisit surveys incurred by the Department, if the same or different deficiencies are cited after the third (3rd) revisit survey.

d. Respondent shall appear before the Board at the February 2019 Board meeting and request that the Board lift its probation. Respondent must show adherence to the Plan of Correction and that any outstanding deficiencies from the September 2018 survey have been corrected.

11. On or about October 8, 2018, the facility submitted a Plan of Correction which was deemed to be acceptable to correct the September 2018 deficiencies.

12. From November 26, 2018 through December 6, 2018, surveyors conducted a revisit and complaint survey. A deficiency from the September 2018 was recited from the revisit survey and new deficiencies were identified during the complaint investigation, which are as follows:

a. Resident #2 was admitted to the facility in March 2018 and had diagnoses of dementia, hypertension, gout, and syncope.

b. Nursing notes dated September 2018 indicated that if Resident #2's blood pressure was lower than 120/70, blood pressure medications were not to be given.

c. Medication administration records from October 2018 reveal that Resident #2's blood pressure medication was withheld for seven (7) days per "DR/RN Orders."

d. Medication administration records from November 2018 reveal that Resident #2's blood pressure medication was withheld for nine (9) days per "DR/RN Orders."

e. The facility could not provide documentation of a physician's order to hold Resident #2's blood pressure medications.

f. Resident #2 was observed by the surveyor on November 28, 2018 to be lying on a soiled incontinent pad and to smell strongly of urine.

g. Review of November 2018 Assistance with Daily Living forms revealed that

Resident #2's appetite and weight had decreased. However, Resident #2's plan of care was not revised until November 28, 2018 when a nutritional supplement was added to address these issues.

h. Resident #3 was admitted to the facility in June 2018 and had diagnoses of dementia, osteoporosis, hypertension, and fractured hip. Resident #3 needed assistance with dressing and showering, as well.

i. Medication administration records from November 2018 revealed that Resident #3 had not been receiving medications as ordered. No documentation was provided explaining why Resident #3's medications were not administered as ordered.

j. On November 26-27, 2018, Resident #3 was observed by the surveyor to be wearing stained clothing and to have foul body odor.

k. The facility failed to ensure sufficient staff to meet the needs of Resident #3's plan of care.

l. Resident #5 was admitted to the facility in December 2017 and had diagnoses of polyneuropathy, hypertension, depression, anxiety, lymphedema, and cellulitis. Resident #5 was a fall risk and had interventions to use a call pendant for assistance.

m. In September 2018, Resident #5 was found on the floor in his room. Interventions to prevent falls going forward were to use the call pendant for assistance.

n. On October 4, 2018, Resident #5 again fell. Interventions going forward were to use the call pendant for help.

o. On or about October 24, 2018, Resident #5 fell asleep in his wheelchair, slid out of the chair, and fell to the floor. Interventions to prevent falls revealed that Resident #5 should use the call pendant for help.

p. On or about November 24, 2018, Resident #5 fell out of the bed and onto the floor. Interventions going forward to prevent falls revealed that the nurse should check Resident #5 to make sure the resident is in bed.

q. On or about November 28, 2018, surveyors observed Resident #5. Resident #5 was not wearing a call pendant.

r. Multiple witnesses stated to the surveyor that the facility failed to timely answer or respond to calls for assistance.

s. Resident #6 was admitted to the facility in October 2018 and had diagnoses of diabetes and arthritis.

t. On or about November 17, 2017, Resident #6 fell in the bathroom. Interventions to prevent falls going forward were to use the call pendant for help.

u. Resident #6 was observed by the surveyor on November 29, 2018. Resident #6 was not observed to be wearing a call pendant.

v. In November 2018, Staff member #1 misappropriated Resident #6's debit card. Staff member #1 was terminated for theft and financial exploitation of Resident #6.

w. The administrator reported the misappropriation of Resident #6's debit card to Adult Protective Services, but did not report the incident to the Department of Health.

x. Review of facility financial reports from November 2018-December 3, 2018, Resident #6 owed $4,244.52 in rent. No documentation was provided accounting for Resident #6's funds. Resident #6 was unaware her facility rent had not been paid.

y. Resident #7 was admitted to the facility in October 2015 and had diagnoses

including anxiety, depression, diabetes, osteoarthritis, neuropathy, and hypertension.

z. On or about October 12, 2018, Resident #7 was found on the floor. Interventions to prevent falls going forward included encouraging the resident to use the call pendant and more frequent monitoring.

aa. On or about October 27, 2018, Resident #7 was found on the floor complaining of severe pain. It is unknown how long Resident #7 was on the floor.

bb. Resident #7 was sent to the hospital and was diagnosed with a left hip fracture. Resident #7 underwent surgery and was discharged to a skilled nursing facility.

cc. Resident #8 was admitted to the facility in December 2017 and had diagnoses of hypertension, anxiety, and diverticulitis.

dd. Resident #8's bed was observed on November 29, 2018 to have a strong urine odor.

ee. Resident #9 was admitted to the facility in March 2018 and had diagnoses including dementia, hypertension, and chronic kidney disease.

ff. Medication administration records from November 2018 revealed that Resident #9 was not receiving medications as ordered. No documentation was provided as to why Resident #9's medications were not administered.

gg. The facility failed to provide sufficient nursing staff to ensure that medications were administered to Residents #2, #3, and #9 as ordered.

hh. The facility failed to ensure sufficient staff were provided to prevent falls for Residents #4, #5, #6, and #7.

ii. From November 26, 2018 through November 28, 2018, surveyors observed strong urine odors in the rooms belonging to Residents #3, #4, #5, #6, #8, and #9.

jj. The Director of Nursing confirmed that staff were storing residents' wet soiled clothing in their rooms.

kk. The facility failed to ensure staff to ensure all activities of daily living were met for Residents #3, 4, 5, 6, 8, and 9.

ll. The facility failed to ensure sufficient staff to maintain clean linens for Residents #2 and #8.

13. On or about December 11, 2018, the Chancery Court for Shelby County, Tennessee, granted the motion of Bank Leumi USA, which holds the mortgage on Legacy Assisted Living Facility at Lenox Park, for the emergency appointment of a Receiver. The Chancery Court issued an order appointing receiver (the "Receivership Order") and the facility was placed into a receivership. KCP Advisory Group, LLC, a health care related turnaround and financial advisory company, was appointed as Receiver for the facility. The Chancery Court ordered that the receivership shall terminate upon (i) the termination of the receivership by order of the Court discharging the Receiver after the filing of an application to discharge the Receiver; or (ii) full payment of the indebtedness of defendants to Bank Leumi; or further Order by Chancery Court.

14. On or about December 31, 2018, pursuant to its powers under the Receivership Order, KCP Advisory Group LLP, engaged American Healthcare Management Group, L.P. (hereinafter "AHMG") as the management company for Legacy Assisted Living Facility at Lenox Park. The owner of the Respondent agreed to have AHMG as the management company for the facility.

15. On or about January 11, 2019, the Receiver on behalf of the facility submitted a Plan of Correction (the "POC") for the deficiencies cited as a result of the November 2018 survey

via electronic mail, and submitted a hard copy of the POC on or about January 28, 2019.

16. Bank Leumi, USA and Respondents have entered into an Agreed Order placing a temporary stay on proceedings in Chancery Court in order to allow KCP Advisory Group, LLP and AHMG to implement the POC without interference and to implement the operational and patient care changes at for Legacy Assisted Living Facility.

17. On or about January 14-15, 2019, surveyors entered the facility to conduct a complaint survey. State surveyors cited three (3) new deficiencies:

    a. The facility failed to follow their thirty (30) day termination discharge policy procedure for Resident #1.

    b. The facility failed to obtain physician's orders for supplemental oxygen use and continuous positive airway pressure device use for Residents #1 and 2. The facility was unable to provide surveyors with a signed order for oxygen and CPAP devices for Residents #1 and 2.

    c. The facility failed to maintain a medical record that included time and circumstances of discharge and the conditions for discharge of Resident #1.

## III. CONCLUSIONS OF LAW

The facts stated in the Findings 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.

18. The facts stated in paragraphs (2) through fifty (50) are sufficient to establish that Respondent has violated Tenn. Code Ann. §68-11-207(a)(1) and (a)(3):

(1) A violation of this part or of the rules and regulations or minimum standards issued pursuant to this part, or, in the event of a nursing home that has entered into an agreement with the department to furnish services under Title XVIII or XIX of the Social Security Act, compiled in 42 U.S.C. § 1395 et seq. and 42 U.S.C. § 1396 et seq., respectively, any of the requirements for participation in the medical assistance program set out in title 42 of the Code of Federal Regulations, to such an extent that the board considers the licensee a chronic violator; and

(3) Conduct or practice found by the board to be detrimental to the welfare of the patients in such institutions.

19. The facts stated in paragraphs thirty-four (34) through thirty-six (36) are sufficient to establish that Respondent has violated Tenn. Code Ann. § 68-11-211(b), which are as follows:

(6) "Misappropriation of patient property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent;

(b) Except for those facilities required to report abuse, neglect or misappropriation pursuant to 42 CFR 483.13, each facility shall report incidents of abuse, neglect and misappropriation that occur at the facility to the department within seven (7) business days from the facility's identification of the incident.

20. The facts stated in paragraphs fourteen (14) through twenty-three (23), twenty-four (24) through thirty-three (33), and thirty-eight (38) through fifty (50) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(1)(a)(2) [ADMINISTRATION], the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(a) Staffing Requirements:

(2) If the licensee is a natural person, the licensee shall be at least eighteen (18) years of age, of reputable and responsible character, able to comply with these rules, and must maintain financial resources and income sufficient to provide for the needs of the residents, including their room, board, and personal services.

21. The facts stated in paragraphs fourteen (14) through seventeen (17), twenty-one (21), forty-four (44), and forty-five (45) 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 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.

22. The facts stated in paragraphs twenty-five (25) through twenty-nine (29), thirty-two (32), thirty-three (33), and thirty-eight (38) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(a)(1) [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:

(1) Protective care.

23. The facts stated in paragraphs eighteen (18), nineteen (19), twenty-two (22), twenty-three (23), forty-two (42), and forty-seven (47) through fifty (50) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(a)(6) [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:

(6) Non-medical assistance with activities of daily living.

24. The facts stated in paragraphs eighteen (18), nineteen (19), twenty-two (22), twenty-three (23), forty-two (42), and forty-seven (47) through fifty (50) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(b)(3) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(b) Laundry services. An ACLF shall:

(3) Maintain clean linens in sufficient quantity to provide for the needs of the residents. Linens shall be changed whenever necessary.

25. The facts stated in paragraphs fourteen (14) through seventeen (17), twenty-three (23) through thirty (30), thirty-one (31) through thirty-three (33), thirty-eight (38) through forty (40), forty-four (44), and forty-five (45) 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 (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.

26. The facts stated in paragraphs fourteen (14) through seventeen (17), twenty-three (23) through thirty (30), thirty-one (31) through thirty-three (33), thirty-eight (38) through forty (40), forty-four (44), and forty-five (45) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(4)(b)(1)[RESIDENT RECORDS], the relevant portion of which reads as follows:

(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.

27. The facts stated in paragraphs thirty-four (34) through thirty-six (36) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.14(1)(I) [RESIDENT RIGHTS], the relevant portion of which reads as follows:

(1) An ACLF shall ensure at least the following rights for each resident.

(i) To manage his or her personal financial affairs, including the right to keep and spend his or her own money. If the resident requests assistance from

the ACLF in managing his or her personal financial affairs, the request must be in writing and the resident may terminate it at any time. The ACLF must separate such monies from the ACLF's operating funds and all other deposits or expenditures, submit a written accounting to the resident at least quarterly, and immediately return the balance upon transfer or discharge. The ACLF shall maintain a current copy of this report in the resident's file.

28. The facts stated in paragraphs thirty-four (34) through thirty-six (36) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.13(1) [REPORTS], the relevant portion of which reads as follows:

(1) The ACLF shall report all incidents of abuse, neglect, and misappropriation to the Department of Health in accordance with T.C.A. 68-11-211.

29. The facts stated in paragraphs fifty-four (54) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(1)(b)(3)[Administration], the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(b) Policies and Procedures:

(3) An ACLF shall develop a written policy, plan or procedure concerning a subject and adhere to its provisions whenever required to do so by these rules. A licensee that violates its own policy established as required by these rules and regulations also violates the rules and regulations establishing the requirement.

30. The facts stated in paragraph fifty-five (55) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(3)(c)[Resident Records], the relevant

portion of which reads as follows:

(2) Medical Record. An ACLF shall ensure that its employees develop and maintain a medical record for each resident who requires health care services at the ACLF regardless of whether such services are rendered by the ACLF or by arrangement with an outside source, which shall include at a minimum:

(c) Orders and recommendations for all medication, medical/and other care, services, procedures, and diet from physicians or other authorized healthcare providers, which shall be completed prior to, or at the time of admission, and subsequently, as warranted. Verbal orders received shall include the time of receipt of the order, description of the order, and identification of the individual receiving the order.

31. The facts stated in paragraph fifty-six (56) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(3)(c)[Resident Records], the relevant portion of which reads as follows:

(3) Medical Record. An ACLF shall ensure that its employees develop and maintain a medical record for each resident who requires health care services at the ACLF regardless of whether such services are rendered by the ACLF or by arrangement with an outside source, which shall include at a minimum:

(i) The time and circumstances of discharge or transfer, including condition at discharge, transfer, or death.

## V. ORDER

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

32. Respondent's license to operate as an assisted care living facility shall be placed on probation for one (1) calendar year from February 5, 2019 through February 5, 2020, unless it is lifted by the Board earlier, as provided herein.

33. The facility has submitted Plan of Correction (POC) which includes numerous operational and patient care changes to be made at the facility. The changes to be implemented through the POC include, but are not necessarily limited to the following:

    a. The facility has hired a new Administrator effective January 28, 2019.

    b. The facility has hired a new Director of Nursing effective January 9, 2019.

    c. The Director of Nursing shall oversee the implementation of the POC. The Director of Nursing will be on site full-time and will work to accomplish and implement standards of practice.

    d. The facility shall install an electronic health records (EHR) system to ensure that all medical records and plans of care are being correctly implemented. Best efforts will be made to have this EHR system installed by March 31, 2019.

    e. The facility shall install a new staffing system to ensure the appropriate level of care is in place for each resident. Best efforts will be made to have this new staffing system in place by March 31, 2019.

    f. The facility will provide training to all employees on the HER and staffing system.

    g. The facility will hire or engage and retain dedicated housekeepers to ensure

housekeeping practices will be improved.

h. The facility will conduct an Employee Orientation Fair for all employees to be educated on best practices for overall safety, assistance with activities of daily living (ADLs), cleanliness, and social engagement of residents. Staff will understand and implement current policies to include personal care, as described in the facility's Policies and Procedures.

i. The facility will update its Policies and Procedures regarding the procurement and handling of physician orders for residents with updates complete by March 2019.

j. The facility has arranged for a physical therapy practice to conduct fall risk assessments for all residents of the facility.

k. The facility will re-train staff on fall prevention as well as fall follow up, including appropriate updates to the plans of care. The facility will implement the use of communication boards and a communication book to more effectively communicate regarding residents' needs.

l. The facility will provide training on Policy and Procedures to current and new employees on medication administration.

m. The facility will perform a Quality Assurance Audit on medication administration. If the audit reveals a patient has not received the proper does or type of medication, the physician will be contacted and remedial action will be taken.

n. The facility will assure the pharmacy performs a monthly audit of medication practices to ensure all orders are being followed correctly.

o. The facility has implemented a communication board to track the move-ins, move-outs, and locations of specific residents if other than at the facility.

34. A representative shall appear on behalf of the Respondent facility in-person at each regularly scheduled Board meeting for one (1) calendar year and provide reports to the Board regarding the progress of the facility to correct the outstanding deficiencies and to maintain compliance under the terms of this Order. The Board may in its discretion lift the probation prior to the expiration of the one year probationary period if it finds the facility is in substantial compliance with all applicable standards and rules, at any of the scheduled Board meetings during the one year period.

35. Respondent hereby agrees to remain under the Board's assessed Suspension of Admissions until the facility's Plan of Correction is accepted and all deficiencies have been corrected. Upon acceptance of the facility's Plan of Correction and the correction of all deficiencies, the Suspension of Admissions will be lifted.

36. Respondent agrees to pay costs for all revisit surveys incurred by the Department since October 2018. The Department will prepare an assessment of cost in this matter. Such costs shall not exceed thirty-thousand dollars ($30,000.00). The facility may pay this amount in installment payments. A payment plan may be set up by contacting:

**Eddie J. Stewart/Health Facilities Program Manager**
**Division of Health Licensure and Regulation**
**Office of Health Care Facilities, Licensure Supervisor**
**665 Mainstream Drive, Second Floor**
**Nashville, TN 37243**

37. A representative from Respondent facility shall appear in-person before the Board at the February 2020 Board meeting and request that the Board lift its probation, if it has not previously been lifted by the Board. Respondent must show adherence to the Plan of Correction and that any outstanding deficiencies from the November 2018 and January 2019 surveys have been corrected.

38. If after the suspension of admissions have been lifted, any new deficiencies affecting the health, safety, and welfare of the residents are cited, such deficiencies shall result in a suspension of admissions pending a prompt hearing by the Board.

39. Any violation of this Order shall constitute a violation of this Agreed Order and will be grounds for additional discipline, up to and including, revocation of the facility's licensure.

40. Each condition of discipline herein is a separate and distinct condition. If any condition of this Agreed Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Upon the agreement of the parties, this **AGREED ORDER** was 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 agreements of the parties will and hereby does become the Final Order of the Board.

René Saunderson
Chairperson
Board for Licensing Health Care Facilities

**AGREED TO:**

Peter Cawley, **Owner**
**Legacy Assisted Living** Facility **of Lenox Park**
Respondent

2/4/19
**Date**

Rebecca **Adelman BPR # 014736**
**Michael Goodin, BPR # 27256**
**Attorney for the Respondent**
**Adelman Law Firm, PLLC**
**647 S Main St**
**Memphis, TN 38103-4813**

2/4/19
**Date**

**Paul Valentine, as Receiver for**
**Legacy Assisted Living & Memory Care**
**at Lenox Park**

2/5/19
**Date**

Emily C. Taube # 019323
Jerry W. Taylor # 009662
Attorneys **for the Receiver**
**Burr & Forman**
**222 2nd Ave S., Suite 2000**
**Nashville, TN 37201**

2/5/19
**Date**

James Haltom
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2/4/19
**Date**

Caroline R. Tippens

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

2/5/19
Date

**CERTIFICATE OF FILING**

This Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the 6 day of February, 2019.

J. Richard Collier

Richard Collier, Chief Administrative Law Judge
Administrative Procedures Division

**CERTIFICATE OF SERVICE**

A true and exact copy of this Consent Order is being served upon Respondent, by and through their attorney, Rebecca Adelman, Attorney for the Respondent, Adelman Law Firm, PLLC, 647 S Main St, Memphis, TN 38103; Emily Taube & Jerry Taylor w Burr & Forman, 222 2nd Ave S., Suite 2000, Nashville, TN 37201; and James Haltom, Counsel for Bank Leumi, Nelson Mullins One Nashville Place, 150 4th Ave. N., Suite 1100, Nashville, TN 37219 by delivering same in the United States mail certified mailing #s 7017 3580 0000 9978 9168 7017 3580 0000 9978 9175 7017 3580 0000 9978 9182 and via USPS first class, with sufficient postage thereon to reach its destination.

This 7th day of February, 2019.

Caroline R. Tippens
Assistant General Counsel