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BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:

Maple Court
7545 Thunder Lane
Powell, TN 37849

License No. ACLF 00000388

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Case Number#: 201904052

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 2nd day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Maple Court** (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. § 68-11-202(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,

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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, **Maple Court**, located at 7545 Thunder Lane, Powell, TN 37849, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000388** on July 31, 2013. Respondent has an active license with an expiration date of July 31, 2020.
2. From on or about August 5, 2019, the Department conducted investigation into a

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complaint at Respondent facility.

3. Resident #1 was admitted to the facility in May 2019 with diagnoses of dementia, heartburn, and osteoporosis. Resident #1 was cognitively impaired and resided on the secure unit of the facility.
4. From May 2019 through July 2019, Resident #1's behavior escalated as Resident #1 was frequently described as agitated, anxious, restless, and often exhibited wandering behaviors.
5. On or about July 25, 2019, Resident #1 was seated next to LPN #2's medication cart during the 5:00 P.M. medication pass. L.P.N. #2 prepared multiple residents' medications and placed them in medication cups on top of the medication cart. L.P.N. #2 then turned her back to answer a family member's question. When she turned around, Resident #1 had a spoon in her mouth and medications were missing from the medication cups on top of the cart.
6. L.P.N. #2 then administered medications to another resident before contacting the Director of Nursing. The Director of Nursing called for emergency services for Resident #1.
7. Resident #1 was admitted to a local hospital with a diagnoses of a known overdose. Resident #1 exhibited bradycardia and was administered Narcan. Resident #1 was sent to the Intensive Care Unit for cardiac monitoring. Resident #1 remained in the ICU for four (4) days and was discharged back to the facility.
8. Surveyors interviewed the Director of Nursing who confirmed that no medications were to be left on the top of the medication cart at any time and that the facility had failed to follow its medication storage policy.

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9. The facility failed to ensure all medications were kept locked, secured, and out of reach of Resident #1. The facility also failed to provide Resident #1 safety while residing in the assisted care living facility.

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.

10. The facts stated in paragraph three (3) through nine (9) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(5)(d)[SERVICES PROVIDED], the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

- (d) Store all medications via a locked or closed container and/or room which includes, but is not limited to, some type of box, piece of furniture, an individual resident room, and/or a designated room within the facility which maintains resident medication out of sight of other residents.

11. The facts stated in paragraph three (3) through nine (9) 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:

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- (2) Safety when in the ACLF.

ORDER

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

12. The assessment of two (2) civil monetary penalties in the amount of one thousand dollars (\$1,000.00) each for a total assessment of two thousand dollars (\$2,000.00).

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**

13. 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.

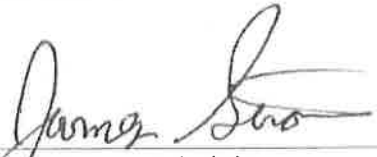
Upon the agreement of the parties, this **CONSENT ORDER** is approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board for Licensing Health Care Facilities at a public meeting of the Board and signed this 3rd day of October, 2019.

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

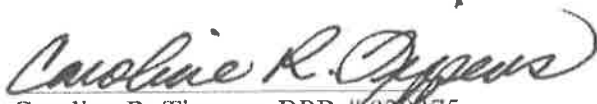

Chairperson
Board for Licensing Health Care Facilities

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AGREED TO:


James Strom, Administrator
Maple Court
Respondent

9/17/2019
Date


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

10.2.2019
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Maple Court, by and through its Administrator, c/o James Strom, 7545 Thunder Lane, Powell, TN 37849 and NIC 19 Powell Leasing, LLC, 55 West 46th Street, Suite 2204, New York, NY, 10036 by delivering same in the United States mail, certified return receipt 7017 0190 0001 0037 3098 and 7017 0190 0001 0037 3184 United States Postal Service first class, with sufficient postage thereon to reach its destination.

This 3rd day of October, 2019.


Caroline R. Tippens
Senior Associate General Counsel

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