

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:

Oakwood Senior Living
232 E. Churchwell Lane
Knoxville, TN 37917

License No. 00000391

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Case #: 2019030531

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CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the and day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Oakwood Senior 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

 Initial

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 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, Oakwood Senior Living, located at 232 E. Churchwell Ave, Knoxville, TN, 37917 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000391 on September 8, 2015. Respondent has an active license with an expiration date of September 7, 2020.
2. On or about June 4-5, 2019. Department surveyors conducted a licensure and complaint

 Initial

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 and welfare of residents.

3. Resident #2 was admitted to the facility in February 2018 with diagnoses of dementia with behavior disturbances. Resident #2 resided in the secure memory care unit of the facility.
4. Shortly after her admission, Resident #2 exhibited elopement behaviors which required monitoring.
5. On or about April 3, 2018, Resident #2 attempted to elope with a caregiver.
6. On or about May 12, 2018, at approximately 6:30 PM, Resident #2 eloped with another resident from the facility and was seen by a caregiver from the facility. Two caregivers were sent to get the eloped residents. Both residents were returned to the facility by 7 PM.
7. On or about December 6, 2018, a neighbor near Respondent facility called and informed the facility that Resident #2 was down the street, near a blue house. The facility sent staff out and picked up Resident #2.
8. After this incident, Resident #2 continued to exhibit exit-seeking behavior.
9. On or about December 25, 2018, Resident #2 was able to elope again. Resident #2 was found outside the facility and appeared very agitated. Resident #2 was eventually coaxed back into the facility after approximately thirty (30) minutes.
10. On or about April 3, 2019, Resident #2 again attempted to leave the facility and made it out the front door to the front porch.
11. The Administrator for the facility confirmed that the facility had failed to maintain

 Initial

awareness of Resident #2 whereabouts. The Administrator also admitted that the facility had failed to update Resident #2's care plan to reflect new interventions to prevent Resident #2's elopements.

12. Resident #3 was admitted to the facility in January 2019 with diagnoses including diabetes and kidney disease.
13. On or about April 26, 2019, Resident #3 was noted to have decubitus ulcers on bilateral calves. Resident #3's physician ordered that a nurse was to perform wound care, then cover the wound with bordered gauze, twice a week.
14. A review of Resident #3's care plan revealed that the care plan had not been updated to reflect Resident #3's wound care and dressing changes.
15. The Administrator confirmed that the facility had failed to update Resident #3's plan of care to reflect wound care and dressing changes.

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.

16. The facts stated in paragraphs three (3) through eleven (11) 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.

17. The facts stated in paragraphs eleven (11) through fifteen (15) 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.

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(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) day 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:

18. 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 (\$1,000.00).

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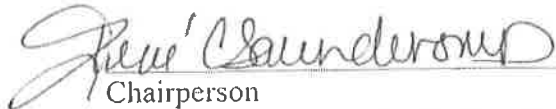
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

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

19. 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 2nd 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

AGREED TO:


Jessica Elizabeth Bennett, Administrator
Oakwood Senior Living
Respondent

9/13/19
Date

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Caroline R. Tippens

Caroline R. Tippens (BPR # 030375)
Senior Associate General Counsel
Department of Health
665 Main Stream Dr., 2nd 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, Oakwood Senior Living, by and through its administrator, Jessica Elizabeth Bennet, located at 232 E. Churchwell Ave, Knoxville TN 37917, via certified mail # 7018 1830000051026019 Oakwood Properties, LLC, 3657 Peachtree Parkway, Suite B-351, Suwanee, GA, 30024 via certified mail # 7018 1830000051036026 and by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination.

This 3rd day of October, 2019.

Caroline Tippens

Caroline Tippens
Assistant General Counsel

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