

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

IN THE MATTER OF:

**The Courtyards Senior Living Briarcliff
300 Briarcliff Ave., Building #1
Oak Ridge, TN 37830**

License No. ACLF 00000346

Case Number 201903420

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 **THE COURTYARDS SENIOR LIVING BRIARCLIFF** (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.

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, 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, **THE COURTYARDS SENIOR LIVING BRIARCLIFF**, 300 Briarcliff Avenue, Bldg. #1, Oak Ridge, TN 37830, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000346** on January 28, 2011. Respondent has an active license with an expiration date of January 27, 2020.
2. From on or about June 26 to June 27, 2019, the Department conducted a complaint survey at the Respondent facility.

3. Resident #4 was admitted to the facility in December 2017 with diagnoses of aphasia and Alzheimer's disease.
4. On or about January 14, 2018, Resident #4 bit a nurse, was combative, and chased staff.
5. On or about February 23, 2018, Resident #4 pushed Resident #1, which caused Resident #1 to fall to the ground. Resident #1 was found by staff on the ground. Resident #1 indicated that Resident #4 had pushed her. After her fall, Resident #1 complained of pain in her right hip, knee, and arm. Resident #1 was taken to the hospital and diagnosed with a broken hip.
6. On or around February 23, 2018, Respondent attempted to find a discharge location for Resident #4 to a hospital geriatric psychiatric unit; however, there were no such beds available within the service area. The local hospital geriatric psychiatric unit agreed to notify the Facility when beds became available. The facility was unable to provide the surveyor with documentation to substantiate these efforts.
7. During February and March 2018, Respondent contacted numerous physicians and service providers in efforts to assist with an appropriate discharge of Resident #4. Respondent notified Resident #4's responsible party of Resident #4 need for a higher level of care and requested assistance and/or companion services; and requests were denied. Respondent also implemented more frequent monitoring of Resident #4 in an attempt to protect Resident and others. The facility was unable to provide the surveyor with documentation to substantiate these efforts.
8. Despite the February 23, 2018 incident, which resulted in actual harm to Resident #1, Resident #4 was not discharged.

9. On or about February 26, 2018, Resident #4 located a decorative boat in the lobby and threw it across the room. Resident #4 later observed hitting another resident.
10. On or about March 1, 2018, Resident #4 grabbed a resident's legs and attempted to pull the resident out of a chair.
11. On or about March 4, 2018, Resident #4 struck another resident.
12. On or about March 10, 2018, Resident #4 attempted to kick and bite staff while being dressed.
13. On or about March 11, 2018, Resident #4 was combative and bit staff. Surveyors' review of nursing notes reflected that Resident #4 was combative with staff during assistance with activities of daily living. Nursing note from March 11, 2018 documented that Resident #4 had ransacked her room during an attempt to change her clothes.
14. On or about March 14, 2018, Resident #4 grabbed another resident's walker and struck the resident with the walker.
15. On or about March 15, 2018, Resident #4 was seen at the office of a geriatric specialist. Documentation from that physician's office reflects that Resident #4 had harmed Resident #1, was aggressive, agitated, and had bitten her caregivers. The physician's office also referred Resident #4 for geri-psych admission.
16. Despite incidents in which Resident #4 displayed combative and aggressive behaviors on February 23, 2018, February 26, 2018, March 1, 2018, March 4, 2018, March 10, 2018, March 11, 2018, and March 14, 2018, Resident #4 was not discharged by Respondent facility until March 20, 2018 when an appropriate bed became available. Resident #4 was then discharged to a local geriatric psychiatric hospital..

17. During the June 26-27, 2019 survey, Surveyors interviewed the Executive Director and Director of Nursing. The interview confirmed the Surveyor's determination that Resident #4 was a danger to herself and others.

GROUND 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.

18. The facts stated in paragraph two (2) through fifteen (15) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(1)(d))[ADMISSIONS, DISCHARGES, AND TRANSFERS], the relevant portion of which reads as follows:

(1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has any of the following conditions:

(d) Exhibits verbal or physically aggressive behavior which poses an imminent physical threat to self or others, based on behavior, not diagnoses.

ORDER

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

17. The assessment of one civil monetary penalty in the amount of three thousand dollars (\$3,000.00). 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**

18. 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:

Carol Guillemet
Carol Guillemet, Administrator
The Courtyards Senior Living Briarcliff
Respondent

10-01-2019
Date

Christopher C. Puri
Christopher C. Puri
Counsel for Respondent
Bradley Arant Boult Cummings LLP
Roundabout Plaza, 1600 Division Street, Suite 700
Nashville, TN 37203

10-2-2019
Date

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

10.2.19
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, The Courtyards Senior Living Briarcliff, by and through its Administrator, Carol Guillemet, 300 Briarcliff Avenue, Bldg. #1, Oak Ridge, TN 37830 and also to Continuum Courtyards, LLC, PO Box 50518, Suite 211, Knoxville, TN 37950 by delivering same in the United States mail, certified return receipts 70182290 0001 14035151 & 70182290 0001 14035168

_____ and also via 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

