

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

IN THE MATTER OF:

The Terrace at Mountain Creek
1005 Mountain Creek Road
Chattanooga, Tennessee

License No. 00000257

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Case #: 201802111

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 6th day of June, 2018, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **The Terrace at Mountain Creek** (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 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.

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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, The Terrace at Mountain Creek, 1005 Mountain Creek Road, Chattanooga, TN 37405, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000257 on July 22, 2004. Respondent has an active license with an expiration date of September 3, 2018.

2. On or about April 18, 2018, Department surveyors conducted complaint survey and

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annual licensure 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 #1 was admitted to the facility in May 2015 with diagnoses of diabetes, hypertension, heart failure, and atrial fibrillation. Resident #1 was admitted to hospice care in February 2018.
4. Review of Resident #1's care plan revealed the facility failed to revise and update the care plan to include hospice care for Resident #1.
5. Review of the care plan for Resident #1 also revealed that the care plan had not been updated to include an emergency evacuation plan.
6. Resident #3 was admitted to the facility in November 2017 with diagnoses of Alzheimer's disease, diabetes, and depression. Resident #3 was admitted to hospice care in March 2018.
7. Review of the care plan revealed that Resident #3's care plan had not been updated to include emergency evacuation plans for Resident #3.
8. Review of Resident #3's care plan revealed the facility failed to revise and update the care plan to include hospice care.
9. Resident #10 had physician's orders to administer Novolog insulin 100 units per milliliter on a sliding scale.
10. Surveyors observed unlicensed medication tech #1 perform a finger stick blood glucose test on Resident #10. Resident #10's blood glucose level was 208. Medication tech #1 then administered three (3) units of Novolog insulin to Resident #10. Medication tech #1 documented the blood glucose finding on Resident #10's glucose monitoring and insulin



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administration sheet.

11. Medication tech #2 was observed to remove pharmacy prepared medication packets for Resident #11 from the medication cart. Medication tech #2 tore open the medication packets, poured medications into a medication cup, and then took the medications and a glass of water to Resident #11. Medication tech #2 documented administration of these medications on the resident's medication administration record.
12. The surveyor then interviewed both medication tech #1 and medication tech #2. Both techs confirmed that they were not licensed nurses.

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.

13. The facts stated in paragraphs nine (9) through twelve (12) 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 professional operating within the scope of the professional license and according to the resident's plan of care.

14. The facts stated in paragraphs three (3) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(7)[Admissions,

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Discharges, and Transfers], the relevant portion of which reads as follows:

- (7) An ACLF shall have documented plans and procedures to show evacuation of all residents.

15. The facts stated in paragraphs three (3) through eight (8) 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.

ORDER

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

- 7. The assessment of three (3) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand five hundred dollars (\$1,500.00).

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

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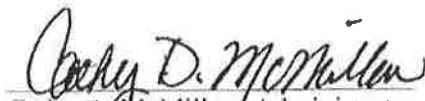
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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 6 day of June, 2018.

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:


Cathy D. McMillon, Administrator
The Terrace at Mountain Creek
Respondent

5/30/18
Date


Caroline R. Tippens (BPR #: 030375)
Assistant General Counsel
Department of Health
665 Main Stream Dr., 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

6/6/18
Date

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CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Cathy D. McMillon, Administrator, The Terrace at Mountain Creek, 1005 Mountain Creek Road, Chattanooga, TN 37405, by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail

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This 7th day of June, 2018.

Caroline R. Tippens

Caroline Tippens
Assistant General Counsel

Ceh Initial