

BEFORE THE TENNESSEE BOARD FOR LICENSING HEALTH CARE FACILITIES

In The Matter of:)
)
Metro Community Care Home, Inc.)
License No. 00000181, Home for the Aged)
)
Respondent)

ORDER OF SUMMARY SUSPENSION

This cause came to be heard on the 12th day of May, 2017 at a public meeting, before the Tennessee Board for Licensing Health Care Facilities (“Board”), upon the application of the Tennessee Department of Health, Office of Health Care Facilities, and the Office of General Counsel (“State”), for a summary suspension of Respondent’s license pursuant to Tennessee Code Annotated Section (“T.C.A. §”) 4-5-320(c).

The State presented evidence that the public health, safety, and welfare imperatively require this emergency action in light of the fact that on or about April 17, 2017, Metro Community Care Home (“Respondent”) was surveyed and numerous deficiencies were found affecting the health, safety, and welfare of the twenty-five (25) residents currently residing in the facility. The life safety surveyor, upon entering facility, discovered that the dining room of the facility had extensive water damage to the ceiling and the roof. Multiple ceiling tiles had fallen, insulation was exposed, and multiple buckets were being used to catch water. The fire alarm was inoperable. The fire alarm doors were found to have missing latches, and tables were found to be obstructing the hallway, making it difficult to exit the building in case of emergency.

The State would show that the Board has jurisdiction and grounds for summary suspension as set forth below:

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. Further, 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.
2. The Board has the authority to suspend or revoke the license of any facility licensed under Tenn. Code Ann. § 68-11-201 *et. seq.* Tenn. Code Ann. § 68-11-207(a).
3. In imposing the sanctions authorized in [§ 68-11-207], the board may consider all factors that it deems relevant, including, but not limited to, the following:
 - a) The degree of sanctions necessary to ensure immediate and continuous compliance;
 - b) The character and degree of impact of the violation on the health, safety and welfare of the patients in the facility;
 - c) The conduct of the facility against whom the notice of violation is issued in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and
 - d) Any prior violations by the facility of statutes, regulations or orders of the board.

- e) The board may, in its discretion, after the hearing, hold the case under advisement and make a recommendation as to requirements to be met by the facility in order to avoid either suspension or revocation of license or suspension of admissions.
- f) Under T.C.A. § 4-5-320(c), the Board has the authority to summarily suspend a license if it finds that the public health, safety, or welfare imperatively requires emergency action.

GROUND'S FOR SUMMARY SUSPENSION

- 4. At all times pertinent hereto, Metro Community Care Home, Inc., located at 1328 Mississippi Blvd, Memphis, TN 38106 has been licensed as a home for the aged, having been issued license number 00000181 on November 24, 1980. Respondent's license expired on April 23, 2017.
- 5. Metro Community Care Home, Inc. is licensed to provide care for thirty (30) residents. Currently, twenty-five (25) residents were residing in the facility.
- 6. On or about September 27, 2016 an annual survey was conducted and completed at the facility. At that time a Statement of Deficiencies ("S.O.D.") was sent to the facility, which noted the following deficiencies:
 - a) Sprinklers were painted over;
 - b) Lint was found blocking dryer vents;
 - c) Failure to conduct fire drills;
 - d) Failure to have emergency lighting;
 - e) Obstructions in the corridors;
 - f) Electrical problems (battery backup and exit lights were not functioning); and

g) Open junction boxes with exposed wiring were noted.

7. On or about October 5, 2016, the S.O.D. and the plan of correction ("P.O.C.") letter was mailed to the facility. The facility did not respond.
8. On November 15, 2016, after no correspondence from the facility a second P.O.C. letter was mailed.
9. On or about December 28, 2016, West TN Regional Office received the facility's P.O.C.
10. On or about January 20, 2017, fire safety surveyors reviewed the facility's P.O.C. and determined it was unacceptable.
11. On or about January 30, 2017, an unacceptable P.O.C. letter was mailed to the facility.
12. On or about March 2, 2017, after no correspondence was received from the facility, a second unacceptable P.O.C. letter was mailed. As of May 3, 2017 an acceptable P.O.C. has still not been received
13. On or about April 17, 2017, surveyors entered the facility and found that the dining room area had extensive water damage to the ceiling and roof. Multiple ceiling tiles had fallen, insulation was exposed, and multiple buckets were being used to catch water.
14. Upon further inspection, it was also discovered that three (3) tables were obstructing resident egress in the corridors.
15. Additionally, the fire doors located at the dining room entrance were missing fire exit hardware and lower latching rods. This made it very difficult to open the door and would jeopardize resident safety in case of emergency.
16. Finally, investigation revealed that the fire alarm panel located in the lobby was giving a system trouble signal and was inoperable. The trouble signal was caused by a missing card in the fire alarm panel.

17. On or about April 20, 2017, a copy of the S.O.D. and a P.O.C. letter were mailed to the facility.

To date, the Office of Healthcare Facilities has not received a P.O.C.

18. Given the history of repeated deficiencies that have not been corrected by the facility, the surveyors felt that these recent deficiencies seriously jeopardized resident life safety and welfare.

ARGUMENT

The facts stated in the Grounds for Summary Suspension section, *supra*, are sufficient to establish that grounds for the discipline of Respondent's license exist. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized:

19. The facts stated in paragraph five (5) through sixteen (16) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-11-.07(1)[Building Standards], the relevant portion of which reads as follows:

- (1) An RHA shall construct, arrange, and maintain the condition of the physical plant and overall RHA environment in such a manner that the safety and well-being of the patients are assured.

20. The facts stated in paragraph fourteen (14) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-11-.08(8) [Life Safety], the relevant portion of which reads as follows:

- (8) Corridors and exit doors shall be kept clear of equipment, furniture, and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.

21. The facts stated in paragraph thirteen (13) through sixteen (16) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-11-.08(21)[Life Safety], the relevant portion of which reads as follows:

(21) All safety equipment shall be maintained in good repair and in safe operating condition.

POLICY STATEMENT

The summary suspension statute requires a showing that protection of “public health, safety, or welfare imperatively requires emergency action.” T.C.A. § 4-5-320(c). The failures of the Respondent and Respondent’s staff resulted in a serious threat to the health and safety of the residents residing in the Respondent’s facility. The Board’s position is that the severity of the Respondent’s conduct constitutes a serious threat to the public health, safety, and welfare.

SUSPENSION

In consideration of the evidence presented, and pursuant to the authority granted under T.C.A. § 4-5-320(c), T.C.A. §§ 68-11-207(a), the Board hereby preliminarily finds that the misconduct of Respondent, **METRO COMMUNITY CARE HOME**, is so severe that it imperatively requires emergency action in order to protect the public health, safety and welfare prior to the initiation of formal disciplinary charges.

It is therefore **ORDERED** that:

22. Respondent’s license as a home for the aged, license **00000181**, is hereby **SUMMARILY SUSPENDED**.

23. Upon receipt of this Order, Respondent shall not accept any new residents.

24. Respondent shall immediately facilitate the transfer of its residents to appropriate facilities. All residents must be removed from the home within seven (7) calendar days.

25. Respondent shall allow **immediate** access to the Tennessee Department of Health surveyors.
26. If there are any residents remaining in the facility within twenty-four (24) hours of receipt of this Order, then the Respondent shall have a monitor, approved by the Division Director, placed in the facility and shall remain in the facility until every remaining resident is transferred to an appropriate facility.
27. Respondent shall be responsible for the costs of any transfers and the cost of any monitoring.
28. Respondent shall immediately submit a plan of correction to the Department.
29. This suspension shall be effective immediately and shall remain in effect until the conclusion of the contested case hearing against Respondent or until otherwise ordered by the Board.

SO ORDERED, this 12th day of May, 2017.



Chairperson

Tennessee Board for Licensing Health Care Facilities

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Metro Community Care Home, Administrator, Odessa Williams, located at 1328 Mississippi Blvd, Memphis, TN 38106., by certified mail number 7016 0930 00002431 7908 and via FedEx, tracking number 8113 1816 3084 on the 12th day of May, 2017.


Caroline R. Tippens
Assistant General Counsel