

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)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 7th day of June, 2017, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **METRO COMMUNITY CARE HOME, INC.** (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.

I. 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.
2. 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.
3. 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).
4. 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).
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).

6. 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.*

II. FINDINGS OF FACT

1. 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.
7. Metro Community Care Home, Inc. is licensed to provide care for thirty (30) residents. Currently, twenty-five (25) residents were residing in the facility.
8. 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.

9. 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.
10. On November 15, 2016, after no correspondence from the facility a second P.O.C. letter was mailed.
11. On or about December 28, 2016, West TN Regional Office received the facility's P.O.C.
12. On or about January 20, 2017, fire safety surveyors reviewed the facility's P.O.C. and determined it was unacceptable.
13. On or about January 30, 2017, an unacceptable P.O.C. letter was mailed to the facility.
14. 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
15. 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.
16. Upon further inspection, it was also discovered that three (3) tables were obstructing resident egress in the corridors.
17. 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.
18. Finally, investigation revealed that the fire alarm panel located in the lobby was giving a system trouble signal. The trouble signal was caused by a missing card in the fire alarm panel.
19. 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.

20. On or about May 12, 2017, Respondent facility's license was Summarily Suspended by the Board of Licensing for Healthcare Facilities.

III. CONCLUSIONS OF LAW

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

21. The facts stated in paragraphs nine (9) through nineteen (19) 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.

22. The facts stated in paragraph seventeen (17) 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.

23. The facts stated in paragraph sixteen (16) through nineteen (19) 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.

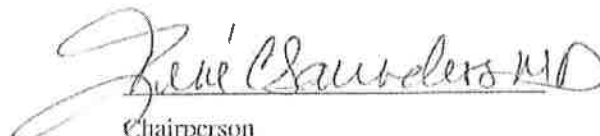
V. ORDER

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

24. Respondent **VOLUNTARILY SURRENDERS** the license to operate as a home for the aged.
25. A voluntary surrender has the same legal effect as a **REVOCATION**.
26. Respondent facility shall cease operations as a home for the aged.
27. Respondent's voluntary surrender (revocation) constitutes disciplinary action, and upon ratification by the Board, this disciplinary action will be reported on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.
28. Should Respondent ever attempt to renew or apply for initial licensure of this facility, Respondent must submit a Plan of Correction and have a site visit by life safety surveyors prior to licensure to ensure that all previously cited deficiencies have been corrected.

Upon the agreement of the parties, this **AGREED ORDER** was 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 7 day of June, 2017.

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


Chairperson
Board for Licensing Health Care Facilities

AGREED TO:

Odessa A. Williamson

Odessa Williamson, Administrator
Metro Care Community Home, Inc.
Respondent

05-18-2017

Date

Caroline R. Tippens

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

Date

10/07/2017

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 0910 0010 2431 8439

_____ and via United States Mail postage prepaid on the 8th day of June.

2017.

Caroline R. Tippens

Caroline R. Tippens
Assistant General Counsel