

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

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SECRETARY OF STATE

IN THE MATTER OF:

PRESTIGE CARE HOME

License No. 00000565

Home for the Aged

2051 Montreat Drive,

Memphis, TN 38134

Docket No. 17.17-141528A

AGREED ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 8th day of February, 2017, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and PRESTIGE CARE HOME (hereinafter "Respondent") that the Board adopt this Agreed Order, the terms of which have been agreed upon by the parties, as signified by their signatures below.

Respondent, by signature to this Agreed 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 Agreed 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 Agreed 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

7. At all times pertinent hereto, Prestige Care Home, 2051 Montreat Drive, Memphis, TN 38134, has been licensed as a home for the aged, having been issued license number 00000565 on July 1, 2001. Respondent has an active license with an expiration date of February 17, 2017.
8. Prestige Care Home is licensed to provide care for six (6) residents. Past surveys indicate that at least three (3) of the residents within the home have dementia diagnoses.
9. Surveyors performed a survey on October 3, 2016 and noted numerous deficiencies.
10. Prestige Care Home failed to timely submit a Plan of Corrections for the violations found on the October 3, 2016 survey.
11. On October 18, 2016, at 7:50 A.M., two (2) Life Safety Inspectors arrived at the facility. Despite numerous attempts by surveyors of the West Tennessee Regional Office, the Respondent would not allow surveyors entrance to the facility.
12. On November 18, 2016, Life Safety surveyors again returned to facility. The administrator opened the door, but refused to allow entry of the surveyors and demanded that the surveyors leave her property.
13. Surveyors called the Memphis Police Department ("MPD"). The administrator refused to allow both MPD or the surveyors entry to the home. MPD indicated that that in order to gain

access to the home, a warrant would be necessary if the owner would not allow entry.

14. On or about November 20, 2016, the State Long Term Care Ombudsman attempted to conduct a welfare check on the residents of Prestige Care Home. The Long Term Care Ombudsman knocked on the door of the facility, but did not receive any answer.
15. Prestige Care Home never submitted a Plan of Corrections for the October 3, 2016 deficiencies.
16. As a result, on December 1, 2016, Prestige Care Home's license was summarily suspended by the Board. This Agreed Order also serves as a final disposition of the summary suspension proceedings.
17. Since the State had concerns about the welfare of the residents, warrants were obtained to allow surveyors to enter the facility with Memphis Police Department. On December 9, 2016, a surveyor accompanied officers to Prestige Care Home.
18. On December 9, 2016, two (2) residents were found in the home. Shirley Johnson, Administrator, stated that the third resident, who was previously receiving home health, had been transferred out of state. Ms. Johnson refused to turn over medical records for the residents to the surveyors. At that time, Respondent indicated that she was aware she had been summarily suspended and no longer wished to operate a licensed home for the aged. Ms. Johnson stated that she would be operating a boarding home going forward.
19. On or about December 13, 2016, the Administrator of Prestige Care Home submitted a formal letter to the West Tennessee Regional Office indicating that she wished to close the facility's license as a home for the aged.

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.

20. The facts stated in paragraphs seven (7) through nineteen (19) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-11-.04(6)(i) [ADMINISTRATION], the relevant portion of which reads as follows:

(6) Each home for the aged shall:

(i) Cooperate in the Department's inspections, including allowing entry at any hour and providing all the required records.

21. The facts stated in paragraphs seven (7) through nineteen (19) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-11-.10(1)(d) [RECORDS AND REPORTS].

(1) An individual resident file shall be maintained for each resident in the home. Personal information shall be confidential and shall not be disclosed, except to the resident, the department and others with written authorization from the resident. These files shall be retained for one (1) year after the resident is transferred or discharged. The resident file shall include:

(d) Date of admission, transfer, discharge and any new forwarding address.

V. ORDER

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

1. Respondent **VOLUNTARILY SURRENDERED** ^{her} ~~his~~ license to operate as a home for the aged.
2. A volunteer surrender has the same legal effect as a **REVOCATION**.
3. Respondent facility shall cease operations as a home for the aged.
4. 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.

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 8th day of February, 2017.

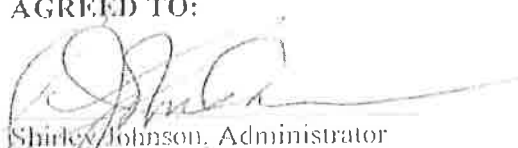
ACCORDINGLY, IT IS ORDERED that the agreements of the parties will and hereby does become the Final Order of the Board,



Chairperson

Board for Licensing Health Care Facilities

AGREED TO:


Shirley Johnson, Administrator
Prestige Care Home
Respondent

1-20-17
Date

Caroline R. Tippens
Caroline R. Tippens, BPR # 030375

Date

2-08-2017

Assistant General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

CERTIFICATE OF FILING

This Order was received for filing in the Office of the Tennessee Secretary of State,
Administrative Procedures Division, and became effective on the 9th day of _____

February, 2017

J. Richard Collier

Administrative Law Judge
Administrative Procedures Division

date and

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and exact copy of the Agreed Order has been served upon Shirley Johnson, Shirley Johnson, Prestige Care Home, 2051 Montreat Drive, Memphis, TN 38134 and 3907 Votive Drive, Memphis, TN 38127, by certified mail, receipt numbers 7016 1970 0000 6197 4408 and 7016 1970 0000 6197 4415, with sufficient postage thereon to reach its destination.

This 10th day of February, 2017.

Caroline R. Tippens
Caroline R. Tippens
Assistant General Counsel