

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

IN THE MATTER OF:)
)
Summit View)
825 Runyan Drive)
Chattanooga, Tennessee 37405)
)
License No. 00000324 - ACLF)

CONSENT 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 counsel for **Summit View** (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.

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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, Summit View, 825 Runyan Drive, Chattanooga, Tennessee, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000324 on April 21, 2009. Respondent has an active license with an expiration date of June 10, 2017.
2. On or about January 30, 2015, the Tennessee Department of Health conducted a routine

licensure survey in addition to an investigation of several complaints against the Respondent. During the survey, the surveyors observed matters which constitute violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

3. Respondent failed to properly dispose of medications in containers with missing pharmacy dispensing labels and medications with missing expiration dates. An OTC medication bottle was found to be expired, and a bottle of insulin did not have an expiration date on the bottle.
4. Respondent failed to provide a medical record with the name of each medication administered, strength of the medication, dosage, and the method of administration for eleven (11) residents. Further, Respondent failed to provide documentation of the administration of twenty (20) oxycodone tablets for Resident #11.

GROUNDS 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.

5. The facts stated in paragraph three (3) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07 [SERVICES PROVIDED], the relevant portion of which reads as follows:

(6) An ACLF shall dispose of medications as follows:

- (a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.
- 6. The facts stated in paragraph three (3) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07 [SERVICES PROVIDED], the relevant portion of which reads as follows:
 - (6) An ACLF shall dispose of medications as follows:
 - (c) The ACLF shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.
- 7. The facts stated in paragraph four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12 [RESIDENT], the relevant portion of which reads as follows:
 - (3) Medical record. An ACLF shall ensure that its employees develop and maintain a medical record for each resident who requires health care services at the ACLF regardless of whether such services are rendered by the ACLF or by arrangement with an outside source, which shall include at a minimum:
 - (e) Medications administered and procedures followed if an error is made;
- 8. The facts stated in paragraphs three (3) and four (4) are sufficient to establish that Respondent has violated the provisions of TENN. COMP. R. & REGS. 1200-08-25, *et seq.* and constitutes grounds for the assessment of civil penalties against Respondent's license

pursuant to TENN. CODE ANN. § 68-11-213(i)(2) and TENN. COMP. R. & REGS. 1200-08-25-.05 [REGULATORY STANDARDS].

ORDER

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

9. The assessment of two hundred fifty dollars (\$250.00) for failure to properly dispose of medications and the assessment of five hundred dollars (\$500.00) for failure to maintain an appropriate and accurate medication administration record for eleven residents and failure to document the administration of twenty (20) oxycodone tablets for one resident.

The total assessment is seven hundred fifty dollars (\$750.00)

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 Stewart
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

10. 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 8th day of February, 2017.

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

Shene' Saunders MD
Chairperson
Board for Licensing Health Care Facilities

AGREED TO:

Diana Walters
Diana Walter, Ph.D., Administrator
Summit View
Respondent

January 12, 2017
Date

Kyonzie Hughes-Doombs
Kyonzie Hughes-Doombs, BPR # 023702
Deputy General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

2/8/2017
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Summit View, c/o Diana Walter, Ph.D., Administrator, 825 Runyan Drive, Chattanooga, Tennessee 37405, by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination.

This *9th* day of *February*, 2017.

Kyonzie Hughes-Doombs
Kyonzie Hughes-Doombs
Deputy General Counsel

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