

**STATE OF TENNESSEE
HEALTH FACILITIES COMMISSION
BEFORE THE BOARD FOR LICENSING HEALTH CARE FACILITIES**

In The Matter of:)
)
Fairpark Health and Rehabilitation,)
Skilled Nursing Facility,)
License No. 12,) **Case No. 2023027811**
)
Respondent.)
)
Maryville, Tennessee)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (“Board”), pursuant to the request of the Tennessee Health Facilities Commission (“Commission”), by and through the Office of Legal Services, and Fairpark Health and Rehabilitation (“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.

I. JURISDICTION

1. 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, prescribe childcare centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential home. T.C.A. § 68-11-202(a)(1).

2. The Commission has the authority to conduct reviews of nursing homes to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).
3. A “Nursing home” means any institution, place, building or agency represented and held out to the general public for the express or implied purpose of providing care for one (1) or more nonrelated persons who are not acutely ill, but who do require skilled nursing care and related medical services; and “Nursing Home” shall be restricted to facilities providing skilled nursing care and related medical services to individuals, beyond the basic provision of food, shelter and laundry, admitted because of illness, disease or physical infirmity for a period of not less than twenty-four (24) hours per day. T.C.A. § 68-11-201(31).
4. The Commission has the authority to conduct reviews of facilities licensed under this part to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).
5. The Commission 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. T.C.A. § 68-11-210(c).
6. Upon a finding by the Board that a nursing home has violated any provision of Tenn. Code Ann. §§ 68-11- 201, et seq., 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. T.C.A. § 68-11-207.

II. STIPULATIONS OF FACT

7. At all times pertinent hereto, Respondent, Fairpark Health and Rehabilitation, 307 North Fifth Street Maryville, Tennessee 37804, was licensed by the Board as a nursing home,

having been granted license number 12 on July 1, 1992, which currently has an expiration date of July 8, 2024.

8. On or about February 26, 2023, the facility's care plan for Resident #1 reflected the resident's socially inappropriate behavior, including public touching of their privates. The facility's interventions for that behavior did not include any considerations for the safety or privacy of Resident #1.
9. On or about April 14, 2023, the annual assessment for Resident #1 showed that Resident #1 had moderately impaired cognitive skills for daily decision-making.
10. On or about May 12, 2023, Resident #1 initiated a sexual encounter with Resident #2. Facility staff observed the interaction and quickly separated the residents but did not follow the facility's abuse protocol.
11. The facility failed, both before and after this incident, to assess Resident #1 to determine their capacity to consent to sexual behavior.
12. On or about August 12, 2023, a survey of the facility was completed, resulting in the findings detailed in paragraphs eight (8) through eleven (11).

III. GROUNDS FOR DISCIPLINE

The facts in Section II are sufficient to establish that grounds exist for the discipline of Respondent's nursing home license. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

13. The facts in paragraphs eight (8) through twelve (12) are sufficient to constitute a violation of Tenn. Comp. R. and Reg.0720-18-.01(42), the relevant portion of which reads as follows:

Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness[.]

IV. REPRESENTATIONS OF RESPONDENT

14. Respondent understands and admits the allegations, charges, and stipulations in this Order.
15. Respondent understands the rights found in the Code, Rules, and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 thru 4-5-404, including the right to a hearing, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Respondent voluntarily waives these rights in order to avoid further administrative action.
16. Respondent agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.
17. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
18. Respondent also agrees that the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party.

19. Respondent agrees that the facility has not received any threats or promises of any kind by the State or any agent or representative thereof, except such as is detailed herein.

V. ORDER

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

20. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **three thousand dollars (\$3,000.00)**. This CMP is assessed for the deficiency identified in paragraph thirteen (13) of this order.
21. Payment shall be submitted to the following address within **thirty (30) calendar days** of the effective date of this Order.

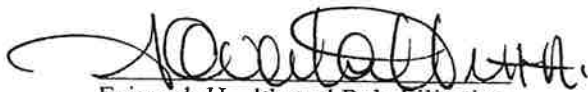
**Tennessee Health Facilities Commission
Attention: Disciplinary Coordinator
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT

ORDER HAS BEEN RATIFIED AND APPROVED BY THE BOARD


22. Within thirty (30) days of the effective date of this order, the facility **shall provide** documentation to the Commission, reflecting **employee training on safety and privacy considerations for residents**.
23. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

APPROVED FOR ENTRY:


Fairpark Health and Rehabilitation
License No. 12
Signature of Authorized Representative
Respondent

Amanda Overholt
Printed Name of Authorized Representative


Nursing Home Administrator
Title of Authorized Representative


Vishan J. Ramcharan (BPR # 034403)
Associate General Counsel
Health Facilities Commission
Office of Legal Services
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243
Office: (615) 741-2364
Fax: (615) 741-9884
Email: vishan.j.ramcharan@tn.gov

Approval by the Board

Upon the agreement of the parties and the record as a whole, this **CONSENT 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 5th day of June, 2024.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Fairpark Health and Rehabilitation, c/o Administrator, Donna Hammontree, 307 North Fifth Street Maryville, Tennessee 37804, by delivering same in the United States regular mail and United States certified mail, number **7015 3010 0001 8347 5380**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: dhammontree@fairparkhealthandrehab.com.

This 5th day of June, 2024.



Vishan J. Ramcharan
Associate General Counsel