

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

<b>In The Matter of:</b>	)	
	)	
<b>Mountainbrook Assisted Living, LLC</b>	)	
<b>Assisted Care Living Facility</b>	)	
<b>License No. 13,</b>	)	<b>Case No. 2022024371</b>
<b>Respondent.</b>	)	
	)	
<b>Sevierville, Tennessee</b>	)	

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**CONSENT ORDER**

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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 Mountainbrook Assisted Living, LLC (“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 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 assisted-care living facilities to determine compliance with fire and life safety code regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).
3. An assisted-care living facility (“ACLF”) is a facility, building, establishment, complex or distinct part thereof that accepts primarily aged persons for domiciliary care and services. T.C.A. § 68-11-201(4)(A) and Tenn. Comp. R. & Regs. 0720-26-.02(7) [formerly cited as 1200-08-25-.02(7)].
4. “Primarily aged” means at least fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age. Tenn. Comp. R. & Regs. 0720-26-.02(34) [formerly cited as 1200-08-25-.02(34)].
5. The ACLF shall provide on-site to its residents’ room and board and non-medical living assistance services appropriate to each resident’s needs, such as assistance with bathing, dressing, grooming, preparation of meals and other activities of daily living. T.C.A. § 68-

11-201(4)(B) and Tenn. Comp. R. & Regs. 0720-26-.02(2) [formerly cited as 1200-08-25-.02(2)].

6. 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).
7. Upon a finding by the Board that an ACLF 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.
8. The Commissioner may suspend admissions pending a prompt hearing before the Board, or an administrative judge if the Board cannot be convened promptly. (Tenn. Code Ann. 68-11-252(b).)
9. Pursuant to Tenn. Code Ann. § 68-11-252(c), the Commissioner shall initiate a suspension of admissions by delivering to the facility or licensee a notice stating the Commissioner's decision to suspend the admissions of new patients. The Commissioner's notice to suspend admissions must:
  - (1) Detail what conditions are considered detrimental to the health, safety, or welfare of the patients;
  - (2) Provide an explanation of the specific time frame when and conditions under which the facility or licensee can reasonably expect the suspension to be lifted; and
  - (3) Be received by the facility or licensee within ten (10) business days of the conclusion of the Department's survey.

10. The Commissioner is authorized, at any time prior to a hearing, based on information presented to the Commissioner showing that such conditions have been and will continue to remain corrected, to revoke the suspension of admissions. Tenn. Code Ann. § 68-11-252(i).
11. During a suspension of admissions pursuant to § 68-11-252, the Commissioner shall appoint one (1) or more special monitor, and costs related to the special monitor(s) shall be recoverable in certain circumstances. Tenn. Code Ann. § 68-11-221.

## II. STIPULATIONS OF FACT

12. At all times pertinent hereto, Respondent, Mountainbrook Assisted Living, LLC, 700 Markhill Drive, Sevierville, Tennessee 37862, was licensed by the Board as an ACLF, having been granted license number 13 on August 11, 1998, which currently has an expiration date of April 16, 2023.
13. On or about August 22, 2022, a complaint survey was conducted at Mountainbrook Assisted Living. Upon review of facility records and interviews with staff, it was determined that the facility installed bed rails on the beds of three (3) residents without first performing appropriate assessments, which contributed to injury to one of the residents.
14. On or about November 11, 2020, Resident #1 was admitted to the facility with diagnoses including Dementia. The resident's Care Plan indicated that the resident was a fall risk, used a wheelchair, and required assistance with showers and dressing. No assessment or Care Plan regarding the use of bed rails was completed or documented.

15. On or about December 28, 2021, Resident #1 was admitted to hospice care at the facility. The resident's hospice plan of care showed that half rails were listed among the resident's medical equipment.
16. On or about June 26, 2022, Resident #1 was found on the floor at the foot of the bed. The resident suffered a laceration on his forehead.
17. On or about August 13, 2022, after multiple days complaining of pain to his ribs, it was determined that Resident #1 had suffered an acute fractured rib on or about August 8, 2022. Also, on or about August 13, 2022, the facility's acting Administrator instructed the facility's hospice medical equipment provider to remove the rails from the resident's bed because the administrator believed they were the cause of the resident's injury. The resident's hospice nurse documented her belief that the resident fractured his rib in a fall while attempting to climb over the full bed rails that were installed on his bed.
18. On or about May 18, 2022, Resident #2 was admitted to the facility with diagnoses including Blindness and Dementia. Resident #2 was admitted to hospice care at the facility the next day.
19. On or about August 29, 2022, a state surveyor observed Resident #2 in bed with full length bed rails installed. No assessment or Care Plan regarding the use of bed rails was completed or documented.
20. On or about August 12, 2018, Resident #3 was admitted to the facility with diagnoses including Dementia. On or about January 28, 2022, Resident #3 was admitted to hospice care at the facility.

21. On or about August 29, 2022, a state surveyor observed Resident #3 in bed with full length bed rails installed. No assessment or Care Plan regarding the use of bed rails was completed or documented.
22. On or about August 30, 2022, the facility's Director of Nursing confirmed to a state surveyor that the facility did not complete assessments regarding the installation of bedrails for Resident #1, Resident #2, or Resident #3.

### **III.   GROUNDS FOR DISCIPLINE**

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

23. The facts in paragraphs thirteen (13) through twenty-two (22) are sufficient to constitute three (3) violations (one per affected resident) of Tenn. Comp. R. and Reg. 0720-26-.07(7)(a)2 [formerly cited as 1200-08-25-.07(7)(a)2], the relevant portion of which reads as follows:

(1) An ACLF shall provide each resident with at least the following personal services:

(a) Each ACLF shall provide each resident with at least the following personal services:

...

2. Safety when in the ACLF[.]

### **IV.   ORDER**

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

24. Respondent agrees to **VOLUNTARILY SURRENDER** the Assisted Living Care Facility license number 13. Respondent understands that a voluntary surrender has the same force and effect as a revocation.
25. Upon receipt of this Order, Respondent **SHALL NOT** accept any new ACLF residents.
26. Respondent **SHALL** immediately facilitate the safe transfer of its ACLF residents to appropriate facilities. All ACLF residents must be removed from the facility by **May 5, 2023**. If there is a delay in an ACLF resident obtaining insurance benefits, the removal date may be extended, after proof of the benefit delay is submitted and approved by the Commission.
27. Respondent **SHALL** grant immediate access to the facility to the Health Facilities Commission and its surveyors.
28. Respondent **SHALL** provide, in writing, the name and contact information of the individual who shall hold daily calls with Board administrative staff. These daily calls shall be to assist with the safe removal of the ACLF residents.
29. Respondent **SHALL** have a monitor, approved by the Health Facilities Commission Director of Licensure, placed in the facility and shall remain in the facility until every ACLF resident is transferred to an appropriate facility.
30. Respondent **SHALL** submit a final report to the Board's administrative staff detailing the safe placement of each ACLF resident currently residing in the facility.
31. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **two-thousand dollars (\$2,000.00)** for one of the violations referenced in paragraph twenty-three (23).

32. Respondent is hereby assessed two (2) Civil Monetary Penalties in the amount of **five-hundred dollars (\$500.00) each** for the remaining two violations referenced in paragraph twenty-three (23).
33. Payment shall be submitted to the following address withing **thirty (30) calendar days** of the effective date of this Order.

**Tennessee Health Facilities Commission  
Attention: Licensure and Regulation  
665 Mainstream Drive, Second Floor  
Nashville, Tennessee 37243**

34. 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:**

Cam Coxwell Shiffert *POA*  
Mountainbrook Assisted Living, LLC  
License No. 13  
Signature of Authorized Representative  
Respondent

Cam Coxwell Shiffert *POA*  
Printed Name of Authorized Representative  
owner  
Title of Authorized Representative


Vishan J. Ramcharan  
Vishan J. Ramcharan (BPR # 034403)  
Associate General Counsel  
Health Facilities Commission  
665 Mainstream Dr. 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243  
Office: (615) 741-7221

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**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 10<sup>th</sup> day of June, 2023.

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

  
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Chairperson  
Board for Licensing Health Care Facilities

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Mountainbrook Assisted Living, LLC, c/o Administrator, Glenn Burton Shiflett & James Coxwell, Sr., Registered Agent, 700 Markhill Drive, Sevierville, Tennessee 37862, delivering same in the United States regular mail and United States certified mail, number **7021 2720 0000 2319 1887**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: [accounting@mountainbrookvillagetn.com](mailto:accounting@mountainbrookvillagetn.com).

This 10<sup>th</sup> day of June, 2023.

  
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Vishan J. Ramcharan  
Associate General Counsel