

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

IN THE MATTER OF:

The Village at Primacy Place
6015 Primacy Parkway
Memphis, TN 38119

License No. 00000022

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Case #: 201804935

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 2nd day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **The Village at Primacy Place** (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 of Health ("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).


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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, **The Village at Primacy Place**, 6015 Primacy Parkway, Memphis, TN 38119 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000022 on July 1, 198. Respondent has an active license with an expiration date of August 5, 2020.
2. On or about August 2, 2018, surveyors conducted a survey at Respondent facility. During this survey, the surveyors observed serious violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

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3. Resident #2 had a physician order for a diabetic diet.
4. A review of the facility's diet manual revealed the facility had a no concentrated sweets diet, but no diabetic diet. Resident #2 was instead being fed a consistent carbohydrate diet. However, the consistent carbohydrate diet allowed the resident a ½ serving of regular desserts with sugar, in derogation of Resident #2's physician order.
5. Resident #4 had a physician order for a 2 gram sodium diet. The facility could not provide surveyors with a 2 gram sodium diet in the diet manual and no instructions could be located on how to provide the physician ordered diet.
6. The facility failed to meet the nutritional needs for Residents #2 and #4.
7. On or about September 27, 2018, surveyors conducted a revisit survey.
8. Residents #1, 2, 3, and 5 had physician orders for a diabetic diet. Surveyors located a diabetic diet in a manual signed by the facility's consultant dietitian and in the facility's kitchen.
9. However, when Resident #5's care attendant was interviewed, the care attendant indicated that although Resident #5 was on a diabetic diet, the facility allowed Resident #5 to eat from the regular or grill menu from the facility. The care attendant also indicated that Residents #1, 2, and 3 were also allowed to eat from the regular or grill menu and that their diabetic diets were not being followed.
10. The facility was recited for failure to meet the nutritional needs of Residents #1, 2, 3, and 5.
11. On or about November 15, 2018, surveyors conducted a second revisit survey.
12. While the facility had corrected the dietary deficiencies, the facility was cited for failure to maintain observation notes, progress notes, and nursing notes in the medical records of



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Residents #1 and #5.

13. Resident #1 had a physician's order to consult with a home health agency regarding Resident #1's wound care. However, Resident #1's medical record did not contain any wound care notes from the home health agency.
14. Resident #5 had a stage 2 pressure ulcer. Resident #5 also had physician orders for wound care by a home health agency.
15. A review of Resident #5's medical records revealed no wound care documentation was contained within the file.
16. On or about December 6, 2018, surveyors performed a third revisit survey.
17. Resident #1 had a physician order for occupational and physical therapy. Resident #1's file did not contain any documentation regarding occupational or physical therapy.
18. Residents #3 and #4 were hospice residents. Residents #3 and #4's files failed to contain current nursing progress notes.
19. The facility was again cited for failure to maintain medical records, as the facility failed to maintain observation and progress notes for Residents #1, 3, and 4.
20. On or about February 4, 2019, surveyors conducted a fourth revisit survey, in which all deficiencies were deemed to be corrected.

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.

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21. The facts stated in paragraphs three (3) through ten (10) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(3) [SERVICES PROVIDED], the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(c) Dietary services.

3. An ACLF shall ensure that menus meet the needs of the residents as follows:

(ii) An ACLF shall meet nutritional needs, in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.

22. The facts stated in paragraphs eleven (11) through twenty (20) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(3)(g) [RESIDENT RECORDS], 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:

(g) Notes, including, but not limited to, observation notes, progress notes, and nursing notes.

ORDER

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


23. The assessment of four (4) civil monetary penalties, two in the amount of five hundred dollars (\$500.00) each, and two in the amount of one thousand dollars (\$1,000.00) each, for a total assessment of three thousand dollars (\$3,000.00). 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 J. Stewart
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

24. 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.

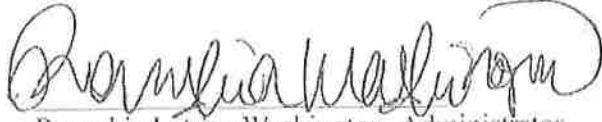
Upon the agreement of the parties, this **CONSENT ORDER** is approved as a **FINAL ORDER** by a majority of a quorum of the Tennessee Board for Licensing Health Care Facilities at a public meeting of the Board and signed this 2nd day of October, 2019.

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

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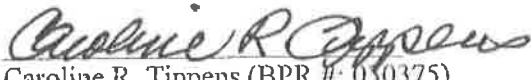
AGREED TO:



Roneshia Latrice Washington, Administrator
The Village at Primary Place
Respondent

Date

10/11/2019



Caroline R. Tippens (BPR #: 050375)
Senior Associate General Counsel
Department of Health
665 Main Stream Dr., 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

Date

10/2/2019

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CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Roneshia Latrice Washington, Administrator, The Village at Primacy Place, 6015 Primacy Parkway, Memphis, TN 38119 by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail

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This 3rd day of October, 2019.


Caroline Tippens
Assistant General Counsel

