

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, Gallaway Health and Rehab, 435 Old Brownsville Road Gallaway, Tennessee 38036, was licensed by the Board as a nursing home, having been granted license number 77 on July 1, 1992, which currently has an expiration date of August 26, 2023.
8. On or about December 21, 2022, the Commission conducted a complaint survey of the facility.
9. After observation, interviews and review of facility records, it was determined that the facility failed to ensure six (6) residents were free from abuse.
10. On or about August 19, 2022, Resident #5 complained of shoulder pain and indicated to facility staff that the pain was caused by a certified nursing assistant's rough handling. X-rays of the resident, taken on or about August 20, 2022, revealed that Resident #5 had a fractured humerus.
11. The facility's care plan for Resident #1, revised on or about September 9, 2022, indicated that Resident#1 required one-on-one supervision due to "violent angry outburst and behavior problems towards staff and other residents."
12. Due to staffing shortages, Resident #1 was regularly left unsupervised by facility staff.
13. On or about August 21, 2022, Resident #2 accidentally ran over the foot of Resident #1. Resident #1 proceeded to hit Resident #2 with his open hand on the back of the head.
14. On or about August 28, 2022, Resident #1 and Resident #2 were found entangled on the Day Room floor with minor injuries to both residents. The circumstances surrounding that incident are not known.

15. On or about September 7, 2022, Resident #1 struck Resident #3 with a closed fist on her left jaw while both residents were in the facility's Day Room. On that same day, Resident #1 struck Resident #4 with a closed fist on the right side of his neck.
16. On or about October 27, 2022, Resident #14 sustained an unwitnessed fall and suffered a fractured hip. Neurological assessments were not completed in accordance with the facility's protocol for unwitnessed falls.
17. On or about November 10, 2022, Resident #2 was observed in a hallway on top of Resident #1. Resident #2 had his hands around the throat of Resident #1.

III. GROUNDS FOR DISCIPLINE

The facts in the 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.

18. The facts in paragraphs seven (7) through seventeen (17) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 0720-18-.12, the relevant portion of which reads as follows:

- (1) The nursing home shall establish and implement written policies and procedures setting forth the rights of residents for the protection and preservation of dignity, individuality and, to the extent medically feasible, independence. Residents and their families or other representatives shall be fully informed and documentation shall be maintained in the resident's file of the following rights:

...

- (g) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department within five (5) working days. The Tennessee Department of Human Services, Adult Protective Services shall be notified immediately as required in T.C.A. § 71-6-103[.]

IV. REPRESENTATIONS OF RESPONDENT

19. Respondent understands and admits the allegations, charges, and stipulations in this Order.
20. 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.
21. 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.
22. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
23. 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.

24. 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:

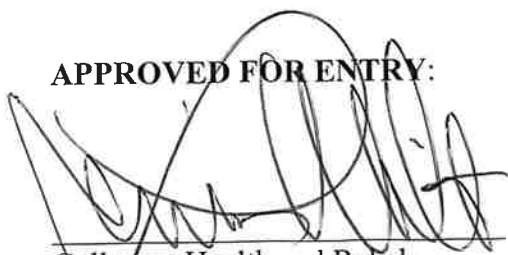
25. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one thousand, five hundred dollars (\$1,500.00)** for violating Tenn. Comp. R. and Reg. 0720-18-.12(1)(g).
26. Payment shall be submitted to the following address within **thirty (30) calendar days** of the effective date of this Order.

**Tennessee Health Facilities Commission
Attention: Licensure and Regulation- Discipline
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**

27. 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:



Gallaway Health and Rehab
License No. 77
Signature of Authorized Representative
Respondent



Viskan J. Ramcharan (BPR # 034403)
Associate General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
Office: (615) 741-7221
Fax: (615) 741-7051

Please initial all pages.


Printed Name of Authorized Representative


Title of Authorized Representative

THIS ORDER IS NOT VALID AND BINDING UNTIL SIGNED BY THE BOARD

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 10th day of June, 2023.

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, Gallaway Health and Rehab, c/o Administrator, Mary Alice Stevenson, 435 Old Brownsville Road Gallaway, Tennessee 38036, and Gallaway Health and Rehab, c/o Registered Agent, CT Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919-5546 by delivering same in the United States regular mail and United States certified mail, numbers **7022 3330 0001 2193 4239** and **7022 3330 0001 2193 4574**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: ssey@gw-hc.com.

This 6th day of June, 2023.



Vishan J. Ramcharan
Associate General Counsel