

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

In The Matter of:)	
)	
Azalea Court)	
Assisted Care Living Facility)	
License No. 83,)	Case No. 2023017621
)	
Respondent.)	
)	
Smyrna, 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 Azalea Court (“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 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).
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).
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).
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.

II. STIPULATIONS OF FACT

8. At all times pertinent hereto, Respondent, Azalea Court, 207 Commerce Drive Smyrna, Tennessee 37167, was licensed by the Board as an ACLF, having been granted license

number 83 on September 11, 1998, which currently has an expiration date of September 25, 2024.

9. On or about May 23, 2023, the State surveyor reviewed the facility records and interviewed staff at the facility. The surveyor found in this review that the facility failed to provide safety for two (2) residents (#6 and #7) of eight (8) residents reviewed. Resident #6 opened a cabinet in memory care and took out a cleaner (Fabuloso) and took a drink. There was no secure lock on the cabinet. Resident #7 eloped from the facility and went down a busy road to Walmart. He fell and had abrasions to his legs and called his daughter and told her where he was and that he had forgotten how to get back to the facility.
10. Based on a review of the medical records by the surveyor, it was found that both residents (#6, #7) had cognitive and medical issues that qualified them as vulnerable adults and unable to fully care for themselves.
11. In an interview with the surveyor on or about May 22, 2023, the Regional Director admitted that the allegations about resident #6 drinking from the bottle of Fabuloso (cleaner), the cabinet not being secure where the cleaner was housed, and the allegations about the elopement were true.
12. Based on a review of the facility records, medical records for the residents, and interviews with the facility staff, the State surveyor found that the facility failed to revise the Plan of Care with fall interventions when falls occurred for five (5) residents (#1, #2, #3, #4 and #5) of five (5) residents reviewed. The surveyor found that all residents were vulnerable individuals and had physical and/or cognitive issues which required the plan of care to be updated.

13. The surveyor found that Resident #1 had a fall on or about November 20, 2022, that the fall was not documented in the Plan of Care, and the plan was not updated after the fall. They found that Resident #2 had a fall on or around December 28, 2022, that the fall was not documented in the Plan of Care, and the plan was not updated after the fall. Resident #3 had a fall on or around December 29, 2022, that the fall was not documented in the Plan of Care, and the plan was not updated after the fall. Resident #4 had multiple falls between December 27, 2022, and December 31, 2022, that the falls were not documented in the Plan of Care, and the plan was not updated after the falls. Resident #5 had a fall on or around January 11, 2023, that the fall was not documented in the Plan of Care, and the plan was not updated after the fall.
14. When the surveyor interviewed the Regional Director on or around May 22, 2023, they admitted that the facility staff did not document any interventions for the above residents (#1-#5).

III. GROUNDS FOR DISCIPLINE

The facts in 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.

15. The facts in paragraphs nine (9) through eleven (11) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07(7)(a)(2) Services Provided, the relevant portion of which reads as follows:

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

- (a) Each ACLF shall provide each resident with at least the following personal services:
 - 2. Safety when in the ACLF.

- 16. The facts in paragraphs twelve (12) through fourteen (14) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.12(5)(a) Resident Records, the relevant portion of which reads as follows:
 - (5) Plan of care.
 - (a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident's legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above-appropriate individuals.

IV. REPRESENTATIONS OF RESPONDENT

- 17. Respondent understands and admits the allegations, charges, and stipulations in this Order.

- 18. 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.

19. 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.
20. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
21. 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.
22. 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:

23. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **three-thousand dollars (\$3,000.00)**. This CMP is issued for failure to ensure resident safety, being the deficiency cited on May 23, 2023.

24. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **fifteen-hundred dollars (\$1,500.00)**. This CMP is issued for failing to revise the Plan of Care, being the deficiency cited on May 23, 2023.
25. 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**

26. 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:

Cynthia Bowland

Azalea Court
License No. 83
Signature of Authorized Representative
Respondent

Cynthia Bowland

Printed Name of Authorized Representative

Administration

Title of Authorized Representative

W/permission
Jeremy Gourley BPR 034233

Jeremy Gourley (BPR # 022812)
Senior 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

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 8th day of March, 2024.

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

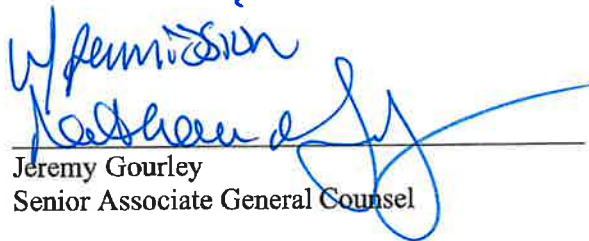
Boyd Mackinnon III

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, Azalea Court, c/o Administrator, Tyler Forte, 207 Commerce Drive Smyrna, Tennessee 37167, by delivering same in the United States regular mail and United States certified mail, number **7022 3330 0001 2193 9401**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: smvrna@americareusa.net.

This 8th day of March, 2024.


Jeremy Gourley
Senior Associate General Counsel