

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

IN THE MATTER OF: )

Belmont Village )  
6605 Quail Hollow Road )  
Memphis, TN 38120 )

Case #: 201902127

License No. 00000102 )

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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 (hereinafter "the Board") on the 20<sup>th</sup> day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Belmont Village** (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

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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).

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.*

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### STIPULATIONS OF FACT

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1. At all times pertinent hereto, **Belmont Village**, located at 6605 Quail Hollow Road, Memphis, TN 38120 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000102 on December 30, 1999. Respondent has an active license with an expiration date of May 11, 2020.
2. On or about April 15, 2019, surveyors conducted an annual licensure 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

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residents.

3. Surveyors observed an open and uncovered bowl of ice cream in the ice cream box. The chef manager (CM) removed the bowl of ice cream and put it in the dishwashing area. The CM then became angry and threw the ice cream bowl back into the ice cream box which resulted in ice cream splattering in the ice cream box. The CM then shouted at staff. The Chef Manager failed to provide daily management and accountability for dietary services.
4. The surveyor also observed that the walk in freezer had icicles on the pipes and ice was located on two food boxes below the pipes. When the CM was asked about this issue, he directed the surveyor to talk to maintenance.
5. The CM was observed checking the internal temperature of fried zucchini squash, which was observed to measure one hundred twenty five (125) degrees Fahrenheit, one hundred twelve (112) degrees Fahrenheit, and one hundred and fourteen (114) degrees Fahrenheit. The facility also failed to ensure hot foods were maintained at one hundred forty (140) degrees Fahrenheit or above. The CM also could not provide a written policy for food holding temperatures and food storage.
6. The CM was observed checking food temperatures and failing to properly sterilize the food thermometer. Specifically, the CM stuck the thermometer into cabbage, fried zucchini, asparagus, and grilled chicken and wiped the thermometer off with the same paper towel each time. The CM then tore off another piece of paper towel and stuck the thermometer into a baked potato and a sweet baked potato using the paper towel to wipe the thermometer off between each. The CM then stuck the thermometer into sweet relish. After so doing, he touched the thermometer around in his hand and touched the inside

palm of his hand and wrist with the probe. The CM then stuck the thermometer into the relish without sanitizing the probe after touching his hand. The CM was not wearing gloves. The CM failed to properly sanitize the digital thermometer between foods when checking for internal holding temperatures.

7. The facility also failed to properly store food items in the refrigerators, freezers, and dry storage areas.
8. Residents #1, #2, and #3 expressed dissatisfaction regarding the food served at the facility; that the food was overcooked; and that the Chef Manager refused to meet with them to discuss their concerns.
9. The Building Engineer (BE) informed the surveyor that one of the fans in the freezer was not working. The BE indicated that the CM had not notified him of the leaking pipes in the freezer. The surveyor observed that the kitchen ceiling tiles were black around the edges and that the vents were greasy and dusty. The BE confirmed that the condition of the ceiling tiles and vents were not acceptable.
10. On or about June 7, 2019, surveyors conducted a revisit survey to determine if the deficiencies from the April 2019 survey had been corrected.
11. Residents #3 and #4 have diagnoses of diabetes and physician orders for special diets. Resident #3 had a diet of no added sugar and no added salt. Resident #4 had a physician order for no added salt and a low fat, low cholesterol diet.
12. The facility's diet manual did not contain instructions on a no sugar added diet or how it should be served to residents.
13. Interview with facility staff confirmed that the facility did not have any direction on how to serve special diets to residents.

14. The facility failed to implement their plan of correction and ensure properly stored food items in the kitchen, refrigerators, and freezers.
15. Surveyors observed dietary employees washing dishes. The employee failed to add dish sanitizer to the dish washer. The facility failed to implement their plan of correction by failing to sanitize utensils and dishes after each use.
16. Surveyors observed three (3) dietary employees without hairnets. The facility also failed to ensure all dietary staff wore hairnets in the kitchen.
17. Surveyors also observed that staff went to the store room for supplies, returned to the kitchen to prepare and cut up meat, and failed to change gloves or wash their hands.

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#### GROUNDS FOR DISCIPLINE

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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.

18. The facts stated in paragraphs three (3) and four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(2)[SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary Services

(2) An ACLF shall have an employee who:

- (i) Serves as director of the food and dietetic service;
- (ii) Is responsible for the daily management of the dietary

services and staff training; and

(iii) Is qualified by experience or training.

19. 20. The facts stated in paragraphs five (5) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(c)(4)(i)[SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(4) An ACLF shall:

(i) Provide at least three (3) meals constituting an acceptable and/or prescribed diet per day. There shall be no more than fourteen (14) hours between the evening and morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140F or above) or cold (41F or less) as appropriate. The food must be adapted to the habits, preferences, and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to residents with special dietary needs or upon request.

20. The facts stated in paragraphs three (3) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(3)(ii) [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 residents.

21. The facts stated in paragraphs three (3) through eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(4)(iii) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(4) An ACLF shall:

(iii) Maintain and properly store a forty-eight (48) hour food supply at all times.

22. The facts stated in paragraphs six (6) and seven (7) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(4)(iv) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(4) An ACLF shall:

(iv) Provide appropriate, properly repaired equipment and utensils for cooking and serving food in sufficient quantity to serve all residents.

23. The facts stated in paragraphs nine (9) through seventeen (19) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(4)(iv) [SERVICES PROVIDED], the relevant portion of which reads as follows:

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

(c) Dietary services.

(5) An ACLF shall maintain a clean and sanitary kitchen.

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**ORDER**

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

7. The assessment of two (2) civil monetary penalties, one in the amount of five hundred dollars (\$500.00), and one civil monetary penalty in the amount of one thousand dollars (\$1,000.00), for a total assessment of one thousand five hundred dollars (\$1,500.00).


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**

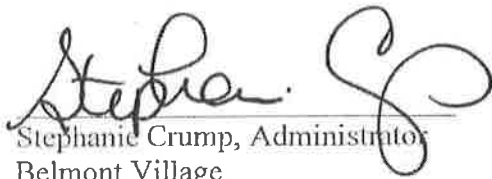
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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

AGREED TO:

  
Stephanie Crump, Administrator  
Belmont Village  
Respondent

8/15/19  
Date

  
Caroline R. Tippens (BPR #: 030375)  
Assistant General Counsel  
Department of Health  
665 Main Stream Dr., 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243  
(615) 741-1611

10-02-2019  
Date

**CERTIFICATE OF SERVICE**

A true and exact copy of this Consent Order is being served upon Belmont Village, ATTN: Stephanie Crump, 6605 Quail Hollow Road, Memphis, TN 38120 and Belmont Village Memphis Tenant, LLC, 4500 Dorr Street, Toledo, OH 43615 by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States

Certified Mail # 7018 2290 0001 1403 5206 and  
7018 2290 0001 1403 5968

This 3<sup>rd</sup> day of October, 2019.

Caroline R. Tippens  
Caroline Tippens  
Assistant General Counsel

