

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.

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, American House Hendersonville f/k/a Elmcroft of Hendersonville, 1020 Carrington Place, Hendersonville, Tennessee 37075, was licensed by the Board as an ACLF, having been granted license number 123 on October 4, 1999, which currently has an expiration date of April 15, 2023.
13. On or about October 3rd, 2022, observation by the State surveyor revealed a buildup of grease in the kitchen area on the side of the refrigerator by the deep fryer. The wall behind the grill area had brown residue on the wall, baseboard, and floor. An approximate 2-foot area of the baseboard was missing by the wall just inside the kitchen to the right. The floors throughout the kitchen had a black sticky residue on them, which was also found in the corners and on the baseboards in the kitchen. Further inspection revealed black residue under the counters, stoves, and metal shelves in the kitchen. The metal shelf that holds the pots had a brown liquid residue on it, and the ice machine was found to have pink slimy residue inside across the cube guide.
14. During an interview on or about October 3, 2022, around 11:30 a.m., the State surveyor met with the Dietary Manager who confirmed the floors did have a black residue in the kitchen, the baseboard was missing where the maintenance man had taken it off, the ice machine cube guide had a pink slimy residue on it, the wall behind the grill had brown residue on it as well as the baseboard and floor, and grease on the refrigerator by the deep fryer. The Dietary Manager confirmed these deficiencies to the State surveyor, stating that they did have some issues in the kitchen and were waiting on a new stove to arrive.

III. GROUND 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.

15. The facts in paragraphs thirteen (13) through fourteen (14) are sufficient to constitute one (1) violations of Tenn. Comp. R. and Reg.0720-26-.07(7)(c)(5), 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.

IV. REPRESENTATIONS OF RESPONDENT

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

18. 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.
19. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
20. 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.
21. 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:

22. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **three-thousand dollars (\$3,000.00)**. This CMP is issued for deficiency cited on October 3rd, 2022.

23. 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**

24. 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.

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APPROVED FOR ENTRY:

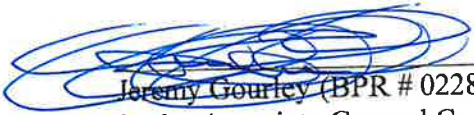
Please initial all pages.

Rachel Cherry ED

American House Hendersonville
f/k/a Elmcroft of Hendersonville
License No. 123
Signature of Authorized Representative
Respondent

Rachel Cherry
Printed Name of Authorized Representative

Executive Director.
Title of Authorized Representative




Jeremy Gourley (BPR # 022812)
Senior Associate General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
Office: (615) 741-7221
Fax: (615) 741-7051

**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 5th day of April, 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

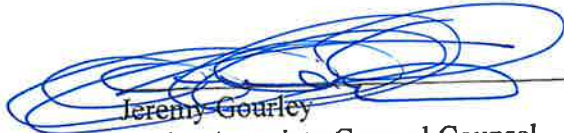
The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, American House Hendersonville f/k/a Elmcroft of Hendersonville, c/o Administrator, c/o Rachael Cherry, 1020 Carrington Place, Hendersonville, Tennessee 37075, and American House Hendersonville f/k/a Elmcroft of Hendersonville, 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 **7021 2720 0000 2319 0668** and **7021 2720 0000 2319 0675**, return receipts requested, with sufficient postage thereon to reach its destination.

American House Hendersonville f/k/a Elmcroft of Hendersonville

Consent Order

RC / _____ Initial

5th April
This ~~22nd~~ day of ~~March~~, 2023.


Jeremy Gourley
Senior Associate General Counsel