

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

In The Matter of:)	
)	
Brookdale Columbia,)	
Assisted Care Living Facility,)	
License No. 139,)	Case No. 2023022791
)	
Respondent.)	
)	
Columbia, 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 Brookdale Columbia (“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, Brookdale Columbia, 5011 Trotwood Avenue, Columbia, Tennessee 38401, was licensed by the Board as an ACLF, having been granted

license number 139 on March 19, 1999, which currently has an expiration date of May 12, 2024.

9. On or about July 17, 2023, a survey of the facility was conducted, resulting in findings that three (3) residents had eloped at least once, did not have menus reviewed and/or approved by a Registered Dietician (“RD”), failed to properly store food, failed to maintain a clean and sanitary kitchen, and permitted the continued stay of multiple residents whose needs could not be safely and effectively met by the facility.
10. On or about April 14, 2023, Resident #2 and Resident #3 pushed on an exit door so forcefully that the door unlocked three (3) separate times. The residents repeatedly walked out onto the sidewalk and were repeatedly redirected by facility staff.
11. On or about May 2, 2023, Resident #2 and Resident #3 were located outside the facility picking up sticks. Facility staff did not know that the residents were outside the facility.
12. On or about May 5, 2023, Resident #2 and Resident #4 pushed on an exit door until it opened and exited the facility. Facility staff was not aware that the residents had exited the facility.
13. The care plans for Resident #2 and Resident #3 were not updated to reflect their repeated exit-seeking behavior and frequent need to be redirected.
14. On or about May 23, 2023, at approximately 4:09 P.M., the facility received a call from another facility across the street to inform them that Resident #1 was found in a nearby neighborhood. Resident #1 broke the window screen in their room and exited the facility through the window. Facility staff was not aware that Resident #1 had exited the facility. Facility staff also failed to confirm that Resident #1 was in their room during rounds, and marked the resident as accounted for after they had already eloped.

15. On or about July 11, 2023, state surveyors observed multiple issues with the facility's dietary services:
- a. Facility menus were not properly signed and dated by a Registered Dietician ("RD").
 - b. Multiple menus were altered without being reviewed and signed by an RD.
 - c. The facility contracted with a food management company, however no consultant dietician was assigned to the facility as of July 13, 2023.
 - d. The food management company's last documented Nutritional Consult with the facility was in 2021.
16. On or about July 11, 2023, state surveyors observed multiple issues with the cleanliness of the facility's kitchen and food storage areas:
- a. Several refrigerated food items were stored without labels or open dates.
 - b. Several dry food items were stored improperly, including a bag of cheese snacks on the floor.
 - c. The facility's stove and oven were coated in a thick, black, hard substance.
 - d. The facility had multiple open dry goods bins with scoops left inside and flies flying around.
 - e. There was grime and/or other residue in an electric mixer, on the floor, in a toaster, inside a microwave, and on a vent hood.

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.

17. The facts in paragraphs nine (9) through fourteen (14) are sufficient to constitute three (3) violations of Tenn. Comp. R. and Reg.0720-26-.07(7)(a)(2), 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[.]

18. The facts in paragraphs nine (9) and fifteen (15) are sufficient to constitute a violation of Tenn. Comp. R. and Reg.0720-26-.07(7)(c)(1), the relevant portion of which reads as follows:

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

...
(c) Dietary services.

1. An ACLF shall have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the ACLF on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section while providing for constant liaison with the ACLF for recommendations on dietetic policies affecting resident treatment.

19. The facts in paragraphs nine (9) and sixteen (16) are sufficient to constitute a violation of Tenn. Comp. R. and Reg.0720-26-.07(7)(c)(4)(iii), 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.

20. The facts in paragraphs nine (9) and sixteen (16) are sufficient to constitute a violation 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.

21. The facts in paragraphs nine (9) through thirteen (13) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.08(1)(f), the relevant portion of which reads as follows:

(1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has any of the following conditions:

...
(f) Has needs that cannot be safely and effectively met in the ACLF.

IV. REPRESENTATIONS OF RESPONDENT

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

23. 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.

24. 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.
25. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
26. 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.
27. 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:

28. Respondent is hereby assessed three (3) Civil Monetary Penalties in the amount of **three-thousand dollars (\$3,000.00) EACH**. These CMPs are issued for the deficiencies identified in paragraph seventeen (17) of this order.
29. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)**. This CMP is issued for identified in paragraph eighteen (18) of this order.

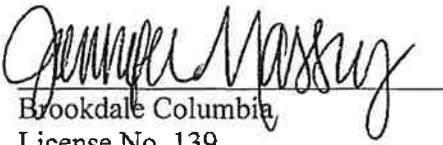
30. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)**. This CMP is issued for the deficiencies identified in paragraph nineteen (19) of this order.
31. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)**. This CMP is issued for the deficiencies identified in paragraph twenty (20) of this order.
32. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **two-thousand dollars (\$2,000.00)**. This CMP is issued for the deficiencies identified in paragraph twenty (20) of this order.
33. The total assessed Civil Monetary Penalty amount is **fourteen thousand dollars (\$14,000)**. 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**

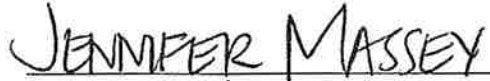
**PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT
ORDER HAS BEEN RATIFIED AND APPROVED BY THE BOARD**

34. 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:



Brookdale Columbia
License No. 139
Signature of Authorized Representative
Respondent



Printed Name of Authorized Representative



Title of Authorized Representative



Vishan J. Ramcharan (BPR # 034403)
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
Email: vishan.j.ramcharan@tn.gov

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 June, 2024.

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, Brookdale Columbia, c/o Administrator, Jennifer Massey, 5011 Trotwood Avenue, Columbia, Tennessee 38401, by delivering same in the United States regular mail and United States certified mail, number **7020 0640 0001 4807 0120**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: permits@brookdale.com.

This 5th day of June, 2024.



Vishan J. Ramcharan
Associate General Counsel