

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

IN THE MATTER OF:)
)
MADISONVILLE HEALTH & REHAB)
CENTER) **Case #: 201904858**
465 ISBILL ROAD)
Madisonville, TN 37354)
)
License No. 000000186)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 5th day of February, 2020, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Madisonville Health & Rehab Center** (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.

_____ Initial

JURISDICTION

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.

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).

If a nursing home is more than ninety (90) days delinquent in paying an installment of its annual nursing home assessment fee, the Bureau of TennCare (hereinafter "TennCare") shall initiate proceedings before the Board in accordance with the Uniform Administrative Procedures Act (hereinafter "UAPA"), so that the Board may suspend admissions to the facility or otherwise direct the facility to pay the assessment fee and any accrued penalties and interest in full within a prescribed period of time. Tenn. Code Ann. § 71-5-1006(c). If the facility does not pay the assessment fee and any accrued penalties and interest in full within the prescribed period of time

as directed by the Board, the Board shall suspend admissions to the facility. Any suspension of admissions imposed shall immediately be lifted following the full payment of the assessment fee and any accrued penalties and interest by the facility. If full payment is not received within sixty (60) days from the first day of the suspension of admissions, TennCare shall be authorized to initiate proceedings before the Board in accordance with the UAPA so that the Board may consider revocation of the facility's license. Id.

The Board may waive, in whole or in part, any penalty imposed...upon a determination that there is good cause for such a waiver. Tenn. Code Ann. § 71-5-1006(d). A board waiver shall excuse the payment of that penalty amount but shall not excuse payment of any assessments. Id.

Proceedings for disciplinary action against a facility are conducted in accordance with the Tennessee Uniform Administrative Procedures Act, Title 4, Chapter 5, of Annotated Tennessee Code. Tenn. Comp. R. & Regs. 1200-08-06-.03(9). 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.*

STIPULATIONS OF FACT

1. At all times pertinent hereto, **Madisonville Health & Rehab Center**, 465 Isbill Road, Madisonville, TN 37354 has been licensed as a Nursing Home by the Board, having been issued license number 00000786 on July 1, 1992. Respondent has an active license with an expiration date of January 21, 2020.

2. On or about November 13, 2019, the Tennessee Department of Health received

notification from TennCare that Respondent has failed to pay the fourth (4th) quarter of their nursing home assessment fees. As a result, three (3) payments of the nursing home assessment fees owed to TennCare are over ninety (90) days past due.

GROUNDS FOR DISCIPLINE

The facts stated in the Stipulations of Fact section, *supra*, are sufficient to establish that grounds for the discipline of Respondent's Nursing Home license exist. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized.

3. The facts stated in paragraph two (2) are sufficient to establish that Respondent has violated the provisions of Tenn. Code Ann. § 71-5-1003(a), the relevant portion of which reads as follows:

- (a) Each nursing home shall pay the nursing home assessment in monthly installments to the account in accordance with this part.

Given the aforementioned violation, the Board is empowered to act pursuant to the provisions of Tenn. Code Ann. § 71-5-1006 (a) and (c)(1-6) the relevant portion of which reads as follows:

- (a) If any part of any assessment fee imposed by § 71-5-1003 is not paid on or before the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added to such assessment fee. Thereafter, on the first day of each month during which any part of any assessment fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall

accrue and be added to such assessment fee or prior accrued penalty. Payment shall be deemed to have been made upon date of deposit in the United States mail.

(c)(1) If a nursing facility fails to pay a quarterly installment of the nursing home assessment fee within thirty (30) days of its due date or becomes or is in arrears for payment of its nursing home assessment fee on the first day of the state fiscal year, and does not have an approved payment plan for which payments are current, the bureau of TennCare shall direct its contracted managed care organizations (MCOs) to recover the full amount of the then-outstanding nursing home assessment fee and any applicable penalties and interest, which shall be accomplished through recoupment from payments made by the MCOs to nursing facilities to recover the full amount of the then-outstanding nursing home assessment fee and any related penalties and interest. TennCare MCOs shall remit promptly any of these recouped payments to the bureau of TennCare. The bureau of TennCare may recoup such amounts in as few or as many installment payments as it deems appropriate.

(2) If a nursing facility is more than ninety (90) days delinquent in paying any installment of its annual nursing home assessment fee; or becomes delinquent in any approved payment plan by more than ninety (90) days or fails to provide timely payment of any and all subsequent quarterly installments of its annual nursing home assessment fee while past due amounts are being recouped pursuant to subdivision (c)(1), the bureau of TennCare shall:

(A) Initiate a proceeding before the board for licensing health care facilities, in accordance with the Uniform Administrative Procedures Act, for the

purpose of having the board indefinitely suspend admissions to the facility until all outstanding nursing home assessment fees and applicable penalties and interest have been repaid. Failure of a nursing facility to pay a quarterly installment of the nursing home assessment fee, or any penalties or interest required to be paid by this part, shall be considered by the board to be a license deficiency; and

(B) Initiate proceedings to terminate the nursing facility's TennCare identification number.

(3) Upon initiation of a proceeding before the board for licensing healthcare facilities by the bureau of TennCare pursuant to subdivision (c)(2), the board shall suspend admissions to the facility after the bureau of TennCare meets the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(3) in the proceeding. Immediately following the full payment by the facility, or its successor, of all then-outstanding assessment fees and any applicable penalties and interest, any suspension of admissions to the nursing facility imposed according to this section shall be automatically lifted without requiring further action by the board, so long as the full payment of then-outstanding amounts are made within the sixty (60) days immediately following the date of the suspension of admissions.

(4) On or after the sixtieth day following the date of suspension of admissions to the nursing facility if either the nursing facility fails to pay all then-outstanding nursing home assessment fees and any applicable penalties and interest accrued

thereon or the nursing facility fails to be current on the terms of its payment plan if a plan is in place, then the bureau of TennCare shall initiate proceedings before the board for licensing healthcare facilities in accordance with the Uniform Administrative Procedures Act for the purpose of revoking the nursing facility's license. Upon initiation of a proceeding before the board by the bureau of TennCare pursuant to this subdivision (c)(4), the board shall revoke the nursing facility's license upon the bureau of TennCare meeting the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(4) in the proceeding.

(5) Revocation of either the nursing facility's license or the nursing facility's TennCare identification number shall not remedy, discharge, satisfy, or otherwise extinguish the nursing facility's liability for the then-outstanding nursing home assessment fees and any related penalties and interest.

(6) Upon revocation of the nursing facility's license or termination of the nursing facility's TennCare identification number, the nursing facility shall be required to reapply for a license, TennCare identification number, or both the license and the identification number, in order to provide services to the TennCare population. As a condition of reapplication, the nursing facility, or its successor shall pay in full all then-outstanding nursing home assessment fees, penalties, and interest.

ORDER


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

Initial


4. All accrued penalties and interest are waived. Respondent shall immediately submit payment to TennCare of the principal portion of the past due assessment fee.
5. Payment shall be made within 90 days of the effective date of this Order.
6. If payment in full cannot be made within 90 days of the effective date of this Order, then Respondent shall enter into a payment plan approved by TennCare prior to the expiration of the aforementioned 90 day period.
7. **If payment is not made within 90 days of the effective date of this Order and/or there is no payment plan in place with TennCare, then admissions to the Respondent's facility shall be immediately suspended.**
8. Upon full payment of the principal portion of the assessment fee, the suspension of admissions shall be lifted.
9. If payment in full is not made within sixty (60) days of the first day that admissions are suspended, then further disciplinary action may be taken, including revocation of Respondent's license.
10. Failure to adhere to the terms of a payment plan approved by TennCare may subject Respondent to further disciplinary action including, but not limited to, reinstatement of accrued penalties and interests, in whole or in part, up to revocation of Respondent's license.
11. 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 5th day of February, 2020.

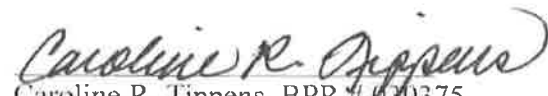
ACCORDINGLY, IT IS ORDERED that the agreement of the parties does hereby become the Final Order of the Board.


Chairperson
Board for Licensing Health Care Facilities

AGREED TO:


Melanie Dawn Scott, Administrator
Madisonville Health & Rehab Center
Respondent

1-27-19
Date


Caroline R. Tippens, BPR # 070375
Senior Associate General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

2/05/2020
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon MADISONVILLE HEALTH AND REHAB CENTER, 465 ISBILL ROAD, Madisonville, TN 37354, Attn: Melanie Dawn Scott and MADISONVILLE HEALTHCARE, LLC, 114 STUART ROAD NE, #305, Cleveland, TN 37312 by delivering same in the United States mail, certified return receipt # 7019 0700 0000 2470 9478 by United States Mail First class, with sufficient postage thereon to reach its destination.

This 6th day of February, 2020.


Caroline R. Tippens
Senior Associate General Counsel