

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

IN THE MATTER OF: )

Asbury Cove )  
315 Asbury Cove )  
Ripley, TN 38063 )

ACLF License #00000195 )

CASE # 201801316

RECEIVED  
JUN 06 2018  
Health Care Facilities

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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 5<sup>th</sup> day of September, 2018, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **ASBURY COVE** (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

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independently entered into evidence or introduced as admissions.

## 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. 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, ASBURY COVE, 315 Asbury Avenue, Ripley, TN 38063 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000195 on July 3, 2000. Respondent has an active license with an expiration date of June 12, 2019.
2. On or about February 20, 2018, surveyors conducted a licensure survey on the

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Respondent facility. During this survey, the surveyors observed violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

3. Resident #7 was admitted to the facility in April 2015 with diagnoses of diabetes, hyperlipidemia, and hypertension.
4. A review of physician orders for Resident #7 indicated that the resident was to receive a blood sugar check twice a day and sliding scale insulin was to be administered, if necessary. The physician order indicated that if the resident had a blood sugar of over 400, a physician was to be notified of Resident #7's high blood sugar.
5. Medical record review revealed that for the month of February 2018, Resident #7 had elevated blood sugar levels for several days of the month. There was no documentation in the resident's current plan of care of identified issues with Resident #7 having elevated blood sugars or interventions and goals for the elevated blood sugars.
6. Observation on or about February 20, 2018 revealed that Resident #7 came to the medication room for a blood sugar check. The patient care assistant on duty in the medication room performed a blood glucose test on Resident #7. Resident #7's blood sugar reading was 539.
7. Rather than notify Resident #7's physician regarding Resident #7's elevated blood glucose, the patient care assistant on duty provided Resident #7 with an unlabeled syringe from a basket in the refrigerator. The basket was marked with Resident #7's name and contained unlabeled syringes and an undated bottle of Novolin R insulin. The patient care assistant provided Resident #7 with a syringe from the bag labeled 12 units and provided the syringe to the resident. Resident #7 then self-administered the unlabeled insulin.
8. Interview with the Director of Nursing revealed that the Director of Nursing pre-draws all

- insulin and places syringes of insulin into bags. The pre-filled insulin syringes are then handed to the resident by the patient care assistant.
9. The facility could not provide any documentation that Resident #7's physician was notified of the elevated blood sugar.
  10. The facility could not provide a nursing assessment documenting that Resident #7 had a blood sugar reading of 539.
  11. The patient care assistant who administered the blood glucose test and handed the syringe of insulin to Resident #7 is unlicensed.
  12. The facility failed to ensure that all drugs were administered by a licensed professional operating within the scope of their professional licensure.
  13. Review of the facility refrigerator/freezer log for the #3 and #4 refrigerator and freezer revealed that the temperatures had not been checked since February 7, 2018.
  14. The facility was unable to provide documentation that the temperature of the refrigerator/freezer in the café was being monitored.
  15. Upon interview with the administrator, the administrator verified that the temperature logs for the refrigerators and freezers were incomplete.
  16. The facility failed to ensure that refrigerated and frozen foods were stored at a proper temperature.
  17. Surveyors found in the refrigerator food that was not dated and labeled; meat that was found dripping inside the refrigerator and onto refrigerator shelves; and milk was found in the refrigerator that had been expired for approximately a week.
  18. Interview with the dietary manager revealed that the liquid found in the refrigerator was from pork chops that had leaked onto the shelves. The dietary manager also verified that

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the food in the refrigerators should have been dated and labeled. The dietary manager also verified that the milk was out of date.

19. The facility failed to maintain a clean and sanitary kitchen.

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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.

20. The facts stated in paragraphs two (2) through twelve (12) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(5)(b)[Services Provided], the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

- (b) Ensure that all drugs and biologicals shall be administered by a licensed professional operating within the scope of the professional license and according to the resident's plan of care.

21. The facts stated in paragraphs thirteen (13) through sixteen (16) are sufficient to establish that Respondent has violated the provisions of 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.

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

22. The facts stated in paragraphs seventeen (17) through nineteen (19) are sufficient to

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establish that Respondent has violated the provisions of 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.

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 three (3) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand five hundred dollars (\$1,500.00).

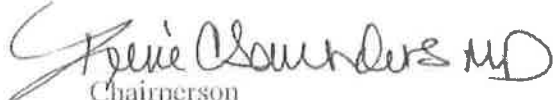
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

**Tennessee Department of Health  
Division of Health Care Facilities  
Attn: Eddie J. Stewart  
665 Mainstream Drive, Second Floor  
Nashville, Tennessee 37243**

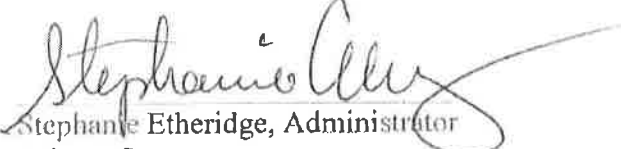
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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 5<sup>th</sup> day of September 2018.

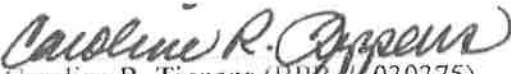
**ACCORDINGLY, IT IS ORDERED** that the agreement of the parties does hereby become the Final Order of the Board.

  
Chairperson  
Board for Licensing Health Care Facilities

AGREED TO:

  
Stephanie Etheridge, Administrator  
Asbury Cove  
Respondent

5/25/18  
Date

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

9/5/2018  
Date

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**CERTIFICATE OF SERVICE**

A true and exact copy of this Consent Order is being served upon Respondent, Asbury Cove, by and through its Administrator, Stephanie Etheridge, at 315 Asbury Avenue, Ripley, TN 38063 by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail, Return Receipt # 70173380 0000 9978 0558.

This 6<sup>th</sup> day of September, 2018

  
Caroline Tippens  
Assistant General Counsel

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