

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:)
)
Apple Grove Alzheimer's and Dementia Residence) Case #: 2020005261
3575 Hacks Cross Road)
Memphis, TN 38125)
)
License No. ACLF 00000301)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 7th day of April, 2021 pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Apple Grove Alzheimer's and Dementia Residence** (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 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,

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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.*

STIPULATIONS OF FACT

1. At all times pertinent hereto, Apple Grove Alzheimer's and Dementia Residence, located at 3575 Hacks Cross Road, Memphis, Tennessee, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000301 on March 18, 2009. Respondent has an active license with an expiration date of August 21, 2020. On or about January 6, 2020, an annual follow-up life safety survey was conducted which

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resulted in the following deficiencies being found:

- a. A portable space heater was observed in the corner of Room 11.
- b. The facility failed to provide documentation for the 2019 annual fire extinguisher inspection.
- c. The facility failed to provide documentation for the following fire drills:
 - 1st shift, 2nd shift, and 3rd shift of the 1st quarter of 2019;
 - 1st shift, 2nd shift, and 3rd shift of the 2nd quarter of 2019;
 - 1st shift, 2nd shift, and 3rd shift of the 3rd quarter of 2019; and
 - 1st shift, 2nd shift, and 3rd shift of the 4th quarter of 2019.

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 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.

3. The facts stated in paragraph two (2) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-10(2)(h)[LIFE SAFETY], the relevant portion of which reads as follows:

- (2) An ACLF shall ensure fire protection for residents by doing at least the following:
 - (h) Prohibit open flame and portable space heaters.

4. The facts stated in paragraph two (2) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-10(2)(i)[LIFE SAFETY], the relevant portion of which reads as follows:

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- (2) An ACLF shall ensure fire protection for residents by doing at least the following:
- (i) Provide and mount fire extinguishers and maintain travel distance between fire extinguishers, complying with NFPA 10, so they are accessible to all residents in the kitchen, laundries, and all exists.
5. The facts stated in paragraph two (2) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-10(3)(d)[LIFE SAFETY], the relevant portion of which reads as follows:
- (3) An ACLF shall conduct fire drills in accordance with the following:
- (d) An ACLF shall maintain records that document and evaluate these drills for at least three (3) years.

ORDER


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

6. Respondent hereby agrees to pay two (2) civil monetary penalties in the amount of two hundred fifty dollars (\$250.00) each and one civil monetary penalty in the amount of five hundred dollars (\$500.00) for a total assessment of one thousand dollars (\$1,000.00) in civil monetary penalties.
7. 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.


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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 7th day of April 2021.


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:


Kimily Taylor, Administrator
Apple Grove Alzheimer's and Dementia Residence
Respondent

3/4/2021
Date

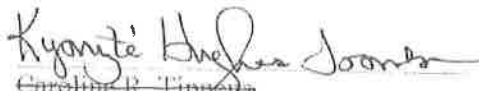

Deputy ~~Caroline R. Tippens~~ BPR # 020375-003702
Senior Associate General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

4/7/2021
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Kimily Taylor, Apple Grove Alzheimer's and Dementia Residence, 3575 Hacks Cross Road, Memphis, Tennessee, 37388, by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination and registered mail # 7020 2450 0000 1109 0494

This 26th day of April, 2021.


~~Caroline R. Tippett~~
~~Senior Associate General Counsel~~
Deputy