

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

IN THE MATTER OF:)	
)	
MORNING POINTE OF LENOIR CITY)	
A.C.L.F. LICENSE NO. 304)	CASE NO. 2022017231
RESPONDENT)	
)	
LENOIR CITY, 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 **Morning Pointe of Lenoir City**, (“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.

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 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. 1200-08-25-.02(7).
4. “Primarily aged” means that a minimum of fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age. Tenn. Comp. R. & Regs. 1200-08-25-.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. 1200-08-25-.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, Morning Pointe of Lenior City, was licensed by the Board as an ACLF, having been granted license number 00000304 on April 13, 2009, which currently has an expiration date of December 14, 2022.
9. On or about June 7, 2022, the Office of Health Care Facilities conducted a complaint survey at the facility which revealed several serious violations.
10. Based on medical record review, review of a Controlled Substance Monitoring Substances sign-out sheet, review of the Medication Administration Record, review of a facility investigation and interview, it was determined: Respondent failed to ensure liquid Oxycodone, a Schedule II Controlled Substance, was administered as ordered by the physician to one (1) resident and failed to follow its policy regarding medication management and the resident's plan of care.

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.

11. The facts in paragraph ten (10) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 1200-08-25-.07(5)(b), the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

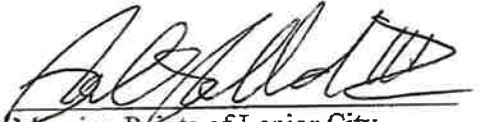
- (b) Ensure that all drugs and biologicals shall be administered by a licensed or certified health care professional operating within the scope of the professional license or certification and according to the resident's plan of care.

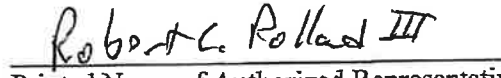
IV. ORDER

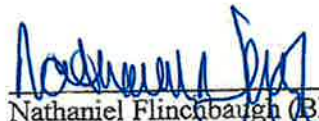
12. **NOW THEREFORE**, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:
13. Respondent's license to operate as an ACLF shall be and is hereby placed on **PROBATION**, beginning the effective date of this Order.
14. The initial period of probation shall last no longer than **twelve (12) months**. Respondent shall appear, in person, at the Board meeting preceeding the end of the initial probation period in order for the Board to determine whether to lift the probation or to extend the probationary period. Respondent shall also provide the Board with proof of compliance with all probationary requirements at this Board meeting.
15. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five thousand dollars (\$5,000.00)**.
16. Respondent shall provide mandatory training to office staff on medication administration and safety within **thirty (30) days** of the effective date of this Order. Written proof of completion of the staff training shall be submitted to the Commission within **ten (10) business days** of the completion of the training.
17. Respondent agrees that Respondent shall have its admissions suspended by the Executive Director immediately upon any similar or new deficiencies if deemed serious by the Executive Director.
18. Payment shall be submitted to the following address withing **thirty (30) calendar days** of the effective date of this Order:

Tennessee Health Facilities Commission
Attention: Licensure and Regulation
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243

APPROVED FOR ENTRY:


Morning Pointe of Lenior City
ACLF Lic. No. 304
Signature of Authorized Representative
Respondent


Printed Name of Authorized Representative
Senior Vice President of Operations
Title of Authorized Representative


Nathaniel Flinchbaugh (BPR # 034233)
Deputy General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
(615) 741-7221

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 22nd day of November, 2022.

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, Morning Pointe of Lenoir City, c/o Lyndsay Williams, 198 Morning Pointe Drive, Lenoir City, Tennessee 37772 by delivering same in the United States regular mail and United States certified mail, number 7021 2720 0000 2319 2341, return receipt requested, with sufficient postage thereon to reach its destination.

This 2nd day of November, 2022.


Nathaniel Flinchbaugh
Deputy General Counsel