

BEFORE THE TENNESSEE BOARD FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:

Ridgemont Manor #2
3815 Ridgemont Ave.
Memphis, TN 38128

License No. ACLF . 00000312

Case Number 201803872

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, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and RIDGEMONT MANOR #2 (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, **Ridgemont Manor #2**, 3815 Ridgemont Avenue, Memphis, TN 38128 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000312** on July 1, 2008. Respondent has an active license with an expiration date of May 6, 2019.
2. On or about August 10, 2018, the Department conducted an annual licensure survey at

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the Respondent facility.

3. Resident #1 was admitted in July 2018. As of August 10, 2018, the facility had failed to conduct an assessment within seventy-two (72) hours and had no care plan for Resident #2. Care plans are required to be in writing within five (5) days of admission.
4. Interview with the Administrator revealed that the facility did not have a nurse readily available to conduct an assessment or write a care plan for Resident #1.
5. The facility could not produce care plans for Residents #1-#4 which showed input and participation by a treating physician or other licensed healthcare professional on a semi-annual basis and included arrangements for physician visits and that dietary needs were being met.
6. An interview with the Administrator confirmed that Residents #1-4's care plans had not been written or revised at least semi-annually. Further, she indicated that no appropriately licensed nurses had been in the facility to complete or revise care plans within the last six (6) months.
7. The facility did not have a performance improvement program that documents the outcome of remedial action.
8. Surveyors observed residents' medication cabinet was open and unattended. The facility failed to store all medications so that no resident could obtain another medications.
9. Surveyors observed that the facility's refrigerator had leftover chicken dated July 8, 2018; ham dated July 31, 2018; and hot dogs and bologna which were not dated. Food was kept in the refrigerator for longer than three (3) days. The facility's director of food service failed to ensure food was properly stored in the kitchen.
10. Resident#2 had a physician order for a special diet which required that Resident #2 did

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- not receive any concentrated sweets. Resident #2 was observed being served a piece of regular cherry pie containing sugar during her lunch meal on August 10, 2018.
11. Resident #4 had a physician order for a special diet which required that Resident #4 did not receive any salt.
 12. Facility staff were unaware that Residents #2 and #4 had physician orders for special diets. The facility failed to meet the nutritional needs of Residents #2 and #4.
 13. Further, the facility did not have a diet manual approved by the current Consultant Dietitian, who was responsible for the nutritional care of residents.
 14. The facility also failed to serve the planned menu items which were supposed to be served on August 10, 2018.

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.

15. The facts stated in paragraphs three (3) through six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(4)[RESIDENT RECORDS], the relevant portion of which reads as follows:
 - (4) An ACLF shall complete a written assessment of the resident to be conducted by a direct care staff member within a time-period determined by the ACLF, but no later than seventy-two (72) hours after admission.
16. The facts stated in paragraphs three (3) through six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(a)[RESIDENT

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RECORDS], the relevant portion of which reads as follows:

(5) Plan of care.

(a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident's legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The Plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above-appropriate individuals.

17. The facts stated in paragraphs three (3) through six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(1)(a)(4)[ADMINISTRATION], the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(a) Staffing requirements:

(4) An ACLF shall have a licensed nurse available as needed.

18. The facts stated in paragraph seven (7) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.06(1)(b)(2)[ADMINISTRATION], the relevant portion of which reads as follows:

(1) Each ACLF shall meet the following staffing and procedural standards:

(b) Policies and Procedures:

(2) An ACLF shall develop and implement an effective facility-wide performance improvement plan that addresses plans for improvement for self-identified deficiencies and documents the outcome of remedial action.

19. The facts stated in paragraph eight (8) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(5)(c)[SERVICES PROVIDED], the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

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- (c) Store all medications so that no resident can obtain another resident's medication.

20. The facts stated in paragraph nine (9) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(2)[SERVICES PROVIDED], the relevant portion of which reads as follows:

- (7) An ACLF shall provide personal services as follows:
 - (c) Dietary services.
 - (2) An ACLF shall have an employee who:
 - (i) Serves as director of food and dietetic service.
 - (ii) Is responsible for the daily management of the dietary services and staff training; and
 - (iii) Is qualified by experience or training.

21. The facts stated in paragraphs ten (10) through fourteen (14) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(c)(3)(ii)[SERVICES PROVIDED], the relevant portion of which reads as follows:

- (7) An ACLF shall provide personal services as follows:
 - (c) Dietary Services.
 - (3) An ACLF shall ensure that menus meet the needs of residents as follows:
 - (ii) An ACLF shall meet nutritional needs, in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.
 - (iii) An ACLF shall have a current therapeutic diet manual approved by the dietitian readily available to all ACLF personnel.
 - (iv) Menus shall be planned one week in advance.

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ORDER

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

- 7. The assessment of seven (7) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of three thousand five hundred dollars (\$3,500.00).

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 5th day of February, 2019.

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

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AGREED TO:

Sharon Williams
Sharon Williams, Administrator
Ridgemont Manor #2
Respondent

1/31/19
Date

Caroline R. Tippens
Caroline R. Tippens, BPR # 030375
Assistant General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

2/5/2019
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Ridgemont Manor #2, c/o Sharon Williams, Administrator, 3815 Ridgemont Avenue, Memphis, TN 38128 by delivering same in the United States mail, certified return receipt 7018 2290 0001 1403 0255 and via United States Postal Service first class, with sufficient postage thereon to reach its destination.

This 6th day of February, 2018.

Caroline R. Tippens
Caroline R. Tippens
Assistant General Counsel

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