

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

IN THE MATTER OF:

Grace Manor
1420 Old Hickory Blvd.,
Nashville, TN 37207

License No. ACLF 00000325

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Case Number: 201803321

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 September, 2018, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Grace Manor** (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.

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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, safety and welfare of residents. Tenn. Code Ann. § 68-11-213(i)(2) and Tenn. Comp. R. & Reg. 1200-08-25-.05(4),(5).

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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, Grace Manor, located at 1420 Old Hickory Blvd., Nashville, TN 37207, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000325** on December 9, 2010. Respondent has an active license with an expiration date of December 9, 2018.
2. On or about June 25, 2018 through June 27, 2018, the Department conducted an annual licensure and complaint survey at the Respondent facility.
3. On or about June 25, 2018, surveyors observed LPN #1 enter Resident #1's room and

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place vials of Duoneb 2.5 mg/3 ml and a vial of budesonide .5mg/2ml (bronchodilators) for Resident #1's nebulizer machine on the bedside table of Resident #1. LPN #1 then exited the room without administering the medication.

4. Review of Resident #1's care plan revealed that Resident #1 was not care planned to self-administer her nebulizer treatments.
5. Interview with LPN #2 revealed that staff are never to leave nebulizer medication in a resident's room to self-administer, unless the resident has a care plan reflecting that they can self-administer nebulizer treatments.
6. Interview with the Director of Nursing confirmed that the facility failed to ensure Resident #1's medication was administered in accordance with the resident's Plan of Care.
7. Resident #4 was admitted to the facility in September 2017 with diagnoses of dementia. Resident #4 utilized a walker and needed an escort to and from activities, meals, and outings. Resident #4 was also deemed to be a fall risk and had fallen prior to his admission to the facility. Resident #4's care plan did not reveal that he was at risk for elopement or wandering.
8. Resident #4 was found on the floor by his bedside on September 10-11, 2017.
9. On September 20, 2017, Resident #4 fell in the dining room and was noted to have a large skin tear to his upper arm. Later that same day, Resident #4 was found on the floor of his room.
10. On or about February 7, 2018, Resident #4 eloped from the building via the front door and was found lying in the parking lot with blood on his forehead and nose. EMS was called.

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11. Emergency Room records revealed that Resident #4 had a nasal fracture and laceration to his left thumb.
12. On or about April 25, 2018, Resident #4 again eloped and was found outside walking toward the right side of the building. Resident #4 was found by staff and brought back to the facility and put in bed.
13. Nursing notes from September 2017 through April 2018 reflect that Resident #4 wandered frequently and utilized a wanderguard.
14. On or about June 6, 2018, Resident #4 was found in his room on his knees in front of his dresser. Resident #4 had a skin tear to the lower left arm/hand and both knees had bruising.
15. When surveyors interviewed staff, it was revealed that Resident #4 experienced confusion and had frequently fallen since his admission to the facility.
16. The facility failed to monitor Resident #4's whereabouts and to prevent Resident #4 from falling, which resulted in harm to Resident #4.

GROUND 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.

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-.07(5)(a)[Services Provided], the relevant portion of which reads as follows:

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(5) Resident medication. An ACLF shall:

(a) Ensure that medication shall be self-administered in accordance with the resident's plan of care.

18. The facts stated in paragraph seven (7) through sixteen (16) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(7)(a)(2)[Services Provided], the relevant portion of which reads as follows:

(7) An ACLF shall provide personal services as follows:

(a) Each ACLF shall provide each resident with at least the following personal services:

(2) Safety when in the ACLF.

ORDER

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

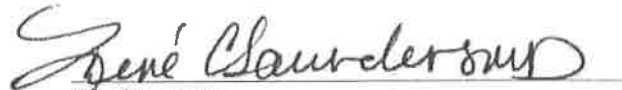
19. The assessment two (2) civil monetary penalties, with one civil monetary penalty in the amount of five hundred dollars (\$500.00) and one (1) civil monetary in the amount of three thousand dollars (\$3,000.00) for the actual harm of Resident #4, for a total assessment of three thousand five hundred dollars (\$3,500.00) in civil monetary penalties. Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

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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 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:


Julie Ruffner, Administrator
Grace Manor

8-3-18
Date


Caroline R. Tippens, BPR # 030375
Assistant General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second 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, Grace Manor, ATTN: Julie Ruffner, 1420 Old Hickory Blvd, Nashville, TN 37207 by delivering same in the United States mail, certified return receipt 7017 3380 00009978 0640 and via United States Postal Service first class, with sufficient postage thereon to reach its destination.

This 6th day of September, 2018.

Caroline R. Tippens
Caroline R. Tippens
Assistant General Counsel

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