

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

In The Matter of:)
)
Autumn Care II, LLC)
Assisted Care Living Facility)
License No. 382,)
)
Respondent.)
)
Knoxville, Tennessee)

Case No. 2023007881

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 Autumn Care II, LLC (“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.

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 facility, 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. 0720-26-.02(7).
4. “Primarily aged” means at least fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age. Tenn. Comp. R. & Regs. 0720-26-.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. 0720-26-.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, Autumn Care II, LLC, 136 Canton Hollow Road, Knoxville, Tennessee 37934, was licensed by the Board as an ACLF, having been granted

license number 382 on May 3, 2013, which currently has an expiration date of May 3, 2024.

9. On or about March 6th, 2023, a life safety survey was performed by a State surveyor. The record review revealed the facility did not timely conduct a fire drill exercise during sleeping hours for the 3rd, and 4th quarter of the 2022 year (Sleeping hours being defined as 8:00 p.m. to 6:00 a.m. per the interpretive guidance issued by the Board on October 2nd, 2019). The surveyor noted that the Respondent's Administrator was present when the deficiency was identified and was acknowledged by the Administrator during the exit conference with the surveyor on that same day.

III. GROUNDS 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.

10. The facts in paragraph nine (9) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.10(3)(b) Life Safety the relevant portion of which reads as follows:
 - (3) An ACLF shall conduct fire drills in accordance with the following:
 - (b) There shall be one (1) fire drill per quarter during sleeping hours.

IV. REPRESENTATIONS OF RESPONDENT

11. Respondent understands and admits the allegations, charges, and stipulations in this Order.
12. Respondent understands the rights found in the Code, Rules, and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 thru 4-5-404, including

the right to a hearing, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Respondent voluntarily waives these rights in order to avoid further administrative action.

13. Respondent agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.
14. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
15. Respondent also agrees that the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party.
16. Respondent agrees that the facility has not received any threats or promises of any kind by the State or any agent or representative thereof, except such as is detailed herein.

V. ORDER

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

17. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **two-thousand dollars (\$2,000.00)**. This CMP is issued for the deficiency cited on March 6th, 2023.
18. The State 2567 form shall be amended to reflect the facts in Section II Paragraph 9 which indicate that Respondent only failed to conduct a fire drill during sleeping hours for the third and fourth quarters of 2022, and not all quarters of 2022.
19. Respondent shall review the interpretive guidance issued by this Board under Assisted Care Living Facility (ACLF) Regulation 1200-08-25-.10(3)(b) and Home for the Aged (RHA) Regulation 1200-08-11-.08(2) dated October 2nd, 2019, with all staff **and** shall provide written acknowledgement from all staff of such training to the Commission at the below address **within thirty (30) calendar days of the effective date of this Order**. The interpretive guidance being located on Page 67 at :
https://www.tn.gov/content/dam/tn/health/healthprofboards/hcf/Interpretive_Guidelines.pdf
20. Payment shall be submitted to the following address within **thirty (30) calendar days** of the effective date of this Order.

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

**PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT
ORDER HAS BEEN RATIFIED AND APPROVED BY THE BOARD**

21. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

APPROVED FOR ENTRY:



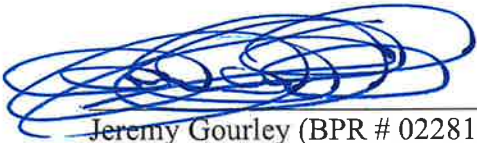
Autumn Care II, LLC
License No. 382
Signature of Authorized Representative
Respondent



Printed Name of Authorized Representative



Title of Authorized Representative

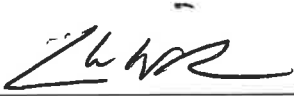


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Approval by the Board

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 30th day of August, 2023.

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, Autumn Care II, LLC, c/o Administrator, Pete D. Falk, 136 Canton Hollow Road, Knoxville, Tennessee 37934, and Autumn Care II, LLC, c/o Registered Agent, Peter Falk, 9122 Linksvue Drive Knoxville, Tennessee 37922-5253 by delivering same in the United States regular mail and United States certified mail, numbers **7022 3330 0001 2193 5007** and **7022 3330 0001 2193 4994**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: autumncare@comcast.net.

This 30th day of August, 2023.



Jeremy Gourley
Senior Associate General Counsel