

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

**IN THE MATTER OF:** )  
 )  
**Oakwood Senior Living** )  
**232 E. Churchwell Lane** )  
**Knoxville, TN 37917** )  
 )  
**License No. 00000391** )

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**CONSENT ORDER**

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This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 7th day of May<sup>2017</sup>, 2017, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Oakwood Senior Living** (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.

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## JURISDICTION

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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 of Health (“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.*

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#### STIPULATIONS OF FACT

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1. At all times pertinent hereto, Oakwood Senior Living, located at 232 E. Churchwell Ave, Knoxville, TN, 37917 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000391 on September 8, 2015. Respondent has an active license with an expiration date of September 7, 2017.
2. On or about February 20, 2017 through February 24, 2017, Department surveyors

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conducted a licensure and complaint survey on the Respondent facility. During this survey, the surveyors observed serious violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.

3. Respondent facility failed to administer blood thinner medication as ordered by a physician for Resident #1. As a result, Resident #1 was not administered blood thinner at 5:00 PM on February 23, 2017, 5:00 P.M. February 25, 2017, or 7:00 A.M. on February 26, 2017.
4. Respondent failed to secure a certification from a physician that the needs of Resident #2, who was receiving hospice services, could be appropriately met by the facility.
5. Respondent also failed to update the care plan of Resident #2 to include hospice services.
6. Respondent also failed to reflect the method of evacuation from the facility during an emergency for Residents #2 and #4, both of whom were receiving hospice services.

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### GROUNDS FOR DISCIPLINE

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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.

7. 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.

8. 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-.08(5)(a)[Admissions, Discharges, and Transfers] the relevant portion of which reads as follows:

(5) An ACLF resident qualifying for hospice care shall be able to receive hospice care services and continue as a resident if the resident's treating physician certifies that such care can be appropriately provided in the ACLF.

(a) In the event that the resident is able to receive hospice services in an ACLF, the resident's hospice provider and the ACLF shall be jointly responsible for a plan of care that is prepared pursuant to current hospice guidelines promulgated by the Centers for Medicaid and Medicare and ensures both the safety and well-being of the resident's living environment and provision of the resident's healthcare needs.

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**ORDER**

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

7. The assessment of two (2) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand dollars (\$1,000.00).

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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**

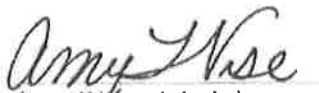
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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 8th day of May/June, <sup>cert</sup> 2016.

**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:

  
Amy Wise, Administrator  
Oakwood Senior Living  
Respondent

5/8/17  
Date

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*Caroline R. Tippens*  
Caroline R. Tippens (ID# 030375)  
Assistant General Counsel  
Department of Health  
665 Main Stream Dr., 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243  
(615) 741-1611

6/07/2017  
Date

**CERTIFICATE OF SERVICE**

A true and exact copy of this Consent Order is being served upon Respondent, Oakwood Senior Living, by and through its administrator, Amy Wise, located at 232 E. Churchwell Ave, Knoxville TN 37917, by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination.

This 8<sup>th</sup> day of June, 2017.

*Caroline R. Tippens*  
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Caroline Tippens  
Assistant General Counsel