

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:

Dominion Senior Living of Sevierville
1102 Medical Park Court
Sevierville, TN 37862

License No. ACLF 00000392

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Case Number 201802896

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 **Dominion Senior Living of Sevierville** (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.

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, Dominion Senior Living of Sevierville, located at 1102 Medical Park Court, Sevierville, TN 37862, has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000392 on April 8, 2014. Respondent has an active license with an expiration date of April 7, 2019.
2. From on or about June 19, 2018 through June 20, 2018, the Department conducted a

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complaint and annual licensure survey at the Respondent facility.

3. Resident #1 was admitted to the facility in June 2017 with a diagnosis of dementia with behavioral disturbances.
4. Resident #2 was admitted to the facility in February 2016 with diagnoses including dementia and debility related to arthritis. Resident #2 was receiving hospice services.
5. Resident #1's chart revealed that from October through November 2017, Resident #1 attempted to elope; yelled at other residents; and raised his fists at staff.
6. On or about February 17, 2018, Resident #1 was found standing over Resident #2 and holding Resident #2's arm down on the bed. Resident #1 was yelling. Assessment of Resident #2 revealed that she had a swollen and purple lip and required medication for pain and anxiety. After being removed from Resident #2's room, Resident #1 continued to scream at staff.
7. Later in the evening, Resident #2 was noted to have increased swelling on her mouth, lips, and chin. Resident #2 was also very tearful. Resident #2 was sent to the Emergency Room at her daughter's request and diagnosed with a contusion to her face due to a physical assault.
8. On or February 23, 2018, Resident #1 attempted to elope and became agitated with staff necessitating administration of Ativan. Later that same day, Resident #1 engaged in a verbal altercation with another resident and grabbed the resident's shirt. As the other resident walked away, Resident #1 grabbed the resident's arm. Resident #1 was sent to the ER and received no new physician orders.

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9. On or about March 19, 2018, Resident #1 had a physical altercation with another resident.
10. On or about April 24, 2018, Resident #1 began knocking on other resident doors. After attempts to redirect the resident were unsuccessful, Resident #1 was administered Ativan.
11. Interview with staff confirmed that Resident #1 remained in the facility and continued to assault facility staff and other residents after causing physical injury to Resident #2.

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.

12. The facts stated in paragraph two (2) through eleven (11) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(1)(d)[Admissions, Discharges, and Transfers], the relevant portion of which reads as follows:
 - (1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has the following conditions:
 - (d) Exhibits verbal or physically aggressive behavior which poses an imminent physical threat to self or others, based on behavior, not diagnosis.

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 one civil monetary penalty in the amount of three thousand dollars (\$3,000.00) for the actual harm to Resident #2.

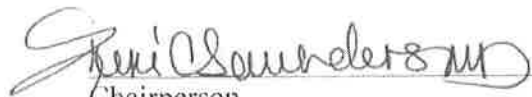
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

**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 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:

Cassandra Stephens
Cassandra Stephens, Administrator
Dominion Senior Living of Sevierville

7/26/18
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

9/15/2018
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Dominion Senior Living of Sevierville, c/o Cassandra Stephens, Administrator, 1102 Medical Park Court, Sevierville, TN 37862 by delivering same in the United States mail, certified return receipt 7017 3380 0000 9978 0626 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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