

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

In The Matter of:)	
)	
Fountains of Franklin)	
Assisted Care Living Facility)	
License No. 395,)	Case No. 2023020791
)	
Respondent.)	
)	
Franklin, Tennessee)	

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 Fountains of Franklin (“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, Fountains of Franklin, 300 Celebration Way Franklin, Tennessee 37067, was licensed by the Board as an ACLF, having been granted

license number 395 on June 4, 2013, which currently has an expiration date of June 4, 2024.

9. On or about June 13, 2023, the State surveyor reviewed the facility's undated policy titled, "...Personal Services," revealed, "...Medication shall be self-administered, or administered by a licensed professional operating within the scope of his/her license..."
10. On or about June 13, 2023, the surveyor observed Staff Member #1 dispensing medication to residents. Staff Member #1 was observed with a set of keys to the medication cart, reviewing the Medication Administration Record (MAR), unlocking the medication cart, removing dose packets, signing the medication out on the MAR, placing the medication in a cup, and administering medication to Residents #11, #12, and #13.
11. On or about June 13, 2023, the surveyor interviewed Staff Member #1, who admitted that she was a Medication Aide, and that she performed medication administration for the entire Assisted Living Facility. On or about June 14, 2023, the surveyor interviewed Staff Member #1 who admitted that she had keys to the medication cart.
12. On or about June 15, 2023, the Executive Director of the facility was unable to furnish the State Medication Aide Certification for Staff Member #1. The surveyor reviewed of the Medication Administration Records for May and June and found that Staff Member #1 (LPN #1) had administered medications to residents in May and June of 2023. On or about June 13, 2023, the surveyor interviewed Staff Member #1 who admitted that she was a Medication Aide and that she performed medication administration for the entire Assisted Living Facility.

13. The surveyor reviewed a Department of Health's, Division of Health-Related Boards, letter dated June 14, 2023, which revealed that Staff Member #1's Licensed Practical Nurse (LPN) license had an expiration date of March 31, 2022.
14. During a telephone interview with the surveyor, on or about June 22, 2023, the Executive Director admitted to the surveyor that LPN #1 had an expired nursing license and had been administering medications to residents in the facility. The Executive Director admitted to the surveyor that when she found out, she suspended her.
15. During an interview with the State Surveyor on June 13, 2023, the Dietary Manager admitted that she had not seen the facility Consultant Dietitian for the time she was employed at the facility, and she did not have any documentation from the Consultant Dietitian for the time she has been employed by the facility. The Dietary Manager provided the surveyor with menus but stated she has never communicated with the Dietician about the menus and admitted that she just modifies them herself. She admitted that the menus had not been reviewed or signed by the dietician, and the Dietary Manual had not been signed by the Registered Dietician since 2017.
16. The State surveyor reviewed the facility's temperature log and interviewed the Dietary Manager (DM) on or about June 13, 2023. During their visit, the surveyor found that the facility failed to ensure hot foods were maintained at 140 degrees Fahrenheit or above and that the facility failed to maintain a sanitary kitchen.
17. The surveyor found the kitchen to be dirty. They observed a buildup of a black thick, shiny hard substance on the stove top and on the sides and bottoms of the ovens, a buildup of a sticky substance and crumbs on the outside of the toaster and a buildup of crumbs inside the toaster, a buildup of a shiny gold substance on the side of the oven next to the deep

fryer, a buildup of a brown, grimy substance on the vent hood, a black, shiny build up on the bottom of three (3) large pots. When asked by the surveyor to provide the cleaning logs, the DM was unable to produce them.

18. During the surveyor's interview with the DM on the date above, the DM admitted that the stove, ovens, vent hood, side of the oven, and the toaster need to be cleaned. The DM also admitted that the pots should not have black buildup and that she did not know that she was supposed to keep cleaning logs for the kitchen.
19. Based on document review and interview by the State surveyor, on or about June 13, 2023, the surveyor found that the facility failed to review and/or revise the plan of care as changes in resident needs occurred, or at a minimum semi-annually for five (5) of five (5), (Residents #1, #2, #3, #4, and #5), residents reviewed. The surveyor found after reviewing the medical records of the residents that the Care Plans were not reviewed or revised at least semi-annually to reflect any changes in the residents' needs or conditions.
20. During an interview with the Director of Nursing (DON), on or about June 14, 2023, the DON admitted to the State surveyor that the plans of care for residents #1, #2, #3, #4, and #5 had not been reviewed or revised at least semi-annually to reflect any changes in the residents' needs or conditions.

III. GROUNDS FOR DISCIPLINE

The facts in 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.

21. The facts in paragraphs nine (9) through fourteen (14) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07 (5)(b), Services Provided, the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

- (b) Ensure that all drugs and biologicals shall be administered by a licensed or certified health care professional operating within the scope of the professional license or certification and according to the resident 's plan of care.

22. The facts in paragraphs fifteen (15) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(1) Services Provided, the relevant portion of which reads as follows:

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

(c) Dietary services.

- 1. An ACLF shall have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the ACLF on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section while providing for constant liaison with the ACLF for recommendations on dietetic policies affecting resident treatment.

23. The facts in paragraphs fifteen (15) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(3) Services Provided, the relevant portion of which reads as follows:

3. An ACLF shall ensure that menus meet the needs of the residents as follows:

(iii) An ACLF shall have a current therapeutic diet manual approved by the dietitian readily available to all ACLF personnel.

24. The facts in paragraphs sixteen (16) through eighteen (18) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(4)(i) Services Provided, the relevant portion of which reads as follows:

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

(c) Dietary services.

4. An ACLF shall:

(i) Provide at least three (3) meals constituting an acceptable and/or prescribed diet per day. There shall be no more than fourteen (14) hours between the evening and morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140°F. or above) or cold (41°F. or less) as appropriate. The food must be adapted to the habits, preferences and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to residents with special dietary needs or upon request.

25. The facts in paragraphs sixteen (16) through eighteen (18) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(5), Services Provided, the relevant portion of which reads as follows:

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

(c) Dietary services.

5. An ACLF shall maintain a clean and sanitary kitchen.

26. The facts in paragraphs nineteen (19) through twenty (20) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.12 (5)(a) Resident 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.

IV. REPRESENTATIONS OF RESPONDENT

27. Respondent understands and admits the allegations, charges, and stipulations in this Order.

28. 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.

29. 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.
30. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
31. 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.
32. 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:

33. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)** for a violation of Tenn. Comp. R. and Reg. 0720-26-.07 (5)(b). This CMP is issued for the deficiency cited on June 26, 2023.
34. Respondent is hereby assessed one (1) collective Civil Monetary Penalty in the amount of **three-thousand dollars (\$3,000.00)** for violations of Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(1), Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(3), Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(4)(i), and Tenn. Comp. R. and Reg. 0720-26-.07 (7)(c)(5). This collective CMP is issued for the deficiencies cited on June 26, 2023.
35. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **one-thousand dollars (\$1,000.00)** for a violation of Tenn. Comp. R. and Reg. 0720-26-.12 (5)(a). This CMP is issued for the deficiency cited on June 26, 2023.
36. 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: Disciplinary Coordinator
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

37. 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:

Robin Crowell BSN MHA LVAHA Robin Crowell
 Fountains of Franklin LACLF Printed Name of Authorized Representative
 License No. 395
 Signature of Authorized Representative
 Respondent
Executive Director
 Title of Authorized Representative

W. Pennington
Nathan Jey BPR
034233

 Jeremy Gourley (BPR #022812)
 Senior Associate General Counsel
 Health Facilities Commission
 665 Mainstream Dr. 2nd Floor
 Nashville, Tennessee 37243
 Office: (615) 741-7221
 Fax: (615) 741-7051
 Jeremy.J.Gourley@tn.gov

mailed 2/15/2024 Certified & e-mailed on 2/21/24

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 8th day of March, 2024.

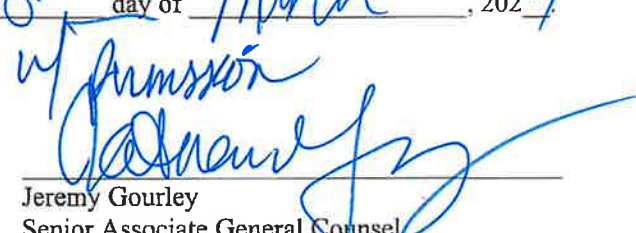
ACCORDINGLY, IT IS ORDERED that the agreement of the parties does hereby become the Final Order of the Board.

Boyd Meadows III

 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, Fountains of Franklin, c/o Administrator, Robin Michelle Crowell, 300 Celebration Way Franklin, Tennessee 37067, by delivering same in the United States regular mail and United States certified mail, number **7022 3330 0001 2193 5304**, return receipt requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: robin@fountainsfranklin.com.

This 8th day of March, 2024
with permission


Jeremy Gourley
Senior Associate General Counsel