

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

In The Matter of:)	
)	
Opal at Music City)	
Assisted Care Living Facility)	
License No. 448,)	Case No. 2023015651
)	
Respondent.)	
)	
Nashville, 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 Opal at Music City (“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, Opal at Music City, 2733 McCampbell Avenue, Nashville, Tennessee 37214, was licensed by the Board as an ACLF, having been granted license number 448 on January 9, 2018, which currently has an expiration date of January 8, 2025.

9. On or about May 10, 2023, a complaint investigation of the facility was completed, resulting in findings that the facility failed to provide safety to one resident.
10. On or about April 24, 2021, Resident #1 was admitted to the facility with diagnoses including Dementia. At the time of admission to the facility, Resident #1 was not deemed to be an elopement risk and was generally independent with regard to hygiene, continence, and mobility.
11. On or about March 20, 2023, Resident #1 walked out of the facility through an unsecured door which had its alarm disabled by the facility.
12. Resident #1 exited the facility around 5:00 p.m. but the facility did not become aware that Resident #1 was missing until around 7:00 p.m.
13. The facility made reasonable efforts to locate the resident, including contacting law enforcement, but were not able to locate Resident #1.
14. The resident was ultimately located around 2:00 p.m. on March 21, 2023, approximately twenty-one (21) hours after exiting the facility. Resident #1 had walked ten (10) miles away to an independent facility, who notified the Respondent that Resident #1 was there.
15. After being returned to the facility, Resident #1 was assessed, no injuries were noted, and the resident was transferred to the facility's Memory Care Unit.

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.

16. The facts in paragraphs nine (9) through fifteen (15) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-26-.07(7)(a)2 [formerly cited as 1200-08-25-.07(7)(a)2], the relevant portion of which reads as follows:

(1) An ACLF shall provide each resident with at least the following personal services:

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

...

2. Safety when in the ACLF[.]

IV. REPRESENTATIONS OF RESPONDENT

17. Respondent understands and admits the allegations, charges, and stipulations in this Order.
18. 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.
19. 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.

20. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
21. 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.
22. 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:

23. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five-thousand dollars (\$5,000.00)**. This CMP is issued for the deficiency cite in paragraph sixteen (16) of this order.
24. 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**

25. 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:

Lisa Thompson

Opal at Music City
License No. 448
Signature of Authorized Representative
Respondent

Lisa Thompson
Printed Name of Authorized Representative

Executive Director
Title of Authorized Representative

w/permission
Vishan J. Ramcharan BPR 034233

Vishan J. Ramcharan (BPR # 034403)
Associate General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
Office: (615) 741-7221
Fax: (615) 741-7051
vishan.j.ramcharan@tn.gov

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 9th day of February, 2024.

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



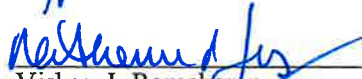
Chairperson
Board for Licensing Health Care Facilities

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Opal at Music City, c/o Jacqueline Thibault, 2733 McCampbell Avenue, Nashville, Tennessee 37214, by delivering same in the United States regular mail and United States certified mail, number 7022 3330 0001 2193 5335 return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: ED.MC@opalsl.com.

This 7th day of February, 2024

with permission BPL 030233



Vishan J. Ramcharan
Associate General Counsel