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HEALTH CARE FACILITIES

BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES

IN THE MATTER OF:)

Arcadia Senior Living of Clarksville)
175 Chesapeake Drive)
Clarksville, TN 37043)

CASE #: 201902129

License No. ACLF 00000458)

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 2nd day of October, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Arcadia Senior Living of Clarksville** (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, **Arcardia Senior Living of Clarksville**, located at 175 Chesapeake Drive, Clarksville, TN 37043 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number **00000458** on June 4, 2018. Respondent has an active license with an expiration date of June 3, 2020.
2. In April 2019, the Department conducted a life safety survey at the Respondent facility.

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3. Surveyors observed portable space heaters in Resident Rooms 130 and 105. The facility failed to prohibit portable space heaters.
4. Surveyors also observed coffee pots without automatic shutoff timers in Resident Rooms 209 and 217.
5. The facility failed to conduct quarterly fire drills for the following quarters and shifts:
 - a. Third Quarter 2018 – Third shift (10 PM – 6 AM);
 - b. Fourth Quarter 2018 – First Shift (6 AM – 2 PM); and
 - c. First Quarter 2019 – Third Shift (10 PM – 6 AM).

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.

6. The facts stated in paragraph three (3) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.10(2)(h)[Life Safety], the relevant portion of which reads as follows;

(2) An ACLF shall ensure fire protection for the residents by doing at least the following:

(h) Prohibit open flame and portable space heaters.

7. The facts stated in paragraph four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.10(2)(i)[Life Safety], the relevant portion of which reads as follows:

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- (2) An ACLF shall ensure fire protection for residents by doing at least the following:
- (i) Ensure that upon entering the ACLF, the resident or his or her responsible party is asked if they wish to have a cooking appliance that is appropriate for their level of cognition. If the facility chooses to provide a requested cooking appliance, it shall be used in accordance with the facility's policies. If the resident or his or her responsible party wishes to provide their own cooking appliance, it shall meet the facility's policies and safety standards. The cooking appliances shall be designed so that they can be disconnected and removed for resident safety or if the resident chooses not to have cooking capability within his or her apartment. The cooking appliances shall have an automatic timer.

8. The facts stated in paragraph five (5) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.10(3)(a)[Life Safety], the relevant portion of which reads as follows:

- (3) An ACLF shall conduct fire drills in accordance with the following:
- (a) Fire drills shall be held for each ACLF work shift in each separate ACLF building at least quarterly.

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 three (3) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of one thousand five hundred dollars (\$1,500.00). 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**

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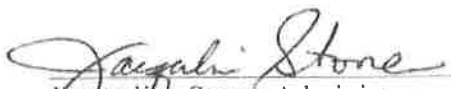
8. Upon ratification by the Board, the listing of the public discipline, including deficiencies and civil penalties on the Disciplinary Action Report pursuant to T.C.A. § 68-1-114.

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 2nd day of October, 2019.


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:


Jacqueline Stone, Administrator
Arcadia Senior Living of Clarksville
Respondent

7-3-19
Date


Caroline R. Tippens, BPR # 030375
Assistant General Counsel
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611


10-2-2019
Date

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CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Jacqueline Stone, Administrator for Arcadia Senior Living of Clarksville, 175 Chesapeake Drive, Clarksville, TN 37040 by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail # _____.

This 3rd day of October, 2019.


Caroline Tippens
Assistant General Counsel

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CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Jacqueline Stone, Administrator for Arcadia Senior Living of Clarksville, 175 Chesapeake Drive, Clarksville, TN 37040 by delivering in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail # 7018 2290 00011403 5182 and Arcadia of Clarksville, LLC, 4360 Brownsboro Road Suite 203, Louisville, KY 40207 via United States Certified Mail # 7018 2290 00011403 5199 and also via United States Regular Mail.

This 4th day of October, 2019.


Caroline Tippens
Assistant General Counsel