

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

<b>In The Matter of:</b>	)	
	)	
<b>Avail At Cleveland</b>	)	
<b>Assisted Care Living Facility</b>	)	
<b>License No. 520,</b>	)	<b>Case No. 2023028251</b>
	)	
<b>Respondent.</b>	)	
	)	
<b>Cleveland, Tennessee</b>	)	

---

**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 Avail At Cleveland (“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, Avail At Cleveland, 1400 Stuart Road North East Cleveland, Tennessee 37312, was licensed by the Board as an ACLF, having been

granted license number 520 on July 8, 2021, which currently has an expiration date of July 7, 2024.

9. On or about September 5, 2023, the State surveyor reviewed the facility fire drill records and based on this review, the surveyor found that the facility had no documentation that fire drills were conducted during the 3<sup>rd</sup> shift of the first quarter for 2022, during the 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> shift for the 2<sup>nd</sup> quarter of 2022, during the 2<sup>nd</sup> shift for the 3<sup>rd</sup> quarter of 2022, during the 3<sup>rd</sup> shift for the 4<sup>th</sup> quarter of 2022, during the 2<sup>nd</sup> and 3<sup>rd</sup> shift for the 1<sup>st</sup> quarter, during the 1<sup>st</sup> shift of the 2<sup>nd</sup> quarter of 2023.
10. On or about September 5, 2023, the State surveyor interviewed the Maintenance Director for the facility, who was present when the above deficiencies were identified by the surveyor. The Director admitted that the records reviewed were correct and showed that the facility did not conduct fire drills as required.

### **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.

11. The facts in paragraphs ten (10) through eleven (11) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.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.

12. The facts in paragraphs ten (10) through eleven (11) are sufficient to constitute one (1) violation of Tenn. Comp. R. and Reg. 0720-26-.10 (3)(b) Life Safety, the relevant portion of which reads as follows:

(3) An ACLF shall conduct fire drills in accordance with the following:

(b) There shall be one (1) fire drill per quarter during sleeping hours

#### **IV. REPRESENTATIONS OF RESPONDENT**

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

14. 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.

15. 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.

16. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.
17. 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.
18. 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:


19. Respondent is hereby assessed one (1) collective Civil Monetary Penalty in the amount of **three-thousand dollars (\$3000.00)**. This CMP is issued for the two deficiencies listed above for failure to conduct the required fire drills and cited on September 5, 2023.
20. Payment shall be submitted to the following address within sixty (60) 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**


21. 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:**

  
\_\_\_\_\_  
Avail At Cleveland  
License No. 520  
Signature of Authorized Representative  
Respondent

CHRIS BECKSTRAND  
Printed Name of Authorized Representative

EXECUTIVE DIRECTOR/OWNER  
Title of Authorized Representative


  
\_\_\_\_\_  
Jeremy Gourley (BPR # 022812)  
Senior Associate General Counsel  
Health Facilities Commission  
665 Mainstream Dr. 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243  
Office: (615) 741-7221  
Fax: (615) 741-7051  
Jeremy.J.Gourley@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 8th day of March, 2024.

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

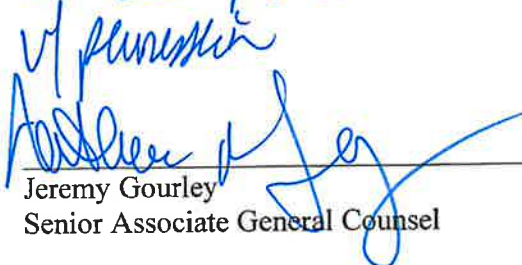
  
\_\_\_\_\_  
Chairperson  
Board for Licensing Health Care Facilities

---

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Avail At Cleveland, c/o Administrator, Christopher Beckstrand, 1400 Stuart Road North East Cleveland, Tennessee 37312, by delivering same in the United States regular mail and United States certified mail, number **7022 3330 0001 2193 9456**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: [cbeckstand@availseniorliving.com](mailto:cbeckstand@availseniorliving.com).

This 8th day of March, 2024.

  
\_\_\_\_\_  
Jeremy Gourley  
Senior Associate General Counsel