

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

In The Matter of:	)	
	)	
Kempton of Hermitage,	)	
Assisted Care Living Facility,	)	
License No. 463,	)	Case No. 2023026961
	)	
Respondent.	)	
	)	
Hermitage, 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 Kempton of Hermitage ("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, Kempton of Hermitage, 3778 Central Pike Hermitage, Tennessee 37076, was licensed by the Board as an ACLF, having been granted

license number 463 on February 21, 2017, which currently has an expiration date of February 20, 2024.

9. On or about June 10 and June 13, 2023, the facility conducted Skin Assessments on Resident #1, noting redness to the resident's buttocks and back. The assessments called for monitoring of the area and use of a cream already in the resident's possession.
10. On or about June 20, 2023, Resident #1 was admitted to the emergency room ("ER") for confusion and decreased oral intake. Among other conditions, hospital staff diagnosed Resident #1 with a sacral pressure ulcer requiring surgical intervention and pressure ulcers on both heels.
11. On or about August 17, 2023, a survey of the facility was completed, resulting in the findings detailed in paragraphs nine (9) and ten (10) above.

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.

12. The facts in paragraphs nine (9) through eleven (11) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 0720-26-.07(7)(a)1, [formerly cited as 1200-08-25-.07(7)(a)1], the relevant portion of which reads as follows:

(7) 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:

1. Protective care[.]

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) Civil Monetary Penalty in the amount of **three thousand dollars (\$3,000.00)**. This CMP is issued for the deficiency identified in paragraph twelve (12) of this order.
20. Payment shall be submitted to the following address within **thirty (30) calendar days** of the effective date of this Order.

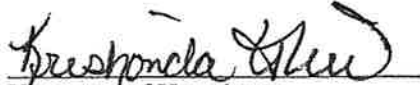
**Tennessee Health Facilities Commission
Attention: Disciplinary Coordinator
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT

ORDER HAS BEEN RATIFIED AND APPROVED BY THE BOARD

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.

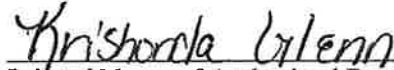
APPROVED FOR ENTRY:



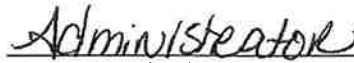
Kempton of Hermitage

License No. 463

Signature of Authorized Representative
Respondent



Printed Name of Authorized Representative



Title of Authorized Representative



Vishan J. Ramcharan (BPR # 034403)

Associate General Counsel

Health Facilities Commission

Office of Legal Services

Andrew Jackson Building, 9th Floor

502 Deaderick Street

Nashville, Tennessee 37243

Office: (615) 741-2364

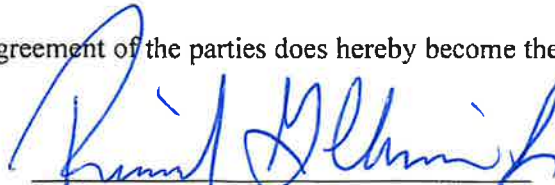
Fax: (615) 741-9884

Email: 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 28th day of August, 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, Kempton of Hermitage, c/o Administrator, Krishonda Glenn, 3778 Central Pike Hermitage, Tennessee 37076, by delivering same in the United States regular mail and United States certified mail, number **7015 3010 0001 8347 5939**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: kglenn@libertyseniorliving.com.

This 28th day of August, 2024.



Vishan J. Ramcharan
Associate General Counsel