

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

IN THE MATTER OF:	)	
	)	
RIVERDALE ASSISTED LIVING	)	
A.C.L.F. LICENSE NO. 370	)	CASE NO. 2022012481
RESPONDENT	)	
	)	
MEMPHIS, 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 **Riverdale Assisted Living**, ("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 independently entered into evidence or introduced as admissions.

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 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. 1200-08-25-.02(7).
4. "Primarily aged" means that a minimum of fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age. Tenn. Comp. R. & Regs. 1200-08-25-.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. 1200-08-25-.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.
8. The Commissioner may suspend admissions pending a prompt hearing before the Board, or an administrative judge if the Board cannot be convened promptly. (Tenn. Code Ann. 68-11-252(b).)
9. Pursuant to Tenn. Code Ann. § 68-11-252(c), the Commissioner shall initiate a suspension of admissions by delivering to the facility or licensee a notice stating the Commissioner's decision to suspend the admissions of new patients. The Commissioner's notice to suspend admissions must:
 - (1) Detail what conditions are considered detrimental to the health, safety, or welfare of the patients;
 - (2) Provide an explanation of the specific time frame when and conditions under which the facility or licensee can reasonably expect the suspension to be lifted; and
 - (3) Be received by the facility or licensee within ten (10) business days of the conclusion of the Department's survey.
10. The Commissioner is authorized, at any time prior to a hearing, based on information presented to the Commissioner showing that such conditions have been and will continue to remain corrected, to revoke the suspension of admissions. Tenn. Code Ann. § 68-11-252(i).

11. During a suspension of admissions pursuant to § 68-11-252, the commissioner shall appoint one (1) or more special monitor, and costs related to the special monitor(s) shall be recoverable in certain circumstances. Tenn. Code Ann. § 68-11-221.

II. STIPULATIONS OF FACT

12. At all times pertinent hereto, Respondent, Riverdale Assisted Living, was licensed by the Board as an assisted care living facility, having been granted license number 00000370 on March 14, 2012, which currently has an expiration date of March 14, 2023.
13. On or about March 13, 2020, the Board entered a Consent Order against the Respondent, placing Respondent's license to operate as an assisted care living facility on probation for one year and requiring Respondent to pay civil monetary penalties totaling sixteen thousand dollars (\$16,000.00), among other discipline. Additionally, in the Consent Order, the Board ratified a provision, which would require a suspension of admissions of new patients at the facility upon any new serious violations affecting the health, safety, and welfare of the facility's residents.
14. On or about May 9, 2020, due to continuing deficiencies, the Commissioner of the Department of Health suspended the admissions of new residents to the facility based on findings of revisit and complaint survey from April 20, 2020, through April 22, 2020, and from April 21, 2020, to April 23, 2020, respectively. The Commissioner also appointed a special monitor pursuant to T.C.A. 68-11-221 and required Respondent to pay the costs associated with that special monitor.
15. On or about July 14, 2020, the Commissioner of the Department of Health lifted (or revoked) the suspension of admissions citing the follow-up survey on June 29, 2020, in which the Commissioner found the facility corrected the previous deficiencies and was in

substantial compliance with all regulatory requirements. Respondent was notified of the costs of the special monitor in a subsequent letter from the Department.

16. On or about July 14, 2021, the Office of Health Care Facilities conducted a life safety survey at the facility, which revealed at least one (1) deficiency. Based on interviews and observations, it was determined that the facility failed to maintain the physical plant.
17. The Department then conducted three follow-up life safety surveys on September 14, 2021, December 3, 2021, and February 15, 2022. Respondent was cited in each of these surveys for the same deficiency cited in the July 14, 2021, survey: Respondent failed to maintain the physical plant.
18. On or about June 9, 2022, the Office of Health Care Facilities conducted a complaint survey at the facility, which revealed several deficiencies.
19. Based on observation and interview, it was determined that the facility failed to provide notification to the Board for change in administrator after the previous administrator's resignation.
20. Based on record review and interview, it was determined that the facility failed to develop and maintain an organized medical record for each resident for services provided for two (2) residents reviewed. One (1) patient expired at the facility without any attempted resuscitation as the facility stated that the resident had "do not resuscitate" orders (DNR). However, the facility failed to provide a record for the surveyor to review. Due to the lack of records, the surveyor never determined the diagnoses and/or cause of death and never confirmed that the resident had a DNR order when, in fact, the resident's family member confirmed that the resident should have been resuscitated.

III. GROUND FOR DISCIPLINE

The facts in the 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 paragraph sixteen (16) and seventeen (17) are sufficient to constitute violations of Tenn. Comp. R. and Reg. 1200-08-25-.09(1), the relevant portion of which reads as follows:

- (1) An ACLF shall conduct, arrange, and maintain the condition of the physical plant and the overall ACLF living facility environment in such a manner that the safety and well-being of residents are assured.

22. The facts in paragraph eighteen (18) through twenty (20) are sufficient to constitute a violation of Tenn. Comp. R. and Reg. 1200-08-25-.12(1), the relevant portion of which reads as follows:

- (1) An ACLF shall develop and maintain an organized record for each resident and ensure that all entries shall be written legibly in ink, typed, or kept electronically, and signed, and dated.

IV. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

23. Respondent's license to operate as an ACLF shall be and is hereby **PLACED ON INACTIVE STATUS**, beginning the effective date of this Order.

24. Respondent's license shall be on **INACTIVE** status for a period of **one (1) calendar year** from the effective date of this Order. If the Respondent wishes to extend the period of inactive status beyond one (1) calendar year, Respondent must petition the Board to extend its inactive status at a regularly scheduled Board meeting.

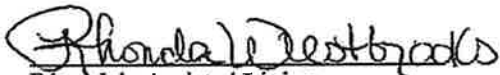
25. Respondent shall pay the outstanding civil monetary penalties totaling sixteen thousand dollars (\$16,000.00), within **one hundred twenty (120) calendar days** of the effective date of this Order. Payment shall be submitted to the following address.

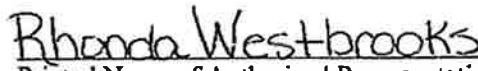
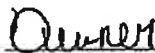
Tennessee Health Facilities Commission
Attention: Licensure and Regulation
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243

26. Respondent **SHALL** appear before the Board before the license may be returned to an active status. At the board meeting, Respondent must provide evidence to the Board's satisfaction that all deficient practices have been remedied.
27. Respondent **SHALL** be responsible for any renewal fees due during the period of inactive status. If renewal fees are not paid, the license shall be placed in an expired status.
28. Respondent **SHALL NOT** accept any new residents until after the Board has approved the reactivation of the license.
29. Respondent **SHALL** immediately facilitate the safe transfer of its residents to appropriately licensed facilities, or to a location chosen by the patient or patient's representative. All residents must be removed from the facility by November 4, 2022. If there is a delay in a resident obtaining insurance benefits, the removal date may be extended, after proof of the benefit delay is submitted and approved by the Commission licensure staff.
30. Respondent **SHALL** grant immediate access to the facility to the Health Facilities Commission, Commission surveyors, the State and District Ombudsman Offices, and Aging Commission of the Mid-South to conduct benefit assessments.
31. Respondent **SHALL** provide, in writing, the name and contact information of the individual who shall hold **daily calls** with Board administrative staff. These daily calls shall be to assist with the safe removal of the residents.

32. Respondent **SHALL** have a monitor, approved by the Health Facilities Commission Director of Licensure, placed in the facility and shall remain in the facility until each and every resident is transferred to an appropriate and licensed facility. The cost of the monitor shall be billed to the Respondent.
33. Respondent **SHALL** submit a final report to the Board's administrative staff detailing the safe placement of each resident that resided in the facility on or after September 14, 2022.

APPROVED FOR ENTRY:


Rhonda Westbrook
Riverdale Assisted Living
ACLF Lic. No. 370
Signature of Authorized Representative
Respondent


Rhonda Westbrook
Printed Name of Authorized Representative

Owner
Title of Authorized Representative


Nathaniel Flinchbaugh (BPR # 034233)
Deputy General Counsel
Health Facilities Commission
665 Mainstream Dr. 2nd Floor
Nashville, Tennessee 37243
(615) 741-7221

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 22nd day of November, 2022.

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

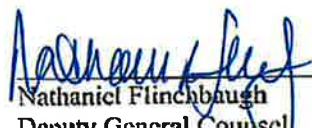


Chairperson
Board for Licensing Health Care Facilities

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Riverdale Assisted Living, c/o Rhonda Westbrook, 6880 East Raines Road, Memphis, Tennessee 38115, by delivering same in the United States regular mail and United States certified mail, number **7021 2720 0000 2319 2334**, return receipt requested, with sufficient postage thereon to reach its destination.

This 22nd day of November, 2022.



Nathaniel Flinchbaugh
Deputy General Counsel