

**BEFORE THE TENNESSEE BOARD
FOR LICENSING HEALTH CARE FACILITIES**

IN THE MATTER OF:

**Martin-Boyd Christian Home
6845 Standifer Gap Road
Chattanooga, TN 37421**

ACLF License #00000177

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CASE # 201804939

CONSENT ORDER

This matter came to be heard before the Tennessee Board for Licensing Health Care Facilities (hereinafter "the Board") on the 5th day of February, 2019, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and **Martin-Boyd Christian Home** (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 of Health ("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, Martin-Boyd Christian Home, 6845 Standifer Gap Road, Chattanooga, TN 37241 has been licensed as an Assisted-Care Living Facility by the Board, having been issued license number 00000177 on December 15, 1999. Respondent has an active license with an expiration date of September 14, 2019.

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2. On or about September 20, 2018, surveyors conducted a licensure and complaint survey on the Respondent facility. During this survey, the surveyors observed violations of state laws and regulations resulting in endangerment to the health, safety and welfare of residents.
3. Surveyors observed Caregiver #1, who is not a licensed nurse, administering medications to Residents #12, #13, #14, #15, and #16 without a licensed nurse being present. Unlicensed caregivers also performed all blood sugar checks, instead of nursing staff.
4. Interview with the Director of Operations confirmed that unlicensed staff administered medication, biologicals, and performed blood glucose monitoring.
5. Resident #5 was admitted to the facility in February 2016 with diagnoses of Alzheimer's, myasthenia gravis, and heart blockages. Resident #5 was admitted to hospice in August 2018. The facility failed to obtain a letter from Resident #5's treating physician certifying that hospice care could be appropriately provided at the facility.
6. The facility failed to document pictures of residents #1, 2, 3, 6, 7, 8, and 9 in their personal records.
7. Resident #11 was admitted to the facility in August 2013 with a diagnosis of dementia. In October 2015, Resident #11 developed excoriation, a skin tear, and a skin tag. Resident #11's care plan was not revised to include care of the excoriation until November 2016, approximately thirteen (13) months later.
8. The facility also failed to notify Resident #11's family and Power of Attorney of the changes in Resident #11's condition.
9. Interview with the Director of Operations confirmed that the facility failed to update Resident #11's care plan to reflect her current condition and failed to notify Resident

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#11's family/Power of Attorney of the changes in her condition.

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.

10. The facts stated in paragraphs three (3) and four (4) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.07(5)(b)[Services Provided], the relevant portion of which reads as follows:

(5) Resident medication. An ACLF shall:

(b) Ensure that all drugs and biologicals shall be administered by a licensed professional operating within the scope of the professional license and according to the resident's plan of care.

11. The facts stated in paragraph five (5) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.08(5)(a)[Admissions, Discharges, and Transfers], the relevant portion of which reads as follows:

(5) An ACLF resident qualifying for hospice care shall be able to receive hospice care services and continue as a resident if the resident's treating physician certifies that such care can be appropriately provided in the ACLF.

(a) In the event that the resident is able to receive hospice services in an ACLF, the resident's hospice provider and the ACLF shall be jointly responsible for a plan of care that is prepared pursuant to current hospice guidelines promulgated by the Centers for Medicaid and Medicare and ensures both the safety and well-being of the resident's living environment and provision of the resident's health care needs.

12. The facts stated in paragraph six (6) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(2)(a)[Resident Records], the relevant portion of which reads as follows:

(2) Personal record. An ACLF shall ensure that the resident's personal record includes at a minimum the following:

(a) Name, Social Security number, veteran status and number, marital status, age, sex, any health insurance provider and number, including Medicare and/or Medicaid number, and photograph of the resident.

13. The facts stated in paragraphs seven (7) and nine (9) are sufficient to establish that Respondent has violated the provisions of Rule 1200-08-25-.12(5)(a)[Resident Records], the relevant portion of which reads as follows:

(5) Plan of Care.

(a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident's legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above-appropriate individuals.

ORDER

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

14. The assessment of four (4) civil monetary penalties in the amount of five hundred dollars (\$500.00) each for a total assessment of two thousand dollars (\$2,000.00) in civil monetary penalties.

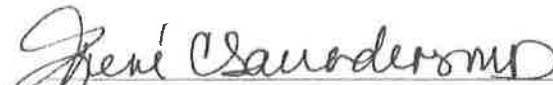
Payment shall be submitted to the following address within thirty (30) days of the effective date of this Order:

**Tennessee Department of Health
Division of Health Care Facilities
Attn: Eddie J. Stewart
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

15. 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 5 day of February, 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:


Steven Everett, Administrator
Martin-Boyd Christian Home
Respondent

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1-24-19
Date



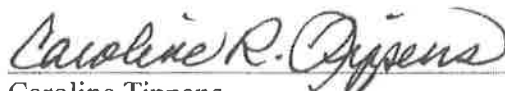
Caroline R. Tippens (BPR #: 030375)
Assistant General Counsel
Department of Health
665 Main Stream Dr., 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

2/5/19
Date

CERTIFICATE OF SERVICE

A true and exact copy of this Consent Order is being served upon Respondent, Martin-Boyd Christian Home, by and through its Administrator, Steven Everett, 6845 Standifer Gap Road, Chattanooga, TN 37421 by delivering same in the United States mail, first class, with sufficient postage thereon to reach its destination and via United States Certified Mail, Return Receipt #s 7218 2290 0001 1403 0248

This 6th day of February, 2019.



Caroline Tippens
Assistant General Counsel

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