

**STATE OF TENNESSEE  
BEFORE THE HEALTH FACILITIES COMMISSION**

<b>In The Matter of:</b>	)	
	)	
<b>Vitality Living Hendersonville, Assisted Care Living Facility, License No. 321,</b>	)	
	)	<b>Case No. 2023032531</b>
<b>Respondent.</b>	)	
	)	
<b>Hendersonville, Tennessee</b>	)	

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**CONSENT ORDER**

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This matter came to be heard before the Tennessee Health Facilities Commission (“Commission”), by and through the Office of Legal Services, and Vitality Living Hendersonville (“Respondent”) that the Commission 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 Commission is empowered 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 childcare centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, and traumatic brain injury residential homes. T.C.A. § 68-11-202(a)(1).
2. The Commission has the authority to conduct reviews of all facilities licensed under this part in order to determine compliance with fire and life safety code rules as promulgated by the Commission. T.C.A. § 68-11-202(b)(1)(A).

3. “Assisted-care living facility” (“ACLF”) means 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 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. 0720-26-.02(34).
5. An assisted-care living facility 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 Commission 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, Vitality Living Hendersonville, 419 East Main Street Hendersonville, Tennessee 37075, was licensed by the Commission as an ACLF, having been granted license number 321 on April 20, 2012, which currently has an expiration date of April 20, 2027.
9. On or about October 9, 2023, a survey of the facility was completed resulting in deficiencies being cited for failure to document plans and procedures to show evacuation

- of all residents, failure to adopt a written fire control plan, and failure to conduct required fire drills during sleeping hours.
10. On or about October 9, 2023, state surveyors observed the facility failed to properly evacuate all residents during a fire drill. Specifically, facility staff marked the room of Resident #1 as evacuated while leaving the resident in the room.
  11. On or about October 9, 2023, the facility failed to provide an acceptable written fire control plan. Specifically, the fire control plan provided by the facility did not include required procedures for minor or major fires, fighting the fire, specific evacuation procedures, and specific staff functions during a fire.
  12. On or about October 9, 2023, the facility failed to conduct a fire drill during 3<sup>rd</sup> shift sleeping hours during the 3<sup>rd</sup> quarter of 2023.

### **III. GROUNDS FOR DISCIPLINE**

The facts in Section II, *supra*, 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 Commission is authorized.

13. The facts in paragraphs ten (10) and eleven (11) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.08(7), the relevant portion of which reads as follows:  

(7) An ACLF shall have documented plans and procedures to show evacuation of all residents.
14. The facts in paragraphs ten (10) and eleven (11) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.10(2)(c), the relevant portion of which reads as follows:  

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

(c) Adopt a written fire control plan.

15. The facts in paragraph twelve (12) are sufficient to constitute a violation of Tenn. Comp. R. and Regs. 0720-26-.10(3)(b), the relevant portion of which reads as follows:

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

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

16. Respondent understands and admits the allegations, charges, and stipulations in this Order.
17. 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.
18. Respondent agrees that presentation of this Order to the Commission and the Commission's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Commission 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.
19. Respondent agrees that facsimile/PDF copies of this Order, including facsimile/PDF signatures thereto, shall have the same force and effect as originals.

20. Respondent also agrees that the Commission may issue this Order without further process. If the Commission rejects this Order for any reason, it will be of no force or effect for either party.
21. 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:

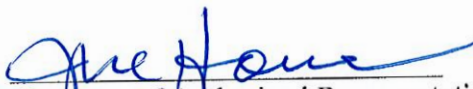
22. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)** for the violation(s) identified in paragraph thirteen (13), above.
23. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)** for the violation(s) identified in paragraph fourteen (14), above.
24. Respondent is hereby assessed one (1) Civil Monetary Penalty in the amount of **five hundred dollars (\$500.00)** for the violation(s) identified in paragraph fifteen (15), above.
25. The total assessed CMP amount is one thousand, five hundred dollars (\$1,500.00).
26. 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  
Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, Tennessee 37243**

**PLEASE DO NOT REMIT PAYMENT UNTIL THE CONSENT ORDER HAS  
BEEN RATIFIED AND APPROVED BY THE COMMISSION**

27. 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:**

  
Signature of Authorized Representative  
Vitality Living Hendersonville  
License No. 321  
Respondent

  
Printed Name of Authorized Representative

  
Title of Authorized Representative

Vishan J. Ramcharan (BPR # 034403)  
Senior Associate General Counsel  
Health Facilities Commission  
Office of Legal Services  
Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, Tennessee 37243  
Office: (615) 741-2364  
Fax: (615) 741-9884  
Email: vishan.j.ramcharan@tn.gov

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**Approval by the Commission**

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 Health Facilities Commission at a public meeting of the Commission and signed this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

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

\_\_\_\_\_  
Chairperson  
Health Facilities Commission

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Vitality Living Hendersonville, c/o Administrator, Sheri Gibson, 419 East Main Street Hendersonville, Tennessee 37075, and Vitality Living Hendersonville, Kristie Gilmore, owner, WCP Hometown Hendersonville, LLC, 5500 Maryland Way, Suite 320, Brentwood, Tennessee 37027 by delivering same in the United States regular mail and United States certified mail, numbers **7020 0640 0001 4807 0724** and **7020 0640 0001 4807 0731**, return receipts requested, with sufficient postage thereon to reach its destination. A copy was sent via electronic mail to: [becton@myvitalityliving.com](mailto:becton@myvitalityliving.com).

This \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Vishan J. Ramcharan  
Senior Associate General Counsel