

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

<b>In The Matter of:</b>	)	
	)	
<b>VICTORIAN SQUARE ASSISTED LIVING</b>	)	<b>Case No.: 2024007891</b>
<b>A.C.L.F. LIC. NO. 147</b>	)	
<b>RESPONDENT</b>	)	
	)	
<b>ROCKWOOD, TN</b>	)	

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**ORDER OF SUMMARY SUSPENSION**

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This cause came to be heard on the 8<sup>th</sup> day of March, 2024, at a public disciplinary meeting, before the Tennessee Board for Licensing Health Care Facilities (“Board”), upon the application of the Tennessee Health Facilities Commission and the Office of Legal Services (“State”), for a summary suspension of Respondents’ license pursuant to Tennessee Code Annotated Section (“T.C.A. §”) 4-5-320(c).

**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.
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 regulations promulgated by the Board. T.C.A. § 68-11-202(b)(1)(A).

3. “Assisted-care living facility (ACLF)” means 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. 0720-26-.02(7).
4. 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).
5. Each violation of any statute, rule or order enforceable by the Board shall constitute a separate and distinct offense and may render the ACLF committing the offense subject to a separate penalty for each violation. Tenn. Comp. R. & Reg. 0720-26-.05(6).
6. The Board has the authority to suspend or revoke the license of any facility licensed under T.C.A. § 68-11-201(18).
7. No revocation, suspension, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct that warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare **imperatively requires emergency action**, and incorporates a finding to that effect in its order, summary action, **including suspension of a license** or other licensure restriction or action as may be appropriate to protect the public, may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. T.C.A. § 4-5-320(c).

## II. FINDINGS OF FACT

8. At all times pertinent hereto, Respondent, Victorian Square Assisted Living, was licensed by the Board as an assisted-care living facility (A.C.L.F.) in the State of Tennessee, having been granted license number 147 on February 17, 1999, which expires on April 26, 2024.
9. On February 26, 2024, Rockwood Electric Utility sent notice to the Commission that Respondent's electric services would be terminated on March 30, 2024, due to non-payment. The amount due and owing at the end of February was thirty-six thousand five hundred forty-six dollars and sixty-two cents (\$36, 546.62).
10. On February 28, 2024, the Commission received a notice from Rockwood Water, Sewer and Gas Board indicating the Respondent's services would terminate on March 30, 2024, due to non-payment. The amount due and owing at the end of February was thirty-five thousand nine hundred eighty-five dollars and forty-four cents (\$35,985.44).
11. Commission Surveyors entered the facility on or about February 21, 2024, and the following:
  - a. Pest control services have been discontinued due to non-payment and there is currently bed bugs several rooms in the facility.
  - b. Bio-hazard disposal has been discontinued due to non-payment and all bio-hazard material is currently being stored in various places around the building.
  - c. As of March 5, 2024, no Notice to Vacate has been provided to the residents.
12. Respondent was served a Notice of Default by the landlord on January 12, 2024, that would require compliance with the terms of the lease of the physical space or the

landlord would take additional action. On February 27, 2024, the Chamberlin Memorial Board voted to issue a 60-day Notice to Vacate.

13. Respondent's lease of the physical building was terminated via Notice of Lease Termination and Notice to Vacate issued on March 4, 2024.

### **III. CONCLUSIONS OF LAW**

The facts listed above are sufficient to establish that grounds for the discipline of Respondent's license exist. Specifically, Respondent has violated the following statutes and/or rules, for which disciplinary action by the Board is authorized:

14. The facts in paragraphs nine (9) through eleven (11) are sufficient to constitute a violation of Tenn. Comp. R. and Reg.0720-26-.06(5)(c), the relevant portion of which reads as follows:

An ACLF and its employees shall adopt and utilize standard precautions in accordance with guidelines established by the Centers for Disease Control and Prevention (CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program.

15. The facts in paragraph eleven (11) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.11, the relevant portions of which reads as follows:

(1) An ACLF must develop, maintain and implement written policies and procedures for the definition and handling of its infectious waste. These policies and procedures must comply with the standards of this rule.

(4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.

(6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons.

16. The facts in paragraphs nine (9) through thirteen (13) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.10, the relevant portion of which reads as follows:

- (10) An ACLF shall maintain its physical environment in a safe, clean and sanitary manner by doing at least the following:
  - (a) Prohibit any condition on the ACLF site conducive to the harboring or breeding of insects, rodents or other vermin; and
  - (f) Maintain the building and its heating, cooling, plumbing and electrical systems in good repair and in clean condition at all times.

17. The facts in paragraphs nine (9) through twelve (12) are sufficient to constitute violations of Tenn. Comp. R. and Reg.0720-26-.14, the relevant portion of which reads as follows:

- (1) An ACLF shall ensure at least the following rights for each resident:
  - (g) To be given thirty (30) days written notice prior to transfer or discharge, except when any physician orders the transfer because the resident requires a higher level of care

#### IV. POLICY STATEMENT

The summary suspension statute requires a showing that protection of “public health, safety, or welfare imperatively requires emergency action.” T.C.A. § 4-5-320(c). Respondent’s **failure to maintain essential services, such as electricity, water, gas, biohazardous material disposal, and pest control** constitute an immediate threat to the public health, safety, and welfare. The Board’s position is that the severity of the Respondent’s conduct constitutes a serious threat to the public health, safety, and welfare.

#### V. ORDER

In consideration of the evidence presented, and pursuant to the authority granted under T.C.A. § 4-5-320(c), T.C.A. §§ 68-11-207(a), the Board hereby preliminarily finds that the misconduct of Respondent, **Victorian Square Assisted Living**, are so severe that it

imperatively requires emergency action in order to protect the public health, safety and welfare prior to the initiation of formal disciplinary charges.

It is therefore **ORDERED** that:

18. Respondent's license as an Assisted-Care Living Facility, License No. 147, is hereby **SUMMARILY SUSPENDED**, with the suspension stayed. The license will be placed on **PROBATION**, the effective date of this Order. Within forty-five (45) days of the effective date of this Order, Respondent's license shall be placed on inactive status for one (1) year. Respondent must petition the Commission in writing for an extension of the inactive status.
19. Beginning the effective date of this Order, Respondent **SHALL NOT** accept any new residents.
20. Respondent **SHALL** immediately begin the safe transfer of its residents to appropriate facilities. All residents must be removed from the facility **before termination of the electricity, gas, or water, whichever occurs first.**
21. Respondent **SHALL** grant immediate access to the facility to the Health Facilities Commission and its surveyors, the State and/or District Long-term Care Ombudsman, hospice provider, family, responsible parties, and facility monitor.
22. Respondent **SHALL** provide, in writing, the name and contact information of the individual who shall participate in daily calls with Commission administrative staff. These daily calls shall be to assist with the safe transfer of the residents.
23. Respondent **SHALL** complete a resident roster on the template provided by the Commission. The resident roster must be updated daily, and an updated copy provided to Commission administrative staff before each daily call.

24. Respondent **SHALL** have a monitor, approved by the Health Facilities Commission, placed in the facility and shall remain in the facility until every resident is transferred to an appropriate facility.
25. Respondent **SHALL** submit a final report to the Commission's administrative staff detailing the safe placement of each resident residing in the facility on the effective date of this Order.
26. Respondent **SHALL** be responsible for the costs of any transfers and the cost of any monitoring.
27. Respondent **SHALL** provide trust accounting disclosures to each resident before or contemporaneously with transfer.
28. Respondent **SHALL** notify each hospice provider and the hospice provider must be able to participate in the transfer of any hospice resident to ensure resident safety.
29. Respondent **SHALL** ensure any medically fragile resident is transported in an appropriate mode of transportation, at the Respondent's expense.
30. Respondent **SHALL** ensure resident property, to include medication and medical equipment, is properly inventoried and a copy of the inventory is to be provided to each resident either before or contemporaneously with resident transfer. All resident belongings shall be transferred with dignity.
31. Respondent **SHALL** ensure all bio-hazardous material is properly disposed of in accordance with infectious and regulated waste guidelines. A copy of the paid invoice of removal shall be provided to the Commission.
32. Respondent **SHALL** provide an accounting of all resident funds prior to or contemporaneously with resident transfer. All funds due and owing to each resident must be provided at the time of transfer.

33. Respondent **SHALL** provide each resident a copy of their entire medical record upon transfer.
34. Respondent **SHALL** sterilize any resident belongings against any pests currently in the facility. The sterilization shall be at Respondent's expense and shall be completed before resident transfer.
35. This suspension **SHALL** be effective immediately and shall remain in effect until the conclusion of the contested case hearing against Respondent or until otherwise ordered by the Tennessee Board for Licensing Health Care Facilities, or subsequent licensure entity.
36. Respondent's failure to comply with the terms of this Order shall result in the immediate lifting of the stay of suspension without further action of the Board.
37. 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.

SO ORDERED, this 8th day of March, 2024.



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Chairperson  
Board for Licensing Health Care Facilities

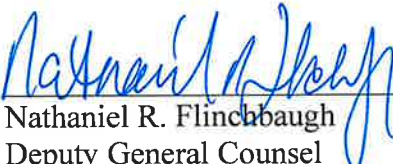


## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Victorian Square Assisted Living,

1. c/o James Gunter, 241 South Chamberlin Avenue, Rockwood, Tennessee 37854,  
by delivering via:
  - a. FedEx, Tracking Number: **7754 3558 9527**
  - b. Electronic mail to: [jgunter@victoriansquare.net](mailto:jgunter@victoriansquare.net),
2. c/o Melissa Martin, Admininstator, 12933 West Highway 42 Prospect, Kentucky 40059, by delivering via:
  - a. FedEx, Tracking Number: **7754 3587 5378**
  - b. Electronic mail to: [Mmartin@victoriansquare.net](mailto:Mmartin@victoriansquare.net)
3. c/o Ralph H. Bellande, 5956 Timber Ridge Drive, Suite 102, Prospect, Kentucky 40059, by delivering via:
  - a. FedEx, Tracking Number: **7754 3601 9854**
  - b. Electronic mail to: [ralphb@rscommunities.com](mailto:ralphb@rscommunities.com); and
  - c. Faxed to (502) 228-1940.
4. c/o Noah Drever, Owner of Victorian Square, LLC
  - a. Electronic mail to: [noah@imprintpg.com](mailto:noah@imprintpg.com)

This 8th day of March, 2024.

  
Nathaniel R. Flinchbaugh  
Deputy General Counsel