



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

August 23, 2018

Cindy Whaley
Liberty Living Inc.
P O Box 1273
Bay City, MI 48706

RE: License #: AS090238876
Investigation #: 2018A0572039
Jefferson House

Dear Mrs. Whaley:

Attached is the Special Investigation Report for the above referenced facility. Due to the violations identified in the report, a written corrective action plan is required. The corrective action plan is due 15 days from the date of this letter and must include the following:

- How compliance with each rule will be achieved.
- Who is directly responsible for implementing the corrective action for each violation.
- Specific time frames for each violation as to when the correction will be completed or implemented.
- How continuing compliance will be maintained once compliance is achieved.
- The signature of the responsible party and a date.

If you desire technical assistance in addressing these issues, please feel free to contact me. In any event, the corrective action plan is due within 15 days. Failure to submit an acceptable corrective action plan will result in disciplinary action.

Please review the enclosed documentation for accuracy and contact me with any questions. In the event that I am not available and you need to speak to someone immediately, please contact the local office at (810) 787-7031.

Sincerely,

A handwritten signature in black ink that reads "Anthony Humphrey". The signature is written in a cursive style with a large, looping flourish at the end.

Anthony Humphrey, Licensing Consultant
Bureau of Community and Health Systems
411 Genesee
P.O. Box 5070
Saginaw, MI 48605
(810) 280-7718

enclosure

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS
SPECIAL INVESTIGATION REPORT**

I. IDENTIFYING INFORMATION

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|---------------------------------------|--|
| License #: | AS090238876 |
| Investigation #: | 2018A0572039 |
| Complaint Receipt Date: | 06/29/2018 |
| Investigation Initiation Date: | 07/02/2018 |
| Report Due Date: | 08/28/2018 |
| Licensee Name: | Liberty Living Inc. |
| Licensee Address: | P O Box 1273 Bay City, MI 48706 |
| Licensee Telephone #: | (989) 892-0247 |
| Administrator: | Cindy Whaley |
| Licensee Designee: | Cindy Whaley |
| Name of Facility: | Jefferson House |
| Facility Address: | 1700 S Jefferson Bay City, MI 48708 |
| Facility Telephone #: | (989) 895-3809 |
| Original Issuance Date: | 12/01/2001 |
| License Status: | REGULAR |
| Effective Date: | 06/01/2018 |
| Expiration Date: | 05/31/2020 |
| Capacity: | 6 |
| Program Type: | PHYSICALLY HANDICAPPED DEVELOPMENTALLY DISABLED MENTALLY ILL |

II. ALLEGATION(S)

| | Violation Established? |
|--|-----------------------------------|
| On 06/22/2018, Staff Tiffany Nickleberry acknowledged an incident report that she had pushed Resident A. It was later reported that when she pushed him, he fell to the floor. | Yes |
| | |

III. METHODOLOGY

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|------------|---|
| 06/29/2018 | Special Investigation Intake 2018A0572039 |
| 06/29/2018 | APS Referral APS was referred by Recipient Rights. |
| 07/02/2018 | Special Investigation Initiated - Letter Complainant. |
| 07/02/2018 | Contact - Document Sent Recipient Rights, Jenelle Steckley. |
| 07/02/2018 | Contact - Document Received Recipient Rights, Jenelle Steckley. |
| 07/02/2018 | Contact - Face to Face Recipient Rights, Jenelle Steckley; APS, Jackie Campbell, Licensee, Cindy Whaley; Staff, Tiffany Nickleberry and Home Manager, Marc Bodrie. |
| 07/02/2018 | Contact - Telephone call made Resident A's Guardian. |
| 07/03/2018 | Contact - Document Received Recipient Rights, Jenelle Steckley. |
| 07/10/2018 | Contact - Face to Face Residents A, B, C, D. |
| 08/20/2018 | Inspection Completed-BCAL Sub. Compliance |
| 08/22/2018 | Exit Conference Licensee, Cindy Whaley. |

ALLEGATION:

On 06/22/2018, Staff Tiffany Nickleberry acknowledged an incident report that she had pushed Resident A. It was later reported that when she pushed him, he fell to the floor.

INVESTIGATION:

On 06/29/2018, the local licensing office received a referral from Recipient Rights.

On 07/02/2018, contact was made with Recipient Rights, Jenelle Steckley. She informed that interviews are scheduled today at 2pm at Liberty Living main office and APS may be present.

On 07/02/2018, contact was made with Recipient Rights, Jenelle Steckley; APS, Jackie Campbell, Licensee, Cindy Whaley; Staff, Tiffany Nickleberry and Home Manager, Marc Bodrie at Liberty Living main office for interviews.

On 07/02/2018, an interview was conducted with Staff, Tiffany Nickleberry regarding allegations that she pushed Resident A and he fell to the floor. Ms. Nickleberry informed that while in the midst of both preparing a meal for the residents and counting medications, Resident A came into the Med Room with an open hand and said that he was going to hit her. Ms. Nickleberry told him "No". Resident A came back later and did the same thing, but she performed the Crisis Prevention Institute (CPI) Technique by holding Resident A's shoulders down, then the other residents yelled out, "No (Resident A)!" Ms. Nickleberry was not certain as to what set Resident A off on this day. When asked about Resident A's Behavioral Plan, she wasn't sure if he had one. Ms. Nickleberry was asked how did Resident A fall. She stated, "I had my hands on his shoulders and he may have stumbled backwards, but he never fell down." Ms. Nickleberry informed that Resident A has something against women as he follows her everywhere she goes in the home, except for the bathroom. Ms. Nickleberry indicated that Resident A called his Guardian and she spoke with the Guardian. The Guardian was very apologetic and said that he was sorry. Resident A has a history of being aggressive as he tries to attack all the time. The Home Manager, Marc Brodie has to talk to him in order to calm him down. Resident A responds to the Mr. Brodie, but she's not sure if it's because he's a male or if its because he's the Home Manager. After the incident, the Guardian told Resident A over the phone to go to his room and he complied. Ms. Nickleberry informed that Resident A is a Jehovah Witness and has said that he believed that women are beneath him.

On 07/02/2018, an interview was conducted with Home Manager, Marc Brodie regarding allegations that Staff Tiffany Nickleberry acknowledged an incident report that she had pushed Resident A, but it was later reported that when she pushed him, he fell to the floor. Mr. Brodie informed that he was not there when it happened, but received a call from Staff, Tiffany Nickleberry informing him that Resident A got into her personal space while she was in the process of passing medications. Mr. Brodie informed that to his understanding, Ms. Nickleberry put her hands out in front of her

because Resident A was within inches of her personal space and she put her arms out because she did not want to make a mistake with the medications. Mr. Brodie informed that he called Resident A's Guardian to let him know what happened because that was part of the plan when they decided to bring Resident A back to the facility. There was a discussion during the meeting that Resident A is Jehovah Witness and does not see women as being equals or as authoritative figures. Mr. Brodie does not have any issues with Resident A, nor does any of his other staff. When informed that he signed the Incident Report which indicated that Staff, Ms. Nickleberry pushed Resident A, but he did not make a Recipient Rights Complaint, he informed that to his understanding, the word 'push' meant that she put her hands out to keep Resident A from getting any closer to her. Mr. Brodie was asked what CPI method he would utilize if he was in that situation, he informed that he would try to go in the opposite direction, but since they were in the Med Room, there's not much space, so he would have to tried to block him. Mr. Brodie was informed that the Incident Report did not mention that Resident A had fallen. Mr. Brodie indicated that he didn't write a Recipient Rights complaint because he wanted to get some more clarification due to the incident occurring on a Friday evening and he read and signed the Incident Report on Monday. Mr. Brodie informed that he did speak with Resident A's Guardian when the guardian called him on his personal phone.

On 07/02/2018, phone contact was made with Resident A's Guardian regarding allegations that Staff Tiffany Nickleberry pushed Resident A, but it was later reported that when she pushed him, he fell to the floor. Resident A's Guardian informed that Resident A called him indicating that he needed help. That's Resident A's way of alerting him that something is wrong. Resident A's Guardian informed that he can't pinpoint what happened but acknowledge that this is something that has been going on for a very long time. Resident A has a history of having issues with staff. Resident A's Guardian informed that Resident A did not tell him what happened, but a couple days prior to the incident, Resident A called him and he was very shaky. He could hear someone in the background yelling and slamming the cupboards. He indicated that he could hear very well and could tell that it was an African-American woman. Resident A called her the N-Word because of something regarding dinner. When he spoke with Resident A about the incident which occurred on 06/22/2018, Resident A kept stating, "Come get me". Resident A's Guardian then asked him what he did, and Resident A replied, "I hit her two times and she pushed me to the ground." Resident A's Guardian informed that it's hard to know because he will hold on to things from the past. Resident A's Guardian informed that when he spoke with Ms. Nickleberry, she informed that she pushed Resident A and he slipped and fell. Resident A then got up and came after her, then she ran.

On 07/02/2018, I read a copy of the Incident Report. It indicates that on 06/22/2018 at 4:15pm, Staff, Tiffany Nickleberry was sitting at the desk working with another resident and preparing dinner when Resident A came towards her and attempted to hit her in the face and she defended herself by pushing him away. Ms. Nickleberry proceeded to call the Home Manager. The Home Manager spoke with Resident A and then the Home Manager instructed Ms. Nickleberry to contact the guardian.

The Home manager followed up with Resident A's Guardian and the guardian spoke with Resident A in regard to appropriate behavior.

On 07/03/2018, I received a faxed copy of the CPI Training Manual. There were no 'Push Techniques' noted in the manual. The techniques identified were various blocks and release techniques. There were also other verbal (Tone, volume and cadence of voice) and nonverbal (Personal space, body posture and motion) techniques identified depending on what form of aggressive behavior (Verbal or physical) the resident is displaying at the time and what Levels of Crisis Development (Anxiety Level, Defensive Level, Acting-Out Person Level or Tension Reduction Level) the situation is at.

On 07/10/2018, an unannounced onsite was made at Jefferson House AFC, located in Bay County, Michigan. Present were, Residents A, B, C & D.

On 07/10/2018, Resident A was in a Behavioral Plan meeting at Jefferson House AFC with Case Manager and Home Manager.

On 07/10/2018, I interviewed Resident B regarding an incident involving Resident A and Staff, Tiffany Nickleberry. Resident B recalls the incident and informed that he was sitting at the table when it occurred. Ms. Nickleberry told Resident A to back off and to get away from her. Resident A had lifted his hands up and was walking towards her. Resident B never saw Resident A's hand fisted but observed Resident A's hands up. When Resident A got close, she pushed him with both hands and he fell on his back. Resident A then stated, "You hurt me, you hurt me." Ms. Nickleberry then told him to just get up off the floor and go sit down. Resident A informed that he believes that Ms. Nickleberry is scared of Resident A because he has mental issues, slow talking, confused and doesn't know where he's at. Resident B informed that there was some conversation prior to the incident, but he couldn't hear what was being said.

On 07/10/2018, I interviewed Resident C regarding an incident involving Resident A and Staff, Tiffany Nickleberry. Resident C informed that Resident A and Staff, Ms. Nickleberry got into it. Resident C was in the kitchen getting coffee and that's when he heard a loud bang. It came from Resident A falling to the floor. Resident C informed that he did not see how he fell to the floor but heard Resident A and Ms. Nickleberry yelling at each other. Resident C indicated that he heard Ms. Nickleberry state, "Don't hit me", but then when he turned around, Resident A was on the floor. Resident C informed that he has never seen Ms. Nickleberry push a resident before.

On 07/10/2018, I interviewed Resident D regarding an incident involving Resident A and Staff, Tiffany Nickleberry. Resident D informed that she observed Resident A getting closer and closer to Ms. Nickleberry with his hands open, attempting to slap her. She then pushed him and he fell to the floor. Resident D informed that Resident A does not like Ms. Nickleberry because she's black. Resident D indicated

that Ms. Nickleberry didn't want to push Resident A, but he was within inches of her and she had no choice but to push him out of her way. Resident D believes that Ms. Nickleberry was scared because she's a smaller woman. Resident D informed that Resident A is very shaky, so when she pushed him, he fell hard, even though she didn't push him very hard. Resident D stated, "I hope she doesn't get fired because she is a good worker and we all love her. It wasn't right that she pushed him, but she was scared and I'm not sure what else she was supposed to do. I honestly think it was just her reflexes that led her to push him out of her way."

| APPLICABLE RULE | |
|------------------------|--|
| R 400.14308 | Resident behavior interventions prohibitions. |
| | (2) A licensee, direct care staff, the administrator, members of the household, volunteers who are under the direction of the licensee, employees, or any person who lives in the home shall not do any of the following: (b) Use any form of physical force other than physical restraint as defined in these rules. |
| ANALYSIS: | There was an incident between Staff, Tiffany Nickleberry and Resident A. Resident C informed that he heard them yelling at each other back and forth. All residents interviewed indicates that they either observed Resident A get pushed to the floor or they observed him after he fell to the floor after arguing with Ms. Nickleberry. Ms. Nickleberry also informed Resident A's Guardian that she pushed Resident A and he fell. Ms. Nickleberry indicated that she performed the Crisis Prevention Institute (CPI) Technique by holding Resident A's shoulders down. This technique is not in the CPI Technique Manual. |
| CONCLUSION: | VIOLATION ESTABLISHED |

| APPLICABLE RULE | |
|------------------------|--|
| R 400.14308 | Resident behavior interventions prohibitions. |
| | (2) A licensee, direct care staff, the administrator, members of the household, volunteers who are under the direction of the licensee, employees, or any person who lives in the home shall not do any of the following: (b) Use any form of physical force other than physical restraint as defined in these rules. |

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| ANALYSIS: | Verbal confrontation and/or being physical with residents are not techniques described in CPI Training. Staff, Ms. Nickleberry pushed Resident A to the ground instead of utilizing non-verbal cues or attempting to calm the situation. Ms. Nickleberry also informed that she was not aware if Resident A had a Behavioral Plan. |
| CONCLUSION: | VIOLATION ESTABLISHED |

On 08/22/2018, an Exit Conference was held with Licensee, Cindy Whaley regarding the findings of the investigation.

IV. RECOMMENDATION

I recommend no change be to the licensing status of this small adult foster care group home pending the receipt of an acceptable corrective action plan.



08/22/2018

Anthony Humphrey
Licensing Consultant

Date

Approved By:



08/23/2018

Mary E Holton
Area Manager

Date