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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

February 10, 2023

Michael Kirby
Kirby's Adult Foster Care Services Inc.
2285 E. Lily Lake
Harrison, MI 48625

RE: License #: AS670411558
Investigation #: 2023A0870021
Salutary AFC

Dear Mr. Kirby:

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 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 (231) 922-5309.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce A. Messer". The signature is fluid and cursive, with the first name "Bruce" being the most prominent.

Bruce A. Messer, Licensing Consultant
Bureau of Community and Health Systems
Suite 11
701 S. Elmwood
Traverse City, MI 49684
(231) 342-4939

enclosure

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

I. IDENTIFYING INFORMATION

License #:	AS670411558
Investigation #:	2023A0870021
Complaint Receipt Date:	02/02/2023
Investigation Initiation Date:	02/02/2023
Report Due Date:	03/04/2023
Licensee Name:	Kirby's Adult Foster Care Services Inc.
Licensee Address:	2285 E. Lily Lake Harrison, MI 48625
Licensee Telephone #:	(989) 430-8061
Administrator:	Michael Kirby
Licensee Designee:	Michael Kirby
Name of Facility:	Salutary AFC
Facility Address:	21075 One Mile Rd. Reed City, MI 49677
Facility Telephone #:	(231) 832-5016
Original Issuance Date:	05/11/2022
License Status:	REGULAR
Effective Date:	11/11/2022
Expiration Date:	11/10/2024
Capacity:	6
Program Type:	DEVELOPMENTALLY DISABLED MENTALLY ILL

II. ALLEGATION(S)

	Violation Established?
Resident A is being emotionally abused, humiliated, threatened, yelled at, and intimidated by the home manager Tammy Holmes.	Yes
Home manager Tammy Holmes has threatened to isolate Resident A from visitors, including her family members.	Yes
Resident A's physician had ordered X-Rays be taken on Resident A during an October 27, 2022, doctor appointment. The X-Rays were not completed.	Yes

III. METHODOLOGY

02/02/2023	Special Investigation Intake 2023A0870021
02/02/2023	APS Referral Referral made to Michigan Department of Health and Human Services, Centralized Protective Services intake unit.
02/02/2023	Special Investigation Initiated - Telephone Telephone call to Licensee Designee Mike Kirby.
02/02/2023	Contact - Telephone call made Telephone call to Community Mental Health for Central Michigan, Office of Recipient Rights.
02/03/2023	Inspection Completed On-site Interview with Mr. Kirby and facility staff.
02/08/2023	Contact - Telephone call received Case discussion with CMHCM ORR Jane Gilmore.
02/08/2023	Contact - Telephone call made Telephone interviews conducted with facility staff members.
02/09/2023	Inspection Completed-BCAL Sub. Compliance

ALLEGATION: Resident A is being emotionally abused, humiliated, threatened, yelled at, and intimidated by the home manager Tammy Holmes.

INVESTIGATION: On February 2, 2023, I made telephone referrals to the Michigan Department of Health and Human Services, Protective Services Centralized Intake unit, and to the Community Mental Health for Central Michigan, Office of Recipient Rights. I provided each with the above stated allegations for their consideration.

On February 2, 2023, I spoke with Licensee Designee Michael Kirby by telephone. I informed him of the above stated allegations. Mr. Kirby stated he was informed of Ms. Holmes behaviors towards Resident A in December 2022, by other facility staff members. As a result he terminated Ms. Holmes employment with his company shortly thereafter. I requested Mr. Kirby meet with me at the facility the following day to further discuss these allegations.

On February 3, 2023, I conducted an on-site special investigation at the Salutory AFC home and met with Mr. Kirby. He stated that he was made aware of Ms. Holmes actions towards Resident A as well as her treatment of staff members, and terminated her employment shortly thereafter, in Mid December 2022. He stated he informed the Recipient Rights office at CMHCM of his actions and the reasons behind Ms. Holmes termination. Mr. Kirby provided the names of staff who were working at the facility at the time of, or prior to, Ms. Holmes termination. He noted that Resident A is autistic and Intellectual Development Disorder, commenting that interviewing her would potentially be very upsetting for her.

On February 3, 2023, I conducted a private interview at the facility with staff member Priscilla Cook. Ms. Cook stated that she observed Ms. Holmes “poke” and “antagonize” Resident A. She noted Ms. Holmes was “very sarcastic” and “rude” with Resident A and she heard Ms. Holmes tell Resident A, “you stink, go take a shower.” Ms. Cook stated that Ms. Holmes said things to Resident A in a way that Resident A would not understand, but others would take her comments as “offensive.” She noted that Ms. Holmes purposely sat in a spot on the couch that Resident A liked to sit, “just to upset (Resident A).” Ms. Cook also recounted an event when she, “put (Resident A) down” hurting her feelings, after Resident A dyed her hair. Ms. Cook stated she could not remember the exact words Ms. Holmes used towards Resident A but recalled that, “it was a put down.”

On February 3, 2023, I conducted a private interview at the facility with staff member Faith Susanka. Ms. Susanka stated she has witnessed Ms. Holmes “emotionally abuse (Resident A).” She stated that Ms. Holmes was “rude” and “disrespectful” towards Resident A and “started fights with her.” Ms. Susanka noted that Ms. Holmes purposely did “things” to irritate Resident A such as toss her books on the floor, not let her use an outlet to charge her tablet, sit in a spot on the couch that Resident A temporarily vacated and “nit-pick” her. She also noted Ms. Holmes “yelled” at Resident A which would cause Resident A to “have behaviors.” Ms. Susanka noted she felt Ms. Holmes was “very aggressive” towards Resident A. She stated that on multiple occasions Ms. Holmes threatened to take away Resident A’s ability to watch TV “if she didn’t behave” and purposely trigger Resident A into having a “behavior” in front of the other residents knowing they would laugh at

Resident A, further upsetting her. Ms. Susanka stated she has observed Ms. Holmes tell Resident A that her breath stinks and her teeth look bad, and “mocked and mimicked” Resident A.

On February 8, 2023, I conducted a telephone interview with staff member Aurora Ault. Ms. Ault stated she had observed Resident A being, “yelled and screamed at” by Ms. Holmes, “many times.” She recalled that when Resident A dyed her hair, Ms. Holmes “was so mean to (Resident A)” and called her “ugly” and it was “stupid that she did that to her hair.” Ms. Ault also noted an occasion when Ms. Holmes “ripped” Resident A’s headphones off her head, and times when Ms. Holmes would put her finger in Resident A’s face “screaming and threatening” Resident A. Ms. Ault noted that it was “an everyday thing” for Ms. Holmes to scream at Resident A. She noted that Resident A would “shake and cry” because it was upsetting to her to be screamed at by Ms. Holmes. Ms. Ault stated she heard Ms. Holmes yell, “I’ll come unglued on you.” She noted this comment was directed at Resident A.

On February 8, 2023, I conducted a telephone interview with staff member Gabrielle White. Ms. White stated she observed Ms. Holmes “rip headphones off of (Resident A’s) head and yell at her.” She further noted that Ms. Holmes covered a power outlet with tape, “just so (Resident A) could not use it.” Ms. White stated there was no reason to cover the outlet. She stated Ms. Holmes would “provoke and push (Resident A’s) buttons” on purpose, “just to upset her.” Ms. White noted a time when Resident A dyed her hair blue, Ms. Holmes told her it didn’t look good, that she looks like a smurf. She stated these comments upset Resident A and caused her to “have a behavior.”

On February 8, 2023, I conducted a telephone interview with staff member Vicky Maguire. Ms. Maguire stated she has observed Ms. Holmes “mistreat” Resident A “multiple times.” She noted the mistreatment began when Resident A was admitted to the facility and occurred, “at least a dozen times since.” Ms. Maguire stated that Ms. Holmes would purposely antagonize Resident A and gave an example of a time Ms. Holmes taped over a power outlet so Resident A could not plug in her tablet. Another time Ms. Holmes had another resident sit in the spot on the couch where Resident A likes to sit, “just to get (Resident A) angry.” She further stated that Ms. Holmes would antagonize Resident A when she was upset, “just to get her even more upset.” Ms. Maguire stated that Ms. Holmes threw away a box of snacks and drinks that Resident A had received from her family member. She noted the items were only four or five days old and “there was no reason to throw them away.” Ms. Maguire noted that when Resident A dyed her hair blue, with her mothers’ permission, Ms. Holmes called her ugly and told her it looks horrible. She stated these comments made Resident A upset and she cried.

APPLICABLE RULE	
R 400.14308	Resident behavior interventions prohibitions.

	<p>(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:</p> <p>(f) Subject a resident to any of the following:</p> <p>(i) Mental or emotional cruelty.</p> <p>(ii) Verbal abuse.</p> <p>(iii) Derogatory remarks about the resident or members of his or her family.</p> <p>(iv) Threats.</p>
ANALYSIS:	<p>Staff members Priscilla Cook, Faith Susanka, Aurora Ault, Gabrielle White, and Vicky Maguire all stated that former home manager Tammy Holmes subjected Resident A to multiple episodes of emotional cruelty, verbal abuse, derogatory remarks and threats. Each staff gave several examples of comments or actions taken by Ms. Holmes and directed towards Resident A.</p> <p>Tammy Holmes did subject Resident A to mental or emotional cruelty, verbal abuse, derogatory remarks and threats.</p>
CONCLUSION:	VIOLATION ESTABLISHED

ALLEGATION: Home manager Tammy Holmes has threatened to isolate Resident A from visitors, including her family members.

INVESTIGATION: Ms. Cook and Ms. Susanka both stated that Ms. Holmes would often threaten Resident A that she would “call your mother and tell her you were bad and cannot go on your visit to see her.” They both stated they observed Ms. Holmes threaten Resident A that she could not visit with her aunt, “because she was bad.”

Ms. Maguire stated she observed Ms. Holmes threaten Resident A with taking away visits with her aunt.

APPLICABLE RULE	
R 400.14304	Resident rights; licensee responsibilities.
	<p>(1) Upon a resident's admission to the home, a licensee shall inform a resident or the resident's designated representative of, explain to the resident or the resident's designated representative, and provide to the resident or the resident's designated representative, a copy of all of the following resident rights:</p> <p>(k) The right to have contact with relatives and friends and receive visitors in the home at a reasonable time.</p>

	<p>Exceptions shall be covered in the resident's assessment plan. Special consideration shall be given to visitors coming from out of town or whose hours of employment warrant deviation from usual visiting hours.</p> <p>(2) A licensee shall respect and safeguard the resident's rights specified in subrule (1) of this rule.</p>
ANALYSIS:	Ms. Holmes act of threatening to take away visits between Resident A and her aunt does not respect and safeguard Resident A's right to have contact with relatives and friends or receive visitors in the home.
CONCLUSION:	VIOLATION ESTABLISHED

ALLEGATION: Resident A's physician had ordered X-Rays be taken on Resident A during an October 27, 2022, doctor appointment. The X-Rays were not completed.

INVESTIGATION: Mr. Kirby provided me with an "after visit summary" from a medical examination on Resident A dated October 27, 2022. This document orders "imaging" to be conducted on Resident A's spine and notes "please complete by 10/27/2022." Mr. Kirby had no explanation as to why Ms. Holmes failed to complete the imaging as ordered by Resident A's physician. He stated he found out about the order on January 25, 2023, and Resident A was taken for the X-Rays on January 28, 2023.

APPLICABLE RULE	
R 400.14310	Resident health care.
	<p>(1) A licensee, with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician or other health care professional with regard to such items as any of the following:</p> <p>(d) Other resident health care needs that can be provided in the home. The refusal to follow the instructions and recommendations shall be recorded in the resident's record.</p>
ANALYSIS:	The Licensee failed to follow the instructions and recommendation of Resident A's physician which ordered that imaging/X-Rays be completed on Resident A's spine by 10/27/2022.

CONCLUSION:	VIOLATION ESTABLISHED

On February 9, 2023, I conducted an exit conference with Licensee Designee Michael Kirby. I explained my findings as noted above. Mr. Kirby stated he understood and that he has already taken action to address these issues. This included the termination of Ms. Holmes employment. He stated he would submit a written corrective action plan which address each established rule violation. Mr. Kirby noted he had no further information to provide or any further questions concerning this special investigation.

IV. RECOMMENDATION

I recommend, contingent upon the submission of an acceptable corrective action plan, that the status of the license remain unchanged.



February 10, 2023

Bruce A. Messer
Licensing Consultant

Date

Approved By:



February 10, 2023

Jerry Hendrick
Area Manager

Date