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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
ACTING DIRECTOR

August 28, 2023

Marla Garchow
Magnolia Care TC AFC LLC
1855m Carlisle Rd
Traverse City, MI 49686

RE: License #: AS280406473
Investigation #: 2023A0870037
Heart and Soul Living AFC

Dear Marla Garchow:

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".

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 #:	AS280406473
Investigation #:	2023A0870037
Complaint Receipt Date:	08/21/2023
Investigation Initiation Date:	08/21/2023
Report Due Date:	10/20/2023
Licensee Name:	Magnolia Care TC AFC LLC
Licensee Address:	1855m Carlisle Rd Traverse City, MI 49686
Licensee Telephone #:	(231) 421-3271
Administrator:	Marla Garchow
Licensee Designee:	Marla Garchow
Name of Facility:	Heart and Soul Living AFC
Facility Address:	1855 Carlisle Road Traverse City, MI 49686
Facility Telephone #:	(231) 421-3271
Original Issuance Date:	03/01/2021
License Status:	REGULAR
Effective Date:	09/01/2021
Expiration Date:	08/31/2023
Capacity:	6
Program Type:	PHYSICALLY HANDICAPPED, MENTALLY ILL DEVELOPMENTALLY DISABLED

II. ALLEGATION(S)

	Violation Established?
Staff member Tiffany Bennett slapped Resident A on the arm.	Yes

III. METHODOLOGY

08/21/2023	Special Investigation Intake 2023A0870037
08/21/2023	APS Referral This complaint was made by the Michigan Department of Health and Human Services, Adult Protective Services.
08/21/2023	Special Investigation Initiated - Telephone Telephone case discussion with Grand Traverse MDHHS APS worker Daryl Stallworth.
08/21/2023	Inspection Completed On-site Interview with staff member Tiffany Bennett. Attempted interview with Resident A.
08/22/2023	Contact - Telephone call made. E-mail referral to Lisa Jones, Northern Lakes Community Mental Health Authority, Office of Recipient Rights.
08/22/2023	Contact - Telephone call made. Telephone interview with Licensee Designee Marla Garchow.
08/24/2023	Contact - Telephone call made. Telephone interviews conducted with facility staff.
08/24/2023	Inspection Completed-BCAL Sub. Compliance
08/24/2023	Exit Conference Completed with Licensee Designee Marla Garchow.

ALLEGATION: Staff member Tiffany Bennett slapped Resident A on the arm.

INVESTIGATION: On August 21, 2023, I spoke, by telephone, with Michigan Department of Health and Human Services, Grand Traverse County, Adult Protective Services worker Daryl Stallworth. Mr. Stallworth stated that he had received the above allegation and had opened an Adult Protective Services

investigation on August 18, 2023. He noted he had already spoken with Licensee Designee Marla Garchow, informing her of the allegation, and attempted to conduct an in-person interview Resident A. Mr. Stallworth stated that he was unable to interview Resident A due to his “cognitive abilities” but was able to verify his well-being. He stated he will be conducting staff interviews this morning and will provide me with a summary of those interviews later this same day.

On August 21, 2023, I conducted an unannounced on-site special investigation at the Heart and Soul Living AFC home. I met with staff member Tiffany Bennett who informed me that Licensee Designee Marla Garchow was “out of town” and unavailable to meet with me today. I conducted a private interview with Ms. Bennett and informed her of the allegation. She denied ever slapping or hitting Resident A, or any other facility resident. Ms. Bennett explained that “in the past” she has had to grab Resident A’s arms to stop him from grabbing her or grabbing her hair and pulling. She noted that she has never been forceful or touched Resident A with the intent of hurting him in any way.

On August 21, 2023, I attempted to conduct an interview with Resident A. Due to his significant cognitive disabilities, an interview was not able to be completed.

On August 22, 2023, I made a referral to Northern Lakes Community Mental Health Authority, Office of Recipient Rights. I provided them with the above stated allegation for their consideration. They later informed me that they would be opening an investigation into this matter.

On August 22, 2023, I spoke with Licensee Designee Marla Garchow and informed her of the above stated allegation and the status of my investigation.

On August 24, 2023, I conducted a telephone interview with staff member Diane Garchow. Ms. Garchow stated that on August 18, 2023, she worked the day shift, 6:00 a.m. to 6:00 p.m., along with staff members Tiffany Bennett and Crystal Rodgers. She noted Resident A “was not feeling well that day” and was remaining close (in proximity) to the staff. Ms. Garchow noted that at approximately 9:00 a.m. Resident A and Ms. Bennett were both on the kitchen side of a peninsula style countertop, she was on the opposite side of the counter in the dining room, and Ms. Rodgers was at the end of the counter, when she heard Ms. Bennett say, “Resident A stop, no Resident A, Resident A don’t.” Ms. Garchow stated that Ms. Bennett’s voice tone escalated during this event. She stated she then heard a “smack sound” and observed Ms. Bennett push Resident A away. Ms. Garchow stated she did not directly see Ms. Bennett strike Resident A as she believes it occurred “under the counter” and out of her line of sight, but she “definitely heard the smack, I heard it, it was a slap, no question.” Ms. Garchow stated she asked Ms. Bennett if she had smacked Resident A and Ms. Bennett denied that she did. Ms. Garchow stated that staff member Crystal Rodgers “saw it” telling her later that morning that she saw Ms. Bennett slap Resident A. Ms. Garchow stated she checked Resident A after this incident and noted “a slight red mark” on his arm.

On August 24, 2023, I conducted a telephone interview with staff member Crystal Rodgers. Ms. Rodgers stated that “last week on Thursday or Friday” at approximately 10:00 a.m., she was working along with staff members Diane Garchow and Tiffany Bennett. She noted that Resident A was sick that day and as a result he was “very needy and grabby.” Ms. Rodgers stated that she observed Resident A grabbing at Ms. Bennett and Ms. Bennett was telling Resident A “stop, stop it” and saw Ms. Bennett push Resident A back away from her. She noted that Ms. Bennett then told Resident A “you need to stop it.” Ms. Rodgers stated that Resident A again approached Ms. Bennett and Ms. Bennett “hauled off and slapped him (Resident A).” Ms. Rodgers described that all three staff were near the kitchen counter which separates the kitchen from the dining room. She noted Ms. Bennett and Resident A were on the kitchen side, Ms. Garchow on the opposite, dining room, side, and she was at the end. Ms. Rodgers stated, “I saw it directly, she (Ms. Bennett) slapped him (Resident A) on the hand, the lower arm.” She noted that Ms. Bennett was aggravated and angry and used the palm of her hand when she struck Resident A. Ms. Rodgers stated that Ms. Bennett used “force” and “it (the slap) was loud.” Ms. Rodgers stated she then took Resident A away from the area, “redirected him”, and took him to a chair and sat down with him. She noted that Resident A’s hand were “red from her (Ms. Bennett) grabbing him”, noting that prior to the slap, Ms. Bennett was grabbing at Resident A’s arms in a “rough” fashion. Ms. Rodgers further noted that Ms. Garchow told Ms. Bennett to leave the facility after this incident and Ms. Bennett left the home.

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 style="padding-left: 40px;">(a) Use any form of punishment.</p> <p style="padding-left: 40px;">(b) Use any form of physical force other than physical restraint as defined in these rules.</p>
ANALYSIS:	<p>Staff members Diane Garchow and Crystal Rodgers both state they heard or observed staff member Tiffany Bennett strike Resident A. Ms. Rodgers stated she observed Ms. Bennett “push” Resident A.</p> <p>Both Ms. Garchow and Ms. Rodgers stated that they observed redness on Resident A’s arm following this incident.</p> <p>Direct care staff member Tiffany Bennett used physical force as a form of punishment towards Resident A.</p>
CONCLUSION:	VIOLATION ESTABLISHED

On August 24, 2023, I conducted an exit conference with Licensee Designee Marla Garchow. I explained my finding as noted above. Ms. Garchow stated she understood, had no further information to provide and no further questions pertaining to this special investigation. She noted that she would develop and submit a corrective action plan addressing this cited rule violation upon receipt of this report.

IV. RECOMMENDATION

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



August 25, 2023

Bruce A. Messer
Licensing Consultant

Date

Approved By:



August 28, 2023

Jerry Hendrick
Area Manager

Date