



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
ACTING DIRECTOR

January 23, 2024

Hilary Kutha
605 5th Ave
MENOMINEE, MI 49858

RE: License #: AM550409860
Investigation #: 2024A0234003
Kutha Adult Foster Care

Dear Ms. Kutha:

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.
- Indicate how continuing compliance will be maintained once compliance is achieved.
- Be signed and dated.

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 (517) 643-7960.

Sincerely,

A handwritten signature in cursive script that reads "Maria DeBacker".

Maria DeBacker, Licensing Consultant
Bureau of Community and Health Systems
305 Ludington St
Escanaba, MI 49829
(906) 280-8531
enclosure

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

I. IDENTIFYING INFORMATION

| | |
|---------------------------------------|------------------------------------|
| License #: | AM550409860 |
| Investigation #: | 2024A0234003 |
| Complaint Receipt Date: | 11/28/2023 |
| Investigation Initiation Date: | 11/28/2023 |
| Report Due Date: | 01/27/2024 |
| Licensee Name: | Hilary Kutha |
| Licensee Address: | 605 5th Ave MENOMINEE, MI 49858 |
| Licensee Telephone #: | (906) 290-0502 |
| Administrator: | Hillary and Colton Kutha |
| Licensee Designee: | Hillary Kutha |
| Name of Facility: | Kutha Adult Foster Care |
| Facility Address: | 605 5th Ave Menominee, MI 49858 |
| Facility Telephone #: | (906) 290-0502 |
| Original Issuance Date: | 10/06/2021 |
| License Status: | REGULAR |
| Effective Date: | 04/06/2022 |
| Expiration Date: | 04/05/2024 |
| Capacity: | 12 |

| | |
|----------------------|--|
| Program Type: | DEVELOPMENTALLY DISABLED MENTALLY ILL AGED |
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II. ALLEGATION(S)

| | Violation Established? |
|---|-------------------------------|
| Residents are being threatened physically for calling 911 after being threatened by another client by Colton Kutcha. Residents are being yelled at, called names, and demeaned for crying by Colton Kutcha. | Yes |
| A resident is giving the owners money for stuff for the home in excess of living payment and has been asked for silver bars from a collection to "pay the fire Marshall". | Yes |
| Additional Findings | Yes |

III. METHODOLOGY

| | |
|------------|---|
| 11/28/2023 | Special Investigation Intake 2024A0234003 |
| 11/28/2023 | APS Referral |
| 11/28/2023 | Special Investigation Initiated - Telephone Spoke to Northpointe caseworker. |
| 11/29/2023 | Contact - Telephone call made Called CMH worker to discuss allegations |
| 11/30/2023 | Contact - Face to Face Met with CMH worker |
| 11/30/2023 | Inspection Completed On-site |
| 11/30/2023 | Inspection Completed-BCAL Sub. Compliance |

| | |
|------------|---|
| 01/14/2024 | Contact - Document Received Received receipt requested – Requested on 12/6/23, 1/4/24, and 1/10/24 |
| 01/14/2024 | Contact - Document Received Received email from Colton Kutha giving permission to speak to his mother who he stated is a representative. |
| 01/17/2024 | Phone call made - left a message for Hillary Kutha |
| 01/17/2024 | Exit Conference – left a message for Hillary Kutha |
| 1/22/2024 | Exit conference – Spoke to licensee Hillary Kutha discussed findings |

ALLEGATION: Resident is being threatened verbally for calling 911 after being threatened by another client by Colton Kutha. Residents are being yelled at, called names, and demeaned for crying by Colton Kutha.

INVESTIGATION: On 11/28/23 I placed a call to Brenda Ross from Northpointe CMH to discuss the allegations made by Resident A. Brenda Ross stated that she was aware that Resident A called the police due to another resident making a threat to Resident A. Following that Resident A went to the police station and reported that Colton Kutha yelled at him and called him names for calling the police. He stated that Colton Kutha told him he is not allowed to call the police.

On 11/29/23 I received a phone call from Brenda Ross that Resident A was in her office and was reluctant to speak to me as Resident A is afraid of being yelled at by Colton Kutha for speaking to me. Resident A stated that there is a new resident at the home that is scaring everyone. Resident F hallucinates and talks to himself. Resident A stated that Resident F threatened him, and Resident A called the police, but the police did not come they instead called Colton Kutha. Resident A stated that Colton Kutha then came in and yelled at Resident A for calling the police. Resident A stated that it is not the first time, and that last week Resident A was in the bedroom crying and Colton Kutha yelled at him to be a man and stop crying. Resident A was very afraid that Colton would find out that Resident A talked to anyone about this for fear of retaliation.

On 11/30/23 a meeting was held with Brenda Ross at Northpointe to discuss these allegations.

On 11/30/23 an onsite visit was conducted. Staff Toni Boone answered the door. Toni Boone stated that Hillary Kutha was at a funeral. Toni Boone stated that the only thing that has been going on is that Resident B left the home and is now residing at the Kutha Home in Stephenson that is run by Janice Kutha, Colton

Kutha's mother. She also stated that Resident C has been upset because he felt as though Hillary Kutha was in love with him and he did not want to be a home wrecker.

During the onsite visit on 11/30/23 Hillary Kutha returned to the home and was interviewed. She stated that Resident A did call the police and go to the police station. When asked about Colton Kutha yelling at Resident A, she stated that Resident A is paranoid and always thinks people are yelling and threatening.

During the onsite inspection Colton Kutha was home but was upstairs and did not come down. He was spoken to briefly on the phone about another allegation, but he did not make himself available for questions. On 1/15/24 he sent an email with a statement that his mother Janice was acting as representative for the home. I did reply that Hillary Kutha was the licensee, and I would need to speak to her regarding matters for the home. Colton Kutha is listed as an administrator in the home, but Janice Kutha is not.

During the onsite visit on 11/30/23 Resident A was approached and refused to talk to this worker.

During the onsite visit on 11/30/23 Resident C was interviewed. Resident C stated that Colton was very nice to him and never yelled at him, but he has heard him yell at others especially Resident B.

During the onsite visit on 11/30/23 Resident D was interviewed Resident D stated that he feels safe in the home. Resident D stated that one resident is very unstable and scares some of the other residents, but that resident just needs counseling and medicine. Resident D stated that Colton Kutha has never yelled at Resident D.

During the onsite visit on 11/30/23 Resident E was interviewed. Resident E stated that Colton Kutha yells sometimes, especially if people complain about stuff they don't like. Resident E stated that Colton Kutha yelled a lot at Resident B before Resident B was moved.

During the onsite visit on 11/30/23 Resident F was attempted to be interviewed but Resident F walked away talking to himself and refused to talk.

On 1/17/24 Resident B was interviewed via telephone. Resident B said she was happy at the new home and likes it there. Resident B said that Resident B was notified that the move would happen. Resident B is limited verbally but when asked if Resident B was yelled at the answer was yes.

On 1/17/24 Jada Nemi manager for the Stephenson Kutha home was interviewed. Jada Nemi stated that Resident B was moved to the home on 11/1/23 and has fit in well. Resident B had an established relationship with Jada Nemi and was able to "fit right in". Jada Nemi was asked if Resident B ever mentioned being yelled at and she said no.

A message was left for Hillary Kutha on 1/17/24 for further information on the additional allegations.

An exit interview was attempted, and a message was left for Hillary Kutha

On 1/22/2024 Hillary Kutha, licensee, called to discuss findings. An exit interview was conducted. Hillary Kutha stated that the residents in the home have history in which they sometimes perceive that people are yelling when they are not being yelled at. We discussed softer tone and adjusting speaking patterns so the residents do not feel threatened.

| 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: (f) Subject a resident to any of the following: (i) Mental or emotional cruelty. (ii) Verbal abuse. (iii) Derogatory remarks about the resident or members of his or her family. (iv) Threats. |
| ANALYSIS: | Resident A reports being yelled and called names by Colton Kutha. Residents A, D and E reported other instances when Colton Kutha has yelled at residents. |
| CONCLUSION: | VIOLATION ESTABLISHED |

ALLEGATION: A resident is giving the owners money for stuff for the home in excess of living payment and has been asked for silver bars from a collection to "pay the fire Marshall".

INVESTIGATION: On 11/30/23 a meeting was held with Brenda Ross at Northpointe to discuss additional allegations that were made since the initial referral. Brenda Ross stated that Resident C has severe mental illness. Brenda Ross stated that Resident C stated that he likes helping Hillary and Colton Kutha. Resident C has a Humana card that he receives \$120.00 and month for daily expenses. Resident C stated that he gave the card to Hillary and Colton Kutha to buy things for the home because they need the money. Resident C also showed a text message from Colton Kutcha stating that the Fire inspector is willing to accept silver bars for payment. Resident C had 70 silver bars when he moved to the Kutha home that he

keeps in a safe. Resident C told Brenda Ross that he sold them to Colton Kutha for \$23 each and Colton Kutha told Resident C that it was the fair market value. The text message sent was for the remaining bars to pay the fire inspector.

During the onsite visit on 11/30/23 Resident C stated that Hillary Kutha had his Humana card and Resident C has no idea what is being bought with it. It was given to Hillary "a long time ago" to spend as they want. Resident C stated that they have a hard time paying bills and Resident C likes to help. Resident C was asked about silver bars. Resident C stated that he used to have 70 of them but has since sold most of them to Colton Kutha. Resident C said that Colton Kutha is a collector and paid him fair market value for them. Resident C said that there are 12 bars left and he recently received a text from Colton Kutha asking how many he had left I was able to view the text and it stated "And how many bars you have left? Curious because our one fire inspector said he would take payment in them next time he comes...next year..."

During the onsite visit on 11/30/23 Hillary Kutha was interviewed. Hillary stated that Colton had purchased several silver bars from Resident C at fair market value. Hillary stated that yes, she has been using Resident C's Humana card for some time. Hillary Kutha stated she did not know she could not use the card and that Resident C said it was ok. She stated that she bought household supplies with the money on the card. On 1/14/24 after several requests she sent several receipts from Walmart stating that the money was spent there. She stated that the receipts represented "Items purchased from Walmart with Humana Card ending in 8856 \$120.00 total per month on card, card used June 2023-November 2023". The receipts showed household hold items, food, and pet food/treats.

Resident C's Residential Care Agreement was reviewed. Resident C pays \$1,027.00 monthly for the services of Housekeeping, meals, laundry, and medication administration. There is not an agreement that Kutha's Adult Foster Care will manage personal funds or accounts. There is no permission for the facility to spend any personal funds belonging to Resident C nor is there a record of specific funds spent from the Humana Card. Walmart receipts were provided as stated above.

During the interview with Hillary Kutha on 11/30/23 she called Colton Kutha who was upstairs, and they both stated that they used the Humana card and bought the silver bars from Resident C. Hillary Kutha stated that they had no idea that they were not allowed to do so. Hillary Kutha stated that they would return the bars to Resident C despite Resident C having no way to repay.

During the onsite inspection Colton Kutha was home but was upstairs and did not come down. Colton Kutchka was spoken to briefly on the phone about this allegation, but he did not make himself available for questions. On 1/15/24, Colton Kutchka sent an email with a statement that his mother, Janice Kutchka, was acting as representative for the home. I did reply that Hillary Kutha was the licensee, and I

would need to speak to her regarding matters for the home. Colton Kutha is listed as an administrator in the home, but Janice Kutha is not.

On 12/6/23 I received a text from Colton Kutha stating that he did not feel that buying the silver bars was wrong but that he had 25 that he kept for Resident C that Resident C had donated, and Resident C could take those back no questions asked.

A written agreement was produced by Hillary Kutha on 11/30/23 during the onsite visit that stated that Resident C “donated” 25 silver bars to the Kutha home and sold several others for fair market value. Document was signed by Resident C and Colton Kutha.

During the onsite visit on 11/30/23 Resident A was approached and refused to talk to this worker.

During the onsite visit on 11/30/23 Resident D was interviewed Resident D stated he has never been asked for money or donated anything to the home.

During the onsite visit on 11/30/23 Resident E was interviewed. Resident E has never been asked for money or donated money.

During the onsite visit on 11/30/23 Resident F was attempted to be interviewed but Resident F walked away talking to himself and refused to talk.

A message was left for Hillary Kutha on 1/17/24 for further information on the additional allegations.

An exit interview was attempted on 1/17/2024 and a message was left for Hillary Kutha.

On 1/22/2024 Hillary Kutha, licensee, called to discuss findings. An exit conference was conducted. I discussed with Hillary Kutha the rule violation for the use of Resident C’s silver bars and Humana card. Hillary Kutha stated that they were just being nice to Resident C and ordering things for Resident C along with their own groceries but she now knows that Resident C is to spend his own money and not give it to the facility.

| APPLICABLE RULE | |
|------------------------|---|
| R 400.14315 | Handling of resident funds and valuables. |
| | (10) A licensee, administrator, direct care staff, other employees, volunteers under the direction of the licensee, and members of their families shall not accept, take, or borrow money or valuables from a resident, even with the consent of the resident. |

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|--------------------|---|
| ANALYSIS: | Resident C's Humana card was used for 6 months using \$720.00 of Residents C's money. Resident C donated 25 silver bars to the Kutha home that were accepted. |
| CONCLUSION: | VIOLATION ESTABLISHED |

ADDITIONAL FINDINGS: A resident was moved to a different AFC without notification to CMH provider.

INVESTIGATION: On 11/30/23 a meeting was held with Brenda Ross at Northpointe to discuss additional allegations. Brenda Ross was asked about Resident B being moved to the Stephenson Kutha home. Brenda Ross stated that Northpointe was not informed of the move until after Resident B was already at the other home for approximately 2 days. Northpointe did not receive notice of the move.

During the interview with Hillary Kutha on 11/30/23 she acknowledged that Resident B was moved to the Stephenson Kutha Foster Home.

On 1/17/24 Resident B was interviewed via telephone. Resident B said she was happy at the new home and likes it there. Resident B said that Resident B was notified that the move would happen.

On 1/17/24 Jada Nemi manager for the Stephenson Kutha home was interviewed. Jada Nemi stated that Resident B was moved to the home on 11/1/23 and has fit in well. Resident B had an established relationship with Jada Nemi and was able to "fit right in".

During the onsite inspection Colton Kutha was home but was upstairs and did not come down. He was spoken to briefly on the phone about another allegation, but he did not make himself available for questions. On 1/15/24 he sent an email with a statement that his mother Janice was acting as representative for the home. I did reply that Hillary Kutha was the licensee, and I would need to speak to her regarding matters for the home. Colton Kutha is listed as an administrator in the home, but Janice Kutha is not.

A message was left for Hillary Kutha on 1/17/24 for further information on the additional allegations. An exit interview was attempted on 1/17/2024 and a message was left for Hillary Kutha.

On 1/22/2024 Hillary Kutha, licensee, called to discuss findings. An exit interview was conducted. It was also discussed that the representative for the clients must be notified before moving clients/residents.

| APPLICABLE RULE | |
|------------------------|---|
| R 400.14302 | Resident admission and discharge policy; house rules; emergency discharge; change of residency; restricting resident's ability to make living arrangements prohibited; provision of resident records at time of discharge. |
| | (3) A licensee shall provide a resident and his or her designated representative with a 30-day written notice before discharge from the home. The written notice shall state the reasons for discharge. A copy of the written notice shall be sent to the resident's designated representative and responsible agency. The provisions of this subrule do not preclude a licensee from providing other legal notice as required by law. |
| ANALYSIS: | Written nor verbal notice was not provided to the designated representative prior to moving Resident B. |
| CONCLUSION: | VIOLATION ESTABLISHED |

IV. RECOMMENDATION

Contingent upon receipt of an acceptable plan of correction, no changes are recommended to this license at this time.

Maria DeBacker

1/22/24

Maria DeBacker
Licensing Consultant

Date

Approved By:

Mary Holton

1/23/24

Mary E. Holton
Area Manager

Date