

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH**

In the Matter of

**DAYBREAK YOUTH SERVICES -
SPOKANE**

License No. RTF.FS.00001010
License No. BHA.FS.60873305

Respondent

**Master Case Nos. M2022-552 (lead)
M2022-553
Consolidated**

**EX PARTE ORDER OF SUMMARY
ACTION**

PRESIDING OFFICER: John F. Kuntz, Deputy Chief Health Law Judge

This matter came before the presiding officer, Health Law Judge John F. Kuntz, on delegation from the Secretary, on May 25, 2023, on a Motion for Order of Summary Action brought by the Residential Treatment Facilities Program and Behavioral Health Agency Program of the Department of Health (collectively “Programs”) through the Office of the Attorney General. The Programs issued an Amended Notice of Intent to Suspend (Amended Notice) under RCW 43.70.115 alleging Respondent violated RCW 71.12, WAC 246-337, and WAC 246-341. The presiding officer, after reviewing the Amended Notice of Intent to Suspend, Motion for Summary Action, and supporting evidence, grants the motion. **LICENSES SUMMARILY SUSPENDED, as further described below,** pending further action.

1. FINDINGS OF FACT

1.1 Respondent, a residential treatment facility (RTF) and a behavioral health agency (BHA) located at 628 S. Cowley St., Spokane, WA 99202, is licensed as Daybreak Youth Services - Spokane, under chapters 71.12 RCW and 246-337 WAC (RTF); and under chapters 71.05, 71.24, and 71.34 RCW and 246-341 WAC (BHA), and was so licensed at all relevant times.

1.2 The Programs issued an Amended Notice alleging Respondent violated WAC 246-337-021(1)(b), (2), (6)(b), (f), (g), (h); WAC 246-337-045(1)(d), (2)(b), (3)(a), (b), (c), (e); WAC 246-337-050(1), (2) (a)-(e), (4), (5)(a), (7)(e), (f); WAC 246-337-055; WAC 246-337-065(5)(a); WAC 246-337-075(1)(c), (d), (2)(a), (g),

(5); WAC 246-337-080(2)(h); WAC 246-337-095(3); WAC 246-337-105(4)(a) and WAC 246-341-0335(1)(a), (b), (c), (d), (e); and WAC 246-341-0410(1)(a), (c), (4)(a), (b), (f); WAC 246-341-0420(9); WAC 246-341-0510(1)(a), (c), (f); WAC 246-341-0515(2); WAC 246-341-0600(1), (2)(d), (e), (f), (j); WAC 246-341-0605(3); and WAC 246-341-0650(4); WAC 246-341-1108(5)(a)¹. The Amended Notice was accompanied by all other documents required by WAC 246-10-201.

1.3 As set forth in the allegations in the Amended Notice, as well as the motion for summary action, the Programs have identified a pattern of Respondent failing to comply with its obligations to protect the rights, health, and safety of its vulnerable minor patient population.

A. Respondent has obstructed external oversight and intervention by impeding Program investigations and failing to cooperate with DCYF/CPS and law enforcement in connection with complaints of employee misconduct, child abuse and neglect, and criminal acts at the facility. Such conduct has limited outside agencies' ability to investigate, assess the safety of and protect patients, and assist victims of alleged abuse and criminal conduct. Moreover, Daybreak-Spokane's internal policies limit mandated reporting to an enumerated few in upper management and includes material definitions and mandates which are inconsistent with the law and narrow the scope of reportable conduct. Staff are also trained to disregard their duty to report and otherwise discouraged to follow mandatory reporting requirements.

B. Respondent has failed to hire qualified candidates, provide employees with required and necessary training and supervision, correct and terminate employees who violate patient boundaries and interfere with patients' treatment, thoroughly investigate patient complaints, and externally report employees to the Department or other agencies for unprofessional conduct, including, but not limited to, sexual misconduct, various forms of abuse, and other serious boundary violations.

¹ The specific provisions of the Washington Administrative Code (WAC) cited herein are the provisions which were in effect at the time of the alleged violations.

C. Respondent has demonstrated a pattern of indifference to the mental and physical well-being of patients by failing to report sexual abuse and professional misconduct. Furthermore, individuals in supervisory capacities, in at least two instances, attempted to cause credentialed providers to downgrade serious conduct such as “grooming” and “sexual assault” to protect the agency from external scrutiny.

1.4 The above allegations, supported by the declarations of Emely Lee, Deborah Duke, Jessica Reinier, Jon Kuykendall, and Ian Corbridge, together with the attached exhibits, are of a nature that if proven at hearing, would pose an imminent threat to the health, safety, and welfare of patients. The determination justifies a decision to immediately suspend Respondent’s licenses until a hearing on the matter is held.

1.5 Because of the nature of the allegations, Respondent’s licenses to operate an RTF and BHA in the State of Washington must be summarily suspended, and Respondent must cease to provide residential treatment services and behavioral health services until such time as the Programs deem it in substantial compliance. These measures are the least restrictive alternative available to protect public health, safety, and welfare.

2. CONCLUSIONS OF LAW

2.1 The Secretary, and by designated authority the presiding officer, has jurisdiction over this matter.

2.2 The Secretary has authority to take emergency adjudicative action to address an immediate danger to the public health, safety, or welfare. RCW 34.05.422(4), RCW 34.05.479, RCW 43.70.115(1), (2)(b), WAC 246-337-021(7), WAC 246-341-0335 (4).

2.3 The evidence presented with this motion indicates violations of WAC 246-337-021(1)(b), (2), (6)(b), (f), (g), (h); WAC 246-337-045(1)(d), (2)(b), (3)(a), (b), (c), (e); WAC 246-337-050(1), (2) (a)-(e), (4), (5)(a), (7)(e), (f); WAC 246-337-055; WAC 246-337-065(5)(a); WAC 246-337-075(1)(c), (d), (2)(a), (g), (5); WAC 246 337-080(2)(h); WAC 246-337-095(3); WAC 246-337-105(4)(a) and WAC 246-341-0335(1)(a), (b), (c), (d), (e); and WAC 246-341-0410(1)(a), (c), (4)(a), (b), (f); WAC 246-341-0420(9); WAC 246-341-0510(1)(a), (c), (f); WAC 246-341-0515(2);

WAC 246-341-0600(1), (2)(d), (e), (f), (j); WAC 246-341-0605(3); and WAC 246-341-0650(4); WAC 246-341-1108(5)(a)².

2.4 The Findings of Fact establish a rebuttable presumption that there is the existence of an immediate danger to the public health, safety, or welfare if Respondent continues to operate an RTF and BHA during the pendency of the resolution of the Amended Notice. This summary action is necessary to protect the public health, safety, and welfare. There is no less restrictive alternative to summary suspension that will protect the public health, safety or welfare.

3. ORDER

3.1 Based on the Findings of Fact and Conclusions of Law, it is ORDERED that Daybreak-Spokane's licenses to operate a residential treatment facility and behavior health agency are **SUMMARILY SUSPENDED** pending further proceedings by the Secretary. The **SUMMARY SUSPENSION** shall immediately be stayed for four (4) calendar days after this order becomes effective.

3.2 During the four (4) day period that the summary suspension of License No. RTF.FS.00001010 and License No. BHA.FS.60873305 is stayed, Daybreak-Spokane shall comply with the following:

- A. Stop all admissions of new patients to Daybreak-Spokane.
- B. Safely and appropriately discharge or transfer all current patients of Daybreak-Spokane. The movement of patients to an acute care hospital emergency department does not constitute a safe and appropriate discharge or transfer of a patient unless a patient is deemed to need emergency department services.
- C. Within the first twenty-four (24) hours of the four (4) day period, Daybreak-Spokane shall develop and provide a "Closure Plan" via email to Ian Corbridge, Director, Office of Community Health Systems, Ian.Corbridge@doh.wa.gov. The "Closure Plan" must contain the following:
 - i. Information pertaining to the patient census, acuity (deidentified information on primary diagnosis) and payor mix in table format on the

² The specific provisions of the Washington Administrative Code (WAC) cited herein are the provisions which were in effect at the time of the alleged violations.

calendar day in which the Notice becomes a Final Order. For private pay patients (non-Medicaid or patients on Department of Children, Youth and Families contract), Daybreak-Spokane must provide a list of patient names, name and contact information of legal guardian(s), and insurance companies responsible for care, if applicable.

ii. A plan for relocating patients (“Closure Transfer Plan”) to appropriate care settings that offer similar services or services mandated based on court documents. The “Closure Transfer Plan” must take into consideration the most appropriate setting possible in terms of quality, services, and location, as available and determined appropriate by the patient care team after taking into consideration the patient’s individual needs, choices, and interests. The plan must outline transportation resources Daybreak-Spokane will use to support patient movement and identify facilities who have agreed to receive patients.

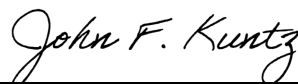
iii. A plan for notifying patients, patient guardians, patient families, any surrogate decision makers of the patient, and insurance company (if applicable) of the license suspension. Notification shall include the intent to transfer a patient to another care facility and the name, location, and contact information of the facility a patient is transferred to, if appropriate.

iv. A strategy for referring patients who receive outpatient care under the facility license to other appropriate outpatient settings.

v. A plan for the preservation and transfer of medical records.

3.3 It is HEREBY ORDERED that the protective order entered in this consolidated matter on or about September 30, 2022 and served on October 3, 2022 remains in full force and effect.

Dated this 25th day of May, 2023



JOHN F. KUNTZ, HEALTH LAW JUDGE