



State of Utah

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July 27, 2022

Three Points Center

1500 East 2700 South
Hurricane, UT 84737

ATTN: Norm Thiebault, Founder/Owner; Thane Palmer, President/Owner

RE: NOTICE OF AGENCY ACTION
LICENSE(S) PLACED ON CONDITIONAL STATUS
Three Points Center, Residential Treatment License Number 52339.

This letter serves as notice that the Utah Department of Human Services, Office of Licensing (the "Office") is placing Three Points Center's ("Licensee") license on Conditional Status effective immediately.

This action is taken pursuant to Title 63G, Chapter 4, the Administrative Procedures Act; Utah Code Section 62A-2-112; and Utah Administrative Rule R501-1-12(10).

The following conditions are immediately in effect, and must be resolved to the satisfaction of the Office before your program will be removed from conditional status:

1. Licensee must immediately notify clients and their legal guardians and state

agencies that have clients placed in the program of this Notice of Agency Action (“NAA”) and submit proof of compliance with this requirement to the Office no later than 5 business days from receipt of this letter.

2. Licensee must post the NAA on-site, and on the homepage of each of its websites, where it can be easily reviewed by all clients, guardians of clients, and visitors within five business days, and shall remain posted until the resolution of the penalty, unless otherwise instructed by the Office.
3. Licensee may not accept new clients while this NAA is in effect or until the Office has expressed in writing that admissions may resume.
4. Licensee must require all staff to read, review, and sign the Office Code of Conduct and Licensee’s policy and procedure manual.
5. Licensee must take immediate action to retrain staff on the behavior management system with a focus on de-escalation practices, justified or necessary restraints, and how to intervene if another staff member fails to follow correct procedures when using a restraint.
6. Licensee must take immediate action to retrain staff in critical incident reporting.
7. Licensee must provide proof of compliance with listed training to include type of training, training date, training agenda, names of staff in attendance, and a training document with staff signature and date acknowledging they understand and agree to comply with Utah Administrative rule, statute, and Three Points Center Policy and Procedure.
8. Licensee must ensure that submission of any documentation, such as critical incident reports and staff statements-of-facts, is accurate and truthful.
9. Licensee must ensure that all personnel files are in compliance with R501-1-19(2).

License Numbers RT-52339 will remain on conditional status for a minimum of 90 days or until the Office approves, in writing, removal from conditional status. Failure to meet the terms of the conditions of this NAA may result in a further penalty action of license suspension or revocation per R501-1-12(11). The Office is taking this action because the Licensee has failed to comply with licensing rules noted below.

The Office of Licensing has noted violation of the following Administrative Rules:

62A-2-123 (1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

- (f) discipline or punishment that is intended to frighten or humiliate;

(i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

R501-1-27. Client Rights.

(1) Clients have the right to:

- (a) be treated with dignity;
- (c) be free from potential harm or acts of violence;
- (e) be free from abuse, neglect, mistreatment, exploitation, unusual or unnecessary consequences, and fraud;

R495-876-6. Client Rights.

(1) Clients have the right to:

- (a) be treated with dignity;
- (b) be free from potential harm or acts of violence;
- (d) be free from abuse, neglect, mistreatment, exploitation, and fraud;

R495-876-5. Provider Code of Conduct.

(1) Providers and provider staff:

- (b) shall create, maintain, and comply with a written policy that addresses the appropriate treatment of clients and ensures that clients rights are not violated;

R501-1 Definitions

(28) "Physical mistreatment" means conduct that results in pain, injury, or death. For a notation violation involving physical mistreatment, there must be culpability on the part of the program or its staff. Ie: staff acting outside policy or training and causing pain, injury or death

1. Violation Description: Facility video coverage on 03-28-22 and a client interview disclosed staff 1 initiated an unnecessary and unjustified physical intervention with client 6 who was not an immediate safety risk to themselves or others. Client 1 reported this physical restraint was painful.

2. Violation Description: Facility video coverage on 05-23-22 was reviewed and multiple interviews disclosed that staff 4 conducted an unnecessary physical intervention on client 1, who was not an immediate risk to themselves or others. Interviews disclosed that during the physical intervention, staff 4 commented that client 1 liked having their face rubbed in the dirt. Client 1 sustained injuries as a result of the physical restraint. This incident was supported by CPS for physical abuse and the staff was cited by law enforcement.

3. Violation Description: On 06-01-22, during a verbal altercation between staff 5 and client 1, staff 5 picked up a table and threw it in the direction of client 1. A video review was conducted and client interviews supported that staff 5 acted outside the scope of their training, the licensee's policy and procedure, and Utah Code and Administrative Rule.

4. Violation Description: Facility video coverage on 06-10-22, documented staff 3 engaged in a verbal altercation with client 4. Staff 3 failed to follow behavior management training and made disrespectful statements to client 4. Client 4 made verbally disrespectful statements to staff but was not an immediate danger to self or others. Staff 2 and 3 conducted an unnecessary and unjustified restraint with client 4. Client interviews disclosed that staff 2 made disrespectful comments to client 4 during the physical intervention that took place outside of the dorm and outside of video camera coverage. Staff 2's statement-of-fact documented that they made a comment to client 4 to "go a round three".

5. Violation Description: On 06-12-22, staff 1 acted outside the scope of his training, failed to follow the licensee's policy and procedure and violated Utah Code and Administrative Rule. Staff 1 failed to use de-escalation techniques and conducted an unnecessary physical intervention involving client 6 who was not an immediate safety risk to themselves or others.

62A-2-123 (1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

(f) discipline or punishment that is intended to frighten or humiliate;
&

R501-1-27. Client Rights.

(1) Clients have the right to:

(a) be treated with dignity;

&

R495-876-5. Provider Code of Conduct.

(1) Providers and provider staff:

(b) shall create, maintain, and comply with a written policy that addresses the appropriate treatment of clients and ensures that clients rights are not violated;

&

R495-876-6. Client Rights.

(1) Clients have the right to:

(a) be treated with dignity;

6. Violation Description: Facility video coverage on 06-20-22, documented staff 3 unlock the exterior dorm door and tell two clients, "Get the fuck out the door! Fucking get out!" Staff 3 physically pushed one of the client's out of the door. A third client approached the exterior door at least twice and was physically pushed away by staff 5 and staff 3.

62A-2-123 (4)(a) A congregate care program

(i) may use seclusion if:

(A) The purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) No less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) For coercion, retaliation, or humiliation; or

(B) Due to inadequate staffing or for the staff's convenience

7. Violation Description: On 03-28-22, client 6 was secluded in their assigned dorm for failing to follow staff direction; client 6 had refused to complete their assigned morning chore. The client was physically prevented from leaving the dorm by staff 1.

62A-2-123. Congregate care program regulation.

A congregate care program may not use cruel, severe, unusual, or unnecessary practice on a child, including:

(n) prohibiting the child from entering the residence

8. Violation Description: On 06-20-22, video coverage documented staff 3 and 5 locked two clients out of their residence. The two clients were making repetitive noises but were not an imminent danger to self or others.

R495-876-5. Provider Code of Conduct.

(1) Providers and provider staff:

(k) shall provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client;

&

R501-1-27. Client Rights.

(1) Clients have the right to:

(c) be free from potential harm or acts of violence;
&

R495-876-6. Client Rights.

(1) Clients have the right to:

(b) be free from potential harm or acts of violence;

R501-1 Definitions

(12) "Direct Supervision" means in close physical proximity and actively supervising clients with the ability to immediately respond as necessary.

9. Violation Description: Multiple client interviews disclosed that at least two clients engaged in a sexual misconduct incident on 05-20-22. The clients report that the staff was seated in the same room with them and failed to provide supervision as the staff was distracted by their cell phone.

10. Violation Description: Facility video coverage review and client interviews disclosed that, on 06-17-22, a client was left behind by themselves in the dorm for approximately 21 minutes. Staff 6 failed to report this incident to administration.

R501-1-27. Client Rights.

(1) Clients have the right to:

(e) privacy of current and closed records;

R495-876-6. Client Rights.

(1) Clients have the right to:

(e) privacy of current and closed records;

11. Violation Description: On 06-02-22, staff 7 acted outside the scope of their training, the licensee's policy and procedure, and the DHS Provider Code of Conduct and Client Rights. A review of Staff 7's personnel file documented that they were non-compliant with client confidentiality regulations.

R501-1-11. Investigations of Alleged Violations.

(2) Licensed Program Complaints and Critical Incidents

(d) A critical incident that involves a client or on-duty staff that occurs in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

(i) a report shall be made to the office within one business day;

R501-1 Definitions

(10) "Critical Incident" means an incident that occurs while the program is providing a service or treatment and involves:

(r) client rights violations;

(s) department code of conduct violations;

(x) any other incident that compromises a client's immediate health or safety.

R495-876-5. Provider Code of Conduct.

(1) Providers and provider staff:

(l) shall ensure that a report is made to the Office of Licensing or to the applicable agency for any violation, or suspected violation, of this rule;

12. Violation Description: On 06-02-22, staff 7 violated clients rights, the DHS Provider Code of Conduct and Client Rights, and licensee's policy and procedure regarding client confidentiality regulations. A review of a staff file documented the licensee was aware of this incident and it was not reported to the Office of Licensing.

13. Violation Description: On 06-17-22, staff 6 violated the DHS Code of Conduct and Client Rights, Utah Administrative Code, and the licensee's policy and procedure. Staff 6 failed to report they had left a client behind in a dorm and were out of compliance with supervision regulations.

R501-1-19. Program Personnel Record Requirements.

(2) Personnel information shall include:

(a) any applicable qualification, experience, certification, or license;

(b) any approved and current office background clearance, except as excluded in Section R501-14-17;

(c) a department code of conduct that is signed by the staff member, contracted employee, or volunteer;

(d) any training records with the date completed, topic, and the individual's signed acknowledgment of training completion to include:

(i) current CPR and First Aid certification;

(ii) current policy and procedure training; and

(iii) proof of annual department code of conduct and behavior management training;

(e) any grievances or complaints made by or against the individual and actions taken by the program; and

(f) each crisis intervention or critical incident report involving the individual.

14. Violation Description: Six out of six personnel files were missing required documents.

The Office reserves the right to amend this Notice of Agency Action. In accordance with the Department of Human Services Administrative Hearing Procedures (Title 497), you may request an administrative hearing if there is a disputed issue of fact. There is no issue of fact if you present facts that on their face establish the right of the Office to take the action, or if the facts do not conflict with the facts relied upon by the Office in taking its action.

Pursuant to Rule 497-100, if you choose to request an administrative hearing to appeal a disputed issue of fact, you must submit your request of appeal to the Office, in writing, within 10 business days of receipt of this letter. This adjudicative proceeding, if requested and granted, shall be conducted informally.

Pursuant to Rule 501-1-12(20) "If an appeal of a revocation, suspension or conditional license that restricts admission is pending, a licensee shall not accept any new client as outlined on the notice of agency action without prior written authorization from the office."

You can access the 'Request for an Administrative Hearing' form in the Facility Forms section of our website: www.hslic.utah.gov.

All correspondence concerning this action should be addressed to:

Elisabeth Kitchens,
Administrative Secretary

Please reference the program and site name on all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Simon Bolivar". The signature is stylized and includes a large flourish at the end.

Simon Bolivar,
Director, Office of Licensing

Cc:

Travis Broderick
Program Manager

Nicole Laub
Investigator

Jennifer Umina
Licensor

John Ortiz
Program Manager

Carmen Richins
Division Director