Statement of Deficiency Report

Department of Health
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Fairfax Behavioral Health		Chris West
Agency Name and Address		Administrator
Investigation	Thursday, February 23, 2023	33894
Inspection Type	Investigation Start Date	Investigator Number
2023-1867	BHA.FS.60874579	MH Evaluation & Treatment
Case Number	License Number	BHA/RTF Agency Services Type

Please note that the deficiencies/violations/observations noted in this report are not all-inclusive, but rather were deficiencies/violations/observations that were observed or discovered during the investigation.

Deficiency Number and Rule Reference	Findings	Plan of Correction
WAC 246-341-0410 Agency administration—Administrator key responsibilities. (1) The agency administrator is responsible for the day-to-day operation of the agency's provision of certified behavioral health treatment services, including: (c) Meeting all applicable rules, policies, and ethical standards. (4) The administrator or their designee must ensure: (a) Administrative, personnel, and clinical policies and procedures are adhered to and compliant with the rules in this chapter and other applicable state and federal statutes and	Based on interviews, facility document review, individual service record review, and the Department of Health (DOH) database review, the facility failed to continuously improve the quality of care in response to critical incidents and substantiated complaints by failing to report a staff member for alleged unprofessional conduct. Failure to continuously improve the quality of care in response to critical incidents and substantiated complaints, and by failing to report allegations of abuse and unprofessional conduct to appropriate	How Corrected: The allegations of unprofessional conduct by the identified staff member in 2017/2018 was reported by the Fairfax Director of Risk Management to the Washington State Nursing Commission on 3/17/23, during the DOH complaint survey, upon learning that this former employee had not been reported to the DOH at the time of the original incident and that they still held a state license. The original identified incidents pertaining to

regulations; (g) A written internal quality management plan, human resources plan or similarly specialized plan, as appropriate, is developed and maintained that: (ii) Monitors compliance with the rules in this chapter, and other state and federal rules and laws that govern agency licensing and certification requirements; and (iii) Continuously improves the quality of care in all of the following: (C) In response to critical incidents and substantiated complaints. **WAC 246-341-0420 Agency policies and procedures.** Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain policies and procedures that address all of the applicable licensing and certification requirements of this chapter including administrative and personnel policies and procedures. Administrative policies and procedures must demonstrate the following, as applicable: (9) Reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC. (12) Reporting critical incidents. A description of how the agency directs staff to report to the department within 48 hours any critical incident that occurs involving an individual, and actions taken as a result of the incident. A critical incident is a serious or undesirable outcome that occurs in the agency including: (a) Allegations of abuse, neglect, or exploitation;	authorities, can result in licensed persons continuing to work with vulnerable patients, putting patients at risk for trauma and harm. Finding included: 1. During an interview on 02/24/23 at 1:25 PM with Patient #1, who was a patient at the facility from 12/17/17 – 12/21/17, Patient #1 described Staff C, Mental Health Technician (MHT), and stated the following: a. While Patient #1 was at the facility, Staff C would go into their room when conducting observation rounds and kiss them and touch their vaginal area. b. The first time Staff C touched Patient #1 was without their permission. The second time, Staff C suggested they come to the patient's room when they were together on the basketball court. Patient #1 stated, "I felt very uncomfortable. I struggle with saying 'no' anyways." c. Patient #1 met up with Staff C twice within 3 to 6 after discharging from the facility and had sex with them. d. Patient #1 did not report their relationship with Staff C to anyone until after Staff C texted them in December of 2022 and January of 2023, and sent a friend request to them on Facebook. Patient #1 stopped communicating with Staff C once they figured out who it was.	this former staff member were investigated at the time of the 2017 complaint by the Chief Nursing Officer, HR Director and Risk Management and corrective actions were taken which included immediate suspension then termination of the employee after the first incident was reported in 2017. CEO met with DRM on 10/6/23 to discuss the findings and requirements pertaining to reporting allegations of abuse and unprofessional conduct of licensed persons to the appropriate authorities in order to continuously improve the quality of care in response to critical incidents and substantiated complaints. All new employees of Fairfax will receive education during New Employee Orientation by Risk Management on the requirements and expectations of all staff to report any allegations of staff unprofessional conduct to their supervisor. All employees will receive annual re-education on the requirements of reporting any allegations of staff unprofessional conduct to their supervisor via HealthStream Module, "UHS Compliance Program which includes information on when, how and

WAC 246-16-245 Mandatory reporting—Reports by health care institutions. (1) This section applies to: (g) Public and private mental health treatment agencies defined in RCW 71.05.020 and 71.24.025. (2) The chief administrator or executive officer or designee of these institutions must report when: (a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; **WAC 246-16-270 Mandatory reporting—Reports by employers of license holders.** (1) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the department of health when the employed license holder's services have been terminated or restricted based on a final determination or finding that the license holder: (a) Has committed an act or acts that may constitute unprofessional conduct; **RCW 18.130.080 Unprofessional conduct—Complaint—Investigation—Civil penalty.** (1)(b)(i) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the disciplining authority when the employed license holder's services have been terminated or restricted based upon a final determination that the license holder has either committed an act or acts that may constitute unprofessional conduct or that	e. Patient #1 stated that when they spoke with their counselor this year about the relationship with Staff C back in 2017/2018 and their recent communications with them that were causing distress, it was the first time they had talked about it. 2. Review of a "complaint, behavior" incident, undated, showed that on 07/24/18, Patient #2 reported that when they were at the facility in December 2017, they exchanged contact information with Staff C, MHT. The incident showed that Patient #2 reported that Staff C initiated a relationship with them after they discharged from the facility that included Staff C contacting the patient "several times"; trying to kiss the patient twice; and Patient #2 going to Staff C's house "several times." 3. Review of the agency's document titled, "Employee Corrective Action Report," dated 01/23/18, showed that Staff C, MHT, was terminated on 01/18/18 for making Patient #3 feel uncomfortable by asking for their social media and phone contact information when the patient was discharging, and asking if they could meet up Patient #3 the following day. 4. Review of DOH's database titled, "Integrated Licensing & Regulatory System Project" (ILRS), showed that Staff C, MHT, had an active Nursing Assistant Certification (NAC). The review showed that the agency did not report either of the incidents involving Staff C's unprofessional conduct	to whom to report suspected code of conduct violations. Policy "Reporting Unethical or Illegal Conduct, 7.0" was revised to include: *Per RCW 18.130 and WAC 246.16 The chief administrator or executive officer or designee of the facility must report a licensed staff member to the Department Of Health when:* *(a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; or* *(b) A license holder poses an unreasonable risk of harm to patients.* *(c) Suspected or confirmed impaired Practitioners."* The revised policy was approved in Quality Council, Medical Executive Committee, Compliance Committee and the Governing Board. The members of Leadership were educated by the Director of Risk Management on the revised policy above on 10/18/23 and were reminded that all allegations of staff to patient unethical behavior should be reported to Risk Management for follow up and investigation.

the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. **RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter: (1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW; (24) Abuse of a client or patient or sexual contact with a client or patient;	with Patients #2 and #3, or Staff C's termination for the conduct to DOH.	Responsible Party: Director of Risk Management. The Director of Risk Management will audit all incidents involving allegations of staff unprofessional conduct to ensure: 1. Proper reporting of the staff to the appropriate licensing agencies, if indicated. 2. Proper reporting of a license holder's service termination or restriction related to that license holder having harmed or placed at unreasonable risk of harm a patient or client, having committed an act or acts that may constitute unprofessional conduct, or being unable to practice his/her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. Target for compliance is 100%. Results of monitoring will be reported to Quality Council and Medical Executive committees monthly and Compliance Committee and Governing Board quarterly until compliance goals have been met and sustained for a minimum of 3 consecutive months.
WAC 246-341-0420 Agency policies and procedures. Each agency licensed by the	Based on policy and procedure review and facility document review, the facility failed to	How Corrected: The CEO met with DRM to discuss the findings on 10/6/23 and

department to provide any behavioral health service must develop, implement, and maintain policies and procedures that address all of the applicable licensing and certification requirements of this chapter including administrative and personnel policies and procedures. Administrative policies and procedures must demonstrate the following, as applicable: (9) Reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC; (17) Personnel policies and procedures must address the following: (d) Staff training. A description of how the agency provides training initial orientation and annual training thereafter in accordance with WAC 246-341-0510. **WAC 241-0510 Personnel—Agency record requirements.** A behavioral health agency must maintain a personnel record for each person employed by the agency. (1) The personnel record must contain all of the following: (c) A record of an orientation to the agency within 90 days of hire that includes all of the following: (ii) Staff ethical standards and conduct, including reporting of unprofessional conduct to appropriate authorities.	develop, implement, and maintain policies and procedures that addressed reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC, and that addressed training on reporting of unprofessional conduct to appropriate authorities. Failure to develop, implement, and maintain policies and procedures that address reporting of impaired practitioners, and that address training on reporting unprofessional conduct to appropriate authorities, can result in licensed persons continuing to work with vulnerable patients, putting patients at risk for trauma and harm. Findings included: 1. Review of the agency's policy titled, "Incident Reporting: Occurrence Reporting System, PI-002," Policy 12326403, revised 11/2021, showed that the incident reporting system for the facility is a function of Risk Management. The policy defined an incident as that which is not consistent with the routine care of a patient and/or the desired operations of the facility which could cause, or has the potential to cause, unexpected physical or mental impairment. The policy did not address the reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC, or the reporting of unprofessional conduct to appropriate authorities.	requirements pertaining to developing, implementing, and maintaining policies and procedures that address reporting of impaired practitioners and staff training on reporting of unprofessional conduct to appropriate authorities. The DRM updated the facility's policy titled "Reporting Unethical or Illegal Conduct, 7.0" to include: *Per RCW 18.130 and WAC 246.16 The chief administrator or executive officer or designee of the facility must report a licensed staff member to the Department Of Health when:* *(a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; or* *(b) A license holder poses an unreasonable risk of harm to patients.* *(c) Suspected or confirmed impaired Practitioners."* The Director of Risk Management worked with the Human Resources Director to add training to the required New Employee Orientation Risk Management Presentation to include the requirement of all staff to report any staff unprofessional conduct to the appropriate licensing agencies i.e. The Department of Health. Training also

	2. Review of the agency's policy titled, "Sentinel Event Review and Reporting, PI-003," Policy 12326404, revised 11/2021, showed that the policy addressed reporting sentinel events, adverse events, and critical incidents to DOH. The policy did not address the reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC, or the reporting of unprofessional conduct to appropriate authorities. 3. Review of the agency's policy titled, "Reporting Unethical or Illegal Conduct, 7.0," Policy 11999283, revised 07/2020, showed that it addressed employee wrongdoing in documenting, coding, or billing for services, equipment, or supplies; wrongdoing in the organization's financial practices; violation of any law or regulation; and violation of any agency or facility policy. The policy stated that corrective action for any substantiated allegation may include notifying an appropriate governmental agency. The policy did not address the reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC, or the reporting of unprofessional conduct to appropriate authorities. 4. Review of the agency's policy titled, "Staff Patient Interactions & Relationships," Policy 1000.2, revised 01/2017, showed that all staff-patient interactions were to be of professional quality, designed to meet the needs of patients and supportive of efforts to reach treatment goals. Boundaries were to be maintained and fraternization was not acceptable or permitted. The policy did not address the reporting of impaired practitioners in	included the consequences staffs failure to report known or suspected unprofessional conduct to an immediate supervisor. All Fairfax staff complete an annual re-education module titled, "UHS Compliance Program via the HealthStream online platform which includes information on when, how and to whom to report suspected code of conduct violations. Responsible Parties: Director of Risk Management and the Human Resources Director. Monitoring: The Human Resources Director will audit up to 30 employee files monthly to ensure: 1. New Employees have evidence of training on reporting unprofessional conduct to appropriate authorities. 2. Employees have evidence of annual re-training on reporting unprofessional conduct to appropriate authorities via completion of assigned HealthStream module, "UHS Compliance Program Training". Target for compliance is 90%. Results of monitoring will be reported to Quality Council and Medical Executive

	accordance with chapters 18.130 RCW and 246-16 WAC, or the reporting of unprofessional conduct to appropriate authorities. 5. Review of the agency's policy titled, "Staff Competency and Training, 1001.15," Policy 10946269, revised 06/2021, showed that staff training included new hire orientation including Code of Conduct and Ethics training. The annual retraining also included Code of Conduct and Ethics training. The policy showed that supervisors were responsible for ensuring that employees received appropriate orientation and ongoing training by a variety of means, which included direct observation, review of work product, and patient/family comments and complaints. The policy did not address the reporting of unprofessional conduct to appropriate authorities. 6. Review of the agency's document titled, "UHSDEBH RM Therapeutic Boundaries," undated, showed that the goal of the annual training was to educate staff in establishing and maintaining appropriate therapeutic relationships with patients. The objectives of the training included an explanation of how boundary violations were reported and investigated. The training outline did not show that the training included the reporting of unprofessional conduct to appropriate authorities. 7. Review of the agency's slide show titled, "Therapeutic Boundaries," dated 03/16/23, showed that the training included topics about	committees monthly and Governing Board Quarterly until compliance goals have been met and sustained for a minimum of 3 consecutive months. Any identified non-compliance will be reported to the staff members immediate supervisor for follow up.

	what therapeutic boundaries are; how patients could be harmed; boundary violations and what to do when a patient violates a boundary; patients who are more vulnerable to boundary violations; and rules regarding personal relationships. The slide show did not address the reporting of unprofessional conduct to appropriate authorities. 8. Review of the agency's document titled, "[Facility name] Employee Handbook 2017," showed that the handbook addressed employees reporting wrongdoing in the documenting, coding, or billing for services, equipment, or supplies; wrongdoing in the company's financial practices; and "any other violation of the Code of Conduct, another Company policy or applicable law." The policy did not address the reporting of unprofessional conduct to appropriate authorities. 9. Review of the agency's document titled, "Employee Guidebook," effective 01/01/23, showed that staff were required to immediately report to the facility's HR or Compliance Officer any professional sanctions, exclusions, or adverse actions against any professional license, and any criminal arrests or convictions. The document did not address the reporting of unprofessional conduct to appropriate authorities.	

Alexandra Hughes, COO _____ **Date:** **10/18/23**

STATE OF WASHINGTON

DEPARTMENT OF HEALTH

October 18, 2023

Fairfax Behavioral Health
10200 NE 132nd Street
Kirkland, WA 98034-2899

Re: Case Number: 2023-1867
License Number: BHA.FS.60874579
Acceptable Plan of Correction

Dear Mr. West:

This letter is to inform you that after careful review of the Plan of Correction (POC) you submitted for the investigation recently conducted at your facility, the Department has determined that the POC is acceptable. You stated in your plan that you will implement corrective actions by the specified timeline. By this, the Department is accepting your Plan of Correction as your confirmation of compliance.

Based on the scope and severity of the deficiencies listed in your statement of deficiency report, the Department will not conduct an unannounced follow-up compliance visit to verify that all deficiencies have been corrected.

The Department reserves the right to pursue enforcement action for any repeat and/or uncorrected deficiencies based on applicable statute and rules.

Investigator: 33894
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