

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

In the Matter of

**DAYBREAK YOUTH SERVICES –
BRUSH PRAIRIE**
License No. BHA.FS.60873310

Respondent

Master Case No. M2023-434

**EX PARTE ORDER OF SUMMARY
ACTION**

PRESIDING OFFICER: Matthew R. Herington, Review Judge

This matter came before the presiding officer, Review Judge Matthew R. Herington, on delegation from the Secretary of Health (Secretary), on May 24, 2023, on an Ex Parte Motion for Order of Summary Action (Motion) brought by the Department of Health's Behavioral Health Agencies Program (Program) through the Office of the Attorney General. The Program issued a Notice of Intent to Suspend (Notice) under RCW 43.70.115, chapter 71.24 RCW, and chapter 246-341 WAC alleging the Respondent failed to comply with numerous provisions of chapters 71.05 RCW, 71.24 RCW, 71.34 RCW, 246-16 WAC, and 246-341 WAC, resulting in violations which constitute an imminent threat to the health, safety, and welfare that can only be alleviated by summary action. The presiding officer, after reviewing the Notice, Motion, and supporting declarations and exhibits, grants the Motion. **LICENSE SUMMARILY SUSPENDED** pending further action.

1. FINDINGS OF FACT

1.1 Daybreak Youth Services – Brush Prairie (DYS – Brush Prairie) is located in Brush Prairie, Washington, and is licensed as a behavioral health agency under chapters 71.24 RCW and 246-341 WAC. DYS – Brush Prairie has been licensed at all relevant times.

1.2 The Program issued a Notice alleging DYS – Brush Prairie failed or refused to comply with RCW 71.05; RCW 71.05.520; RCW 71.24; RCW 71.24.037; RCW 71.34; WAC 246-16-245(1)(g) and (2)(a); WAC 246-16-270(1)(a) and (2); WAC 246-341-0335(1)(a), (b), (c), (d), and (e); WAC 246-341-0410(1)(a), (c), (2), (4)(a),

(4)(b), (4)(f), and (4)(g); WAC 246-341-0420(4), (8), (9), (13)(a), (17), and (18)(c), (d); WAC 246-341-0510(1)(a), (b), (c), and (f); WAC 246-341-0515(2); WAC 246-341-0600; WAC 246-341-0605(3) and (4); WAC 246-341-0650(4); and WAC 246-341-1108. The Notice was accompanied by all other documents required by WAC 246-10-201.

1.3 As set forth in the Notice, Declaration of Emely Lee In Support of Motion for Summary Action with attached exhibits, Declaration of Suzanne Todd In Support of Motion for Summary Action with attached exhibits, Declaration of Julie Marshall In Support of Motion for Summary Action with attached exhibits, and Declaration of Jon Kuykendall In Support of Motion for Summary Action with attached exhibits (collectively “Declarations with attached exhibits”), as well as the Motion, the Secretary finds DYS – Brush Prairie is unable to fulfill its legal obligation to protect the rights of its highly vulnerable minor patients. This includes the rights to be treated with respect, dignity, and privacy, and to be free of sexual harassment and exploitation. For example, the Program has identified that three (3) former employees of DYS – Brush Prairie have allegedly engaged in professional boundary violations, including sexual misconduct, with three (3) minor patients. The Program has also identified that DYS – Brush Prairie has allegedly obstructed and impeded efforts to investigate complaints to an unprecedented level. This has included, but is not limited to, an alleged complete refusal to permit Program investigators to interview patients of DYS – Brush Prairie and a failure to provide access to requested patient records. The Program has also documented reports from former employees of DYS – Brush Prairie—as well as from another Daybreak facility in Spokane—indicating that supervisors and leadership at DYS – Brush Prairie allegedly pressured employees not to cooperate with the Program or report complaints or grievances to other external agencies, such as Child Protective Services.

1.4 DYS – Brush Prairie’s inability to protect patients’ rights—and its obstruction of regulatory oversight through its failure to make legally required reports, conduct adequate internal investigations, and cooperate with the Department of Health’s investigations—together present an ongoing and immediate danger to the public health, safety, or welfare that can only be alleviated through a summary suspension of DYS – Brush Prairie’s license to operate a behavioral health agency.

1.5 The evidence presented as part of the Notice, Motion, and Declarations with attached exhibits are of a nature that if proven at hearing would pose a risk of imminent harm to the patients' health, safety, and welfare.

1.6 Because of the nature of the allegations, DYS – Brush Prairie's license to operate a behavioral health agency and all associated certifications in the State of Washington must be summarily suspended and DYS – Brush Prairie must cease to provide behavioral health and substance use disorder treatment services until such time as the Program deems it in substantial compliance. These measures are the least restrictive alternative available to protect public health, safety, or 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 public health, safety, or welfare. RCW 34.05.422(4), RCW 34.05.479(1), Chapter 71.24 RCW, and WAC 246-341-0335(4).

2.3 The evidence presented with this motion indicates violations of RCW 71.05; RCW 71.05.520; RCW 71.24; RCW 71.24.037; RCW 71.34; WAC 246-16-245(1)(g) and (2)(a); WAC 246-16-270(1)(a) and (2); WAC 246-341-0335(1)(a), (b), (c), (d), and (e); WAC 246-341-0410(1)(a), (c), (2), (4)(a), (4)(b), (4)(f), and (4)(g); WAC 246-341-0420(4), (8), (9), (13)(a), (17), and (18)(c), (d); WAC 246-341-0510(1)(a), (b), (c), and (f); WAC 246-341-0515(2); WAC 246-341-0600; WAC 246-341-0605(3) and (4); WAC 246-341-0650(4); and WAC 246-341-1108.

2.4 The Findings of Fact establish the existence of an immediate danger to the public health, safety, or welfare if DYS – Brush Prairie continues to operate a behavioral health agency during the pendency of the resolution of the Notice. This summary action is necessary to protect the public's health, safety, and welfare. The Findings of Fact also establish there is no less restrictive alternative to summary suspension that will alleviate the immediate danger to the public health, safety, or welfare.

3. ORDER

3.1 Based on the Findings of Fact and Conclusions of Law, it is ORDERED that DYS – Brush Prairie’s license to operate a behavioral health agency and all associated certifications is **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. BHA.FS.60873310 is stayed, DYS – Brush Prairie shall comply with the following:

- A. Stop all admissions of new patients to DYS – Brush Prairie.
- B. Safely and appropriately discharge or transfer all current patients of DYS – Brush Prairie. 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, DYS – Brush Prairie 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 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), DYS – Brush Prairie 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 DYS – Brush Prairie will use to support patient movement and the identified 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 companies (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 a protective order in this case is granted. All healthcare information and non-conviction data contained in the Motion, Notice, and Declarations with attached exhibits, shall not be released except as provided in Chapter 70.02 RCW, Chapter 10.97 RCW, 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2, and any other applicable law, as authorized under RCW 34.05.446(1), and WAC 246-10-405(1) and (2).

Dated this 26th day of May, 2023.



MATTHEW R. HERINGTON, Review Judge
Presiding Officer

For more information, visit our website at: <https://doh.wa.gov/hearings>