

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into September 28, 2010, by CRC HEALTH GROUP, INC. ("CRC") for itself and on behalf of ASPEN EDUCATION GROUP, INC. and MOUNT BACHELOR EDUCATION CENTER, INC. ("MBA"), SHARON M. BITZ, personally, and the STATE OF OREGON by and through the OREGON DEPARTMENT OF HUMAN SERVICES ("Department").

RECITALS

In March 2009, the Department commenced an investigation of alleged child abuse and neglect at MBA.

On November 2, 2009, the Department issued to MBA a Complaint and Order to Correct Conditions Not in Conformity with Licensing Standards ("Complaint"), an Order of Emergency License Suspension and Notice of Opportunity for a Hearing ("Order"), and an Abuse Investigation & Protective Services Report ("Report") that found certain allegations of abuse or neglect by MBA and Sharon Bitz were substantiated within the meaning of OAR 407-045-0820 ("Findings"). The Complaint and Order are attached in redacted form (to protect the identities of juveniles involved).

On or about December 1, 2009, MBA requested a hearing to contest the Complaint and Corrective Order and Suspension Order. The proceeding is *In the Matter of the Therapeutic Boarding School License of Mt. Bachelor Academy, a program of the Aspen Education Group, owned by CRC Health Group, Inc.*, Office of Administrative Hearings Case No. 20092804 ("Licensure Proceeding").

An Agreement Regarding License Renewal in the Licensure Proceeding was made, on or about March 11, 2010. MBA is now closed.

On or about April 29, 2010, MBA submitted a notice of claim for damages to the Oregon Department of Administrative Services ("DAS") under ORS 30.275 arising out of actions of the Department, Erinn Kelley-Siel, Monika Kretzschmar, Kathy Spear, and other agents of the Department not yet identified ("Tort Claims Notice"). Sharon Bitz also submitted a notice of claim for damages to DAS arising out of the actions of the Department in the MBA investigation.

On or about July 6, 2010, MBA commenced *Mount Bachelor Education Center, Inc. v. Oregon Department of Human Services*, Marion County Circuit Court Case No. 10C17569 ("Civil Action") to contest allegations substantiated in the Report.

On or about December 10, 2009, Sharon Bitz commenced *Sharon M. Bitz v. Oregon Department of Human Services*, Marion County Circuit Court Case No. 09C23755, ("Bitz Civil Action") to contest allegations substantiated in the Report.

NOW, THEREFORE, intending to be legally bound and in consideration of the mutual promises and other good and valuable consideration as set out in this Agreement, CRC, Sharon Bitz and the Department agree as follows:

AGREEMENT

For purposes of this Agreement, "CRC" means itself and Aspen Education Group, Inc. ("Aspen"), Mount Bachelor Education Center, Inc. ("MBA" also known as Mount Bachelor Academy), any other entity owned or affiliated with any of them, and their officers, agents and employees.

1. CIVIL ACTIONS AND CLAIMS

A. CRC, Sharon M. Bitz ("Bitz") and the Department stipulate that the Civil Action and the Bitz Civil Action will be dismissed with prejudice and without fees or costs to any party and no new or replacement actions will be filed.

B. CRC and Bitz release and waive any and all rights or claims, whether known or unknown, suspected or unsuspected, that arose or that may arise out of the events described in the Tort Claims Notices or that were or that could have been asserted in the Tort Claims Notices.

C. CRC and Bitz stipulate that the Department had a reasonable and good faith basis to investigate the allegations of abuse and neglect and to seek corrective actions by MBA. CRC and Bitz will, in separately mailed letters and in language mutually acceptable to the parties, notify parents, students, and employees, including parents and students who filed claims under ORS 30.275, that all matters as between CRC, Aspen and MBA and the Department, and Bitz and the Department, have been resolved to the satisfaction of CRC, Aspen and MBA and Bitz. The letters will include a statement by CRC, Aspen and MBA and Bitz acknowledging the Department's reasonable and good faith basis to investigate the allegations of abuse and neglect and to seek corrective actions by MBA.

D. CRC and Bitz, in their letters, will not encourage, and will discourage, the prosecution of the claims by parents, students, or employees against the Department.

2. LICENSURE PROCEEDING

A. CRC and the Department will conclude the Licensure Proceeding through a motion and order by the Department withdrawing the Emergency Suspension Order and the Complaint and Corrective Order from the Office of Administrative Hearings based on the fact that MBA is closed and, consequently, no decision in these matters will have any practical effect on the rights of the parties. CRC does not object to this action.

3. FINDINGS

A. The Findings as regards MBA will be modified to replace the word “SUBSTANTIATED” with the following two sentences: “Based on the evidence available to the Department, the Department found that there is reasonable cause to believe that abuse or neglect occurred. The Department’s conclusion is based on evidence collected solely by the Department as of November 2, 2009 and not on information provided or available after that date.”

B. The Findings as regards Sharon Bitz will be subject to the following terms and conditions. The Department will not (and to date has not) entered the substantiated findings against Bitz into its computer systems. During a two-year period beginning at the signing of this Settlement Agreement, Bitz will enroll in, attend and successfully complete a course in child/adolescent psychology to be pre-approved by the Department (c/o Margaret Semple),¹ which approval shall not be unreasonably withheld. During the two-year period, Bitz will not engage in any educational or therapeutic services of minors except that after eighteen (18) months, if Bitz has otherwise complied with the terms of this agreement, she may petition the Department (c/o Margaret Semple) for permission to counsel the minor children of her clients as a part of providing alcohol and drug treatment (family counseling), which permission shall not be withheld unreasonably. At the conclusion of the two-year period, if all terms successfully are completed, the Department will issue a new letter to Bitz withdrawing the substantiated findings against her and notifying her that the findings will not be entered into the Department computer system. If Bitz fails to follow the terms of this agreement, the findings will be entered into the system.

4. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties with respect to the matters in the Recitals, and this Agreement supersedes and replaces all prior negotiations, statements, and representations with respect to the matters in the Recitals.

5. MODIFICATIONS TO AGREEMENT

This Agreement may not be amended, altered, or modified, except by a written amendment executed by the parties whose interests are affected by the amendment, alteration, or modification.

6. APPLICABLE LAW

This Agreement shall be construed in accordance with the laws of the State of Oregon.

7. AGREEMENT NOT A LIMITATION

Nothing in this Agreement limits the authority of the Department under the laws of the State of Oregon.

¹ An approved course is “Abuse and Trauma: Theory and Intervention,” SW558, offered by Portland State University

8. SUCCESSORS AND ASSIGNS

This Agreement is binding upon the parties' successors and assigns.

9. SEVERABILITY

The parties agree that the provisions of this Agreement are severable and that the invalidity of any portion or provision does not affect the validity or enforceability of the other portions or provisions. Provisions shall be given effect to the extent that they may be enforceable.

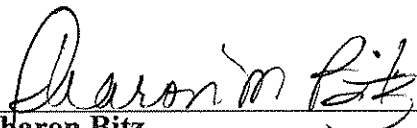
10. REMEDIES FOR ENFORCEMENT OF THIS AGREEMENT

If the parties disagree about the meaning of any term of this agreement, they will first submit the dispute to the mediator, former Chief Justice Edwin A. Peterson, or a mutually acceptable alternative mediator, for determination of the meaning in dispute. The parties may not appeal that decision.

If a party fails to comply with a term of this Agreement, any party may bring an action to enforce the agreement or bring an action under the Administrative Procedures Act, at the party's option.

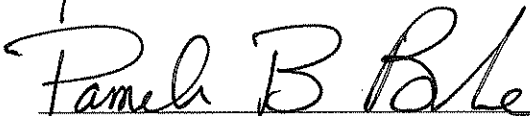
IT IS SO AGREED:

DATED this 28 day of September, 2010



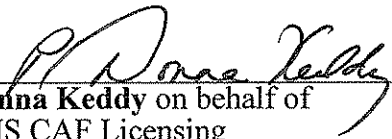
Sharon Bitz

DATED this 28 day of September, 2010



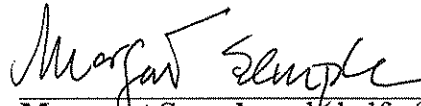
Pamela Burke
CRC/MBA/Aspen

DATED this 28 day of September, 2010



Donna Keddy on behalf of
DHS CAF Licensing

DATED this 28 day of September, 2010



Margaret Semple on behalf of
DHS Office of Investigation & Training

APPROVED AS TO FORM:

DATED this 28th day of September, 2010



Gregory A. Chaimov, OSB # 822180
Of Attorneys for CRC & Bitz

DATED this 28th day of September, 2010



Paul J. Sundermier, OSB #824078
Senior Assistant Attorney General
Of Attorneys for DHS

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
DEPARTMENT OF HUMAN SERVICES

In the Matter of the
Therapeutic Boarding School License of
Mt. Bachelor Academy,
a program of the Aspen Education Group,
owned by CRC Health Group, Inc.,

AMENDED COMPLAINT AND ORDER TO
CORRECT CONDITIONS NOT IN
CONFORMITY WITH LICENSING
STANDARDS

Licensee

The Department of Human Services (DHS) intends to require licensee Mt. Bachelor Academy, a program of Aspen Education Group, owned by CRC Health Group, Inc., located in a rural area, 26 miles east of Prineville, Oregon, admitting both male and female students who are from age 14 to 17.5 at the time of admission, to correct the conditions not in conformity with licensing standards within the timeframes set forth below. If such corrective conditions are not satisfactorily corrected within the timeframes given, it is the intention of the agency to revoke the above-mentioned license.

Authority:

Pursuant to ORS 418.327, DHS is responsible for inspections, reviews and licensing of private schools. DHS has adopted administrative rules to implement ORS 418.327. OAR 413-215-0001 to 413-215-0131; OAR 413-215-0201 to 414-215-0276; and OAR 413-215-0601 to 413-215-0681 are applicable to private schools. More specifically, OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0601 to 413-215-0681 are applicable to therapeutic boarding schools. A therapeutic boarding school is defined as "an organization that: (a) is primarily a school and not a residential care agency . . . provides educational services and care to children for 24 hours a day; and holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services." Pursuant to ORS 418.327(5) and (6) and OAR 413-215-01016(3) if DHS finds a reasonable basis for the complaint against a therapeutic boarding school, DHS shall set a hearing to examine publicly the complaint. OAR 413-215-0001 et seq was effective October 17, 2008.

Prior to OAR 413-215-0001 et seq, DHS administrative rules OAR 413-210-0000 et seq were in place. OAR 413-210-0000 et seq were effective 12-29-1995. OAR 413-210-0500 to 413-210-0620 were applicable to residential schools. In addition, OAR 413-210-0000 to 0480 applied to private child-caring agencies, which included therapeutic boarding schools. Private child-caring agencies were defined in OAR 413-210-0010(21) as "any private organization providing day treatment, adoption placement, residential care, foster care or other similar services for children." Pursuant to OAR 413-210-0240, DHS "shall deny, suspend or revoke a private child-caring agency's license where it finds there has been a substantial failure to comply with these rules;" the private child-caring agency may appeal and decision pursuant to ORS Chapter 183.

Mt. Bachelor Academy is a therapeutic boarding school licensed under ORS 418.327 and subject to OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0601 to 413-215-0681, and previously subject to OAR 413-210-0000 to 0620. In March 2009, initial complaints regarding allegations of abuse were made against Mt. Bachelor Academy. Through the course of DHS' investigation, numerous serious violations of state licensing standards for therapeutic boarding schools were revealed. As set forth below, DHS has found that there is a reasonable basis for sustaining the complaints against Mt. Bachelor Academy.

Background:

Mt. Bachelor Academy (MBA) is a licensed Therapeutic Boarding School, located in a rural area, 26 miles east of Prineville, Oregon, licensed originally in 1988. The school admits both male and female students who are from age 14 to 17.5 at the time of admission, although some children are admitted pursuant to an exception as young as age 13. The total capacity is 125 students and the average length of stay is 14-16 months. In 1998, Mt. Bachelor was re-organized and became a program of Aspen Education group. Aspen was recently acquired by CRC Health Group, Inc. As of March 2009, MBA had approximately 77 staff and 88 boarding students.

On or about March 20, 2009, DHS received reports of child abuse against MBA. The DHS Office of Investigations and Training (OIT) handled the investigation of the reports of child abuse at MBA. There were two investigators primarily assigned to go to Prineville and interview people on campus. In addition, the office used three other investigators to conduct witness interviews of people in- and out-of-state. The investigators conducted interviews involving 65 witnesses, including MBA students and staff, along with licensed therapists familiar with individual students. Investigators consulted with a medical expert certified in Child and Adolescent Psychiatry, and they reviewed documents and photographed materials used as part of the MBA therapy program.

At the same time, the DHS Licensing and Residential Treatment Services (Licensing) program investigated standards for health and safety and looked at MBA's compliance with Oregon Administrative Rules related to their license as a therapeutic boarding school. Licensing accompanied OIT investigators on a site visit to the program on or about March 26 and 27th. Based on the initial information gathered from the investigation, on or about March 31, 2009, Licensing notified MBA that they were prohibited from conducting their own investigation into the allegations of abuse reported to have occurred; prohibited from destroying or otherwise concealing school or student records; prohibited from disciplining or threatening to discipline students interviewed during the investigation; and prohibited from conducting Lifesteps activities until further notice. Parents of students were notified of the investigation.

Over the next several months, Licensing spoke with numerous parents and former students, made additional site visits to the program to conduct further reviews of student records, medical records, personnel records, and program procedures and policies.

Interviews were also conducted with staff and students. Licensing further reviewed another "emotional growth" curriculum called Transitions that MBA sought to use in place of the Lifesteps program. DHS reviewed the program and expressed concerns to MBA that the Transitions program too closely mirrored the prohibited Lifesteps program. MBA proceeded to offer the Transitions program knowing that such a choice could result in further investigation of MBA.

In October 2009, the Office of Investigations and Training (OIT) completed its investigation and determined that eight allegations of abuse involving five individual students were substantiated against the agency, Mt. Bachelor Academy. The report indicates that the abuse allegations are "exemplars" in that these five clients' experience is not unique and is "substantially consistent" with the experience of all children enrolled in the program. The report further substantiated an allegation of abuse against the Executive Director. The Executive Director either knew of the abusive practices of the agency, or she should have known what was happening under her authority.

COMPLAINT

DHS finds that 7 allegations of abuse are substantiated against MBA and two allegations of abuse are substantiated against the Executive Director of MBA in violation of ORS 419B.005(1)(A)(f) and OARs 407-045-0820, 413-015-1000; 413-015-0425; 413-015-0430; and, 413-015-0445. Moreover, DHS finds that MBA is in violation of the following statutes and licensing rules: ORS 418.260; 418.306; 418.240(1)(b); and 419B.005 and OARs 413-215-0021; 413-215-0046; 413-215-0051; 413-215-0056; 413-215-0076; 413-215-0606; 413-215-0611; 413-215-00651; 413-215-0661; 413-215-0676; 413-215-0681; 413-210-0040; 413-210-0060; 413-210-0070; 413-210-0140; 413-210-0160; 413-210-0180; 413-210-0190; 413-210-0530; 413-210-0540; and, 413-210-0610. DHS finds that MBA's abuse and neglect of students and violations of the licensing rules, described below, establishes that MBA poses an immediate and serious danger to child health or safety as follows:

1. Mt. Bachelor Academy is a licensed Therapeutic Boarding School, located in a rural area, 26 miles east of Prineville, Oregon, licensed originally in 1988.
2. MBA admits both male and female students who are from age 14 to 17.5 at the time of admission. The total capacity is 125 students and the length of stay is 14-16 months.
3. In 1998, Mt. Bachelor was re-organized and became a program of Aspen Education group. Aspen was recently acquired by CRC Health Group, Inc.
4. In March of 2009, MBA had approximately 77 staff and 88 boarding students.
5. DHS investigated and determined that eight allegations of abuse involving five individual students were substantiated against the MBA in violation of ORS 419B.005(1)(A)(f) and OARs 407-045-0820(1)(f), (g) and (h), 413-015-1000; 413-015-0425; 413-015-0430; and, 413-015-0445.
6. DHS investigated and determined that two allegations of abuse were substantiated against MBA's Executive Director in violation of ORS 419B.005(1)(A)(f) and OARs

407-045-0820(1)(g), (f) and (h), 413-015-1000; 413-015-0425; 413-015-0430; and, 413-015-0445.

7. MBA violated ORS 418.260 and OARs 413-215-0076(3); 413-210-0010(30); 413-210-0530; 413-210-0540(4) and (5); and, 413-210-0190 regarding behavior management in that MBA required students to engage in an "emotional growth" curriculum, included but not limited to the Lifesteps program that was punitive, humiliating, degrading and traumatizing. The "emotional growth" curriculum included, but was not limited to, sexualized role play in front of staff and peers, requiring students to say derogatory phrases about themselves in front of staff and peers, requiring students to reenact past physical abuse in front of staff and peers, permitting staff to engage in the usage of derogatory names, phrases and ridicule of students, and deprivation of sleep.

8. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that students were required to engage in self studies and solo experiences for violating behavioral expectations. Self studies and solo experiences included, but were not limited to, strenuous work projects and camping alone on an island and in inclement weather conditions.

9. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy, as indicated in MBA's parent handbook, in that students' access to the bathroom during class time was withheld and/or resulted in punishment for breaking class rules. In addition, students were required to do push-ups and/or run laps as a consequence for breaking class rules.

10. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that an entire group of students was punished for the behavior of one student.

11. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that MBA utilized bans as a consequence for inappropriate behavior. Bans were reported to last up to a week or longer and include the student not being allowed to talk, touch, or look at others and face the wall during meal time.

12. MBA violated ORS 418.260 and 418.306 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that students communication with parents was routinely censored as a means of controlling behavior. It was reported phone calls were ended if a student complained, students were told not to divulge any aspect of the "emotional growth" curriculum during telephone calls, and both content and ability to call were used as a disciplinary measure.

13. MBA violated ORS 418.260 and OARs 413-215-0606; 413-215-0661(1); 413-215-0681(2); 413-210-0180; and, 413-210-0140 regarding therapeutic services in that students were not provided adequate therapeutic services for their diagnosis or substance abuse issues, nor were students provided individualized treatment plans or services to address their significant needs. All students were required to participate in the Lifesteps program and other "emotional growth" curriculum regardless of the students' needs or vulnerabilities. Despite DHS' stated concerns, MBA recently introduced what it calls the Transitions program, which closely mirrors the Lifesteps program in that it contains the

same deficiencies with respect to requiring participation regardless of students' needs or vulnerabilities.

14. MBA violated ORS 418.260 and OAR 413-215-0681(2), 413-210-0180; and, 413-210-0140 regarding treatment planning in that MBA failed to develop and deliver individualized services to students. All students were required to participate in the Lifesteps program and other "emotional growth" curriculum regardless of the students' needs or vulnerabilities. Despite DHS' stated concerns, MBA recently introduced what it calls the Transitions program, which closely mirrors the Lifesteps program in part because it contains the same deficiencies with respect to requiring participation regardless of students' needs or vulnerabilities.

15. MBA violated ORS 418.240(1)(b) and 418.260 and OARs 413-215-0051(2); 413-215-0661(1); 413-210-0070; and, 413-210-0530(3) regarding staff services in that staff members do not have the background and experience to be able to provide adequate care, safety, protections and supervision of students. MBA has only one staff member who is an Oregon licensed mental health professional, however that staff member reported that he does not meet with every student admitted nor does he regularly participate in the Lifesteps program or "emotional growth" curriculum. There are no staff members with qualifications to treat substance abuse or eating disorders and other mental health diagnosis.

16. MBA violated ORS 418.260 and OARs 413-215-0676(2); 413-215-0611; 413-210-0040; 413-210-0140; 413-210-0610; and, 413-210-0530(2) regarding educational services in that MBA fails to ensure students have adequate access to education or knowledge of their right to such education. Students are deprived of the ability to participate in academic classes while on self studies, solos or other disciplinary actions.

17. MBA violated ORS 418.260 and OARs 413-215-0606(10); 413-215-0611; and 413-210-0610 regarding educational services in that MBA fails to meet the definition of a therapeutic boarding school which requires the licensee to be primarily a school and not a residential care agency. It was reported that MBA specializes in adolescents with significant emotional and behavioral disorders, many of whom are likely to have significant diagnosable psychiatric disorders. Such students are inappropriate for a therapeutic boarding school and have clinical conditions beyond the scope of MBA's license.

18. MBA violated ORS 418.260 and OARs 413-215-0046(1); 413-215-0676(2); 413-210-0040; 413-210-0140; and, 413-210-0530(2) regarding children and families rights and grievance policies in that students were denied access to education for behavioral infractions. Students' rights in the student handbook do not include a right to participate in treatment planning and there is no right to file a grievance if the student is not in agreement with the service provided. Students' calls to parents are monitored and censored. Grievance policies and procedures are not made available to parents. Students' mail is opened and read prior to the student receiving it. Students with documented mental health and substance abuse disorders are not given access to appropriate therapy and treatment.

19. MBA violated ORS 418.260 and OARs 413-215-0651(1); 413-210-0160; and 413-210-0140 regarding medication management in that MBA failed to have medication policies and procedures that ensure the safe management and administration of medication. Medication logs reviewed had errors including but not limited to missing

dates, no record of missed doses, no record of method of administration, no identification of the person who administered the medication and no information regarding adverse reactions to the medication. There is no policy or procedure in place that addresses how or by whom medication is administered to students while they are involved in workshops that are part of the "emotional growth" curriculum or while involved in off-campus activities. It was also reported that during Lifesteps students do not always receive their medication. Additionally, some medications used to aid sleep are purposely withheld from students during the Lifesteps program.

20. MBA violated ORS 418.260 and OARs 413-215-0681(3) and 413-210-0140 regarding discharge planning in that student records lacked any discharge planning or instructions for students prior to or at their departure from school. Additionally, students records lacked documentation that the students or their family were involved any discharge planning.

21. MBA violated ORS 418.260 and OARs 413-215-0681(3) and 413-210-0140 regarding incident reporting and notifications in that incident reports are not maintained in the client files and there were no incident reports for other events, including but not limited to an incident resulting in a concussion.

22. MBA violated ORS 419B.005 and ORS 418.260 and OARs 413-215-0056 and 413-210-0140 regarding mandatory reporting in that student records indicate a student disclosed to a staff member prior sexual abuse but there is no indication in the record that the staff to whom the disclosure was made had complied with mandatory reporting requirements. Another student reported disclosing rape while at MBA to staff however there is no indication of a report to law enforcement or children's protective services.

23. MBA violated ORS 418.260 and OARs 413-215-0021(3) and 413-210-0060(2) regarding governance in that the Executive Director has a substantiated finding of neglect for failing to ensure that individual students received the appropriate therapeutic services and were not subjected to activities that were coercive, intimidating, harassing, and/or humiliating.

ORDER TO CORRECT CONDITIONS

Based on the findings of the investigations of OIT and Licensing, DHS has determined there are conditions present that pose a serious danger to child safety. MBA's methods of emotional, behavioral and mental health intervention and daily interaction with students perpetuate an environment that poses a pervasive immediate threat which places all children at risk of harm. MBA has subjected students to an "emotional growth" curriculum, including but not limited to the *Lifesteps* program, as a therapy technique that is harmful and damaging to their health or welfare. MBA has not provided the therapeutic treatment necessary for students to overcome or improve their substance abuse issues, mental health issues, eating disorders and other issues, nor provided qualified staff to treat such conditions. MBA has not provided appropriate educational; services, disciplinary processes or physical health services; nor has MBA protected the rights of students or parents to communication and information.

DHS finds that 7 allegations of abuse are substantiated against MBA and two allegations of abuse are substantiated against the Executive Director of MBA in violation

of ORS 419B.005(1)(A)(f) and OARs 407-045-0820, 413-015-1000; 413-015-0425; 413-015-0430; and, 413-015-0445. Moreover, DHS finds that MBA is in violation of the following statutes and licensing rules: ORS 418.260; 418.306; 418.240(1)(b); and 419B.005 and OARs 413-215-0021; 413-215-0046; 413-215-0051; 413-215-0056; 413-215-0076; 413-215-0606; 413-215-0611; 413-215-00651; 413-215-0661; 413-215-0676; 413-215-0681; 413-210-0040; 413-210-0060; 413-210-0070; 413-210-0140; 413-210-0160; 413-210-0180; 413-210-0190; 413-210-0530; 413-210-0540; and, 413-210-0610. DHS finds that MBA's abuse and neglect of students and violations of the licensing rules, described above, establishes that MBA poses a serious danger to child safety and that conditions exist that immediately endanger the health or safety of children at MBA and that MBA should immediately discontinue providing therapeutic, educational and residential services until the following corrective conditions are made within the time limits set forth below.

A. Behavior Management

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0076(3); 413-210-0010(30); 413-210-0530; 413-210-0540(4) and (5); and, 413-210-0190 regarding behavior management in that MBA required students to engage in an "emotional growth" curriculum, included but not limited to the Lifesteps program that was punitive, humiliating, degrading and traumatizing. The "emotional growth" curriculum included, but was not limited to, sexualized role play in front of staff and peers, requiring students to say derogatory phrases about themselves in front of staff and peers, requiring students to reenact past physical abuse in front of staff and peers, permitting staff to engage in the usage of derogatory names, phrases and ridicule of students, and deprivation of sleep.
- b. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that students were required to engage in self studies and solo experiences for violating behavioral expectations. Self studies and solo experiences included, but were not limited to, strenuous work projects and camping alone on an island and in inclement weather conditions.
- c. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy, as indicated in MBA's parent handbook, in that students' access to the bathroom during class time was withheld and/or resulted in punishment for breaking class rules. In addition, students were required to do push-ups and/or run laps as a consequence for breaking class rules.
- d. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that an entire group of students was punished for the behavior of one student.
- e. MBA violated ORS 418.260 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that MBA utilized bans as a consequence for inappropriate behavior. Bans were

reported to last up to a week or longer and include the student not being allowed to talk, touch, or look at others and face the wall during meal time.

- f. MBA violated ORS 418.260 and 418.306 and OARs 413-215-0076(6); 413-210-0190; 413-210-0540(5); 413-210-0140; and, 413-210-0530(2) regarding discipline policy in that students' communication with parents was routinely censored as a means of controlling behavior. It was reported phone calls were ended if a student complained, students were told not to divulge any aspect of the "emotional growth" curriculum during telephone calls, and both content and ability to call were used as a disciplinary measure.

2. **Corrective Conditions:** The following corrective conditions with respect to Behavior Management are required to be completed within 90 days from the date of this order:

- a. MBA is required to convene a review process to thoroughly examine school wide policies, practices and culture involving behavior management of students. The group must participate and advise MBA on the development of new policies, practices and cultural change issues. This review group must include external behavioral experts with recognized accreditation and expertise in evidence-based practices, members of the school's governing board, parents, and former students. This review group must develop and forward a written evaluation of the change process to DHS Licensing for approval.
- b. MBA must develop and be prepared to implement a system of behavior management that is applicable and relevant for therapeutic boarding school students that is not punitive, is free from degradation and humiliation and is compliant with Oregon Administrative Rules. The behavior management system must be approved by DHS Licensing prior to resuming admission of students, and must be implemented upon approval of that system by DHS.
- c. MBA must develop and implement a quality improvement process that identifies specific measures to ensure successful implementation of behavior management strategies.

B. Therapeutic Services

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0606; 413-215-0661(1); 413-215-0681(2); 413-210-0180; and, 413-210-0140 regarding therapeutic services in that students were not provided adequate therapeutic services for their diagnosis or substance abuse issues.
- b. MBA violated ORS 418.260 and OAR 413-215-0681(2), 413-210-0180; and, 413-210-0140 regarding therapeutic services in that students were not provided individualized treatment plans or services to address their significant needs. All students were required to participate in the Lifesteps program and other "emotional growth" curriculum regardless of the students' needs or vulnerabilities. Despite DHS' stated concerns, MBA recently introduced what it

calls the Transitions program, which closely mirrors the Lifesteps program in that it contains the same deficiencies with respect to requiring participation regardless of students' needs or vulnerabilities.

2. Corrective Conditions: The following corrective conditions with respect to Therapeutic Services are required to be completed within 90 days from the date of this order:

- a. MBA must devise new admission criteria to ensure the school admits only students who are appropriate for this level of care. The program must ensure that they do not admit students who require a higher level of care, such as residential treatment.
- b. MBA must develop and implement therapeutic services that are relevant to and appropriate for boarding students.
- c. MBA must develop an array of therapeutic services that are evidenced based, and trauma informed.
- d. MBA must develop therapeutic services that are individually focused on the needs of each student.
- e. MBA must ensure it employs individuals with therapeutic credentials sufficient to implement evidenced based programs and practices.
- f. If MBA decides to admit and provide services at MBA to students with substance abuse or mental health disorders, MBA must seek and obtain the required certificates of approval or certifications from the appropriate government bodies with such authority identified by rule or statute. If MBA decides to admit students with substance abuse or mental health disorders but not provide services at MBA for such students, MBA must obtain written referral agreements from community-based treatment facilities that provide treatment for substance abuse and mental health disorders and have the required certificate of approval or certification from the appropriate government bodies with such authority identified by rule or statute.
- g. MBA must develop a quality improvement process that identifies specific measures to ensure implementation of evidence-based practices.
- h. MBA is required to convene a review process to thoroughly examine agency wide policies, practices and culture regarding therapeutic services and clinical models of care. The group must participate and advise the agency on the development of new clinical models, clinical practices and cultural change issues that demonstrate the agency values trauma informed care. This review group must include external clinical or therapeutic experts, (specifically those with expertise in evidence based practices), members of the schools governing board, parents, and former students. This review group must develop and forward a written evaluation of the change process to DHS and obtain DHS's approval prior to the school reopening to admission.

C. Treatment Planning

1. Allegation:

- a. MBA violated ORS 418.260 and OAR 413-215-0681(2), 413-210-0180; and, 413-210-0140 regarding treatment planning in that MBA failed to develop and deliver individualized service planning for students. All students were required to participate in the Lifesteps program and other "emotional growth" curriculum described as "emotional growth based" regardless of the students' needs or vulnerabilities. Despite DHS' stated concerns, MBA recently introduced what it calls the Transitions program, which closely mirrors the Lifesteps program in that it contains the same deficiencies with respect to requiring participation regardless of students' individual needs or vulnerabilities.

2. Corrective Conditions: The following corrective conditions with respect to Treatment Planning are required to be completed within 90 days from the date of this order:

- a. MBA must develop and provide individualized therapeutic services that are based on the recommendations realized through clinical assessments by qualified professionals, which individually focus on the needs of the particular student.
- b. MBA must develop and implement a system of individualized treatment planning that involves the student and his or her family in identifying issues, developing goals and designing individually based services to meet the goals.
- c. MBA must develop adequate training for staff on individualizing service plans.

D. Staff Services

1. Allegations:

- a. MBA violated ORS 418.240(1)(b) and 418.260 and OARs 413-215-0051(2); 413-215-0661(1); 413-210-0070; and, 413-210-0530(3) regarding staff services in that staff members do not have the background and experience to be able to provide adequate care, safety, protections and supervision of students. MBA has only one staff member who is an Oregon licensed mental health professional, however that staff member reported that he does not meet with every student admitted nor does he regularly participate in the Lifesteps program or "emotional growth" curriculum. There are no staff members with qualifications to treat substance abuse or eating disorders and other mental health diagnosis.

2. Corrective Conditions: The following corrective conditions with respect to Staff Services are required to be completed within 90 days from the date of this order:

- a. MBA must ensure that therapeutic staff have adequate credentials including education and experience working with youth.

- b. MBA must ensure that all staff are adequately trained in the clinical model to be followed by MBA. The clinical model must be evidence based and include supportive, motivational therapies.
- c. MBA must employ adequate "cultural change" strategies to ensure that staff employed by the agency are free from old constructs that include use of secrecy, inappropriate language, punishing therapies and overly harsh confrontation.
- d. MBA must develop and implement a required ongoing continuing education and training process for staff and management on clinical care issues, utilizing external clinical experts.
- e. MBA must initiate quality assurance measures that evaluate the agency's work toward implementing a culture of student motivation and support.
- f. MBA must develop and implement performance appraisal systems that routinely evaluate staff member on the integrity with which they are demonstrating culture change and use of the clinical model.
- g. MBA must take real steps to include student and family evaluations as part of staff performance appraisals.

E. Educational Services

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0676(2); 413-215-0611; 413-210-0040; 413-210-0140; 413-210-0610; and, 413-210-0530(2) regarding educational services in that MBA fails to ensure students have adequate access to education or knowledge of their right to such education. Students are deprived of the ability to participate in academic classes while on self studies, solos or other disciplinary actions.
- b. MBA violated ORS 418.260 and OARs 413-215-0606(10); 413-215-0611; and 413-210-0610 regarding educational services in that MBA fails to meet the definition of a therapeutic boarding school which requires the licensee to be primarily a school and not a residential care agency. It was reported that MBA specializes in adolescents with significant emotional and behavioral disorders, many of whom are likely to have significant diagnosable psychiatric disorders. Such students are inappropriate for a therapeutic boarding school and have clinical conditions beyond the scope of MBA's license.

2. Corrective Conditions: The following corrective conditions with respect to Educational Services are required to be completed within 90 days from the date of this order:

- a. MBA must develop and implement a program that ensures students' knowledge of their right to education and access to appropriate educational services.
- b. MBA must develop policies and procedures that prioritize school attendance, and ensure that consequences for rule violations do not preclude classroom attendance to the extent that such consequences impede the student's academic progress.

- c. MBA must revise admission strategies to ensure the school admits only those students appropriate and within the scope of a licensed boarding school.
- d. MBA must develop quality assurance processes that measure school attendance and graduation rates.

F. Children and Family Rights and Grievance Policy

1. Allegations:

a. MBA violated ORS 418.260 and OARs 413-215-0046(1); 413-215-0676(2); 413-210-0040; 413-210-0140; and, 413-210-0530(2) regarding children and families rights and grievance policies in that students were denied access to education for behavioral infractions. Students' rights in the student handbook do not include a right to participate in treatment planning and there is no right to file a grievance if the student is not in agreement with the service provided. Students' calls to parents are monitored and censored. Grievance policies and procedures are not made available to parents. Students' mail is opened and read prior to the student receiving it. Students with documented mental health and substance abuse disorders are not given access to appropriate therapy and treatment.

2. Corrective Conditions: The following corrective conditions with respect to Children and Family Rights and Grievance Policy are required to be completed within 90 days from the date of this order:

- a. MBA must develop and implement a meaningful grievance procedure for both students and families.
- b. MBA must designate someone to act as an independent mediator or ombudsman who is available to students to assist them with complaints, grievances or concerns.
- c. MBA must develop policies and procedures that ensure students actively participate in developing treatment goals and plans, which include their consent to participate.
- d. MBA must allow students uncensored telephone and mail communication with parents or guardians, unless identified as a clinical issue on the student care plan. Such prohibitions can be identified as a short-term intervention only.
- e. MBA must allow parents uncensored telephone and mail communication with their children.

G. Medication Management

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0651(1); 413-210-0160; and 413-210-0140 regarding medication management in that MBA failed to have medication policies and procedures that ensure the safe management and administration of medication. Medication logs reviewed had errors including

but not limited to missing dates, no record of missed doses, no record of method of administration, no identification of the person who administered the medication and no information regarding adverse reactions to the medication. There is no policy or procedure in place that addresses how or by whom medication is administered to students while they are involved in workshops that are part of the "emotional growth" curriculum or while involved in off-campus activities. It was also reported that during Lifesteps students do not always receive their medication. Additionally, some medications used to aid sleep are purposely withheld from students during the Lifesteps program.

2. Corrective Conditions: The following corrective conditions with respect to Medication Management are required to be completed within 90 days from the date of this order:

- a. MBA must redesign its medication management policies and procedures.
- b. MBA must implement policies that ensure all medication administration is conducted as required by Administrative Rule.
- c. MBA must ensure that all staff involved in administrative of medication are adequately trained and supervised.
- d. MBA must develop and implement a policy of writing Incident Reports each time a medication error is identified.
- e. MBA must develop and implement quality assurance process that measures medication errors.

H. Discharge Planning

1. Allegation:

- a. MBA violated ORS 418.260 and OARs 413-215-0681(3) and 413-210-0140 regarding discharge planning in that student records lacked any discharge planning or instructions for students prior to or at their departure from school. Additionally, students records lacked documentation that the students or their family were involved any discharge planning.

2. Corrective Condition: The following corrective conditions with respect to Discharge Planning are required to be completed within 90 days from the date of this order:

- a. MBA must develop policies and procedures that ensure that student and parents are active participants in discharge planning.
- b. MBA must develop procedures to identify follow up resources for each discharged student and family and document follow up to ensure aftercare services are provided.
- c. MBA must develop quality assurance processes that measure the implementation and follow through with aftercare services.

I. Incident Reporting and Notifications

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0681(3) and 413-210-0140 regarding incident reporting and notifications in that incident reports are not maintained in the client files and there were no incident reports for other events, including but not limited to an incident resulting in a concussion.

2. Corrective Conditions: The following corrective conditions with respect to Incident Reporting and Notifications are required to be completed within 90 days from the date of this order:

- a. MBA must develop new policies and procedures regarding Incident Reporting and required notifications
- b. MBA must ensure all that all staff are trained in Incident Reporting, including required notifications.
- c. MBA must develop a quality assurance processes that measures all incident reports.

J. Mandatory Reporting

1. Allegations:

- a. MBA violated ORS 419B.005 and ORS 418.260 and OARs 413-215-0056 and 413-210-0140 regarding mandatory reporting in that student records indicate a student disclosed to a staff member prior sexual abuse but there is no indication in the record that the staff to whom the disclosure was made had complied with mandatory reporting requirements. Another student reported disclosing rape while at MBA to staff however there is no indication of a report to law enforcement or children's protective services.

2. Corrective Conditions: The following corrective conditions with respect to Mandatory Reporting are required to be completed within 90 days from the date of this order:

- a. MBA must develop policies and procedures that ensure that if any staff member comes to believe a child may have been abused, that a report to children's protective services is made.
- b. MBA must ensure that all staff are trained in child abuse reporting in Children's Care Providers by the Office of Investigations and Training.

K. Governance

1. Allegations:

- a. MBA violated ORS 418.260 and OARs 413-215-0021(3) and 413-210-0060(2) regarding governance in that the Executive Director has a substantiated finding of neglect for failing to ensure that individual students received the appropriate therapeutic services and were not subjected to activities that were coercive, intimidating, harassing, and/or humiliating.
- 2. Corrective Conditions:** The following corrective conditions with respect to Governance are required to be completed within 90 days from the date this order becomes final in accordance with ORS 183.464 and 183.487.

- a. MBA must ensure that the Executive Director meets the requirements of OAR 413-215-0021, including suitability requirements. The Executive Director must be an individual whose presence does not jeopardize the health, safety or welfare of children.
- b. MBA must ensure that the Executive Director can and will implement significant change to the therapeutic and behavior models of care and the overall culture of the agency.
- c. MBA must ensure that only individuals whose presence does not jeopardize the health, safety, or welfare of the children served by the agency are employed in any capacity at the agency.
- d. MBA must ensure that management and staff of MBA will consistently comply with Licensing rule requirements.


NOTICE OF RIGHT

You have a right to a public hearing to contest this complaint pursuant to ORS chapter 183 as to the procedures, findings and orders. ORS 418.327(5) and (6); OAR 413-215-0106(3). Additionally, DHS must give you at least two weeks notice of any hearing and the substance of the complaint and the evidence in support thereof shall be provided to the operator of the organization.

The hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. A hearing will be notified of the hearing date once it has been set. If you wish, you may hire an attorney to represent you at the hearing. At the hearing you have the right to respond to, and to present evidence and argument, on all issues. After the hearing, an order confirming, altering or revoking this order will be issued.

DHS designates the relevant portions of its file, as the record for purposes of this complaint and order.

DATED this 16th day of June, 2010.



Brian Kelley-Siel, Assistant Director
DHS Children, Adults and Families Division

DATE of Service: _____

Initial: _____