



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Department of Health & Human Services

TRACY S. GRUBER
Executive Director

NATE CHECKETTS
Deputy Director

DR. MICHELLE HOFMANN
Executive Medical Director

DAVID LITVACK
Deputy Director

NATE WINTERS
Deputy Director

March 29, 2024

Mr. Craig Scholnik, Administrator
Benchmark Behavioral Health System, Hospital
592 West 1350 South
Woods Cross, UT, 84087

RE: NOTICE OF AGENCY ACTION

LICENSE PLACED ON CONDITIONAL STATUS

Benchmark Behavioral Health System
Psychiatric Hospital Facility ID F23-106978

Dear Licensee,

This letter serves as notice that the Utah Department of Health and Human Services, Office of Licensing ("Department") is issuing a license with conditions to Benchmark Behavioral Health System ("Licensee") License Number F23-106978. These conditions are effective immediately and will expire on June 30, 2024.

In accordance with Utah Code § 26B-2-206 and -208 and Utah Admin. Code R380-600-3, the Department is issuing this conditional license F23-106978 because of the Licensee's failure to comply with state administrative rules and state statutes for significant non-compliance during the last 3 year license period. The issuance of this conditional license does not preclude the Department from taking additional agency actions, including sanctions.

The Department finds the Licensee was out of compliance during five state inspections with the following state administrative rules:

ONE: December 2021 State Inspection

On December 20, 2021 the Department conducted an inspection. Licensee was cited with rule non-compliance:

Utah Administrative Rule R432-101-15(7)(d): “Each patient shall be free from mental and physical abuse and free from chemical and physical restraints except as part of the authorized treatment program, or when necessary to protect the patient from injury to himself or to others.”

The Licensee was out of compliance with this rule by not protecting each resident from mental or physical abuse. During the inspection, a resident was identified to have been assaulted. The Licensee did not report to a peace officer, law enforcement agency or the office of the division of Child Protective Services, as required by law, Utah Code § 80-2-602.

TWO: January 2023 State Inspection

On January 25, 2023 the Department conducted a state licensing inspection. Licensee was cited with rule non-compliances:

1. Utah Administrative Rule R432-101-29(2): “The licensee shall ensure any pharmacy services comply with the appropriate subsections of Section R432-100-26” including Utah Administrative Rule R432-100-26(8): “The licensee shall provide facilities for the safe storage, preparation, safeguarding, and dispensing of drugs” and R432-100-26(11)(a) “The licensee shall ensure staff administer drugs in accordance with hospital policies and procedures.”

The Licensee was out of compliance with this rule by not ensuring that all pharmacy services complied with the appropriate sections of R432-100-26. The Licensee was non-compliant with this rule because the Licensee did not provide for the safe storage, safeguarding and dispensing of drugs as required by R432-100-26(8). In addition, the drugs that were provided to floor units were not administered in accordance with hospital policies and procedures, as required by R432-100-26(11)(a). During the inspection, a resident was identified as having access to medications which did not belong to the resident.

2. Utah Administrative Rule R432-101-32(2)(e): “If the following services are used, R432-100 shall apply: Housekeeping, R432-100-38.” Utah Administrative Rule R432-100-38(3): “The licensee shall provide safe and secure storage of cleaners and chemicals and keep cleaners and chemicals stored in areas that may be accessible to patients secure in accordance with hospital policy.”

The Licensee was out of compliance with this rule by not providing a safe, secure storage of cleaning agents and chemicals according to R432-100-38(3). During

the inspection, the Licensee was identified as not having properly stored cleaning agents and chemicals so that residents had repeated access to cleaning agents and hand sanitizer, in violation of rule.

THREE: August 2023 State Inspection

On August 7, 2023 the Department conducted a state licensing inspection. Licensee was cited with rule non-compliance:

1. Utah Administrative Rule R432-101-13(4): “The licensee shall provide enough supervision to ensure a safe and secure living environment as defined in the plan for patient care services.”

The Licensee was out of compliance with this rule by not ensuring there was sufficient supervision to ensure a safe and secure living environment for a resident. During the inspection, the Licensee was identified as having a resident who after being placed on “Self-harm Precautions” was still able to access laundry detergent and batteries, in violation of rule.

FOUR: September 2023 State Inspection

On September 13, 2023 the Department conducted a state licensing inspection. Licensee was cited with rule non-compliance:

1. Utah Administrative Rule R432-101-22(7)(d)(i): “The licensee shall ensure the comprehensive functional assessment considers the patient's age and the implications for treatment and identifies: (d) physical health status to include: (i) a history and physical exam performed by a physician or nurse practitioner which includes appropriate laboratory work-up.”

The Licensee was out of compliance with this rule by not identifying the physical health status including a history and physical exam which included appropriate laboratory work-up in the comprehensive functional assessment for a resident.

FIVE: March 2024 State Inspection

On March 14, 2024 the Department conducted a state licensing inspection. Licensee was cited with rule non-compliances:

1. Utah Administrative Rule R432-100-7(2)(f): “(2) The administrator shall: (f) ensure that policies and procedures are implemented and followed.”

The Licensee was out of compliance with this rule by not ensuring that policies and procedures were followed. During the inspection, two Licensee policies and procedures were identified as not being followed. These policies include reporting allegations of resident abuse and neglect by staff and incident reporting notification guidelines.

2. Utah Administrative Rule R432-101-15(7)(d): “The licensee shall ensure that each patient: (d) is free from mental and physical abuse and free from chemical and

physical restraints except as part of the authorized treatment program, or when necessary to protect the patient from injury to themselves or to others."

The Licensee was out of compliance with this rule by not ensuring that residents were free from mental and physical abuse. Additionally, the Licensee did not follow child abuse reporting laws in accordance with 80-2-602. During the inspection, the Licensee's incident reports and investigation reports showed that three children residents had been the subject of abuse and children residents were being subjected to conditions or circumstances that would reasonably result in abuse. The Licensee did not report suspected abuse to the DCFS immediately when there was reason to believe abuse had occurred. This is a repeat non-compliance that was cited on December 20, 2021.

CONDITIONS OF LICENSE

Based on license history, the following conditions are effective immediately:

1. Licensee may not accept new clients while this conditional license is in effect or until the Department has notified Licensee in writing that admissions may resume;
2. Licensee must ensure that each staff is trained on Licensee policies and procedures within 2 weeks of this notice, especially policies regarding reporting abuse and neglect;
3. Licensee must ensure clients are protected by removing the alleged abusers access to the clients during investigations;
4. Licensee must pay \$275 charge for each Department monitoring inspection; and
5. Licensee must ensure all Licensee staff comply with applicable Utah Administrative Rules, Utah statutes, and CMS regulations.

Pursuant to DHHS Administrative Hearing Procedures set out in Administrative Rule R497, 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 Department to take the action or if the facts do not conflict with the facts relied upon by the Department in taking its action.

If you choose to request an administrative hearing, you must submit your request to the Department in writing, **within 15 calendar days** of receipt of this letter. You can complete a "Request for Agency Action, Administrative Review" form found on our website at <https://dlbc.utah.gov/wp-content/uploads/RequestforAdministrativeReview-1.pdf> and include any additional documentation. The administrative proceeding shall be conducted

as an informal adjudicative proceeding in accordance with Utah Code § 63G-4-203 and Utah Administrative Code Rule R497.

All correspondence concerning this action should be addressed to:

Kimberly Jessop
Utah Department of Health and Human Services
Office of Licensing
kjessop@utah.gov
195 North 1950 West
Salt Lake City, Ut. 84116

Please reference the program and site name on all correspondence.

Sincerely,



Carmen Richins
Director, Division of Licensing and Background Checks
Department of Health and Human Services
195 North 1950 West
Salt Lake City, UT. 84116
carmenrichins@utah.gov
385.242.6354

Cc:

Simon Bolivar Director, Office of Licensing
Kristi Grimes, OL Program Manager
Kelly Criddle, OL Program Manager, CMS Certification Director
Jessica Fiedel, OL Lead Licensor
Sheila Edwards, Process Specialist
Elisabeth Kitchens, GRAMA Officer