

**IN THE MATTER OF
THE REFUGE FOR DMST,
MARY BROOKE CROWDER, CEO,

OPERATION # 1677522,

BASTROP, TEXAS**

§
§
§
§
§
§

**BEFORE THE TEXAS

HEALTH AND HUMAN
SERVICES COMMISSION

AUSTIN, TEXAS**

SETTLEMENT AGREEMENT

I. JURISDICTION

The Texas Health and Human Services Commission (HHSC), Division of Child-Care Enforcement (CCE), is responsible for enforcing the Texas Human Resources Code (HRC) Chapter 42 (Act), and the HHSC rules found at Title 26 of the Texas Administrative Code (TAC) Chapters 745 and 748, (Rules) relating to the regulation of a General Residential Operation in Texas. The Refuge for DMST (referenced herein, Petitioner), permit holder of a General Residential Operation, is subject to the aforementioned act and rules.

II. PARTIES

The parties to this agreement are HHSC and Petitioner, The Refuge for DMST, Operation # 1677522.

III. BACKGROUND

On August 3, 2018, HHSC issued The Refuge for DMST, through Mary Brooke Crowder, applicant and governing body CEO, a permit to operate a General Residential Operation, The Refuge for DMST located at P.O. Box 90804, Austin, Texas 78709-0804, Operation # 1677522. The issuance of that permit subjected the operation to regulation by HHSC minimum standards, statutes, rules, and laws governing the issued permit.

Pursuant to Section 42.072(a) of the Texas Human Resources Code, HHSC may suspend the license of an operation that does not comply with the minimum standards, rules, Chapter 42 of the Texas Human Resources Code, or the specific terms of the permit. Furthermore, 26 TEX. ADMIN. CODE § 745.8605 lists several reasons the Commission may take an enforcement action against an operation. Several of the reasons contemplated in 26 TEX. ADMIN. CODE § 745.8605 were applicable to The Refuge for DMST. For instance, 26 TEX. ADMIN. CODE § 745.8605 (5) (6) (7) & (8) make clear that enforcement action is appropriate in response to either: “[a] *single serious deficiency* of minimum standards, rules, or laws, *including a finding of abuse or neglect* or background check matches;” “[s]everal deficiencies that create an endangering situation;” and “[a] *repetition or pattern of deficiencies; and an immediate threat or danger to the health or safety of children.*” (Emphasis added).

Tex. Hum. Res. Code § 42.073 provides that a facility’s license shall be suspended, and an order for the immediate closure shall issue, if the facility is operating in violation of the applicable standards and the violation creates an immediate threat to the health and safety of the children. An emergency suspension

order is valid for 30 days. 26 TEX. ADMIN. CODE § 745.8652 provides when HHSC may suspend an operation's permit, including when HHSC determines that: (1) Your operation will pose a danger or threat of danger to the health or safety of children in your operation's care until the issue is resolved; (2) You cannot correct the issue while children are in care, but you can do so during a specific period of time; (3) You can make the necessary corrections while your permit is suspended; and (4) There are no additional concerns about your compliance history that would make revocation a more appropriate enforcement action for the health or safety of children.

On March 11, 2022, an emergency suspension order was issued for The Refuge for DMST due to the nature of the on-going investigations being conducted by both The Texas Department of Family and Protective Services and HHSC, which created a danger or threat of danger to the health or safety of children placed at The Refuge for DMST. In a letter dated April 8, 2022, HHSC informed The Refuge for DMST of its intent to impose adverse action, in the form of a suspension, due to the numerous outstanding investigations, which continued to pose a danger or threat of danger to the health and safety of children in care. That intent letter is incorporated herein by reference as if fully set forth herein.

The objective of this agreement is to end the license suspension of The Refuge for DMST that began on April 8, 2022, and hereafter impose the enforcement action of probation to the license of The Refuge for DMST. *See* 26 TEX. ADMIN. CODE § 745.8637. The terms and conditions of probation will be specifically addressed in Section "IV. Settlement."

IV. SETTLEMENT

By entering into this settlement, the parties agree to resolve this matter according to the following terms and conditions:

1. HHSC agrees to lift the suspension of the permit to operate The Refuge for DMST, Operation # 1677522, which began on April 8, 2022.
2. The Refuge for DMST agrees that upon execution of this agreement (or a date certain), the operation will be subject to probation, for a period of one-year. *See* 26 TEX. ADMIN. CODE § 745.8611; *See also* 26 TEX. ADMIN. CODE § 745.8637; 745.8641; 745.8643.
3. The Refuge for DMST agrees to waive the administrative review related to the implementation of probation, and the specific probation conditions detailed herein.
4. The Refuge for DMST will be subject to the probation conditions set forth herein, which HHSC will tender to the operation in a separate letter.
5. Upon full execution of this agreement, Petitioner agrees to withdraw the request for a due process hearing before an Administrative Law Judge, in SOAH Docket No. 529-22-01066.FPS for the suspension of the license to operate a General Residential Operation, The Refuge for DMST, and any judicial review by a state district court on the determination.

6. Pursuant to 26 TEX. ADMIN. CODE § 745.8643, throughout the term and duration of the probation period, Petitioner and HHSC agree that HHSC does not waive the right to amend the conditions of probation against The Refuge for DMST if non-compliance with standards warrants. Similarly, Petitioner and HHSC agree that Petitioner does not waive the right to seek administrative review of any amendments by HHSC to the conditions of probation.
7. Petitioner and HHSC agree that this agreement does not waive HHSC's right to enforce this agreement or to take enforcement action against The Refuge for DMST for any violations of rules or other laws governing The Refuge for DMST, or any other licenses listings, registrations or certifications Petitioner may hold in the future.

A. Probation Conditions

1) Effective immediately upon the start of the probation, The Refuge for DMST shall be responsible for implementation of all components of "*The Refuge for DMST's Reopening Plan*." Youth cannot be admitted into the operation until an HR Director has been hired, the Praesidium and Nortex contracts have been reinstated and recommendations implemented, the Policy and Procedure Manual is finalized, and all current, rehired and new employees have been trained (*See infra*, training condition numbers 4 and 7.)

2.) Effective immediately upon the start of the probation and monthly throughout the probation, the CEO, Chief Culture Officer (CCO), and Licensed Child Care Administrator (LCCA) will conduct meetings to review the implementation and effectiveness of *The Refuge for DMST's Reopening Plan*; review implementation of the probation conditions; evaluate inspection and investigation findings; assess progress of ongoing compliance with minimum standard violations that are the basis of the probation; and identify and develop additional strategies for continued improvements. The monthly meeting must include a quorum of the Executive Team (CFO, CEO, CMO, and a representative of the Board of Directors) and the Multidisciplinary Team (Team Leader, Treatment Director, and CCO). The CCO and Team Leader will provide information and directives to the direct care staff within 10 days of the meeting.

Meeting notes must be maintained that cover all the required topics and all related updates and action items, including timeframes and who is responsible for the action.

The meeting notes and all documentation associated with the implementation of this condition must be available for review by CCR upon request.

3.) The CEO, under consultation with Praesidium, must develop and implement a screening and selection process for hiring new employees and returning employees at all levels.

The screening and selection process for new employees must include all phases of the hiring process - application, interviewing, reference checks, background checks, employment history verification, selection criteria, and utilization of a risk management

screening tool and must support that the applicant is suitable for the position(s) being considered. The screening and selection process must be defined for each employee type at the operation.

The screening and selection process for returning employees must include all processes for new hires and a comprehensive assessment of previous performance while employed at The Refuge for DMST. The comprehensive assessment of previous performance must be utilized to evaluate appropriateness and effectiveness for the role the employee will return to, or the new role being assigned.

All current employees are subject to the comprehensive assessment of previous performance to evaluate appropriateness and effectiveness for their current role and all background checks that are included in the screening and selection process.

All screening and selection processes must be completed prior to hire. All hires of new or returning employees must be reviewed and approved by a designated member of the Executive Team.

The screening and selection process for new and returning employees must be submitted to CCR for review within 60 days of hiring a new Human Resources Director and before any of the following are hired:

- employees whose roles meet the definition of Licensed Child Care Administrator, Professional Level Service Provider, Treatment Director or Caregiver as found in Minimum Standards for General Residential Operations, Subchapter E, Personnel, regardless of functional title at the operation ; the CCO; and all positions within the Multi-Disciplinary Team;
- employees who supervise or manage any of the roles listed above, and
- employees who are supervised, managed, or are otherwise within the reporting structure for any of the roles listed above.

All documentation related to the screening and selection process and hiring of new employees and returning employees must be made available for review by CCR upon request.

Specific Requirements for Employment Verification

The employment verification must include the applicant's employment history for the last five years. Each employer included in the five-year history, or at minimum, the applicant's three most recent employers, if the history includes more than three employers, must be contacted. All employers included in the five-year history that provide care or services to children must be contacted.

The employment verification must include questions that establish dates of employment; position or title; reason for leaving, rehire status, and feedback on past performance. You must document any refusal by the employer to provide information. If you are unable to contact an employer, you must document diligent efforts to contact the employer, which must include more than one attempt by varying contact methods, unless the employer

cannot be reached because the business is closed and there is no alternative contact information.

Specific Requirements for Reference Checks

Reference checks must include contact with at least two individuals who are unrelated to the applicant and can answer questions about the applicant's suitability to work with or around children.

4.) Prior to admitting any youth into care, all employees must complete the following training:

- training in accordance with 748.811, Subchapter F, Training and Professional Development;
- all new hire training program requirements outlined in "*The Refuge for DMST's Reopening Plan*;"
- the operation's updated organizational structure;
- updated operation policies and procedures;
- job requirements and responsibilities based on role;
- appropriate supervision of children, making healthy connections with children, and maintaining appropriate professional boundaries;
- understanding human trafficking and caring for survivors of human trafficking in a therapeutic environment; and
- medication management.

The operation's Healthcare Team must provide the training on medication management. The training must cover medication storage, administration, proper documentation, medication destruction, handling medication errors, and risks associated with medication errors to all management staff and any direct care staff who administers medication. The training curriculum must be based on minimum standards for medication management, operation policy and procedure, and best practice. A pre-test and post-test must be administered to measure staff competency on these topics.

Employees who are hired after the probation period begins must complete all training before the employee has direct access to any youth in care. The operation's LCCA, Treatment Director, and CCO must sign off on each staff person's training documentation to verify completion. All signed training documentation must be placed in each staff's personnel record for review by CCR upon request.

The CEO or designee must develop a training plan that outlines the course agendas, dates training will be offered, training source, trainer name and credentials, and participant roles. The training plan must be submitted to CCR for review at least 30 days prior to the first training session.

All training curriculums, pre-tests and post-tests, and associated documents must be made available for review by CCR upon request.

5.) Effective immediately once youth are admitted to the operation, during all hours of operation a Team Leader or Overnight Shift Leader must be present. At the start of each

Connection Specialist's work shift, he/she will meet with the Team Leader or Overnight Shift Leader to discuss which children are assigned to the Connection Specialist, any changes to their service plans, supervision requirements for youth assigned, any incidents that occurred during the previous shift, and any other information needed for the care of the youth during that shift.

Once every two weeks, each Team Leader or Overnight Shift Leader will complete unannounced observations lasting at least 30 minutes of each Connection Specialist, documenting the following:

- name of the Team Leader or Overnight Shift Leader conducting the observation;
- name of the Connection Specialist;
- date and time of observation;
- assessment of staff responsibilities, behavior management, supervision of youth, medication administration (if applicable), and staff interaction with youth; and
- assessment of staff performance in each area and any concerns or developmental needs.

Once a month, the Team Leaders, Overnight Shift Leaders, LCCA, Treatment Director, and CCO must meet to specifically review and discuss staff observation documentation from the previous month, documenting the dates and times of each monthly meeting, in addition to documenting any action plan(s) to address staff development. All documentation related to this condition must be maintained at the operation and available for review by CCR.

6.) The CCO, LCCA, and Treatment Director will form a work group that is comprised of selected team leaders, youth, and the Haven Program Director. The group will be led by the Haven Program Director. The work group will be created to discuss:

- the youth's overall experiences at the operation;
- recommendations for overall changes that could improve youth's experiences at the operation;
- input on policies and practices that affect the youth;
- solutions for challenges occurring in the cottages;
- ideas for activities and events on and off campus;
- triggers for unauthorized absences, how to prevent unauthorized absences, and how to support youth who are experiencing challenges with unauthorized absences; and
- interactions between staff and residents.

Youth in the work group will act as representatives for their peer group and be given the opportunity to discuss ideas and concerns at these meetings. This work group will meet twice a month starting 30 days after the first placement and will continue to meet for the duration of the Probation period.

The Haven Program Director must submit the recommendations and concerns from the group to the CCO, LCCA and Treatment Director after each meeting. The LCCA must review with the Chief Mission Officer and implement a plan to address recommendations from the group as appropriate and provide feedback about the concerns expressed by the representatives. The plan will detail which items are being implemented and reasons why

any concerns or recommendations are not being addressed within the plan. The meeting notes with the recommendations and operation implementation plan must be available for CCR to review upon request.

7.) The operation will create a formalized reporting process for direct care staff to report any serious incidents that occur during their shift.

The LCCA must develop a curriculum to train staff on serious incident reporting requirements and serious incident report documentation. The training must be based on the minimum standards and the operation's policies and procedures and must include:

- types of incidents that require an incident report to be completed;
- types of incidents that require reporting to CCR, DFPS, the child's parent or managing conservator, and law enforcement;
- timeframes for reporting incidents;
- who is responsible for making the report;
- how to write a complete incident report; and
- the operation's formalized reporting process.

All staff must complete the training prior to having direct access to any youth in care. Training documentation must be placed in the personnel record for review by CCR upon request.

For any serious incidents, threats of serious incident and runaways or threats of runaway throughout the probation at a minimum, direct care staff must utilize the incident report checklist that was created by the operation: document the date, the name(s) of any resident or staff person involved, the nature of the incident that occurred. The incident report must be submitted to the team leader prior to the direct care staff departing the premises on the date of the incident.

The team leader must review the completed incident report and incident report checklist to ensure that all required information has been documented upon receipt of the incident report. The team leader must then share the report with the LCCA within 24 hours to determine if further action is needed.

Once a month, the Multi-Disciplinary Team, LCCA and CCO, must meet to review, discuss documented incidents and runaways from the previous month, documenting the dates and times of each monthly meeting, in addition to documenting any action plan(s) to address staff development and supports for youth, milieu changes. Incident reports must be maintained and available for review by CCR.

8.) The operation must update the policy that addresses supervision to ensure compliance with Minimum Standards.

- The policy must include definitions of types of supervision and how to implement the supervision requirement, how to identify and address the individual supervision needs of each youth, and a plan to increase supervision and manage high risk behaviors.
- The policy must also include how to disseminate each youth's individual

supervision plan to staff, how to assign youth to staff and how to identify and address any concerns with staff's implementation of a youth's individual supervision plan.

- This plan is due to CCR for review within 60 days of the probation start date and before any youth are admitted to the operation. Any change to the policy throughout the probation must be submitted to CCR 10 days after the change for review.

9.) Upon admission of youth, the Treatment Director and/or Director of Outreach and Referrals will review all new admissions utilizing the admissions checklist that was created by the operation to ensure all documentation for admitted children has been received. Initial service planning meetings will be held no later than 30 days after the youth is admitted and must include the youth, case manager, direct care staff, therapist and managing conservator to participate in the development of an individualized initial service plan. The initial service plan must be signed by all individuals participating in the plan development. The treatment director will review, sign and date the initial service plan and share it with appropriate parties. The initial service plan must be implemented no later than 10 days after the date of the service plan meeting. Completed checklists and all documentation including service plans must be available for CCR to review upon request.

V. COMPLETE AGREEMENT

This agreement is made pursuant to Chapter 2001 of the Texas Government Code § 2001.056(2), and the procedural rules adopted by the Commission. This agreement represents the complete settlement of all matters as described in section "III. Background."


Nothing herein shall be construed as HHSC's approval of any of The Refuge for DMST's current or future policies or procedures.


VI. COMPLETE UNDERSTANDING

The Petitioner acknowledges understanding of the terms of this agreement, and enters into all terms of this agreement freely, voluntarily, and knowingly. This agreement becomes effective as of the date the Administrative Law Judge signs the Order of Dismissal in SOAH Docket No. 529-22-01066.FPS.


DIVISION OF CHILD-CARE ENFORCEMENT
TEXAS HEALTH AND HUMAN SERVICES COMMISSION

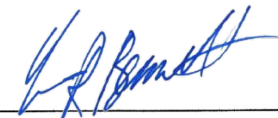
APPROVED AND CONSENTED TO AS TO FORM AND SUBSTANCE:

By:  Date: 1/20/2023
Mary Brooke Crowder, CEO and Permit-holder of The Refuge for DMST

By:  Date: 1/24/2023
Ashland Spencer-Batiste
Deputy Associate Commissioner, Child Care Enforcement

APPROVED AS TO FORM ONLY:

By:  Date: 1/24/2023
Linda Butler Arrigucci
Attorney for HHSC, Office of Chief Counsel

By:  Date: 1/20/2023
Craig R. Bennett,
Attorney for The Refuge for DMST