STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Vest Seattle LLC (dba Smokey Point Behavioral Hospital)
Master Case No.: M2021-727
M2021-759
Document: Agreed Order

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH

In the Matter of **VEST SEATTLE LLC (dba SMOKEY POINT BEHAVIORAL HOSPITAL)** License Nos. HPSY.FS.60739147 BHA.FS.60874194 Respondent	**No. M2021-727** **M2021-759** **STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND AGREED ORDER**

The parties (Parties) Psychiatric Hospitals and Behavioral Health Agencies Programs (Programs), through Christopher Gerard, Assistant Attorney General, and Respondent, Vest Seattle LLC, dba Smokey Point Behavioral Hospital (Respondent), represented by Lane Powell through Jeff Duncan and Barbara J. Duffy, stipulate and agree to the following:

1. PROCEDURAL STIPULATIONS

1.1 On February 18, 2022, the Programs issued Notices of Intent to Suspend against Respondent (Notices). On March 18, 2022, Respondent timely submitted Applications for Adjudicative Proceedings, opposing the Programs' Notices. On September 13, 2022, the Programs issued Amended Notices of Intent to Suspend (Amended Notices) against Respondent. On October 11, 2022, Respondent timely submitted Applications for Adjudicative Proceedings, opposing the Programs' Amended Notices.

1.2 The Parties understand they are both prepared to proceed to a hearing on the allegations in the Amended Notices.

1.3 Respondent understands that if the Findings of Fact and Conclusions of Law in the Amended Notices are proven at a hearing, the Secretary of Health (Secretary) has the power and authority to suspend, revoke, refuse to renew, or impose conditions on Respondent's psychiatric hospital license (HPSY.FS.60737147) under chapters 34.05 RCW, 43.70 RCW, 71.12.710 RCW, and WAC 246-322-025, and the power and authority to deny, suspend, revoke, or place on probation Respondent's behavioral health agency license (BHA.FS.60874194) or specific program certifications under chapters 34.05 RCW,

43.70 RCW, 71.05 RCW, 71.24 RCW, 71.34 RCW, WAC 246-341-0335, and WAC 246-341-0605.

1.4 Respondent understands that if the Findings of Fact and Conclusions of Law in the Amended Notices are proven at a hearing, the Secretary has the power and authority to impose a fine against Respondent's psychiatric hospital license (HPSY.FS.60737147) under RCW 43.70.095 and RCW 71.12.710(1)(b), and to assess a fee against Respondent's behavioral health agency license (BHA.FS.60874194) or specific program certifications under RCW 43.70.250, WAC 246-341-0335(5), WAC 246-341-0365(5) and (7), and WAC 246-341-0605(5).

1.5 Respondent has the right to defend against the allegations in the Amended Notices by presenting evidence at a hearing.

1.6 Though Respondent has previously exercised its right to a hearing, Respondent now waives the opportunity for a hearing on the Amended Notices, based on the Secretary's acceptance of this Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order).

1.7 The parties agree to resolve this matter by means of this Agreed Order.

1.8 Respondent understands that this Agreed Order is not binding unless and until it is signed by the health law judge and served by the Adjudicative Clerk Office.

1.9 If the Secretary rejects this Agreed Order, Respondent waives any objection to the participation at hearing of the presiding officer who heard the Agreed Order presentation.

2. FINDINGS OF FACT

2.1 The Programs contend it would have presented evidence at an administrative hearing sufficient to support the following as described in paragraphs 2.2 through 2.18:

2.2 On June 8, 2017, the State of Washington issued Vest Seattle LLC dba Smokey Point Behavioral Hospital (SPBH) license no. HPSY.FS.60739147 to operate as a psychiatric hospital (HPSY). SPBH's HPSY license is currently active.

2.3 On June 12, 2017, the State of Washington issued SPBH license no. BHA.FS.60874194 to operate as a behavioral health agency (BHA). SPBH's BHA license is currently active.

Investigative Case File Numbers 2019-13786 and 2019-13787

2.4 On or about November 21, 2019, a Behavioral Health Agencies Program (BHA Program) surveyor completed a state licensing investigation at SPBH. On January 9, 2020, the BHA Program issued a Statement of Deficiencies to SPBH detailing the BHA surveyor's observations.

2.5 The observed deficiencies included SPBH's failure to:

A. Release a voluntary patient immediately upon their request in violation of RCW 71.05.050(1).

B. Implement a policy management structure that established procedures to assure the protection of individual rights as described in chapter 71.05 RCW for any person voluntarily admitted for inpatient treatment to be released immediately upon his or her request and to be advised of the right to immediate discharge.

C. Document that the individual service plan was mutually agreed upon by a patient when it was developed and failed to make a copy available to a patient.

D. Work with a patient to address the funding of the patient's treatment costs.

2.6 On January 27, 2020, the BHA Program received SPBH's plan of correction to address the deficiencies described in paragraph 2.5. On February 14, 2020, the BHA Program responded to SPBH that its plan of correction for the deficiencies described in paragraphs 2.5.A and 2.5.B was inadequate. The response was supplemented by a letter from the BHA Program providing, among other things, technical assistance to SPBH on the BHA Program's interpretation of the requirements in RCW 71.05.050 and why SPBH's practices, policies, and procedures were considered deficient.

2.7 On February 24 and April 6, 2020, the BHA Program received SPBH's revised plan of correction and requested documentation to address the deficiencies described in paragraphs 2.5.A and 2.5.B. On June 1, 2020, the BHA Program responded to SPBH that the revised plan of correction for the deficiencies described in paragraphs

2.5.A and 2.5.B remained inadequate. This response was supplemented by a letter from the BHA Program providing additional technical assistance to SPBH on the BHA Program's interpretation of RCW 71.05.050 and why the BHA Program still considers SPBH's revised practices, policies and procedures deficient.

2.8 On June 9, 2020, the BHA Program received SPBH's second revised plan of correction to address the deficiencies described in paragraphs 2.5.A and 2.5.B that included a revised "Request for Early Discharge (AMA)" policy. On October 26, 2020, the BHA Program sent SPBH a letter explaining that it was prepared to accept SPBH's overall plan of correction, but it remained concerned about SPBH's ability to comply with RCW 71.05.050 and "considering the scope and severity of the concerns raised during [the] investigation, the [BHA Program would] conduct an unannounced follow-up compliance visit to verify all deficiencies have been corrected."

2.9 On April 7, 2021, the BHA Program completed the follow-up compliance visit at SPBH. As part of the follow-up compliance visit, the BHA Program's surveyors reviewed clinical records of six (6) patients who had received services from SPBH and observed the following:

Patient #1

A. SPBH failed to ensure Patient #1's individual service plan was mutually agreed upon when it was developed and failed to make a copy available to Patient #1. The individual service plan contained in Patient #1's clinical record was not signed by Patient #1. Additionally, there was no other documentation in Patient #1's clinical record that their individual service plan was mutually agreed upon and that a copy was made available to them.

Patient #2

B. Patient #2 was not discharged immediately upon their parent's request but referred for evaluation by a designated crisis responder (DCR) for possible involuntary detainment despite Patient #2 being an adolescent with no family safety concerns whose parents requested Patient #2 be discharged. Patient #2 was an adolescent admitted to SPBH on January 7, 2021. On January 14, 2021, at

approximately 2:40 p.m., Patient #2's parents requested discharge of Patient #2 so they could be taken to a different facility for treatment. Patient #2 was not immediately discharged from SPBH but instead was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #2 did not meet criteria to be detained under chapter 71.34 RCW and Patient #2 was discharged on January 14, 2021, at approximately 7:05 p.m. During an interview with the Program's surveyor, the DCR who evaluated Patient #2 described SPBH's decision to detain Patient #2 for DCR evaluation as "particularly egregious," that Patient #2 "did not in any way meet criteria to be involuntarily detained," and SPBH "tried to put up every roadblock they could" to prevent Patient #2 from discharging.

C. SPBH did not follow its own policy when discharging Patient #2 at the request of their parents. SPBH's policy requires that staff complete a Columbia-Suicide Severity Rating Scale (C-SSRS) form at the time discharge is requested so the psychiatric provider can consider, among other things, the results of the C-SSRS form when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #2's parents requested discharge of Patient #2 on January 14, 2021, at approximately 2:40 p.m. SPBH staff did not complete a C-SSRS form for Patient #2 until 5:03 p.m. The DCR was called to evaluate Patient #2 for possible involuntary detainment at 2:50 p.m. based on a referral from the psychiatric provider.

Patient #3

D. Patient #3 was referred for evaluation by a DCR for possible involuntary detainment when they did not present, as a result of a behavioral health disorder, an imminent likelihood of serious harm or as gravely disabled. Patient #3 was admitted to SPBH on February 2, 2021. On February 4, 2021, at approximately 9:13 a.m., Patient #3 requested discharge from SPBH because they felt SPBH was not

providing the intensive therapy they needed, and Patient #3 understood the importance of proper medication management. The DCR was called to evaluate Patient #3 for possible involuntary detainment at 9:35 a.m. based on a referral from the psychiatric provider. SPBH made a referral to the DCR for evaluation despite the fact that, among other things, Patient #3's pre-discharge assessment indicated Patient #3 did not present an immediate risk to self, was not expressing thoughts of harming others, and was not displaying aggressive behavior. Patient #3 then withdrew their request to discharge at 10:05 a.m.

E. On February 5, 2021, at approximately 8:30 a.m., Patient #3 requested discharge from SPBH. Patient #3 was discharged from SPBH on February 5, 2021 at approximately 11:25 a.m. and almost three hours after the original request for discharge was made.

F. Patient #3 explained to the BHA Program's surveyor that they withdrew their original request to be discharged on February 4, 2021 because their request was followed by "a number of horrific things that would happen to me if I went through with my request" including that their request to discharge would be denied, that law enforcement could become involved if they requested discharge, that Patient #3 could be detained for a minimum of two months at SPBH or Patient #3 would be taken to an emergency room psychiatric ward and legally detained.

G. SPBH did not follow its own policy when discharging Patient #3. SPBH's policy requires that staff complete a C-SSRS form at the time discharge is requested so the psychiatric provider can consider, among other things, the results of the C-SSRS form when deciding whether to discharge the patient or make a referral to the DCR for evaluation.

    i. Patient #3 requested discharge on February 4, 2021 at approximately 9:13 a.m. SPBH staff did not complete a

C-SSRS form for Patient #3 after this request to discharge was made. The psychiatric provider notified Patient #3 of their determination to refer Patient #3 for evaluation by a DCR at 9:30 a.m.

ii. Patient #3 requested discharge on February 5, 2021 at approximately 8:30 a.m. SPBH staff did not complete a C-SSRS form for Patient #3 until 10:43 a.m. The psychiatric provider notified Patient #3 of their determination to discharge Patient #3 at 8:50 a.m.

H. SPBH failed to ensure Patient #3's individual service plan was mutually agreed upon when it was developed and failed to make a copy available to Patient #3. The individual service plan contained in Patient #3's clinical record was not signed by anyone. Additionally, there was no other documentation in Patient #3's clinical record that their individual service plan was mutually agreed upon and that a copy was made available to them.

Patient #4

I. Patient #4 was referred for evaluation by a DCR for possible involuntary detainment when they did not present, as a result of a behavioral health disorder, an imminent likelihood of serious harm or as gravely disabled. Patient #4 was admitted to SPBH on February 8, 2021. On February 20, 2021 at approximately 10:35 a.m., Patient #4 requested discharge from SPBH stating they felt great since getting quality sleep and felt they could manage their medications at home. Patient #4 was not immediately discharged from SPBH but instead was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #4 did not meet criteria to be detained under chapter 71.05 RCW and Patient #4 was discharged on February 10, 2021 at approximately 4:00 p.m. Patient #4 was referred for DCR evaluation despite the fact that, among other things, Patient #4's pre-discharge assessment indicated Patient #4

did not present an immediate risk to self, was not expressing thoughts of harming others, and was not displaying aggressive behavior. During an interview with the Program's surveyor, a SPBH staff member reviewed Patient #4's request for discharge and acknowledged that it appeared Patient #4 should have been released with no DCR contacted.

J. SPBH did not follow its own policy when discharging Patient #4. SPBH's policy requires that staff complete a C-SSRS form at the time discharge is requested so the psychiatric provider can consider, among other things, the results of the C-SSRS form when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #4 requested discharge on February 10, 2021 at approximately 10:35 a.m. SPBH staff did not complete a C-SSRS form for Patient #4 until 2:55 p.m. The DCR was called to evaluate Patient #4 for possible involuntary detainment at 12:10 p.m. based on a referral from the psychiatric provider.

K. SPBH failed to ensure Patient #4's individual service plan was mutually agreed upon when it was developed and failed to make a copy available to Patient #4. The individual service plan contained in Patient #4's clinical record was not signed by Patient #4. Additionally, there was no other documentation In Patient #4's clinical record that their individual service plan was mutually agreed upon and that a copy was made available to them.

Patient #6

L. SPBH failed to ensure Patient #6's individual service plan was mutually agreed upon when it was developed and failed to make a copy available to Patient #6. The individual service plan contained in Patient #6's clinical record was not signed by anyone. Additionally, there was no other documentation in Patient #6's clinical record that their individual service plan was mutually agreed upon and that a copy was made available to them.

2.10 The BHA Program surveyor's observations related to Patient #1, Patient #2, Patient #3, Patient #4, and Patient #6 as outlined in paragraph 2.9 violated RCW 71.05.050(1) and (2), RCW 71.05.153(1), RCW 71.34.650(7), RCW 71.34.600(1), RCW 71.12.670, WAC 246-341-0600(1), WAC 246-341-1126(4)(c) WAC 246-341-0620(1)(d), and WAC 246-322-035(1)(d). The observations related to RCW 71.05.050(1), WAC 246-341-1126(4)(c) and WAC 246-341-0620(1)(d) represent repeat deficiencies from the BHA state licensing investigation completed on October 1, 2019.

Investigative Case File Number 2021-11507

2.11 On or about September 21, 2021, the Psychiatric Hospital Program (HPSY Program) received a complaint that alleged, among other things, SPBH violated patient rights by denying a patient's request to be evaluated for discharge and asking the patient to stay longer despite the patient completing their work and intended goals. The complaint also alleged SPBH staff lied to the patient when SPBH staff said the patient could leave anytime because SPBH detained the patient for evaluation by a DCR when the patient requested discharge.

2.12 On or about November 5, 2021, a HPSY Program surveyor completed a state licensing investigation at SPBH. As part of the state licensing investigation, the HPSY Program's surveyor reviewed closed clinical records of eight (8) patients who had received services from SPBH. On January 19, 2022, the HPSY Program issued a Statement of Deficiencies to SPBH detailing the surveyor's observations, which included the following:

Patient #1501

A. SPBH failed to ensure Patient #1501's rights were protected when SPBH detained Patient #1501 for evaluation by a DCR without justification when Patient #1501 requested discharge based on the documentation reviewed by the Program's surveyor. Patient #1501 was admitted to SPBH on September 2, 2021. On September 5, 2021 at 10:00 a.m., Patient #1501 requested discharge from SPBH, stating, "I have my own appointments with my [psychiatric provider and therapist], housing, and outpatient. I'm not getting therapy here. I have completed the workbook and there are no other resources

here for me." Among other things, Patient #1501's pre-discharge assessment indicated Patient #1501 did not present an immediate risk to self; was not currently expressing thoughts of harming others; was not displaying aggressive behavior; understood their psychiatric condition, symptoms and diagnosis; understood the potential risks of early discharge; and had an actionable safety plan. Patient #1501 had also denied suicidal ideations throughout their stay at SPBH. Instead of being immediately discharged from SPBH, Patient #1501 was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #1501 did not meet criteria to be detained under chapter 71.05 RCW and Patient #1501 was discharged on September 5, 2021, at approximately 12:15 p.m.

B. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1501 requested discharge.

   i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #1501 requested discharge on September 5, 2021 at 10:00 a.m. The DCR was called to evaluate Patient #1501 for possible involuntary detainment at 10:05 a.m. SPBH staff did not complete the C-SSRS assessment for Patient #1501 until 10:24 a.m.

   ii. SPBH's policy requires professional staff to notify the psychiatric provider of the patient's request for discharge and the findings of the pre-discharge assessment. The Program's surveyor found no evidence that professional staff had communicated the

findings of the pre-discharge assessment to the psychiatric provider.

iii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The psychiatric provider did not make the determination to either discharge or make a referral to the DCR for evaluation because the DCR conducted their evaluation at 11:40 a.m., but the psychiatric provider was not notified of the request to discharge until 12:00 p.m.

iv. SPBH's policy requires the psychiatric provider or professional staff to complete an affidavit if the psychiatric provider determines that referral to the DCR for evaluation is necessary. The Program's surveyor was unable to find any evidence of an affidavit even though Patient #1501 was referred to a DCR for evaluation.

Patient #1502

C. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1502 requested discharge.

i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #1502 requested discharge on September 11, 2021 at 5:42 p.m. The DCR was called to evaluate Patient #1502 for possible involuntary detainment at 5:49 p.m. SPBH

staff did not complete the C-SSRS assessment for Patient #1502 until 9:00 p.m.

ii. SPBH's policy requires professional staff to notify the psychiatric provider of the patient's request for discharge and the findings of the pre-discharge assessment. The Program's surveyor found no evidence that professional staff had communicated the findings of the pre-discharge assessment to the psychiatric provider.

iii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The Program's surveyor found no evidence that the psychiatric provider made a determination to discharge or refer Patient #1502 based on the data specified in SPBH's policy.

iv. SPBH's policy requires the psychiatric provider or professional staff to complete an affidavit if the psychiatric provider determines that referral to the DCR for evaluation is necessary. The Program's surveyor was unable to find any evidence of an affidavit even though Patient #1502 was referred to a DCR for evaluation.

D. SPBH failed to ensure a discharge summary was included in Patient #1502's clinical record. SPBH's policy requires discharge summaries to be completed within fifteen (15) days of discharge. SPBH's policy considers discharge summaries to be delinquent if they are not competed within thirty (30) days. A review of Patient #1504's clinical record by the Program's surveyor failed to show that SPBH's medical staff had documented a discharge summary as required by SPBH's policy.

Patient #1503

E. SPBH failed to ensure Patient #1503's rights were protected when SPBH detained Patient #1503 for evaluation by a DCR without justification when Patient #1503 requested discharge based on the documentation reviewed by the Program's surveyor. Patient #1503 was admitted to SPBH on October 8, 2021. On October 11, 2021 at 10:25 a.m., Patient #1503 requested discharge from SPBH, stating, "I don't want to detox anymore." Among other things, Patient #1503's pre-discharge assessment indicated Patient #1503 did not present an immediate risk to self, was not currently expressing thoughts of harming others, was not displaying aggressive behavior, and had an actionable safety plan. Patient #1503 had also denied suicidal ideations throughout their stay at SPBH. Instead of being immediately discharged from SPBH, Patient #1503 was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #1503 did not meet criteria to be detained under chapter 71.05 RCW and Patient #1503 was discharged on October 11, 2021, at approximately 6:30 p.m. During an interview with the Program's surveyor, a staff member of SPBH verified that Patient #1503's medical record failed to contain documentation from the psychiatric provider substantiating the decision to refer Patient #1503 to the DCR prior to discharge.

F. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1503 requested discharge.

    i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #1503 requested discharge on October 11, 2021 at 10:25

a.m. The DCR was called to evaluate Patient #1503 for possible involuntary detainment at 10:50 a.m. SPBH staff did not complete the C-SSRS assessment for Patient #1503 until 1:50 p.m.

ii. SPBH's policy requires professional staff to notify the psychiatric provider of the patient's request for discharge and the findings of the pre-discharge assessment. The Program's surveyor found no evidence that professional staff had communicated the findings of the pre-discharge assessment to the psychiatric provider.

iii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The Program's surveyor found no evidence that the psychiatric provider made a determination based on the data specified in SPBH's policy for Patient #1503.

iv. SPBH's policy requires the psychiatric provider or professional staff to complete an affidavit if the psychiatric provider determines that referral to the DCR for evaluation is necessary. The Program's surveyor was unable to find any evidence of an affidavit even though Patient #1503 was referred to a DCR for evaluation.

Patient #1504

G. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1504 requested discharge.

i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other

things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #1504 requested discharge on May 20, 2021 at 11:00 a.m. The DCR was called to evaluate Patient #1504 for possible involuntary detainment at 11:30 a.m. SPBH staff did not complete the C-SSRS assessment for Patient #1504 until 3:34 p.m.

ii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The Program's surveyor found no evidence that the psychiatric provider made a determination based on the data specified in SPBH's policy for Patient #1504.

H. SPBH failed to ensure a discharge summary was included in Patient #1504's clinical record. SPBH's policy requires discharge summaries to be completed within fifteen (15) days of discharge. SPBH's policy considers discharge summaries to be delinquent if they are not competed within thirty (30) days. A review of Patient #1504's clinical record by the Program's surveyor failed to show that SPBH's medical staff had documented a discharge summary as required by SPBH's policy.

Patient #1505

I. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1505 requested discharge.

i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a

referral to the DCR for evaluation. Patient #1505 requested discharge on June 13, 2021 at 10:22 a.m. The DCR was called to evaluate Patient #1505 for possible involuntary detainment at 11:20 a.m. SPBH staff did not complete the C-SSRS assessment for Patient #1505 until 6:00 p.m.

ii. SPBH's policy requires professional staff to notify the psychiatric provider of the patient's request for discharge and the findings of the pre-discharge assessment. The Program's surveyor found no evidence that professional staff had communicated Patient #1505's request for early discharge or the findings of the pre-discharge assessment to the psychiatric provider.

iii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The Program's surveyor found no evidence that the psychiatric provider made a determination based on the data specified in SPBH's policy for Patient #1505.

Patient #1506

J. SPBH failed to ensure Patient #1506's rights were protected by failing to document a request for early discharge on July 22, 2021, and by detaining Patient #1506 for evaluation by a DCR without clinical justification when Patient #1506 again requested discharge on July 23, 2021 based on the documentation reviewed by the Program's surveyor. Patient #1506 was admitted to SPBH on July 21, 2021. During admission, SPBH staff documented that Patient #1506 was a low suicide risk. Patient #1506's Psychiatric Evaluation, completed on July 22, 2021, also documented that

Patient #1506 "clearly denies suicidal or homicidal ideations" and even though Patient #1506 heard multiple voices, they did not tell Patient #1506 to kill themselves or harm anyone. Additionally, Patient #1506's pre-discharge assessment indicated Patient #1506 did not present an immediate risk to self; was not currently expressing thoughts of harming others; was not displaying aggressive behavior; understood their psychiatric condition, symptoms and diagnosis; understood the expected benefit of inpatient treatment; understood the potential risks of early discharge; and had an actionable safety plan. Patient #1506 had also denied suicidal ideations throughout their stay at SPBH. On July 22, 2021 at approximately 9:00 p.m., SPBH staff documented that Patient #1506 requested to be discharged. SPBH staff did not initiate the discharge process upon this request. On July 23, 2021, Patient #1506 made a second request to be discharged and completed the "Request for Early Discharge" form at 2:05 p.m. Patient #1506 was not immediately discharged from SPBH but instead was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #1506 did not meet criteria to be detained under chapter 71.05 RCW and Patient #1506 was discharged on July 23, 2021, at approximately 5:35 p.m. During an interview with the Program's surveyor, a staff member of SPBH verified that Patient #1506's medical record failed to contain documentation from to substantiate the need to refer Patient #1506 to the DCR for evaluation.

K. SPBH failed to ensure staff implemented SPBH's policies and procedures when Patient #1506 requested discharge.

   i. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a

referral to the DCR for evaluation. Patient #1506 requested discharge on July 23, 2021 at 2:05 p.m. The DCR was called to evaluate Patient #1506 for possible involuntary detainment at 2:50 p.m. SPBH staff did not complete the C-SSRS assessment for Patient #1506 until 5:35 p.m.

ii. SPBH's policy requires professional staff to notify the psychiatric provider of the patient's request for discharge and the findings of the pre-discharge assessment. The Program's surveyor found no evidence that professional staff had communicated the findings of the pre-discharge assessment to the psychiatric provider.

iii. SPBH's policy also requires the psychiatric provider to make the determination to either discharge or make a referral to the DCR for evaluation based on specified data. The Program's surveyor found no evidence that the psychiatric provider made a determination based on the data specified in SPBH's policy for Patient #1506.

iv. SPBH's policy requires the psychiatric provider or professional staff to complete an affidavit if the psychiatric provider determines that referral to the DCR for evaluation is necessary. The Program's surveyor was unable to find any evidence of an affidavit even though Patient #1506 was referred to a DCR for evaluation.

2.13 The HPSY Program surveyor's observations related to Patient #1501, Patient #1502, Patient #1503, Patient #1504, Patient #1505, and Patient #1506, as outlined in Paragraph 2.13, violated RCW 71.05.050(1) and (2), WAC 246-322-035(1)(d), and WAC 246-322-200(3)(m). The observations related to RCW 71.05.050(2) and

WAC 246-322-035(1)(d) represent repeat deficiencies from the follow-up compliance visit completed on April 7, 2021. The observations related to RCW 71.05.050(1) represent a repeat deficiency from the initial state licensing investigation completed on October 1, 2019, and the follow-up compliance visit completed on April 7, 2021.

2.14 On or about February 1, 2022, SPBH submitted a Plan of Correction for each deficiency noted in the Statement of Deficiencies. The HPSY Program did not accept this Plan of Correction.

Investigative Case File Number 2021-11508

2.15 On or about September 21, 2021, the BHA Program received a complaint that alleged, among other things, SPBH violated patient rights by denying a patient's request to be evaluated for discharge and asking the patient to stay longer despite the patient completing their work and intended goals. The complaint also alleged SPBH staff lied to the patient when SPBH staff said the patient could leave anytime because SPBH detained the patient for evaluation by a DCR when the patient requested discharge.

2.16 On or about December 20, 2021, a BHA Program surveyor completed a state licensing investigation at SPBH. As part of the state licensing investigation, the BHA Program's surveyor reviewed clinical records of seven (7) patients who had received services from SPBH. On January 19, 2022, the BHA Program issued a Statement of Deficiencies to SPBH detailing the surveyor's observations, which included the following:

Patient #7

A. SPBH did not adhere to its own policy when Patient #7 requested discharge. SPBH's policy requires that staff complete C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #7 requested discharge on September 5, 2021 at 10:00 am. SPBH staff called the DCR to evaluate Patient #7 for possible involuntary

detainment at 10:05 am. SPBH staff did not complete the C-SSRS assessment for Patient #7 until 10:24 am.

B. At the time Patient #7 requested to be discharged, they did not present, as a result of a behavioral health disorder, an imminent likelihood of serious harm or as gravely disabled. Yet, Patient #7 was referred for evaluation by a DCR for possible involuntary detainment. Patient #7 should have been released immediately upon requesting discharge based on the documentation reviewed by the Program's surveyor. More specifically, Patient #7 was admitted to SPBH on September 2, 2021. On September 5, 2021 at 10:00 am, Patient #7 requested discharge from SPBH, stating, "I have my own appointments with my [psychiatric provider and therapist], housing, and outpatient. I'm not getting therapy here. I have completed the workbook and there are no other resources here for me." Among other things, Patient #7's pre-discharge assessment indicated Patient #7 did not present an immediate risk to self; was not currently expressing thoughts of harming others; was not displaying aggressive behavior; understood their psychiatric condition, symptoms and diagnosis; understood the potential risks of early discharge; and had an actionable safety plan. Patient #7 had also denied suicidal ideations throughout their stay at SPBH. Instead of being immediately discharged from SPBH, Patient #7 was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #7 did not meet criteria to be detained under chapter 71.05 RCW, and Patient #7 was discharged on September 5, 2021, at approximately 12:15 pm. During an interview with the Program's surveyor, Patient #7 reported that their experience at SPBH was really upsetting and that they did not think they would be punished for asking to leave.

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Patient #8

C. SPBH did not adhere to its own policy when Patient #8 requested discharge. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #8 requested discharge on October 11, 2021 at 10:25 am. The DCR was called to evaluate Patient #8 for possible involuntary detainment at 10:50 am. SPBH staff did not complete the C-SSRS assessment for Patient #8 until 1:50 pm.

D. At the time Patient #8 requested to be discharged, they did not present, as a result of a behavioral health disorder, an imminent likelihood of serious harm or as gravely disabled. Yet, Patient #8 was referred for evaluation by a DCR for possible involuntary detainment. Patient #8 should have been released immediately upon requesting discharge based on the documentation reviewed by the Program's surveyor. More specifically, Patient #8 was admitted to SPBH on October 8, 2021. On October 11, 2021 at 10:25 am, Patient #8 requested discharge from SPBH, stating, "I don't want to detox anymore." Among other things, Patient #8's pre-discharge assessment indicated Patient #8 did not present an immediate risk to self; was not currently expressing thoughts of harming others; was not displaying aggressive behavior; and had an actionable safety plan. Patient #8 had also denied suicidal ideations throughout their stay at SPBH. Instead of being immediately discharged from SPBH, Patient #8 was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #8 did not meet criteria to be detained under chapter 71.05 RCW, and Patient #8 was discharged on October 11, 2021, at approximately 6:30 pm.

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Patient #9

E. SPBH did not adhere to its own policy when Patient #9 requested discharge. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #9 requested discharge on June 13, 2021 at 10:22 am. The DCR was called to evaluate Patient #9 for possible involuntary detainment at 11:20 am. SPBH staff did not complete the C-SSRS assessment for Patient #9 until 6:00 pm.

Patient #10

F. SPBH did not adhere to its own policy when Patient #10 requested discharge. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #10 requested discharge on May 20, 2021 at 11:00 am. The DCR was called to evaluate Patient #10 for possible involuntary detainment at 11:30 am. SPBH staff did not complete the C-SSRS assessment for Patient #10 until 3:34 pm.

Patient #11

G. SPBH did not adhere to its own policy when Patient #11 requested discharge. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #11 requested discharge on September 11, 2021 at 5:42 pm. The DCR

was called to evaluate Patient #11 for possible involuntary detainment at 5:49 pm. SPBH staff did not complete the C-SSRS assessment for Patient #11 until 9:00 pm.

Patient #12

H. SPBH did not adhere to its own policy when Patient #12 requested discharge. SPBH's policy requires that staff complete a C-SSRS assessment at the time discharge is requested so that the psychiatric provider can consider, among other things, the results of the C-SSRS assessment when deciding whether to discharge the patient or make a referral to the DCR for evaluation. Patient #12 requested discharge on July 23, 2021 at 2:05 pm. The DCR was called to evaluate Patient #12 for possible involuntary detainment at 2:50 pm. SPBH staff did not complete the C-SSRS assessment for Patient #12 until 5:35 pm.

I. Patient #12 made two requests to be discharged while admitted to SPBH. At the time, Patient #12 did not present, as a result of a behavioral health disorder, an imminent likelihood of serious harm or as gravely disabled. Yet, SPBH did not initiate the discharge process upon the first request. And, in response to the second request, Patient #12 was referred for evaluation by a DCR for possible involuntary detainment. Patient #12 should have been released immediately upon requesting discharge on both occasions based on the documentation reviewed by the Program's surveyor. More specifically, Patient #12 was admitted to SPBH on July 21, 2021. During admission, SPBH staff documented that "[Patient #12] denies [suicidal ideation, Patient #12] denies [homicidal ideation] plan and intent. [Patient #12] is able to contract for safety and self-care outside of the hospital setting. [Patient #12's] daughter reports that she feels safe having [Patient #12] return back home." Patient #12's Psychiatric Evaluation, completed on July 22, 2021, also documented that Patient #12 "clearly denies suicidal or homicidal

ideations," and even though Patient #12 heard multiple voices, they did not tell Patient #12 to kill themselves or harm anyone. Additionally, Patient #12's pre-discharge assessment indicated Patient #12 did not present an immediate risk to self; was not currently expressing thoughts of harming others; was not displaying aggressive behavior; understood their psychiatric condition, symptoms and diagnosis; understood the expected benefit of inpatient treatment; understood the potential risks of early discharge; and had an actionable safety plan. Patient #12 had also denied suicidal ideations throughout their stay at SPBH. On July 22, 2021 at approximately 9:00 pm SPBH staff documented that Patient #12 requested to be discharged. SPBH staff did not initiate the discharge process upon this request. During an interview, Patient #12 informed the Program's surveyor that SPBH staff did not offer the "Request for Early Discharge" form to fill out, and instead told Patient #12 they had to wait until the next day because some necessary individual was not there to address the request. On July 23, 2021, Patient #12 did receive and complete the "Request for Early Discharge" form, at 2:05 pm. Instead of being immediately discharged from SPBH, Patient #12 was detained at SPBH until they were evaluated by a DCR. The DCR determined Patient #12 did not meet criteria to be detained under chapter 71.05 RCW, and Patient #12 was discharged on July 23, 2021, at approximately 5:35 pm.

2.17 The BHA Program surveyor's observations related to Patient #7, Patient #8, Patient #9, Patient #10, Patient #11, and Patient #12, as outlined in Paragraph 2.16, violated WAC 246-341-0410(4)(a), WAC 246-341-0600(1), and RCW 71.05.050(1) and (2). The observations related to RCW 71.05.050(1) represent a repeat deficiency cited from the initial state licensing investigation completed on October 1, 2019, and the follow-up compliance visit completed on April 7, 2021.The observations related to RCW 71.05.050(2) and WAC 246-341-0600(1) represent repeat deficiencies cited from the follow-up compliance visit completed on April 7, 2021.

2.18 On or about February 2, 2022, SPBH submitted a Plan of Correction for each deficiency noted in the January 19, 2022 Statement of Deficiencies. The Program did not accept this Plan of Correction.

2.19 Respondent disputes the Amended Notices and contends that if called to testify, its witnesses would testify that the findings and conclusions in the Amended Notices that are adverse to Respondent are inaccurate and, instead, that Respondent was substantially compliant with the applicable laws, regulations, policies and procedures, as set out in Respondent's Requests for an Adjudicative Hearing, including Respondent's addenda thereto, which are included herein by reference.

3. CONCLUSIONS OF LAW

3.1 The Secretary, acting through his designee, has jurisdiction over the Respondent, Vest Seattle LLC dba Smokey Point Behavioral Hospital (SPBH) license no. HPSY.FS.60739147 and BHA.FS.60874194, and over the subject matter of this proceeding under chapters 71.12 RCW and 246-322 WAC, and chapters 71.05, 71.24, 71.34 RCW and 246-341 WAC.

3.2 The findings of fact that are adverse to Respondent, in the Amended Notices, if proven at a hearing, would constitute violations of RCW 71.05.050(1) and (2), RCW 71.05.153(1), RCW 71.34.650(7), RCW 71.34.600(1), WAC 246-322-035(1)(d), WAC 246-322-200(3)(m), WAC 246-341-0600(1), WAC 246-341-1126(4)(c), WAC 246-341-0620(1)(d), and WAC 246-341-0410(4)(a).

3.3 The above violations, if proven at a hearing, would demonstrate that Respondent has failed to comply with chapters 71.05 RCW, 71.12 RCW, 71.24 RCW, 71.34 RCW, 246-322 WAC, and 246-341 WAC.

3.4 Respondent's failure to comply with chapters 71.05 RCW, 71.12 RCW, 71.34 RCW, and 246-322 WAC, if proven at a hearing, would provide grounds for the Secretary to suspend, revoke, refuse to renew, or impose conditions on Respondent's HPSY license under RCW 43.70.115, RCW 71.12.710, and WAC 246-322-025.

3.5 Respondent's failure to comply with chapters 71.05 RCW, 71.12 RCW, 71.34 RCW, and 246-322 WAC, if proven at a hearing, would provide grounds for the Secretary to impose a fine on Respondent's HPSY license under RCW 43.70.095 and

RCW 71.12.710(1)(b).

3.6 Respondent's failure to comply with chapters 71.05 RCW, 71.24 RCW, 71.34 RCW, and 246-341 WAC, if proven at a hearing, would provide grounds for the Secretary to deny, suspend, revoke, or place on probation Respondent's BHA license or specific program certifications under RCW 43.70.115, chapter 71.24 RCW, WAC 246-341-0335, and WAC 246-341-0605.

3.7 Respondent's failure to comply with chapters 71.05 RCW, 71.24 RCW, 71.34 RCW, and 246-341 WAC, if proven at a hearing, would provide grounds for the Secretary to assess a fee against Respondent's BHA license under RCW 43.70.250, WAC 246-341-0335(5), WAC 246-341-0365(5) and (7), and WAC 246-341-0605(5).

3.8 Respondent has the right to contest a Secretary decision to suspend, revoke, refuse to renew, or impose conditions on its license by requesting an adjudicative proceeding within twenty-eight (28) days of receipt of the department's decision. RCW 43.70.115. Respondent disputes the Amended Notices. Respondent's waiver of its right to contest the Secretary's decisions, and Respondent's entry into this Agreed Order, does not constitute an admission.

3.9 Subject to RCW 43.70.115(2) and RCW 34.05.461, the Secretary may indicate when and under what circumstances an order may become an effective Final Order.

4. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, the Programs and Respondent agree to entry of the following Agreed Order:

4.1 Respondent's psychiatric hospital license (HPSY.FS.60737147) and behavioral health agency license (BHA.FS.60874194) are subject to the terms and conditions outlined below.

4.2 Respondent shall pay a fine to the HPSY Program in the amount of twenty thousand dollars ($20,000), which must be received by the HPSY Program within thirty (30) days of the effective date of this Agreed Order. The fine shall be paid by personal check, certified or cashier's check, or money order, made payable to the Department of Health and mailed to the Department of Health, Psychiatric HospitalProgram, at PO Box 1099, Olympia, WA 98507-1099. Payments may also be made at the Office of Customer

Service front counter located on the Tumwater campus at 111 Israel Rd. S.E., Town Center 2, Tumwater, WA 98501, during regular business hours.

4.3 Respondent shall pay a fee to the BHA Program in the amount of three thousand dollars ($3,000), which must be received by the BHA Program within thirty(30) days of the effective date of this Agreed Order. The fee shall be paid by personal check, certified or cashier's check, or money order, made payable to the Department of Health and mailed to the Department of Health, BHA Program at PO Box 1099, Olympia, WA 98507-1099. Payments may also be made at the Office of Customer Service front counter located on the Tumwater campus at 111 Israel Rd. S.E., Town Center 2, Tumwater, WA 98501, during regular business hours.

4.4 Within sixty (60) days of the effective date of the Agreed Order, Respondent must submit to the Programs a proposed training program of at least one (1) hour in length, for review and approval by the Programs, on its Request for Early Discharge (AMA) policy and RCW 71.05.050. The Programs may provide technical assistance to the Respondent on the development of the proposed training program at the request of Respondent. The Programs will review, and approve or reject, the training program within thirty (30) days of receipt. If the Programs reject the training program, the Programs will provide specific feedback on required additions or amendments to the training program. Respondent will then have thirty (30) days to make the required additions or amendments and re-submit the training program to the Programs. The Programs will review, and approve or reject, the amended training program within fourteen (14) days. The approved training must be provided annually to all of Respondent's professional staff for the duration of this Agreed Order. (See par. 4.10, re: duration). The first training must be provided to all Respondent's professional staff within ninety (90) days of the date the Programs provide Respondent with written approval of the training program, and Respondent must provide the Programs with a roster demonstrating all Respondent's professional staff have completed the training.

4.5 Respondent must submit to the Programs, for pre-approval prior to implementation, any proposed changes to Respondent's existing policies and procedures, or any new policies and procedures, related to requests for discharge by voluntarily admitted patients.

4.6 Respondent agrees to allow the Programs to conduct up to four (4) unannounced compliance monitoring inspections over the next three (3) years to verify compliance with chapters 71.05, 71.12, 71.24, and 71.34 RCW, and chapters 246-322 and 246-341 WAC as applicable to requests for discharge by voluntarily admitted patients.

4.7 Within sixty (60) to one hundred eighty (180) days of the effective date of this Agreed Order, the Programs will conduct the first unannounced compliance monitoring inspection. The Programs will then conduct up to three (3) additional compliance monitoring inspections within two and one half (2.5) years of the first unannounced compliance monitoring inspection.

4.8 Following each compliance monitoring inspection, if deficiencies are found, the Program may issue a Statement(s) of Deficiencies (SOD). If the Program issues a SOD, the Program may require Respondent to submit a Plan of Correction (POC) addressing each deficient practice identified in the SOD. In lieu of requiring Respondent to submit a POC, or if the POC is not accepted by the Programs, the Programs may initiate enforcement action and Respondent reserves all rights with respect to such enforcement actions.

4.9 The Programs may at any time conduct unannounced visits to Respondent to monitor its compliance with chapters 71.05, 71.12, 71.24, 71.34 RCW, and chapters 246-322 and 246-341 WAC, to include newly authorized complaint investigations, if any, as well as Respondent's progress in the implementation and compliance with this Agreed Order.

4.10 If Respondent has complied with paragraphs 4.2, 4.3, 4.4, and 4.5 of this Agreed Order, the Agreed Order will terminate by operation of law upon completion of the fourth unannounced compliance monitoring visit without further action of the parties, regardless of whether the Program has found Respondent to be in substantial compliance. Programs reserve all rights, including the right to initiate enforcement action, based on the results of the fourth unannounced compliance monitoring visit. Respondent reserves all rights with respect to enforcement action, if any, taken by the Programs after the fourth unannounced compliance monitoring visit.

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4.11 Respondent shall obey all federal, state and local laws and all administrative rules governing the operation of a psychiatric hospital and behavioral health agency in Washington.

4.12 Failure to comply with chapters 71.05 RCW, 71.12 RCW, 71.24 RCW, 71.34 RCW, 246-322 WAC, and 246-341 WAC provides grounds for the Secretary to suspend, revoke, refuse to renew, or impose conditions on Respondent's psychiatric hospital license under RCW 43.70.115, RCW 71.12.710, and WAC 246-322-025, and to deny, suspend, revoke, or place on probation Respondent's and behavioral health agency license (BHA.FS.60874194) license or specific program certifications under RCW 43.70.115, chapter 71.24 RCW, WAC 246-341-0335, and WAC 246-341-0605.

4.13 Any documents required by this Agreed Order shall be sent to Department of Health Compliance at PO Box 47873, Olympia, WA 98504-7873.

4.14 Respondent shall inform the Department of Health Customer Service, in writing, of changes in Respondent's business address within thirty (30) days of the change. The mailing address for the Office of Customer Service is PO Box 47865, Olympia, WA 98504-7865.

4.15 The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Agreed Order.

4.16 This Agreed Order is made for settlement purposes only and shall not constitute or be construed as an admission by Respondent, except that Respondent agrees the violations cited in the Amended Notices are final determinations, and can be used by the Programs in any future administrative actions initiated by the Programs against Respondent.

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5. ACCEPTANCE

The Parties have read, understand and agree to this Agreed Order.

FREDRICKA FORD, CEO & ADMINISTRATOR
VEST SEATTLE LLC, dba SMOKEY POINT
BEHAVIORAL HOSPITAL
RESPONDENT

10/25/22
DATE

JOHN WILLIAMS, EXECUTIVE DIRECTOR
DEPARTMENT OF HEALTH
BEHAVIORAL HEALTH AGENCY PROGRAM
AND PSYCHIATRIC HOSPITAL PROGRAM

10/25/2022
DATE

Approved as to form

JEFF DUNCAN, WSBA #38640
BARBARA J. DUFFY, WSBA #18885
ATTORNEY FOR RESPONDENT

10/25/2022
DATE

6. ORDER

The Secretary of Health accepts this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED: October 25, 2022

HEALTH LAW JUDGE
PRESIDING OFFICER

PRESENTED BY:

CHRISTOPHER GERARD, WSBA #49959
ASSISTANT ATTORNEY GENERAL

10/25/2022
DATE