

CC: JW
AS
6/26/01.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ALLDREDGE ACADEMY,
a Delaware Corporation, registered
to do business in West Virginia

Plaintiff,

CIVIL ACTION NO. 01-C-1758

WEST VIRGINIA DEPARTMENT
OF HEALTH AND HUMAN RESOURCES
and PAUL NUSBAUM, SECRETARY,

Defendant.

FILED
01 JUN 22 PM 3:45
CATHY S. GIBSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

AGREED ORDER

This matter is before the Court relative to a motion for a preliminary injunction filed on June 8, 2001 by the plaintiff, Alldredge Academy. The plaintiff seeks an injunctive order restraining the defendants, the West Virginia Department of Health and Human Resources and its Secretary, Paul L. Nusbaum (hereinafter, DHHR), from enforcing an order of closure issued on June 6, 2001, by DHHR against Alldredge Academy pursuant to West Virginia Code 49-2B-12. By Order of the Court on June 12, 2001, DHHR's order of closure was stayed until June 22, 2001 and the parties were directed to meet prior to said date in an effort to resolve the matters in controversy between them. Since that time the parties met in good faith on June 14, 2001 and again on June 19, 2001, as directed by the Court.

Whereupon, the parties, having reviewed the matters in controversy and reached certain agreements thereon, and being desirous of resolution of the matter without the admissions of allegations contained in the DHHR's order of closure or Alldredge Academy's motion for preliminary injunction, tendered onto the Court for consideration and approval a settlement

document entitled, "The Agreement between West Virginia Department of Health and Human Resources' and Alldredge Academy, Inc., for Interim Standards of Operation for Alldredge Academy."

Thereupon, after mature consideration, the Court finds that the settlement document is fair, reasonable and represents the best interest of all parties concerned. Further, the Court finds that the settlement documents represent a realistic and comprehensive plan in establishing interim standards to be met by Alldredge Academy and requiring Alldredge to go through applicable licensing processes. The Court further finds that the proposed settlement document serves the best interest of the children currently being served at Alldredge Academy as well as children served in the future.

Accordingly, it is hereby ORDERED that the settlement document attached hereto is approved and made a part of this Agreed Order.


It is further ORDERED that should the parties violate or not come into substantial compliance with any of the terms and conditions of the settlement document, they reserve the right to enforce this agreement through the power of this Court.

The Clerk of the Court is directed to send a certified copy of this AGREED ORDER to all counsel of record.


ENTERED this 22ND Day of June, 2001.

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS
DAY OF June 22nd 2001
Cathy Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA


Louis H. "Duke" Bloom, Judge



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The Agreement Between the West Virginia Department of Health and Human Resources and Alldredge Academy, Inc., for Interim Standards for Operation of Alldredge Academy

June 22, 2001

The West Virginia Department of Health and Human Resources (DHHR) and Alldredge Academy (Alldredge) hereby agree to the following interim standards to be met by the parties during the time it will take for Alldredge to go through applicable licensing processes, and/or such time as new legislation or regulations are created regarding licensure of Residential Child Care Facilities and/or Behavioral Health Centers which may govern Alldredge and its program.

1. The Board of Directors of Alldredge must be clearly established and available in writing, including identification of the President, who shall then be responsible for the development of written and adequate policies and operating procedures concerning organizational structure, personnel practices, admissions, care and treatment of children and discharge of children. The Board of Directors shall meet at least once per year and minutes of that meeting shall be available. Alldredge shall provide DHHR with an organizational chart ranging from Board, as appropriate, to line staff. Alldredge shall provide job descriptions for each position and then describe the educational and experiential qualifications of each staff person in detail.
2. Alldredge shall operate in conformance with those procedures, which shall be available in writing to staff at all levels.
3. All staff shall pass CIB checks at a minimum. Out of state employees shall be screened through NCIC.
4. All personnel will have written job descriptions kept in their files and available to properly authorized DHHR staff.
5. Alldredge shall employ an adequate number of appropriately trained staff to assure the safety and health of children at all times. Each group of children in the field shall have an appropriately trained staff person available at all times. In this case "appropriately trained" shall mean either possession of an appropriate academic degree in a mental health-related field with appropriate experience or staff who have been thoroughly trained in mental health issues with documentation of such training in their personnel files and extensive experience in the field of wilderness therapy.
6. There shall be a written plan of supervision for all staff. Field staff will be directly supervised by a mental health professional. That mental health professional shall

be duly licensed or certified to practice in West Virginia, or shall be working under the supervision of an individual duly licensed or certified to practice in West Virginia. Within six months of the approval of this agreement, the Alldredge Academy shall have a licensed or certified mental health professional on the clinical staff at all times.

7. Supervisory staff as described in Item #6 shall be accessible to field staff 24 hours per day, in person or by telephone.
8. Alldredge shall have written admission policies that specify the age, sex and types of needs for children for which Alldredge is qualified by staff, program and equipment to meet. This policy shall include some statement regarding diagnosis, if any, history of behavioral disturbance, if any, appropriate for admission.
9. The child shall receive within 24 hours of admission an evaluation addressing history; medical needs; current mental status; assessment of suicidality; description of personality, behavior and interests; school history; history of previous placements; statement of needs; and statement of immediate and long-term goals. This assessment shall be performed by a mental health professional duly licensed and /or certified to practice in West Virginia, or shall be working under the supervision of an individual duly licensed or certified to practice in West Virginia. Alldredge Academy shall not admit children whose presenting problems/needs for treatment as identified in the initial assessment exceed the immediate resources, qualifications of staff, and abilities of the Alldredge.
10. Alldredge shall have a specific policy regarding use of peer control, behavior management techniques, and restraints. Staff shall be trained in appropriate use of all.
11. Each child must have a specific educational, counseling and/or treatment plan developed within 7 days and based upon field staff and supervisory staff assessments as well as accumulated background information and the initial assessment. The educational, counseling and/or treatment plan describes the goals and objectives to be reached by the child/student. The educational, counseling and/or treatment plan shall be reviewed minimally each two weeks by the child, field staff and supervising mental health professionals, (known as the treatment team). The educational, counseling and/or treatment plan is available to field staff at all times. The educational, counseling and/or treatment plan shall be forwarded to parents and approved by them, as will reviews of progress. Educational, counseling and/or treatment plans are considered to be permission for treatment required by WV State Code and therefore treatment cannot proceed without parent/guardian permission. Educational, counseling and/or treatment plans shall specify goals, objectives, individual(s) responsible and estimated achievement date. The individual identified as being responsible shall be appropriately

credentialed to complete the identified objective.

12. A case review conference shall be held with the child, parents and field staff, in conjunction with the supervising mental health professional before the child moves from one program to the next. Criteria for movement shall be clearly specified.
13. Opportunities for and methods of contact between the child and his/her parents shall be clearly dictated by policy and approved by the treatment team.
14. Disciplinary techniques shall be approved by the Board of Directors and shall be in writing. Discipline shall not be physically or emotionally damaging.
15. Suicidal threats will be assessed by the supervising mental health professional in a face to face interview within 12 hours. Parasuicidal behaviors such as wrist slashing shall be taken seriously and assessed by the supervising mental health professional personally within 4 hours. Alldredge shall have specific, written procedures to follow when dealing with a potentially suicidal child. Those procedures shall direct field staff as to how to proceed and shall be available to them at all times.
16. Alldredge shall also have written policies and procedures for dealing with emergencies such as elopements, burns, snake bites, exposure, etc. Those procedures shall be in writing and available to field staff at all times.
17. Alldredge has two options for administering medications. Medications may be administered by a registered nurse on site or children may self-administer medications. If children self-administer, they must be able to name their medication, the dosage, the scheduled time(s) of ingestion, the purpose/benefit of the medication, and the potential side effects of the medication. He/she must document ingestion of each dosage in records kept by field staff. Medications will be kept in a secure location by field staff.
18. Staff must be trained and supervised thoroughly. Such training and supervision must be documented. Training should include, at a minimum, a review of all policies and procedures; procedures for dealing with emergencies, elopement and suicidal behavior; first aid and CPR; graduated use of restraint; appropriate use of restraint; crisis intervention techniques; medications and their benefits and potential side effects; and other subjects as appropriate for camping life. In all cases, training will be conducted by instructors properly qualified in the subject area.
19. Alldredge shall have a policy and procedure for reporting adverse incidents including suicide attempts, death, abuse, neglect and injuries. A central file of

incidents shall be maintained and shall be accessible to properly authorized DHHR staff at any time. This procedure must comply with state law with regard to Child Protective Services. DHHR agrees to provide Alldredge with such such requirements and training. Administration shall cooperate fully with mandated reporting requirements of all local, state and federal authorities.

20. Richard Workman, M.A., Licensed Psychologist, will be admitted to the wilderness and village components of the wilderness therapy experiences as previously arranged. A list of staff and their qualifications shall be made available to him at that time.
21. Alldredge Academy shall vigorously pursue filing a request for determination of reviewability to the West Virginia Health Care Authority. Time lines shall be determined by the Health Care Authority.
22. On or about August 1, 2001, the Office of Health, Facility, Licensure and Certification shall conduct a survey to ensure substantial progress toward compliance with these terms. Time frames shall be as follows: By August 1, 2001, policy and procedures as specified above shall be in place; initial assessments and educational, counseling and/or treatment plans shall be completed on all children; staff currently employed shall be properly trained as described above and the medication administration policy shall be properly implemented. By October 1, 2001 those staff who are eligible for licensure and/or certification in the state of West Virginia shall have made application to the appropriate licensure and certification body and shall be in the process of obtaining such licensure or certification. Staff shall be thoroughly trained in Alldredge Academy policy and procedure and such training shall be documented. If such compliance is not evident at either juncture, the State of West Virginia shall pursue closure of Alldredge. Child records will be made fully available at all times to those DHHR employees entitled by statute to unlimited access in unredacted form.
23. Alldredge shall provide to DHHR a current list of all children currently enrolled in each phase of the program to include name, address and telephone numbers of each child's parent(s) or custodian. That list shall be updated each two weeks as new admissions occur and discharges take place. The parties agree that the list of students and parents, including their addresses, is confidential and is not subject to the West Virginia Freedom of Information Act. DHHR shall destroy said list each time a new list is provided.
24. As part of an ongoing Child Protective Services investigation, Alldredge shall provide a copy of the case record of Dan W. to the Office of Social Services of DHHR no later than June 25, 2001.
25. No statement contained in this document shall prohibit the parties's from taking

appropriate legal or administrative action if such becomes necessary and appropriate. DHHR shall provide 72 hour written notice to the parents prior to any removal of children.