



**North Carolina Department of Health and Human Services
Division of Health Service Regulation
Mental Health Licensure & Certification Section**

Provider Resource Manual

Revised 9/4/2019

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NC rules that govern state licensed facilities are supplements to this resource guide. Rules can be found and downloaded at: <http://www.ncdhhs.gov/dhsr/mhlc/rules.html>.



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

Dear Participants of Connecting the Dots Provider Training:

Rules, policies, procedures, statutes, surveys, monitoring, appeals and administrative sanctions. It can be understandably confusing trying to make sense of all of the pieces that make up the framework that must be developed and implemented in order to run a licensed facility.

This training is an effort to break down the information into manageable pieces, explain the purpose of those separate pieces and then discuss how the pieces fit together.

We hope the information in this manual will be helpful to you.

Thank you for participating.

Regards,

Stephanie Gilliam, Chief
Mental Health Licensure and Certification Section

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

LOCATION: 1800 Umstead Drive, Williams Building, Raleigh, NC 27603

MAILING ADDRESS: 2718 Mail Service Center, Raleigh, NC 27699-2718

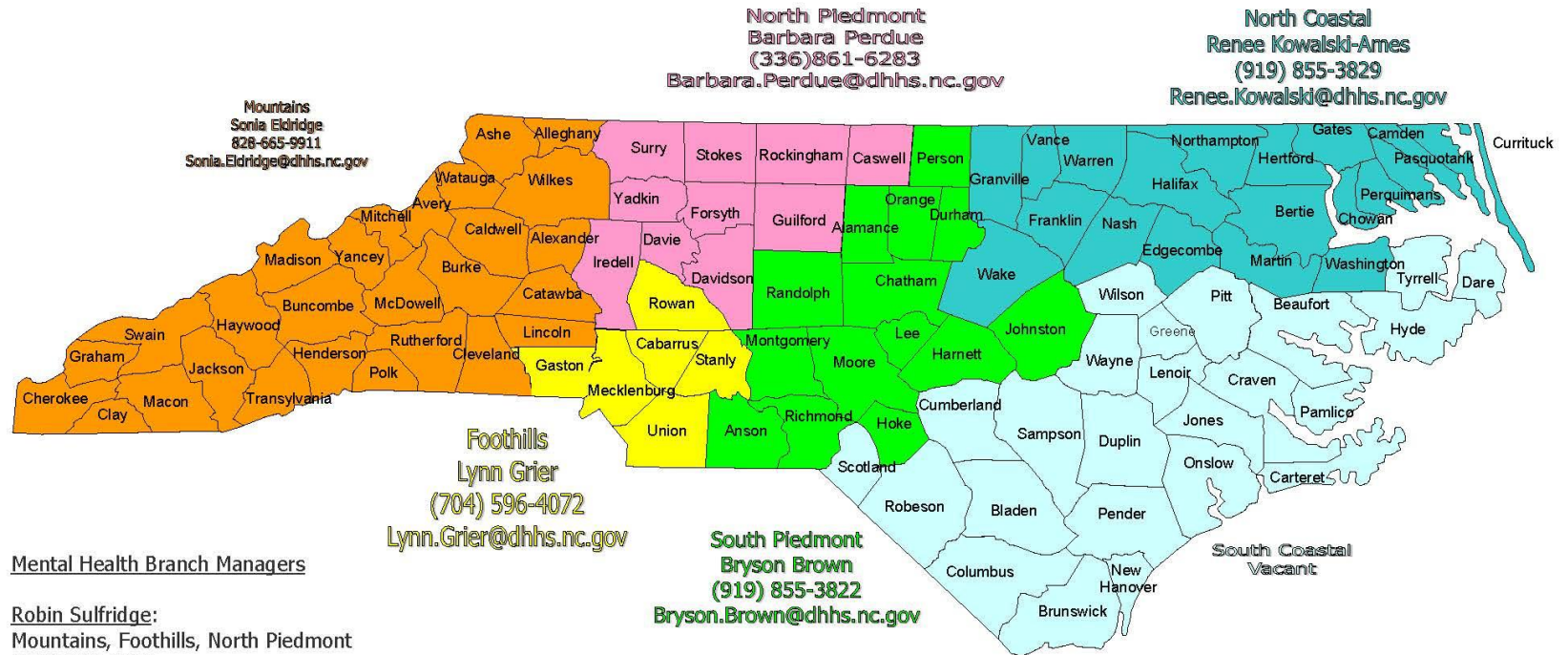
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NC Division of Health Service Regulation Mental Health Licensure & Certification Section Mental Health Branch Territories

updated 8/29/19



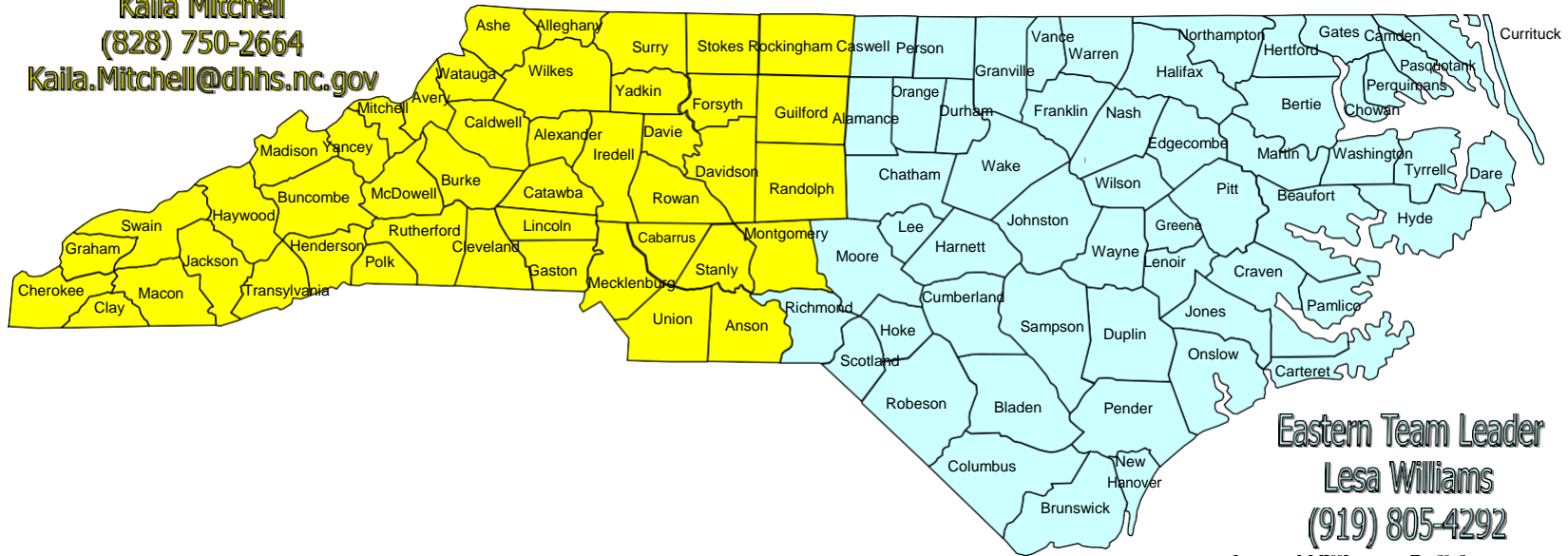
Mental Health Branch Managers

Robin Sulfridge:
Mountains, North Piedmont
(336) 861-7342
Robin.Sulfridge@dhhs.nc.gov

Wendy Boone:
South Piedmont, North Coastal, South Coastal
252-568-2744
Wendy.Boone@dhhs.nc.gov

**NC Division of Health Service Regulation
Mental Health Licensure & Certification Section
ICF/IID Branch Territories**

**Western Team Leader
Kaila Mitchell
(828) 750-2664
Kaila.Mitchell@dhhs.nc.gov**



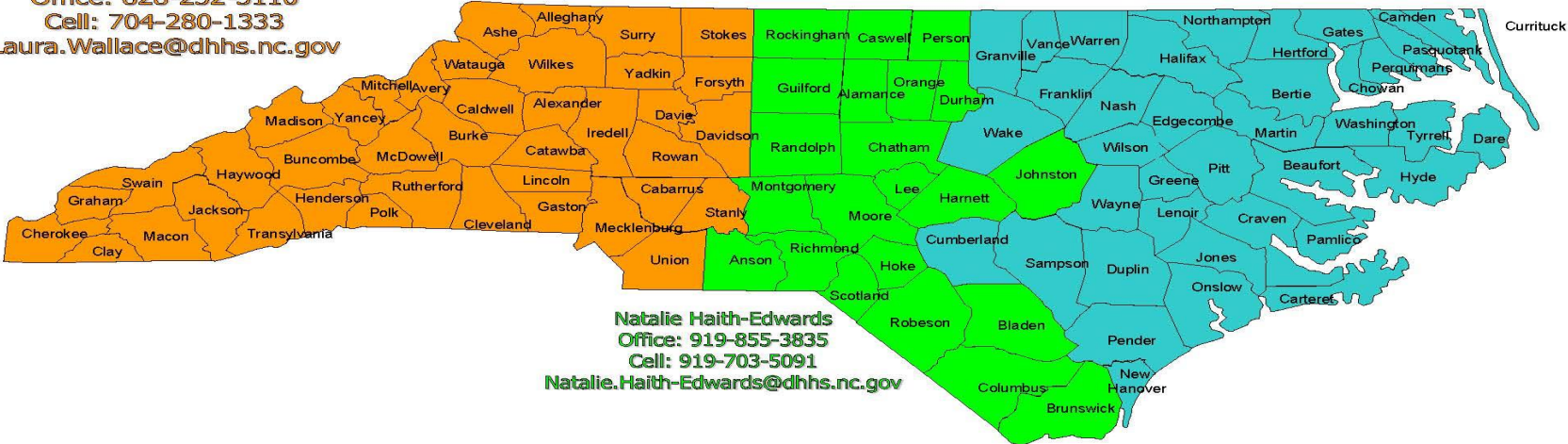
**Eastern Team Leader
Lesa Williams
(919) 805-4292
Lesa.Williams@dhhs.nc.gov**

**ICF-IID Branch Manager
Steve Yost
(828) 750-4895
Steve.Yost@dhhs.nc.gov**

NC Division of Health Service Regulation Mental Health Licensure & Certification Section Licensure & Training Team Territories

Laura Wallace
Office: 828-232-3110
Cell: 704-280-1333
Laura.Wallace@dhhs.nc.gov

Arlean Brooks
Office: 919-855-3821
Cell: 919-218-5202
Arlean.Brooks@dhhs.nc.gov



Natalie Haith-Edwards
Office: 919-855-3835
Cell: 919-703-5091
Natalie.Haith-Edwards@dhhs.nc.gov

Stacy Silvia
Licensure & Training Team Leader
Office: 919-855-3813

NC MHL&C Rules & General Statutes

Rules can be obtained online at <http://www.ncdhhs.gov/dhsr/mhlcs/rules.html>

N.C. General Statutes can be found on line at: <http://www.ncga.state.nc.us/gascripts/statutes/Statutes.asp>

The following are the rules that govern state licensed facilities.

10A NCAC Chapter 26 Mental Health, General

- Subchapter C: Other General Rules

10A NCAC Chapter 27 Mental Health, Community Facilities and Services

- Subchapter C: Procedures and General Information
- Subchapter D: General Rights
- Subchapter E: Treatment or Habilitation Rights
- Subchapter F: 24-Hour Facilities
- Subchapter G: Rules for Mental Health, Developmental Disabilities, and Substance Abuse Facilities and Services

Every licensed facility must adhere to all core rules in 27G .0100 - .0905¹. Some core rules are listed below.

- General & staff definitions
- Governing body policy requirements
- Client record requirements
- Staff record & training requirements
- Client services & treatment plan requirements
- Emergency plan & Incident reporting requirements
- Medication requirements
- Physical plant & Licensing requirements

In addition to core rules, facilities must also adhere to the program specific rules for the licensed service category.

- Program specific rules are within 10A NCAC Chapter 27G .1000 - .7101
- Providers must know the service they are licensed to provide and ensure they adhere to the correct program specific rules. For example: a provider licensed to provide residential services to adults with mental illness would be licensed as a “5600A”
 - In addition to the core rules, the provider must also adhere to rules 27G .5601 - .5604. Licensure category 5600F is exempt from some core rules per 10A NCAC 27G .5601(c)(6).

Facilities must also adhere to all client rights rules. Client rights rules are within 10A NCAC Chapter 27:

- Subchapter C: Procedures and General Information
- Subchapter D: General Rights
- Subchapter E: Treatment or Habilitation Rights
- Subchapter F: 24-Hour Facilities (these client rights rules only apply to facilities licensed to provide residential services)

Facilities must also adhere to a variety of other General Statutes aimed at protecting the clients served. Some of these Statutes are listed below.

- G.S. 131E-256; Health Care Personnel Registry
- G.S. 122C-80; Criminal History Record Check Required for Certain Applicants for Employment
- G.S. 122C-61: Treatment rights in 24 hr facilities
- G.S. 122C-62: Additional rights in 24 hr facilities
- G.S. 122C-63; Assurance for Continuity of Care for Individuals with Mental Retardation
- G.S. 122C-6; Smoking Prohibited; Penalty

Types of Surveys, Deficiencies & Violations

Surveyors use observation, interview and record review to determine compliance. The survey process is designed to focus on the treatment, health and safety of consumers.

Types of Surveys

- Initial Surveys: Review policies, procedures, and staffing and conduct on-site survey to determine compliance with NCGS 122-C.
- Annual Surveys: A review of compliance with core rules, client rights, and program specific rules. If triggered, the scope of the survey is expanded.
- Complaint Surveys: Focused on specific complaint. If triggered, the scope of the survey is expanded.
- Follow up Surveys: Determine compliance with previous out of compliance rules.

Evidence of failure to meet the requirements outlined in rule is evaluated for scope and severity. Rule citations are issued as standard deficiencies or as violations. Survey results are documented in a statement of deficiencies (SOD) which is sent to the licensed provider after a survey.

Deficiency/ Violation Definitions

- Type A1 Violation: A violation by a facility, which results in death or serious physical harm, abuse, neglect, or exploitation.
- Type A2 Violation: A violation by a facility, which results in substantial risk that death or serious physical harm, abuse, neglect, or exploitation will occur.
- Type B Violation: A violation by a facility, which is detrimental to the health, safety or welfare of any client.
- Standard Level Deficiency: A rule out of compliance, which does not meet the criteria for a Type A1, Type A2 or Type B violation.
- Recited Standard Level Deficiency: A standard level deficiency that was not corrected prior to the follow up visit.
- Imposed Type B Violation: Type B Violation that was not corrected prior to the follow up visit. A daily penalty will accrue starting from the 46th day, until the provider comes back into compliance.
- Uncorrected Type A1 or A2 Violation: Type A1 or A2 violation that was not corrected prior to the follow up visit. A daily penalty will accrue starting from the 24th day, until the provider comes back into compliance. This penalty is in addition to any penalty assessed for the initial Type A1 or A2 violation.

Time Frames for Compliance

- Type A1 or A2 Violation: 23 days from the exit date of the survey, **not** the date the SOD is received.
- Type B Violation: 45 days from the exit date of the survey, **not** the date the SOD is received
- Standard Level Deficiencies: 60 days from the exit date of the survey, **not** the date the SOD is received.
- Recited Standard Level Deficiencies: 30 days from the exit date of the survey, **not** the date the SOD is received
- Imposed Type B Violation: not given a time frame for compliance. The provider must notify DHSR in writing when they are back into compliance.
- Uncorrected Type A1 or A2 Violation: not given a time frame for compliance. The provider must notify DHSR in writing when they are back into compliance.

Components of the Statement of Deficiencies (SOD)

SOD's contain the following:

1. Initial Comments include:
 - The type of survey conducted and if deficiencies were cited.
 - The licensure category for the facility.
 - If a complaint survey was conducted, will include the complaint intake number and whether or not the complaint was substantiated.
 - Every survey completed will have Initial Comments.
2. Rule Citation(s): If deficiencies are cited the rule citation will include:
 - The rule that is cited, who was affected, and the evidence that supports the non-compliance. These are the Components of a Rule citation and are further elaborated below.
3. Tag Number(s)
 - Used in the computer system with which the SOD is written and relate to specific rules or portions of the rule.
 - Contains the rule text for the citation; allows the rule text to be printed onto the SOD for easy reference.
4. Staff/Client Identifiers
 - The SOD is a public document, therefore individual names cannot appear in the report. Identifiers are used in place of individual names.
 - Identifiers can be letters, numbers or a combination of both. Typically, numbers are used in the MHL&C section.
 - The coding system is known only by the provider and DHSR staff.
 - Facility staff can be identified by their position, discipline, job title or an identifier.

Components of a Rule Citation

Regulatory Reference (AKA: Rule Cited)

- The rule/regulation that the provider has violated.
- Composed of:
 - ▶ Survey tag number
 - ▶ Rule/Statute text
 - ▶ An explicit statement that the rule was “NOT MET”

Deficient Practice Statement (AKA: Practice Statement)

- Written specifically to allow the reader to understand the part of the rule/statute that was not met.
- Identifies how many clients &/or staff were affected (scope).
- Includes what the provider “failed to” do to cause the noncompliance.

Relevant Findings (AKA: Evidence)

- Facts that allow the provider to compare what they did (or failed to do) with what is required.
- How the problem was determined and how it relates to the requirement
- What was the non-compliant practice
- Who were the clients and staff involved
- Where the problem occurred
- When and for how long the problem occurred

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: MHL000-000	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED 01/15/2019
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NAME OF PROVIDER OR SUPPLIER TEST FACILITY MHL	STREET ADDRESS, CITY, STATE, ZIP CODE 805 BIGGS DRIVE RALEIGH, NC 27603
--	---

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
V 000	<u>INITIAL COMMENTS</u> An annual survey was completed on January 15, 2019. A deficiency was cited. This facility is licensed for the following service category: 10A NCAC 27G .5600A Supervised Living for Adults with Mental Illness	V 000	Tag Number	
V 118	27G .0209 (C) Medication Requirements 10A NCAC 27G .0209 MEDICATION REQUIREMENTS (c) Medication administration: (1) Prescription or non-prescription drugs shall only be administered to a client on the written order of a person authorized by law to prescribe drugs. (2) Medications shall be self-administered by clients only when authorized in writing by the client's physician. (3) Medications, including injections, shall be administered only by licensed persons, or by unlicensed persons trained by a registered nurse, pharmacist or other legally qualified person and privileged to prepare and administer medications. (4) A Medication Administration Record (MAR) of all drugs administered to each client must be kept current. Medications administered shall be recorded immediately after administration. The MAR is to include the following: (A) client's name; (B) name, strength, and quantity of the drug; (C) instructions for administering the drug; (D) date and time the drug is administered; and (E) name or initials of person administering the drug. (5) Client requests for medication changes or checks shall be recorded and kept with the MAR file followed up by appointment or consultation with a physician.	V 118	Rule Citation Rule	

Division of Health Service Regulation LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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Division of Health Service Regulation

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V 118	<p>Continued From page 1</p> <p>This Rule is not met as evidenced by: Based on interview, observation and record review the facility failed to ensure medications were administered as ordered by the physician for 1 of 2 clients (Client #1). The findings are:</p> <p>Review on 1/3/11 of Client # ' 1 record revealed:</p> <ul style="list-style-type: none"> · Admission date of 1/1/2011 · Diagnosis of Major Depressive Disorder with psychotic features and Diabetes <p>Review on 1-3-19 of Client #1 ' s physician ' s orders dated 2-9-18 revealed: Trazodone (antidepressant) 50 mg take 1 tablet by mouth at bedtime Prozac (antidepressant) 20mg - take 1 tablet by mouth in the morning Ativan (antianxiety) 2 mg - take 1 tablet daily as needed Glucophage XR (antidiabetic) 500mg - take 1 tablet daily with dinner</p> <p>Observation on 1-3-19 at 7:30 am of Client #1 ' s medications bottles revealed:</p> <ul style="list-style-type: none"> · Trazodone 50 mg - take 1 tablet by mouth at bedtime - with 1 pill remaining in the bottle. · Glucophage XR 500 mg - take 1 tablet by mouth with dinner- with 1 pill remaining in the bottle. · Prozac 20mg - take 1 tablet by mouth in the morning · Ativan 1mg - take 1 tablet daily as needed 	V 118	<p>Practice Statement</p> <p>Evidence or Findings</p>	

Division of Health Service Regulation

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V 118	<p>Continued From page 2</p> <p>Review on 1-2-19 of Client #1 ' s MARs for October 2018 through December 2018 revealed blanks on the following dates:</p> <p>October: 2018:</p> <ul style="list-style-type: none"> · Trazodone - 10/4/18, 10/5/18, 10/6/18, 10/12/18 and 10/26/18 · Glucophage XR- 10/4/18, 10/5/18, 10/6/18, 10/12/18 and 10/26/18 · Prozac - 10/4/18, 10/5/18, 10/6/18, 10/12/18 and 10/26/18 <p>November 2018</p> <ul style="list-style-type: none"> · Trazodone - 11/7/18, 11/8/18 and 11/9/18 · Glucophage XR - 11/7/18, 11/8/18 and 11/9/18 · Prozac - 11/7/18, 11/8/18 and 11/9/18 <p>December 2018</p> <ul style="list-style-type: none"> · Trazodone - 12/8/18 · Glucophage XR - 12/8/18 · Prozac - 12/8/18 <p>Observation on 1-4-19 at 7:30 am revealed Client #1 was not administered Prozac during the morning medication pass. The medication bottle was observed to be empty.</p> <p>Interview on 1-4-19 with Client #1 revealed she had missed some of her medications due to the facility running out and not refilling the prescriptions. " I told them I had to have my meds, or I would get sad and start worrying again. " Client #1 stated staff calls when I ' m running low to remind the Program Director (PD), but she is " slack " in ordering refills. " Today I have to wait till the Program Director gets here, and hopefully she will have my other morning pill. "</p> <p>Interview on 1-4-19 with Staff #1 revealed she had worked for the facility for almost 4 years and</p>	V 118		

Division of Health Service Regulation

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V 118	<p>Continued From page 3</p> <p>has never really had a problem getting medications refilled. Staff #1 stated that she is responsible for calling the main office 4 days prior to the medication running out and notifying the Program Director (PD). Staff #1 stated that " recently the PD had been very busy and may have forgotten to either place the refill order or pick the meds up. " Staff #1 did not have a response as to why the Prozac for Client #1 was not available for administration this morning (1-4-19).</p> <p>Interview on 1-4-19 with the PD revealed she had worked at the facility since 9-15-10 and was responsible for the overall operations for the facility. The PD stated that Client #1 had taken more of her medications than she was suppose to during recent home visits and that was why she ran out of medications prior to the refill dates. The PD stated at the time of admission, Client #1 only brought 2 pills with her and she was unable to get a refill until the 7th of October (2018). The PD stated she was responsible for the initial missed doses; however " [Client # 1] knows that she took too many meds and that ' s why she didn ' t have enough meds to get her through the month. " PD confirmed there was no notification of the physician of the missed doses or shortage.</p> <p>Interview on 1-4-19 with the Licensee revealed she was unaware of the medication errors, but would ensure that medications were available at all times for the clients in the facility. The Licensee confirmed that the PD was responsible for monitoring the medications and reordering, however the contract nurse would be monitoring the future ordering with the PD.</p> <p>Review on 1-4-19 of the Plan of Protection revealed:</p>	V 118	<p style="text-align: center;">Plan of Protection</p>	

Division of Health Service Regulation

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V 118	<p>Continued From page 4</p> <ul style="list-style-type: none"> · The Qualified Professional will meet with Client #1 and discuss taking more medications than prescribed and will add strategies to the treatment plan as needed. · Will ensure contract RN to meet monthly with the Program Director and ensure adequate medication supplies are on hand and check the Medication Records for errors. · The Program Director will be retrained in Medication Administration with a focus on ensuring medications are available and ensuring medications are accounted for after home visits. · The pharmacy will be contact to set up for automatic refills and deliveries to the home office to ensure medications are available for clients as required. <p>Client #1 had diagnoses of Major Depressive Disorder with psychotic features and Diabetes. Physician's orders for medications included two antidepressants (Trazadone and Prozac) and a medication to moderate blood sugar to treat Client #1's diabetes (Glucophage XR). The facility failed to ensure Client #1's medications were administered as ordered. During the months of October, November and December 2018 nine days of medication were missed. There was no notification or consultation with the prescribing physician regarding Client #1 taking too much medication during home visits or missing medication due to shortages. The facility's failure to administer medications as ordered for depression and diabetes and consult with the physician was detrimental to the health and safety of Client #1.</p> <p>This deficiency constitutes a Type B rule violation. An Administrative penalty of \$200.00 per day will be imposed for failure to correct within 45 days.</p>	V 118	<p>Summary Statement</p>	

Mental Health Branch Survey Process Forms

The following forms are tools designed to help the Mental Health branch surveyor while conducting state licensure surveys and are not a checklist of items needed to comply with all licensure rules.

All Mental Health branch surveyors are trained to use the forms to recognize triggers and assure compliance with core licensure rules.

The information contained in these forms is only a snapshot of the actual rule requirements and is not a substitute for obtaining a rule book and developing systems to ensure compliance with core and program specific licensure rules.

Providers are welcome to use the forms, but it is not a requirement.

Division of Health Service Regulation
Mental Health Licensure and Certification Section
ANNUAL SURVEY OUTLINE *(revised 5-2019)*

The annual survey is performed to determine compliance or non-compliance of key rules. The surveyor focuses on the rule areas with the greatest impact on the health, safety and welfare of clients. Findings indicating non-compliance trigger a more detailed and comprehensive survey of that specific rule area and related rules. This is an outline to be used in guiding the surveyor through the annual survey process. **THIS GUIDE REFERENCES CORE REQUIREMENTS, IN ADDITION REFER TO SPECIFIC PROGRAM RULES FOR ADDITIONAL REQUIREMENTS.** It is **NOT** a checklist for the documentation of findings.

SURVEY TASKS: <ul style="list-style-type: none"> · Entrance Conference · Facility Tour and Client/Staff Observation · Sample Selection · Interviews · Review of Records · Pre-Exit Data Analysis · Exit 	SAMPLE SIZE: In facilities with less than 30 clients the sample size is 3. In facilities with more than 30 clients the sample size is 10% of the total number of clients. Your sample size determines how many clients/staff you will interview and how many client/staff records you will review.	SAMPLE SELECTION: Sample selection is drawing a small number of clients and staff from the facility to reflect a proportionate representation. Choose clients based on your observations. Clients with challenging behaviors, requiring significant assistance with ADLs and those noted in incident and accident reports. Ensure your personnel sample includes those staff working the day of survey, staff administering medications and/or new staff.
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PHYSICAL PLANT		METHODOLOGY
27G .0303 (c)	Facility and grounds maintained in a safe, clean, attractive and orderly manner and free from offensive odor	Observation, interview with clients and staff and review of incident and accident reports related to physical plant and client safety
27G .0304(b)(4)	Hot water maintained at 100 degrees F to 116 degrees F.	Measurement of temperatures in client areas
27G .0404(d)	Facility is serving clients within licensed capacity	Observation, interview with clients and staff and review of records
27G .0207	Fire and Disaster plan posted and available to all staff. Fire and Disaster Drills in a 24 hour facility held quarterly and repeated on each shift.	Interview with clients and staff, review of fire and disaster documentation (1 year of records) and fire and disaster plans.
OTHER		
CLIENT PROTECTION		
27G .0206 (a)(5)	Client record contains current emergency contact information	Review of client record, client and staff interview
27D .0101	Staff is knowledgeable about restrictive interventions allowed for use in the facility and alternatives	Review of personnel files, staff and client interview
27D .0304	Clients are protected from abuse, harm, neglect and exploitation	Observation, client and staff interview, review of client records, incident & accident reports (at least 3 months, noting patterns) & staffing schedules
G.S. 131E-256 1002	Facility conducts internal investigation of all allegations of abuse, neglect & exploitation within 5 working days. Clients are protected during investigation.	Review of incident and accident reports, review of internal investigation reports, client and staff interview
G.S. 131E-256 (g)	HCPR is notified of all allegations against staff involving abuse, neglect, misappropriation of property, drug diversion and fraud.	Observation of clients & staff interaction, review of incident & accident reports, review of client records and staff and client interviews
G.S. 122C-61 and G.S. 122C-62	Ensure clients' rights are not restricted.	Interview with clients and staff. Review of policies & procedures; client treatment plans.

Division of Health Service Regulation
Mental Health Licensure and Certification Section
ANNUAL SURVEY OUTLINE *(revised 5-2019)*

STAFF QUALIFICATIONS & COMPETENCY		
27G .0202(b)(4)	No substantiated findings listed on the North Carolina Health Care Personnel Registry.	Review of personnel files for HCPR confirmation # and date, staff interview
27G .0202(c)	Criminal background check in accordance with G.S. 122C-80	Review of personnel files, staff interview
27G .0202(h)	One staff person available at all times when client present in facility <u>AND</u> staffing in accordance with client needs and program requirements	Observation, client and staff interview, review of client records & staffing schedules
27G .0202(h)	Staff trained in CPR, basic first aid, seizure management and Heimlich	Review of personnel files, staff interview
27G .0203(b)	Qualified and associate professionals demonstrate knowledge, skills and abilities required by the population served.	Observation of clients & staff interaction, review of incident & accident reports, review of client records and staff and client interviews
27G .0204(c)	Paraprofessionals demonstrate knowledge, skills and abilities required by the population served	Observation of clients & staff interaction, review of incident & accident reports, review of client records and staff and client interviews
OTHER		
CLIENT TREATMENT		
27G .0205(a)	Initial Assessment	Review of client's record to determine if assessment was prior to service delivery and contains presenting problems, needs & strengths etc...
27G .0205(c)	The plan of care is developed based on the client's assessment and includes strategies, outcomes, staff responsible and is revised as needs change.	Observation, client and staff interview, review of client records.
27G .0206 (a)(7)(8)	Documentation of services provided and progress towards goals	Review of client record, client and staff interview
27G. 0208(a)(2)	Activities are provided which are suitable to the population served and supervised according to clients' needs	Observation of clients & staff interaction, review of incident & accident reports, review of client records and staff and client interviews
CLIENT SERVICES & MEDICATIONS		
27G. 0208(c)	Meals are nutritious and meet clients' needs	Observation of meal service, food storage, review of client records and staff and client interviews
27G .0209(c)(1)	Medications are administered as ordered	Observation medication storage areas, review of MARs (at least 3 months) and records and staff and client interviews
27G .0209(c)(2)	Medication self administration only with physician authorization	Review of client MARs (at least 3 months) and physician orders and staff and client interviews
27G .0209(e)	All medication, including those for self administration are stored securely	Observation of medication storage areas, staff and client interviews
27G .0209(f)	Medication reviews for clients receiving psychotropic meds every 6 months by RPh or MD	Review of medication review documentation, FL-2, MR-2, MD's orders, MARs (at least 3 months)
OTHER		

Division of Health Service Regulation
Mental Health Licensure and Certification Section
Client Census Form

Facility Name: _____ MHL#: _____ License Capacity: _____

Survey Date: ____/____/____ Surveyor Name: _____

Current Census of Clients Admitted to Facility	Audit (place check mark beside each audited client's name)	Medicaid (Yes or No)	SA (Yes or No)	Juvenile Justice Involvement (Yes or No)	Home LME
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					

Clients Discharged Within the Last 6 Months:

Clients Deceased Within the Last 6 Months:

Current Employee/Staff	Shift	Date of Hire	Current Phone Number
Former Employee/Staff	Shift	Date of Separation	Current Phone Number

DIVISION OF HEALTH SERVICE REGULATION
 MENTAL HEALTH LICENSURE & CERTIFICATION SECTION
STAFF WORKSHEET

Facility: _____ MHL#: _____ Surveyor: _____

Name: DOB:	Contact Information:
Position/Title: Date of Hire:	
HCPR check w/ no sub. findings of A/N .0202(b)(4)	
State/National criminal check documentation (122C- 80)	
First Aid including seizure management .0202(h)	
CPR Heimlich Maneuver or equivalent .0202 (h)	
Training on Alternatives to Restrictive Intervention 27E .0107	
Training in Seclusion, Physical Restraint and Isolation Time Out 27E .0108 (at least annually)	

Interview: Date: _____ Time: _____ Place: _____

Surveyor: _____ Date: _____

Division of Health Service Regulation
Mental Health Licensure and Certification Section

Client Worksheet

Facility Name: _____ MHL# _____
Client Name: _____ DOB: _____ Gender: _____
DOA: _____ D/C Date: _____ Client #: _____
Diagnosis: _____

Contact Information (ex: Case Manager, Guardian): _____

Assessment (Including presenting problem, needs & strengths, admitting diagnosis, pertinent social, family & medical history)
Date of Assessment: _____

Treatment/Habilitation Plan (including goals or outcomes, strategies, staff responsible, schedule for review, basis for evaluation, client/guardian consent, and crisis/behavioral plan if applicable.)

Date of Treatment/Habilitation Plan: _____

Emergency Information **Permission to Seek Emergency Care**
 Drug Regimen Review (Psychotropic Meds)

Interview
Date: _____ Time: _____ Location: _____

Record Review/Notes

Surveyor Signature: _____ **Date:** _____

Division of Health Service Regulation
Mental Health Licensure and Certification Section
Outpatient Opioid Treatment Client Worksheet

Facility Name: _____ MHL: _____

Client Name: _____ DOB: _____ MALE FEMALE

DOA: _____ D/C Date: _____ Client #: _____

DIAGNOSES: _____

Dual Enrollment - Date Completed: _____ (within last year) Pregnant High Risk

Counselor Name: _____

Contact Information: _____ Emergency Information Permission to seek
Emergency Care

PHYSICIAN'S HEALTH AND PHYSICAL CHECK

(Including: initial dosing order, medical/psychiatric problems, previous drug history, current medications, medically fragile/high risk factors)

Admission Physical Exam: _____ Most Recent Physical Exam: _____

Other Prescribed Medication

Medication	Prescribing Doctor	Coordination w/Prescribing Doctor

ASSESSMENT

Date: _____

(Including: presenting problem, needs & strengths, admitting diagnoses, pertinent social, family & medical history)

TREATMENT/HABILITATION PLAN

Date: _____

(Including: goals or outcomes, strategies, staff responsible, schedule for review, basis for evaluation, counseling 2 X monthly 1st 365 days of treatment and 1 X monthly thereafter)

Division of Health Service Regulation
Mental Health Licensure and Certification Section
Outpatient Opioid Treatment Client Worksheet

Methadone Doses

Date	Methadone Dose	MD Order	Reason for Increase/Decrease

Take Home Doses (if applicable)

Date	Take Home Dose	Level	MD Order	In Compliance

Urine Drug Screens Date (1 observed each 90 days)	+/-	Specific Results	Counseling Yes/No	Counseling Date/Topic

Record Review/Notes

Surveyor Signature _____ **Date** _____

Division of Health Service Regulation
Mental Health Licensure and Certification Section
Medication Review

Facility Name: _____

MHL#: _____

Client Name: _____

Client # _____

Medication	Administration Instructions From Label	Date Dispensed	MAR Transcription	Date of Signed Order
MAR Documentation:				
MAR Documentation:				
MAR Documentation:				
MAR Documentation:				
MAR Documentation:				
MAR Documentation:				
MAR Documentation:				

Surveyor Signature: _____ Date: _____

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: MHL000-000	(X2) MULTIPLE CONSTRUCTION • BUILDING _____ • WING _____	(X3) DATE SURVEY COMPLETED 07/19/2016
NAME OF PROVIDER OR SUPPLIER TEST FACILITY MHL		STREET ADDRESS, CITY, STATE, ZIP CODE 805 BIGGS DRIVE RALEIGH, NC 2760 3		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
V 131	<p>G.S. 131E-256(d2) HCPR - Prior Employment Verification</p> <p>(d2)Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.</p> <p>This Rule is not met as evidenced by:</p> <p>Based on record review and interview the facility failed to assure a Health Care Personnel Registry (HCPR) check was completed prior to hire for 4 of 4 staff (#1, #2, #3, #4). The findings are:</p> <p>(The surveyor's findings will be entered here.)</p>	V 131	<p>You must develop one Plan of Correction* (POC) that addresses each deficiency listed on the State Form. Enter your POC here.</p> <p><u>Time Frames for Compliance</u></p> <p>N A completed Plan of Correction addressing all cited deficiencies must be returned to our office within ten days of receipt of this letter.</p> <p>O Type B violations must be corrected within 45 days from the exit date of the survey.</p> <p>P Re-cited standard level deficiencies must be corrected within 30 days from the exit of the survey.</p> <p>Q Standard level deficiencies must be corrected within 60 days from the exit of the survey.</p> <p><u>What to include in the Plan of Correction</u></p> <p>R Indicate what measures will be put in place to correct the deficient area of practice (i.e. changes in policy and procedure, staff training, changes in staffing patterns, etc.).</p> <p>S Indicate what measures will be put in place to prevent the problem from occurring again.</p> <p>T Indicate who will monitor the situation to ensure it will not occur again.</p> <p>U Indicate how often the monitoring will take place.</p> <p>V Indicate the date you will be in compliance for each cited deficiency.</p> <p>W Sign and date the bottom of the first page of the State Form.</p> <p>Make a copy of the Statement of Deficiencies (SOD) with the Plan of Correction to retain for your records.</p> <p>Send the original completed form to our office within 10 days of receipt of the SOD.</p>	

Division of Health Service Regulation
Mental Health Licensure and Certification Section
(Top portion completed by DHSR staff)

Facility Name: _____ MHL Number: _____

Rule Violation Cited: _____

Plan of Protection – Completed by Facility Staff

(Attach additional pages if needed)

What immediate action will the facility take to ensure the safety of the consumers in your care?

Describe your plans to make sure the above happens.

Facility Staff completing this form:

Name/Title

Date



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA CERTIFIED MAIL

<Date>

<Facility Administrator or Director>
<Licensee – as it appears on License>
<Address>
<City, State Zip >

RE: Type <A1/A2> Administrative Penalty
<Facility Name & complete Address>
MHL # <###>
E-mail Address: <enter e-mail, if there is none enter – no valid address>

Dear Mr. /Ms. <Licensee>:

Based on the findings of this agency from a survey completed on <date of survey>, we find that <Licensee's name> has operated <Facility name> in violation of North Carolina General Statute <(N.C.G.S.) § 122C, Article 2, the licensing rules for Mental Health, Developmental Disabilities, and Substance Abuse Services and/or N.C.G.S. § 122C, Article 3, Clients' Rights for individuals with mental illness, developmental disabilities, or substance abuse issues>. After a review of the findings, this agency is taking the following action:

Administrative Penalty – Pursuant to N.C.G.S. § 122C-24.1, the Division of Health Service Regulation, Department of Health and Human Services (DHHS), is hereby assessing a <Type A1/A2> administrative penalty of \$<amount of penalty> against <Licensee> for violation of <Rule citation, short title & Tag number. Example: 10A NCAC 27D .0304 Protection from Harm, Abuse, Neglect or Exploitation (V512)>. Payment of the penalty is to be made to the Division of Health Service Regulation, and mailed to the Mental Health Licensure and Certification Section, 2718 Mail Service Center, Raleigh, North Carolina 27699-2718. If the penalty is not paid within sixty (60) days of this notification, a 5% penalty plus accrued interest will be added to the initial penalty amount as per N.C.G.S. § 147-86.23. In addition, the Department has the right to initiate judicial actions to recover the amount of the administrative penalty. The facts upon which the administrative penalty is based and the statutes and rules which were violated are set out in the attached Statement of Deficiencies which are incorporated by reference as though fully set out herein.

Appeal Notice – You have the right to contest the above action by filing a petition for a contested case hearing with the Office of Administrative Hearings within thirty (30) days of mailing of this letter. *Please write the facility's Mental Health License (MHL) number at the top of your petition.* For complete instructions on the filing of petitions, please contact the Office of Administrative Hearings at (919) 431-3000. The mailing address for the Office of Administrative Hearings is as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

North Carolina General Statute § 150B-23 provides that you must also serve a copy of the petition on all other parties, which includes the Department of Health and Human Services. The Department's representative for such actions is Ms. Lisa G. Corbett, General Counsel. This person may receive service of process by mail at the following address:

Ms. Lisa G. Corbett, General Counsel
Department of Health and Human Services
Office of Legal Affairs
Adams Building
2001 Mail Service Center
Raleigh, NC 27699-2001

If you do not file a petition within the thirty (30) day period, you lose your right to appeal and the action explained in this letter will become effective as described above. *Please note that each appealable action has a separate, distinct appeal process and the proper procedures must be completed for each appealable action*

In addition to your right to file a petition for a contested case hearing, N.C.G.S. § 150B-22 encourages the settlement of disputes through informal procedures. The Division of Health Service Regulation is available at the provider's request for discussion or consultation that might resolve this matter. To arrange for an informal meeting, you must contact DHSR at <_____ OR _____>. Please note that the use of informal procedures does not extend the 30 days allowed to file for a contested case hearing as explained above.

Should you have any questions regarding any aspect of this letter, please do not hesitate to contact us at the Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section, 2718 Mail Service Center, Raleigh, NC 27699-2718 or call <_____, Eastern Branch Manager OR _____, Western Branch Manager> at <_____ OR _____>.

Sincerely,

Stephanie Gilliam, Chief
Mental Health Licensure & Certification Section

Cc: dhsrreports@dhhs.nc.gov, DMH/DD/SAS
specialassistanceadmin@dhhs.nc.gov, DAAS (SS & NOR for 2100 and 5600 adult programs)
ncdma.dhsrnotice@lists.ncmail.net, DMA
qmemail@cardinalinnovations.org
DHSR@Alliancebhc.org
QM@partnersbhm.org
dhhs@vayahealth.com
DHSRreports@eastpointe.net
DHSR_Letters@sandhillscenter.org
Leza Wainwright, Director, Trillium Health Resources LME/MCO
Fonda Gonzales, Interim Quality Management Director, Trillium Health Resources LME/MCO
Director, Home County DSS (where facility is located)
Smith Worth, SOTA Director (3600 only)
Lisa Cauley, DSS Deputy Director (ITR, SS, NOR for child residential)
Lejay Parker, DMA (all Admin Actions for PRTF only)
Cindy Koempel, MH Program Manager DSOHF (ITR, SOA, SS, NOR, RIE and f/u letters for all residential facilities)
Candice W. Moore, NCDPS (all child residential facilities with juvenile justice involvement)
Sherry Thomas, Director Exceptional Children DPI (All Admin Actions for PRTFs)
Carol Ann Hudgens, Section Chief, Policy, Monitoring & Audit, DPI (All Admin Actions for PRTFs)
Glendora Hagins, Monitoring Consultant Exceptional Children DPI (All Admin Actions for PRTFs)
Mary Ellen Anderson, DMH/DD/SAS (All Admin Actions for PRTFs)
Pam Pridgen



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

<Date>

<Facility Administrator or Director>
<Licensee – as it appears on License>
<Address>
<City, State Zip >

Re: <type of survey> Survey completed <date of survey>
<Name of facility, address, city, NC, zip code>
MHL # <type number>
E-mail Address: <enter e-mail, if there is none enter – no valid address>
(if complaint include < Intake #>)

Dear Mr. /Ms. <Licensee>:

Thank you for the cooperation and courtesy extended during the <type of survey> survey completed <date of survey>. (If complaint- The complaint was <substantiated or unsubstantiated>.)

<If follow up with deficiencies in compliance - As a result of the follow up survey, it was determined that <all/some> of the deficiencies are now in compliance, which is reflected on the enclosed Revisit Report. Additional deficiencies were cited during the survey.>

Enclosed you will find all deficiencies cited listed on the Statement of Deficiencies Form. The purpose of the Statement of Deficiencies is to provide you with specific details of the practice that does not comply with state regulations. You must develop one Plan of Correction that addresses each deficiency listed on the State Form, and return it to our office within ten days of receipt of this letter. Below you will find details of the type of deficiencies found, the time frames for compliance plus what to include in the Plan of Correction.

Type of Deficiencies Found

- a. Type A1 rule violation(s) <is/are> cited for <list Type A1 rule violation i.e. 10A NCAC 27G .0201 Governing Body Policies (list specific tag number)>.
- b. Type A2 rule violation(s) <is/are> cited for <list Type A2 rule violation i.e. 10A NCAC 27G .0201 Governing Body Policies (list specific tag number)>.
- c. Type B rule violation(s) <is/are> cited for <list Type B rule violation i.e. 10A NCAC 27G .0201 Governing Body Policies (list specific tag number)>.
- d. Re-cited standard level deficiencies.
- e. All other tags cited are standard level deficiencies.

Time Frames for Compliance

- Type <A1/A2> violations <and all cross referenced citations> must be **corrected** within 23 days from the exit date of the survey, which is <23rd day>. Pursuant to North Carolina General Statute § 122C-24.1, failure to correct the enclosed Type <A1/A2> violation(s) by the 23rd day from the date of the

- survey may result in the assessment of an administrative penalty of \$500.00 (Five Hundred) against <Name of Licensee> for each day the deficiency remains out of compliance.
- Type B violation(s) <and all cross referenced citations> must be **corrected** within 45 days from the exit date of the survey, which is <45th day>. Pursuant to North Carolina General Statute § 122C-24.1, failure to correct the enclosed deficiency by the 45th day from the date of the survey may result in the assessment of an administrative penalty of \$200.00 (Two Hundred) against <Name of Licensee> for each day the deficiency remains out of compliance.
 - Re-cited standard level <deficiency/ deficiencies> must be **corrected** within 30 days from the exit of the survey, which is <30th day>.
 - Standard level <deficiency/ deficiencies> must be **corrected** within 60 days from the exit of the survey, which is <60th day>.

What to include in the Plan of Correction

- Indicate what measures will be put in place to **correct** the deficient area of practice (i.e. changes in policy and procedure, staff training, changes in staffing patterns, etc.).
- Indicate what measures will be put in place to **prevent** the problem from occurring again.
- Indicate **who will monitor** the situation to ensure it will not occur again.
- Indicate **how often** the monitoring will take place.
- Sign and date the bottom of the first page of the State Form.

Make a copy of the Statement of Deficiencies with the Plan of Correction to retain for your records. ***Please do not include confidential information in your plan of correction and please remember never to send confidential information (protected health information) via email.***

Send the original completed form to our office at the following address within 10 days of receipt of this letter.

Mental Health Licensure and Certification Section
 NC Division of Health Service Regulation
 2718 Mail Service Center
 Raleigh, NC 27699-2718

A follow up visit will be conducted to verify all violations have been corrected. If we can be of further assistance, please call <team leader's name> at <team leader's telephone number>.

Sincerely,

<Consultant's Name>
 Facility Compliance Consultant I
 Mental Health Licensure & Certification Section

Cc: DHSRreports@dhhs.nc.gov, DMH/DD/SAS (If FU from Type A only)
 qmemail@cardinalinnovations.org
 DHSR@Alliancebhc.org
 QM@partnersbhm.org
 dhhs@vayahealth.com
 DHSRreports@eastpointe.net
 _DHSR_Letters@sandhillscenter.org
 Leza Wainwright, Director, Trillium Health Resources LME/MCO
 Fonda Gonzales, Interim Quality Management Director, Trillium Health Resources LME/MCO
 Smith Worth, SOTA Director (for 3600 only)
 Pam Pridgen, Administrative Assistant

North Carolina General Statutes

There are numerous statutes in NCGS 122C that guide licensure. Following you will find seven statutes that cover smoking, penalties, inspections, client rights and staff history checks. These do not comprise all of the statutes that are relevant to your facilities. They are simply examples of the types of statutes that you need to follow.

A complete list of General Statutes that govern licensed facilities can be found online at <http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl>

§ 122C-6. Smoking prohibited; penalty.

(a) Smoking is prohibited inside facilities licensed under this Chapter. As used in this section, "smoking" means the use or possession of any lighted cigar, cigarette, pipe, or other lighted smoking product. As used in this section, "inside" means a fully enclosed area.

(b) The person who owns, manages, operates, or otherwise controls a facility subject to this section shall:

- (1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.
- (2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.
- (3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

(c) The Department may impose an administrative penalty not to exceed two hundred dollars (\$200.00) for each violation on any person who owns, manages, operates, or otherwise controls a facility licensed under this Chapter and fails to comply with subsection (b) of this section. A violation of this section constitutes a civil offense only and is not a crime.

(d) This section does not apply to State psychiatric hospitals. (2007-459, s. 3.)

§ 122C-24.1. Penalties; remedies.

(a) Violation Classification and Penalties. – The Department of Health and Human Services shall impose an administrative penalty in accordance with provisions of this Article on any facility licensed under this Article which is found to be in violation of Article 2 or 3 of this Chapter or applicable State and federal laws and regulations. Citations for violations shall be classified and penalties assessed according to the nature of the violation as follows:

- (1) "Type A1 Violation" means a violation by a facility of the regulations, standards, and requirements set forth in Article 2 or 3 of this Chapter or applicable State or federal laws and regulations governing the licensure or certification of a facility which results in death or serious physical harm, abuse, neglect, or exploitation. The person making the findings shall do the following:
 - a. Orally and immediately inform the facility of the Type A1 Violation and the specific findings.
 - a1. Require a written plan of protection regarding how the facility will immediately abate the Type A1 Violation in order to protect clients from further risk or additional harm.
 - b. Within 15 working days of the investigation, send a report of the findings to the facility.
 - c. Require a plan of correction to be submitted to the Department, based on a written report of the findings, that describes steps the facility will take to achieve and maintain compliance.

The Department shall impose a civil penalty in an amount not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000) for each Type A1 Violation in facilities or programs that serve six or fewer persons. The Department shall impose a civil penalty in an amount not less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000) for each Type A1 Violation in facilities or programs that serve seven or more persons. Where a facility has failed to correct a Type A1 Violation, the Department shall assess the facility a civil penalty in the amount of up to one thousand dollars (\$1,000) for each day that the violation continues beyond the time specified for correction. The Department or its authorized representative shall determine whether the violation has been corrected.

- (1a) "Type A2 Violation" means a violation by a facility of the regulations, standards, and requirements set forth in Article 2 or 3 of this Chapter or applicable State or federal laws and regulations governing the licensure or certification of a facility which results in substantial risk that death or serious physical harm, abuse, neglect, or exploitation will occur. The person making the findings shall do the following:
 - a. Orally and immediately inform the facility of the Type A2 Violation and the specific findings.
 - b. Require a written plan of protection regarding how the facility will immediately abate the Type A2 Violation in order to protect clients or residents from further risk or additional harm.

- c. Within 15 working days of the investigation, send a report of the findings to the facility.
- d. Require a plan of correction to be submitted to the Department, based on the written report of the findings, that describes steps the facility will take to achieve and maintain compliance.

The violation or violations shall be corrected within the time specified for correction by the Department or its authorized representative. The Department may or may not assess a penalty taking into consideration the compliance history, preventative measures, and response to previous violations by the facility. Where a facility has failed to correct a Type A2 Violation, the Department shall assess the facility a civil penalty in the amount of up to one thousand dollars (\$1,000) for each day that the deficiency continues beyond the time specified for correction by the Department or its authorized representative. The Department or its authorized representative shall determine whether the violation has been corrected.

(1b) "Past Corrected Type A1 or Type A2 Violation" means either (i) the violation was not previously identified by the Department or its authorized representative or (ii) the violation was discovered by the facility and was self-reported, but in either case the violation has been corrected. In determining whether a penalty should be assessed under this section, the Department shall consider the following factors:

- a. Preventative measures in place prior to the violation.
- b. Whether the violation or violations were abated immediately.
- c. Whether the facility implemented corrective measures to achieve and maintain compliance.
- d. Whether the facility's system to ensure compliance is maintained and continues to be implemented.
- e. Whether the regulatory area remains in compliance.

(2) "Type B Violation" means a violation by a facility of the regulations, standards, and requirements set forth in Article 2 or 3 of this Chapter or applicable State or federal laws and regulations governing the licensure or certification of a facility which is detrimental to the health, safety, or welfare of any client or patient, but which does not result in substantial risk that death or serious physical harm, abuse, neglect, or exploitation will occur. The person making the findings shall do the following:

- a. Orally and immediately inform the facility of the Type B Violation and the specific findings.
- b. Require a written plan of protection regarding how the facility will immediately abate the Type B Violation in order to protect clients or residents from further risk or additional harm.
- c. Within 15 working days of the investigation, send a report of the findings to the facility.
- d. Require a plan of correction to be submitted to the Department, based on the written report of the findings, that describes steps the facility will take to achieve and maintain compliance.

Where a facility has failed to correct a Type B Violation within the time specified for correction by the Department or its authorized representative, the Department shall assess the facility a civil penalty in the amount of up to four hundred dollars (\$400.00) for each day that the violation continues beyond the date specified for correction without just reason for the failure. The Department or its authorized representative shall ensure that the violation has been corrected.

(3) Repeat Violations. – The Department shall impose a civil penalty which is treble the amount assessed under this subsection when a facility under the same management or ownership has received a citation during the previous 12 months for which the appeal rights are exhausted and penalty payment is expected or has occurred, and the current violation is for the same specific provision of a statute or regulation for which it received a violation during the previous 12 months.

(b) Repealed by Session Laws 2011-249, s. 1, effective June 23, 2011.

(c) Factors to Be Considered in Determining Amount of Initial Penalty. – In determining the amount of the initial penalty to be imposed under this section, the Department shall consider the following factors:

- (1) There is substantial risk that serious physical harm, abuse, neglect, or exploitation will occur, and this has not been corrected within the time specified by the Department or its authorized representative;
- (2) Serious physical harm, abuse, neglect, or exploitation, without substantial risk for client death, did occur;
- (3) Serious physical harm, abuse, neglect, or exploitation, with substantial risk for client death, did occur;
- (3a) A client died;
- (3b) A client died and there is substantial risk to others for serious physical harm, abuse, neglect, or exploitation;
- (3c) A client died and there is substantial risk for further client death;
- (4) The reasonable diligence exercised by the licensee to comply with G.S. 131E-256 and other applicable State and federal laws and regulations;
- (5) Efforts by the licensee to correct violations;
- (6) The number and type of previous violations committed by the licensee within the past 36 months; and
- (7) Repealed by Session Laws 2011-249, s. 1, effective June 23, 2011.
- (8) The number of clients or patients put at risk by the violation.

(d) The facts found to support the factors in subsection (c) of this section shall be the basis in determining the amount of the penalty. The Department shall document the findings in written record and shall make the written record available to all affected parties including:

- (1) The licensee involved;
- (2) The clients or patients affected; and
- (3) The family members or guardians of the clients or patients affected.

(e) The Department shall impose a civil penalty of fifty dollars (\$50.00) per day on any facility which refuses to allow an authorized representative of the Department to inspect the premises and records of the facility.

(f) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails a notice of penalty to a licensee. At least the following specific issues shall be addressed at the administrative hearing:

- (1) The reasonableness of the amount of any civil penalty assessed, and
- (2) The degree to which each factor has been evaluated pursuant to subsection (c) of this section to be considered in determining the amount of an initial penalty.

If a civil penalty is found to be unreasonable or if the evaluation of each factor is found to be incomplete, the hearing officer may recommend that the penalty be adjusted accordingly.

(g) Any penalty imposed by the Department of Health and Human Services under this section shall commence on the date of the letter of notification of the penalty amount.

(h) The Secretary may bring a civil action in the superior court of the county wherein the violation occurred to recover the amount of the administrative penalty whenever a facility:

- (1) Which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of the penalty, or
- (2) Which has requested an administrative hearing fails to pay the penalty within 60 days after receipt of a written copy of the decision as provided in G.S. 150B-37.

(i) In lieu of assessing all or some of the administrative penalty, the Secretary may order a facility to provide staff training if the training is:

- (1) Specific to the violation;
- (2) Approved by the Department of Health and Human Services; and
- (3) Taught by someone approved by the Department.

(j) The clear proceeds of civil penalties provided for in this section shall be remitted to the State Treasurer for deposit in accordance with State law.

(k) In considering renewal of a license, the Department shall not renew a license if outstanding fines and penalties imposed by the Department against the facility or program have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration for nonrenewal under this subsection. (2000-55, s. 4; 2005-276, ss. 10.40A(e), 10.40A(f); 2011-249, s. 1; 2011-398, s. 39.)

§ 122C-25. Inspections; confidentiality.

(a) The Secretary shall make or cause to be made inspections that the Secretary considers necessary. Facilities licensed under this Article shall be subject to inspection at all times by the Secretary. All residential facilities as defined in G.S. 122C-3(14)e. shall be inspected on an annual basis.

(b) Notwithstanding G.S. 8-53, G.S. 8-53.3 or any other law relating to confidentiality of communications involving a patient or client, in the course of an inspection conducted under this section, representatives of the Secretary may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or history of any individual who is or has been a patient, resident, or client of a licensable facility and the personnel records of those individuals employed by the licensable facility.

A licensable facility, its employees, and any other individual interviewed in the course of an inspection are immune from liability for damages resulting from disclosure of any information to the Secretary.

Except as required by law, it is unlawful for the Secretary or an employee of the Department to disclose the following information to someone not authorized to receive the information:

- (1) Any confidential or privileged information obtained under this section unless the client or his legally responsible person authorizes disclosure in writing; or
- (2) The name of anyone who has furnished information concerning a licensable facility without the individual's consent.

Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to exceed five hundred dollars (\$500.00).

All confidential or privileged information obtained under this section and the names of persons providing this information are exempt from Chapter 132 of the General Statutes.

(c) The Secretary shall adopt rules regarding inspections, that, at a minimum, provide for:

- (1) A general administrative schedule for inspections; and
- (2) An unscheduled inspection without notice, if there is a complaint alleging the violation of any licensing rule adopted under this Article.

(d) All residential facilities, as defined in G.S. 122C-3(14)e., shall ensure that the Division of Health Service Regulation complaint hotline number is posted conspicuously in a public place in the facility. (1983, c. 718, s. 1; 1985, c. 589, s. 2; 1993, c. 539, s. 918; 1994, Ex. Sess., c. 24, s. 14(c); 2005-276, ss. 10.40A(g), 10.40A(h); 2007-182, s. 1.)

§ 122C-61. Treatment rights in 24-hour facilities.

In addition to the rights set forth in G.S. 122C-57, each client who is receiving services at a 24-hour facility has the following rights:

- (1) The right to receive necessary treatment for and prevention of physical ailments based upon the client's condition and projected length of stay. The facility may seek to collect appropriate reimbursement for its costs in providing the treatment and prevention; and
- (2) The right to have, as soon as practical during treatment or habilitation but not later than the time of discharge, an individualized written discharge plan containing recommendations for further services designed to enable the client to live as normally as possible. A discharge plan may not be required when it is not feasible because of an unanticipated discontinuation of a client's treatment. With the consent of the client or his legally responsible person, the professionals responsible for the plans shall contact appropriate agencies at the client's destination or in his home community before formulating the recommendations. A copy of the plan shall be furnished to the client or to his legally responsible person and, with the consent of the client, to the client's next of kin. (1973, c. 475, s. 1; c. 1436, ss. 6, 7; 1981, c. 328, ss. 1, 2; 1985, c. 589, s. 2.)

§ 122C-62. Additional rights in 24-hour facilities.

(a) In addition to the rights enumerated in G.S. 122C-51 through G.S. 122C-61, each adult client who is receiving treatment or habilitation in a 24-hour facility keeps the right to:

- (1) Send and receive sealed mail and have access to writing material, postage, and staff assistance when necessary;
- (2) Contact and consult with, at his own expense and at no cost to the facility, legal counsel, private physicians, and private mental health, developmental disabilities, or substance abuse professionals of his choice; and
- (3) Contact and consult with a client advocate if there is a client advocate.

The rights specified in this subsection may not be restricted by the facility and each adult client may exercise these rights at all reasonable times.

(b) Except as provided in subsections (e) and (h) of this section, each adult client who is receiving treatment or habilitation in a 24-hour facility at all times keeps the right to:

- (1) Make and receive confidential telephone calls. All long distance calls shall be paid for by the client at the time of making the call or made collect to the receiving party;
- (2) Receive visitors between the hours of 8:00 a.m. and 9:00 p.m. for a period of at least six hours daily, two hours of which shall be after 6:00 p.m.; however visiting shall not take precedence over therapies;
- (3) Communicate and meet under appropriate supervision with individuals of his own choice upon the consent of the individuals;
- (4) Make visits outside the custody of the facility unless:
 - a. Commitment proceedings were initiated as the result of the client's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding;
 - b. The client was voluntarily admitted or committed to the facility while under order of commitment to a correctional facility of the Division of Adult Correction of the Department of Public Safety; or
 - c. The client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;

A court order may expressly authorize visits otherwise prohibited by the existence of the conditions prescribed by this subdivision;

- (5) Be out of doors daily and have access to facilities and equipment for physical exercise several times a week;
- (6) Except as prohibited by law, keep and use personal clothing and possessions, unless the client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;
- (7) Participate in religious worship;
- (8) Keep and spend a reasonable sum of his own money;
- (9) Retain a driver's license, unless otherwise prohibited by Chapter 20 of the General Statutes; and
- (10) Have access to individual storage space for his private use.

(c) In addition to the rights enumerated in G.S. 122C-51 through G.S. 122C-57 and G.S. 122C-59 through G.S. 122C-61, each minor client who is receiving treatment or habilitation in a 24-hour facility has the right to have access to proper adult supervision and guidance. In recognition of the minor's status as a developing individual, the minor shall be provided opportunities to enable him to mature physically, emotionally, intellectually, socially, and vocationally. In view of the physical, emotional, and intellectual immaturity of the minor, the 24-hour facility shall provide appropriate structure, supervision and control consistent with the rights given to the minor pursuant to this Part. The facility shall also, where practical, make reasonable efforts to ensure that each minor client receives treatment apart and separate from adult clients unless the treatment needs of the minor client dictate otherwise.

Each minor client who is receiving treatment or habilitation from a 24-hour facility has the right to:

- (1) Communicate and consult with his parents or guardian or the agency or individual having legal custody of him;
- (2) Contact and consult with, at his own expense or that of his legally responsible person and at no cost to the facility, legal counsel, private physicians, private mental health, developmental disabilities, or substance abuse professionals, of his or his legally responsible person's choice; and
- (3) Contact and consult with a client advocate, if there is a client advocate.

The rights specified in this subsection may not be restricted by the facility and each minor client may exercise these rights at all reasonable times.

(d) Except as provided in subsections (e) and (h) of this section, each minor client who is receiving treatment or habilitation in a 24-hour facility has the right to:

- (1) Make and receive telephone calls. All long distance calls shall be paid for by the client at the time of making the call or made collect to the receiving party;
- (2) Send and receive mail and have access to writing materials, postage, and staff assistance when necessary;
- (3) Under appropriate supervision, receive visitors between the hours of 8:00 a.m. and 9:00 p.m. for a period of at least six hours daily, two hours of which shall be after 6:00 p.m.; however visiting shall not take precedence over school or therapies;
- (4) Receive special education and vocational training in accordance with federal and State law;
- (5) Be out of doors daily and participate in play, recreation, and physical exercise on a regular basis in accordance with his needs;
- (6) Except as prohibited by law, keep and use personal clothing and possessions under appropriate supervision, unless the client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;
- (7) Participate in religious worship;
- (8) Have access to individual storage space for the safekeeping of personal belongings;
- (9) Have access to and spend a reasonable sum of his own money; and

(10) Retain a driver's license, unless otherwise prohibited by Chapter 20 of the General Statutes.

(e) No right enumerated in subsections (b) or (d) of this section may be limited or restricted except by the qualified professional responsible for the formulation of the client's treatment or habilitation plan. A written statement shall be placed in the client's record that indicates the detailed reason for the restriction. The restriction shall be reasonable and related to the client's treatment or habilitation needs. A restriction is effective for a period not to exceed 30 days. An evaluation of each restriction shall be conducted by the qualified professional at least every seven days, at which time the restriction may be removed. Each evaluation of a restriction shall be documented in the client's record. Restrictions on rights may be renewed only by a written statement entered by the qualified professional in the client's record that states the reason for the renewal of the restriction. In the case of an adult client who has not been adjudicated incompetent, in each instance of an initial restriction or renewal of a restriction of rights, an individual designated by the client shall, upon the consent of the client, be notified of the restriction and of the reason for it. In the case of a minor client or an incompetent adult client, the legally responsible person shall be notified of each instance of an initial restriction or renewal of a restriction of rights and of the reason for it. Notification of the designated individual or legally responsible person shall be documented in writing in the client's record.

(f) The Commission may adopt rules to implement subsection (e) of this section.

(g) With regard to clients being held to determine capacity to proceed pursuant to G.S. 15A-1002 or clients in a facility for substance abuse, and notwithstanding the prior provisions of this section, the Commission may adopt rules restricting the rights set forth under (b)(2), (b)(3), and (d)(3) of this section if restrictions are necessary and reasonable in order to protect the health, safety, and welfare of the client involved or other clients.

(h) The rights stated in subdivisions (b)(2), (b)(4), (b)(5), (b)(10), (d)(3), (d)(5) and (d)(8) may be modified in a general hospital by that hospital to be the same as for other patients in that hospital; provided that any restriction of a specific client's rights shall be done in accordance with the provisions of subsection (e) of this section. (1973, c. 475, s. 1; c. 1436, ss. 2-5, 8; 1985, c. 589, s. 2; 1989, c. 625, s. 10; 1995, c. 299, s. 2; 1997-456, s. 27; 2011-145, s. 19.1(h).)

§ 122C-63. Assurance for continuity of care for individuals with mental retardation.

(a) Any individual with mental retardation admitted for residential care or treatment for other than respite or emergency care to any residential facility operated under the authority of this Chapter and supported all or in part by state-appropriated funds has the right to residential placement in an alternative facility if the client is in need of placement and if the original facility can no longer provide the necessary care or treatment.

(b) The operator of a residential facility providing residential care or treatment, for other than respite or emergency care, for individuals with mental retardation shall notify the area authority serving the client's county of residence of his intent to close a facility or to discharge a client who may be in need of continuing care at least 60 days prior to the closing or discharge.

The operator's notification to the area authority of intent to close a facility or to discharge a client who may be in need of continuing care constitutes the operator's acknowledgement of the obligation to continue to serve the client until:

- (1) The area authority determines that the client is not in need of continuing care;
- (2) The client is moved to an alternative residential placement; or
- (3) Sixty days have elapsed;

whichever occurs first.

In cases in which the safety of the client who may be in need of continuing care, of other clients, of the staff of the residential facility, or of the general public, is concerned, this 60-day notification period may be waived by securing an emergency placement in a more secure and safe facility. The operator of the residential facility shall notify the area authority that an emergency placement has been arranged within 24 hours of the placement. The area authority and the Secretary shall retain their respective responsibilities upon receipt of this notice.

(c) An individual who may be in need of continuing care may be discharged from a residential facility without further claim for continuing care against the area authority or the State if:

- (1) After the parent or guardian, if the client is a minor or an adjudicated incompetent adult, or the client, if an adult not adjudicated incompetent, has entered into a contract with the operator upon the client's admission to the original residential facility the parent, guardian, or client who entered into the contract refuses to carry out the contract, or
- (2) After an alternative placement for a client in need of continuing care is located, the parent or guardian who admitted the client to the residential facility, if the client is a minor or an adjudicated incompetent adult, or the client if an adult not adjudicated incompetent, refuses the alternative placement.

(d) Decisions made by the area authority regarding the need for continued placement or regarding the availability of an alternative placement of a client may be appealed pursuant to the appeals process of the area authority and subsequently to the Secretary or the Commission under their rules. If the appeal process extends beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange a

temporary placement in a State facility for the mentally retarded pending the outcome of the appeal.

(e) The area authority that serves the county of residence of the client is responsible for assessing the need for continuity of care and for the coordination of the placement among available public and private facilities whenever the authority is notified that a client may be in need of continuing care. If an alternative placement is not available beyond the operator's 60-day obligation to continue to serve the client, the Secretary shall arrange for a temporary placement in a State facility for the mentally retarded. The area authority shall retain responsibility for coordination of placement during a temporary placement in a State facility.

(f) The Secretary is responsible for coordinative and financial assistance to the area authority in the performing of its duties to coordinate placement so as to assure continuity of care and for assuring a continuity of care placement beyond the operator's 60-day obligation period.

(g) The area authority's financial responsibility, through local and allocated State resources, is limited to:

- (1) Costs relating to the identification and coordination of alternative placements;
- (2) If the original facility is an area facility, maintenance of the client in the original facility for up to 60 days; and
- (3) Release of allocated categorical State funds used to support the care or treatment of the specific client at the time of alternative placement if the Secretary requires the release.

(h) In accordance with G.S. 143B-147(a)(1) the Commission shall develop programmatic rules to implement this section, and, in accordance with G.S. 122C-112(a)(6), the Secretary shall adopt budgetary rules to implement this section. (1981, c. 1012; 1985, c. 589, s. 2.)

Article 3A.

Miscellaneous Provisions.

§ 122C-80. Criminal history record check required for certain applicants for employment.

(a) Definition. – As used in this section, the term "provider" applies to an area authority/county program and any provider of mental health, developmental disability, and substance abuse services that is licensable under Article 2 of this Chapter.

(b) Requirement. – An offer of employment by a provider licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A provider shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, a provider shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the provider as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the provider. Providers shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of a provider a State criminal history record check required by this section without the provider having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the provider. All criminal history information received by the provider is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section. For purposes of this subsection, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency.

(c) Action. – If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the provider shall consider all of the following factors in determining whether to hire the applicant:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.

- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a relevant offense.
The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the provider. If the provider disqualifies an applicant after consideration of the relevant factors, then the provider may disclose information contained in the criminal history record check that is relevant to the disqualification, but may not provide a copy of the criminal history record check to the applicant.

(d) Limited Immunity. – A provider and an officer or employee of a provider that, in good faith, complies with this section shall be immune from civil liability for:

- (1) The failure of the provider to employ an individual on the basis of information provided in the criminal history record check of the individual.
- (2) Failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section.

(e) Relevant Offense. – As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) Penalty for Furnishing False Information. – Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment

application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) Conditional Employment. – A provider may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The provider shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 114-19.10.
- (2) The provider shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment. (2000-154, s. 4; 2001-155, s. 1; 2004-124, ss. 10.19D(c), (h); 2005-4, ss. 1, 2, 3, 4, 5(a); 2007-444, s. 3; 2012-12, s. 2(tt).)

§ 131E-256. Health Care Personnel Registry.

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

- (1) Been subject to findings by the Department of:
 - a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.
 - b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.
 - c. Misappropriation of the property of a health care facility.
 - d. Diversion of drugs belonging to a health care facility.
 - d1. Diversion of drugs belonging to a patient or client of the health care facility.
 - e. Fraud against a health care facility.
 - e1. Fraud against a patient or client for whom the employee is providing services.
- (2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section.

(b) For the purpose of this section, the following are considered to be "health care facilities":

- (1) Adult Care Homes as defined in G.S. 131D-2.1.
- (2) Hospitals as defined in G.S. 131E-76.
- (3) Home Care Agencies as defined in G.S. 131E-136.
- (4) Nursing Pools as defined by G.S. 131E-154.2.
- (5) Hospices as defined by G.S. 131E-201.
- (6) Nursing Facilities as defined by G.S. 131E-255.
- (7) State-Operated Facilities as defined in G.S. 122C-3(14)f.
- (8) Residential Facilities as defined in G.S. 122C-3(14)e.
- (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.
- (10) Licensable Facilities as defined in G.S. 122C-3(14)b.
- (11) Multiunit Assisted Housing with Services as defined in G.S. 131D-2.1.
- (12) Community-Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under Article 2 of Chapter 122C of the General Statutes.

- (13) Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11.

(c) For the purpose of this section, the term "health care personnel" means any unlicensed staff of a health care facility that has direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment has the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the Department's intent to place its findings about the person in the Health Care Personnel Registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the Health Care Personnel Registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(d2) Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.

(e) The Department shall provide an employer at a health care facility or potential employer at a health care facility of any person listed on the Health Care Personnel Registry information concerning the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Health care facilities shall ensure that the Department is notified of all allegations against health care personnel, including injuries of unknown source, which appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must have evidence that all alleged acts are investigated and must make every effort to protect residents from harm while the investigation is in progress. The results of all investigations must be reported to the Department within five working days of the initial notification to the Department.

(g1) Health care facilities defined in subsection (b) of this section are permitted to provide confidential or other identifying information to the Health Care Personnel Registry, including social security numbers, taxpayer identification numbers, parent's legal surname

prior to marriage, and dates of birth, for verifying the identity of accused health care personnel. Confidential or other identifying information received by the Health Care Personnel Registry is not a public record under Chapter 132 of the General Statutes.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section.

(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

- (1) The employment and personal history of the health care personnel does not reflect a pattern of abusive behavior or neglect;
- (1a) The health care personnel's name was added to the registry for a single finding of neglect;
- (2) The neglect involved in the original finding was a singular occurrence; and
- (3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section.

(i1) Health care personnel who wish to contest a decision by the Department to deny a removal of a single finding of neglect from the Health Care Personnel Registry under subdivision (1a) of subsection (i) of this section are entitled to an administrative hearing under Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's denial of a removal of a finding of neglect.

(j) Removal of a finding of neglect from the registry under this section may occur only once with respect to any person. (1995 (Reg. Sess., 1996), c. 713, s. 3(b); 1998-212, s. 12.16E; 1999-159, s. 1; 2000-55, s. 1; 2004-203, ss. 52(a), (b), (c); 2007-544, s. 2; 2009-316, ss. 1(a), (b), 2; 2009-462, s. 4(m).)

§ 122C-23. Licensure.

(a) No person shall establish, maintain, or operate a licensable facility for the mentally ill, developmentally disabled, or substance abusers without a current license issued by the Secretary.

(b) Each license is issued to the person only for the premises named in the application and shall not be transferrable or assignable except with prior written approval of the Secretary.

(c) Any person who intends to establish, maintain, or operate a licensable facility shall apply to the Secretary for a license. The Secretary shall prescribe by rule the contents of the application forms.

(d) The Secretary shall issue a license if the Secretary finds that the person complies with this Article and the rules of the Commission and Secretary.

(e) Initial licenses issued under the authority of this section shall be valid for not more than 15 months. Licenses shall be renewed annually thereafter and shall expire at the end of the calendar year. The expiration date of a license shall be specified on the license when issued. Renewal of a regular license is contingent upon receipt of information required by the Secretary for renewal and continued compliance with this Article and the rules of the Commission and the Secretary. Licenses for facilities that have not served any clients during the previous 12 months are not eligible for renewal.

The Secretary may issue a provisional license for a period up to six months to a person obtaining the initial license for a facility. The licensee must demonstrate substantial compliance prior to being issued a full license.

A provisional license for a period not to exceed six months may be granted by the Secretary to a person who is temporarily unable to comply with a rule when the noncompliance does not present an immediate threat to the health and safety of the individuals in the licensable facility. During this period the licensable facility shall correct the noncompliance based on a plan submitted to and approved by the Secretary. A provisional license for an additional period of time to meet the noncompliance may not be issued.

(e1) Except as provided in subsection (e2) of this section, the Secretary shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

- (1) The applicant was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its license revoked until 60 months after the date of the revocation.
- (2) The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter, or any combination thereof, and any one of the following conditions exist:
 - a. A single violation has been assessed in the six months prior to the application.
 - b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.

(3) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.

(4) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D until 60 months after the date of reinstatement or restoration of the license.

(e2) The Secretary may enroll a provider described in subsection (e1) of this section if any of the following circumstances apply:

(1) The applicant is an area program or county program providing services under G.S. 122C-141, and there is no other provider of the service in the catchment area.

(2) The Secretary finds that the area program or county program has shown good cause by clear and convincing evidence why the enrollment should be allowed.

(e3) For purposes of subdivision (e1)(2), fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 is such that the Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing.

(f) Upon written application and in accordance with rules of the Commission, the Secretary may for good cause waive any of the rules implementing this Article, provided those rules do not affect the health, safety, or welfare of the individuals within the licensable facility. Decisions made pursuant to this subsection may be appealed to the Commission for a hearing in accordance with Chapter 150B of the General Statutes.

(g) The Secretary may suspend the admission of any new clients to a facility licensed under this Article where the conditions of the facility are detrimental to the health or safety of the clients. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In suspending admissions under this subsection, the Secretary shall consider the following factors:

(1) The degree of sanctions necessary to ensure compliance with this section and rules adopted to implement this subsection, and

(2) The character and degree of impact of the conditions at the facility on the health or safety of its clients.

A facility may contest a suspension of admissions under this subsection in accordance with Chapter 150B of the General Statutes. In contesting the suspension of admissions, the facility must file a petition for a contested case within 20 days after the Department mails notice of suspension of admissions to the licensee.

(h) The Department shall charge facilities licensed under this Chapter a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF/MR):	0 beds	\$215.00	\$0
	1 to 6 beds	\$305.00	\$0
	More than 6 beds	\$475.00	\$17.50
ICF/MR Only:	1 to 6 beds	\$845.00	\$0
	More than 6 beds	\$800.00	\$17.50

(i) (Applicable to social setting detoxification facilities licensed on and after August 7, 2003) A social setting detoxification facility or medical detoxification facility subject to licensure under this Chapter shall not deny admission or treatment to an individual based solely on the individual's inability to pay. (1899, c. 1, s. 60; Rev., s. 4600; C.S., s. 6219; 1945, c. 952, s. 41; 1957, c. 100, ss. 1, 4; 1963, c. 813, s. 1; c. 1166, s. 7; 1965, c. 1178, ss. 1-3; 1969, c. 954; 1973, c. 476, ss. 133, 152; 1977, c. 679, s. 7; 1981, c. 51, s. 3; 1983, c. 718, ss. 1, 4; 1985, c. 589, s. 2; 1985 (Reg. Sess., 1986), c. 863, s. 8; 1987, c. 345, ss. 3, 4; 1989, c. 625, s. 6; 2000-55, s. 3; 2002-164, s. 4.1; 2003-284, s. 34.8(a); 2003-294, s. 2; 2003-390, s. 3; 2005-276, ss. 41.2(h), 10.40A(d); 2006-66, s. 10.23; 2009-451, s. 10.76(f).)

Licensure Actions

G.S. 122C -24(a) states “the secretary may deny, suspend, amend, or revoke a license in any case in which the Secretary find that there has been a substantial failure to comply with any provision of... applicable statutes... applicable rule...”

Deficiency/ Violation Definitions

- Suspension of Admissions (SOA): The conditions of the facility are detrimental to the health or safety of the client but based on the history DHSR believes the provider may be able to correct. The facility will not be able to admit more consumers until they have corrected the deficiencies. This is an opportunity for providers to improve facility systems without the added burden of admitting new consumers.
- Intent to Revoke (ITR): The conditions of the facility are detrimental to the health or safety of the client and there is a lack of evidence that the provider will be able to correct deficiencies. The ITR letter gives the provider 10 days to show why the facility license should not be revoked. Providers should call to schedule an informal conference and be prepared to present a comprehensive plan of correction (POC) and supporting documentation that they can operate in compliance with the rules.
- Notice of Revocation (NOR): If the provider’s informal appeal does not result in lifting the ITR, a NOR is sent to the provider. The provider then has formal appeal rights, in addition to another information appeal of this action. The NOR indicates systemic non-compliance and lack of ability to correct deficiencies.
- Summary Suspension (SS): Issues when there appears to be imminent danger to consumers that cannot be mitigated. All consumers must be removed from the facility within 24 hours.