

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>MHL075-025</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>01/16/2020</b>
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NAME OF PROVIDER OR SUPPLIER  <b>THE LIGHTHOUSE</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>85 MIMOSA INN LANE TRYON, NC 28782</b>
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V 000	<p>INITIAL COMMENTS</p> <p>An annual survey was completed on January 16, 2020. Deficiencies were cited.</p> <p>This facility is licensed for the following service category: 10A NCAC 27G .5600C Supervised Living for Adults with Developmental Disabilities.</p>	V 000		
V 133	<p>G.S. 122C-80 Criminal History Record Check</p> <p>G.S. §122C-80 CRIMINAL HISTORY RECORD CHECK REQUIRED FOR CERTAIN APPLICANTS FOR EMPLOYMENT.</p> <p>(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.</p> <p>(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</p>	V 133		

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_ (X6) DATE \_\_\_\_\_

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V 133	Continued From page 1  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	V 133		

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V 133	<p>Continued From page 2</p> <p>criminal history record checks utilizing public records obtained from a State agency.</p> <p>(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:</p> <ol style="list-style-type: none"> <li>(1) The level and seriousness of the crime.</li> <li>(2) The date of the crime.</li> <li>(3) The age of the person at the time of the conviction.</li> <li>(4) The circumstances surrounding the commission of the crime, if known.</li> <li>(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.</li> <li>(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.</li> <li>(7) The subsequent commission by the person of a relevant offense.</li> </ol> <p>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.</p> <p>(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:</p> <ol style="list-style-type: none"> <li>(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.</li> <li>(2) Failure to check an employee's history of</li> </ol>	V 133		

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V 133	Continued From page 3  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 and Civil Disorders; 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	V 133		

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V 133	<p>Continued From page 4</p> <p>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.</p> <p>(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.</p> <p>(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:</p> <p>(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.</p> <p>(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.)</p> <p>This Rule is not met as evidenced by: Based on record review and interview, the facility failed to request within five business days of making the conditional offer for employment a request for a criminal history background check</p>	V 133		

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V 133	<p>Continued From page 5</p> <p>for 3 of 3 audited staff (Qualified Professional (QP), Staff #1 and Staff #2). The findings are:</p> <p>Review on 1/16/20 of the QP's personnel record revealed: -Hire date of 6/1/09; -a DHHS letter dated 7/8/09 that indicated a criminal background check was completed; -There was no documentation between 6/1/09 to 7/8/09 that indicated a date when the criminal background check was requested or ordered.</p> <p>Review on 1/16/20 of Staff #1's personnel record revealed: -Hire date of 10/31/19; -a DHHS letter dated 11/13/19 that indicated a criminal background check was completed; -documentation of a 11/22/19 criminal background check through the Office of Inspector General (OIG).</p> <p>Review on 1/16/20 of Staff #2's personnel record revealed: -Hire date of 1/22/18; -A fingerprint card dated 1/19/18 had no documentation that indicated a date for a criminal background check request.</p> <p>Interviews on 1/16/20 with the QP and the Program Integrity Administrator revealed: -FBI (Federal Bureau of Investigation) and SBI (State Bureau of Investigation) criminal background checks were done with all staff; -They had started on 11/22/19 using a new system for criminal background checks on applicants.</p>	V 133		
V 736	27G .0303(c) Facility and Grounds Maintenance	V 736		

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V 736	<p>Continued From page 6</p> <p>10A NCAC 27G .0303 LOCATION AND EXTERIOR REQUIREMENTS (c) Each facility and its grounds shall be maintained in a safe, clean, attractive and orderly manner and shall be kept free from offensive odor.</p> <p>This Rule is not met as evidenced by: Based on observation and interview, the facility failed to be maintained in a safe, clean and attractive manner. The findings are:</p> <p>Observation on 1/15/2020 between 3:30 to 4:05 pm of the facility revealed:</p> <ul style="list-style-type: none"> <li>-The door located in the dining room and which led to the backyard of the facility had a written note attached to the door which was dated 1/10/20 and which gave instructions not to close the door completely due to the broken latch on the door knob;</li> <li>-The kitchen refrigerator had broken plastic edging along the front of the top shelf and the vegetable and/or fruit drawers were loose from their tracks;</li> <li>-1 of 2 of the living room sofas had holes between the material underneath the sofa cushions and springs;</li> <li>-Both living room sofas had a significant amount of debris under the cushions;</li> <li>-The 1st shared bathroom, which was shared by Clients #4 and #5, had double shower rods which appeared rusted and the shower curtain had a significant amount of brownish stains on the side where these clients showered;</li> <li>-The 2nd shared bathroom, which was shared by Clients #1, #2 and #3, had a shower curtain with a significant amount of brownish stains on the</li> </ul>	V 736		

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V 736	<p>Continued From page 7</p> <p>side where these clients showered and brownish stain which appeared to be rust around the bottom of the sink water faucet.</p> <p>Interviews with Clients #1 and #2 revealed: -They and their housemates exited the door in the dining room to their designated meeting area in the backyard during fire drills; -They needed new living room sofas because there were holes in the sofas.</p> <p>Interview on 1/15/2020 with the Lead Direct Support Professional (DSP) revealed: -The facility was a "HUD home" and had been recently inspected; -She planned to pick up a new door knob latch on 1/15/2020 and have the latch replaced the next day, 1/16/2020; -She would get new shower curtains to replace the soiled shower curtains; -She was getting cost estimates for the refrigerator to be replaced.</p> <p>Interview on 1/16/2020 with the QP revealed: -She was working toward getting the living room sofas replaced due to the holes in the sofas; -The Lead DSP had returned to work this week from being out sick and the Lead DSP would get the door knob latch and shower curtains replaced, as well as cost estimates for the refrigerator to be replaced.</p>	V 736		