STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	MHL054-159	A. BUILDING: _____ B. WING _____	11/18/2020

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
MAPLEWOOD FACILITY	2002-G SHACKLEFORD ROAD KINSTON, NC 28502

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V 000	INITIAL COMMENTS A complaint and follow up survey was completed on November 18, 2020. The complaint was unsubstantiated (intake #NC00170613). A deficiency was cited. This facility is licensed for the following service category: 10A NCAC 27G .1900 Psychiatric Residential Treatment for Children and Adolescents.	V 000		
V 105	27G .0201 (A) (1-7) Governing Body Policies 10A NCAC 27G .0201 GOVERNING BODY POLICIES (a) The governing body responsible for each facility or service shall develop and implement written policies for the following: (1) delegation of management authority for the operation of the facility and services; (2) criteria for admission; (3) criteria for discharge; (4) admission assessments, including: (A) who will perform the assessment; and (B) time frames for completing assessment. (5) client record management, including: (A) persons authorized to document; (B) transporting records; (C) safeguard of records against loss, tampering, defacement or use by unauthorized persons; (D) assurance of record accessibility to authorized users at all times; and (E) assurance of confidentiality of records. (6) screenings, which shall include: (A) an assessment of the individual's presenting problem or need; (B) an assessment of whether or not the facility can provide services to address the individual's needs; and (C) the disposition, including referrals and	V 105		

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V 105	Continued From page 1 recommendations; (7) quality assurance and quality improvement activities, including: (A) composition and activities of a quality assurance and quality improvement committee; (B) written quality assurance and quality improvement plan; (C) methods for monitoring and evaluating the quality and appropriateness of client care, including delineation of client outcomes and utilization of services; (D) professional or clinical supervision, including a requirement that staff who are not qualified professionals and provide direct client services shall be supervised by a qualified professional in that area of service; (E) strategies for improving client care; (F) review of staff qualifications and a determination made to grant treatment/habilitation privileges: (G) review of all fatalities of active clients who were being served in area-operated or contracted residential programs at the time of death; (H) adoption of standards that assure operational and programmatic performance meeting applicable standards of practice. For this purpose, "applicable standards of practice" means a level of competence established with reference to the prevailing and accepted methods, and the degree of knowledge, skill and care exercised by other practitioners in the field;	V 105		

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V 105	Continued From page 2 This Rule is not met as evidenced by: Based on record reviews and interview, the facility failed to implement written standards that assured operational and programmatic performance meeting applicable standards of practice to report serious occurrences to the State designated Protection and Advocacy system. The findings are: Review on 11/18/20 of the LME-MCO (Local Management Entity-Managed Care Organization) communication Bulletin J287, "Clarifying the Reporting Standards for Psychiatric Residential Treatment Facilities (PRTF)" dated 5/11/18 revealed: -" ...Serious Occurrences are any event that result in Restraint or Seclusion, Resident's Death, Any Serious Injury to a Resident, and a Resident's Suicide Attempt. NC § 483.374 specifies that facilities must report each Serious Occurrence to both the State Medicaid agency (Division of Medical Assistance - DMA) and, unless prohibited by State law, the State-designated Protection and Advocacy system (Disability Rights North Carolina - DRNC)." -"DRNC reports are to be faxed to (919) 856-2244." Review on 10/23/20 of facility restrictive intervention records from 10/15/20 thru 11/13/20 revealed no serious occurrences involving seclusion or restraint had been reported to DRNC as required for the following clients: - Client #1 - Restraint on 10/15/20, 10/17/20, 10/19/20, 10/24/20, 10/25/20 x 2 and 10/27/20. - Client #3 - Restraint on 10/16/20, 10/20/20, 10/22/20 x 2, 10/26/20 x 2, 10/27/20, 10/28/20 x 2, 10/30/20 x 2, 11/01/20 and 11/12/20.	V 105		

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V 105	Continued From page 3 - Client #4 - Restraint on 10/15/20 and 10/18/20. - Client #7 - Restraint on 10/15/20, 10/26/20, 10/27/20, 10/30/20 and 11/09/20. - Client #8 - Restraint on 10/23/20, 10/30/20, 11/06/20 and 11/07/20. - Client #11 - Restraint on 11/8/20. - Client #13 - Restraint on 10/15/20, 10/30/20 and 11/11/20. - Client #15 - Restraint on 10/17/20. Review on 11/18/20 of the facility plan of correction for survey completed 08/14/20 revealed: - "NOVA will consult with legal counsel regarding serious occurrences in relation to interpreting the conditions of participation, LME-MCO communication Bulletin J287 and ensuring that our policies align with state and federal guidelines as applicable." Review on 11/18/20 of a letter from the facility attorney dated 10/13/20 revealed: - "Re: Definition of 'Serious Occurrence'...As you know, you are in possession of several communications from the North Carolina Department of Health and Human Services (DHHS) in which 'serious occurrence' is repeatedly defined precisely as defined in 42 CFR 483.374(b). Of particular importance, in an email responding to your inquiry regarding this very issue, The Children and Family Services Coordinator of DMA (Division of Medical Assistance) stated: Serious occurrences only include serious injuries, suicide attempts and resident deaths, which are defined in 42 CFR 483. 3 Thus, North Carolina regulatory officials have repeatedly set forth guidance consistent with the plain wording of the federal regulations and have in one case limited the definition of serious occurrence to the examples set forth in	V 105		

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V 105	Continued From page 4	V 105		

the federal regulation. North Carolina courts consistently observe several principles when evaluating interpretation of regulations as follows: [W]hen reviewing a case de novo courts recognize the longstanding tradition of according deference to an agency's interpretation of its rules. A reviewing court should defer to [an] agency's interpretation of a statues or rules it administers so long as the agency interpretation is reasonable and based on permissible construction of the statue or rule. Interpretations that conflict with the clear intent and purpose of the law are entitled to no deference. An agency's interpretation of its own regulations will be enforced [sic] unless clearly erroneous or inconsistent with the regulation's plain language. 4 In our situation, DHHS has consistently interpreted the regulation in its official and informal guidance by repeatedly stating that restraint and seclusion are not 'serious occurrences'. For whatever reason, in your recent facility inspection DHHS has ignored or misapplied the plain language of the regulation and its own prior interpretation by finding a deficiency based on your perceived failure to report the use of restraint and seclusion as a serious occurrence. Regardless, any interpretation or application of the regulation characterizing restraint and seclusion as serious occurrences is abundantly inconsistent with the plain language of the regulation. For the foregoing reasons, we do not believe you are required to report restraint and seclusion as serious occurrences under applicable state and federal guidance."

Interview on 11/13/20 the Program Director stated:
- She disagreed with the decision that restraints and seclusions are to be treated as serious

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V 105	Continued From page 5 occurrences. - The facility had consulted an attorney and who also disagreed with the decision. - The facility had provided a letter from the attorney response to the decision. [This deficiency constitutes a re-cited deficiency and must be corrected with 30 days.]	V 105		