

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>MHL034-296</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ <b>DHSR - Mental Health</b>  B. WING _____	(X3) DATE SURVEY COMPLETED  C <b>01/04/2021</b>
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JAN 28 2021

NAME OF PROVIDER OR SUPPLIER  <b>HOME CARE SOLUTIONS AT HEATHER VIEW</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>3816 HEATHER VIEW LANE WINSTON SALEM, NC 27127</b>
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Lic. & Cert. Section

(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
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V 000

**INITIAL COMMENTS**  
  
A complaint survey was completed on 1/4/21. The complaint was substantiated (intake #NC00172661). Deficiencies were cited.

V 000

**• 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.).**

The staff responsible for ordering the background checks will be retrained. They will be trained on when to order and what should be requested for the background. If someone has lived outside of the state within the last 5 years, a nationwide background check will be ordered.

V 133

**G.S. 122C-80 Criminal History Record Check**  
  
G.S. §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

V 133

**• Indicate what measures will be put in place to prevent the problem from occurring again.**

The background checks will be reviewed by the facility director to ensure consistency and compliance.

**• Indicate who will monitor the situation to ensure it will not occur again.**

The Director will monitor this to ensure that issues with the background checks are ordered accordingly.

**• Indicate how often the monitoring will take place.**

Monitoring will occur each time a record is requested and will be ongoing times 2 months (monitoring) and as often as needed to ensure compliance.

Division of Health Service Regulation  
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

*Datinya Jones*

TITLE  
*Director*

(X6) DATE  
*1-21-21*

Division of Health Service Regulation

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V 133	<p>Continued From page 1</p> <p>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</p>	V 133		
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V 133	<p>Continued From page 2</p> <p>subsection, the term "private entity" means a business regularly engaged in conducting 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</li> </ol>	V 133		
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If continuation sheet 3 of 7

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V 133	<p>Continued From page 3</p> <p>the criminal history record check of the individual.</p> <p>(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.</p> <p>(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</p>	V 133		
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V 133	<p>Continued From page 4</p> <p>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.</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 reviews and interviews the facility failed to request the required nationwide</p>	V 133		
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V 133	<p>Continued From page 5</p> <p>criminal record checks within 5 business days of offering employment for 3 of 5 surveyed staff (#1, #2 and #4). The findings are:</p> <p>Review on 12/29/2020 of staff #1's record revealed:</p> <ul style="list-style-type: none"> <li>- Hire Date: 3/20/2019</li> <li>- Position: Residential Manager</li> <li>- On her job application under employment history she had worked in another state from 2017 to 2/2019.</li> <li>- A nationwide background check had not been completed.</li> </ul> <p>Review on 12/29/2020 of staff #2's record revealed:</p> <ul style="list-style-type: none"> <li>- Hire Date: 2/15/2019</li> <li>- Position: Paraprofessional</li> <li>- On her job application under employment history she had worked in another state from 11/2010 to 1/2017.</li> <li>- A nationwide background check had not been completed.</li> </ul> <p>Review on 12/29/2020 of staff #4's record revealed:</p> <ul style="list-style-type: none"> <li>- Hire Date: 11/5/2020</li> <li>- Position: Team Lead</li> <li>- On her job application under employment history she had worked in another state from 9/2018 to 10/2019 as well as from 3/2017 to 10/2017.</li> <li>- A nationwide background check had not been completed.</li> </ul> <p>Interview on 12/30/2020 with staff #1 revealed:</p> <ul style="list-style-type: none"> <li>- She lived out of the state from 2016 until February or March 2018.</li> </ul> <p>Interview on 12/29/2020 with staff #2 revealed:</p>	V 133		
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V 133	<p>Continued From page 6</p> <ul style="list-style-type: none"> <li>- She had lived in the state for the past 2 years.</li> </ul> <p>Interview on 12/30/2020 with staff #4 revealed:</p> <ul style="list-style-type: none"> <li>- She had lived in the state since 10/1/19.</li> </ul> <p>Interview on 12/30/2020 with Licensee #2 revealed:</p> <ul style="list-style-type: none"> <li>- He typically did the criminal backgroundchecks when staff were hired.</li> <li>- "It (the nationwide criminal background checks) might have been overlooked."</li> </ul> <p>Interview on 12/30/20 with the Qualified Professional:</p> <ul style="list-style-type: none"> <li>- "The national ones (criminal background checks for staff #1, #2 and #4) were not done."</li> </ul>	V 133		