

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>MHL013-198</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING: _____	(X3) DATE SURVEY COMPLETED  <b>09/15/2022</b>
NAME OF PROVIDER OR SUPPLIER  <b>THE FERLAND HOME</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1231 FOREST BLUFF DRIVE MIDLAND, NC 28107</b>		
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V 000	<p><b>INITIAL COMMENTS</b></p> <p>An annual survey was completed on 9-15-22. Deficiencies were cited.</p> <p>This facility is licensed for the following service category: 10A NCAC 27G 5600F Supervised Living for All Disability Groups in a Private Residence.</p> <p>This facility is licensed for three and currently has a census of four. The survey sample consisted of four current clients</p>	V 000		
V 131	<p><b>G.S. 131E-256 (D2) HCPR - Prior Employment Verification</b></p> <p>G.S. §131E-256 HEALTH CARE PERSONNEL REGISTRY (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: Based on interviews the facility failed to access the Health Care Personnel Registry (HCPR) for people living in the facility. The findings are:</p> <p>Interview on 9-14-22 with Alternative Family Living (AFL) provider's husband revealed: -He had several grown children and one fiancé of his son's living in the house.</p>	V 131		

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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V 131	Continued From page 1  Interview on 9-15-22 with the AFL Provider revealed: -They had four adults in the house besides the AFL provider and her husband that were over 16.  Interview on 9-15-22 with the Program Director revealed: -She did not know the children were living in the house. -She knew that she had to check the HCPR for anyone over 16 living in the facility. -They would take care of getting the HCPR accessed for them immediately.	V 131		
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	V 133		

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V 133	Continued From page 2  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	V 133		

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V 133	Continued From page 3  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.	V 133		

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V 133	Continued From page 4  (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;	V 133		

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V 133	Continued From page 5  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 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.)	V 133		

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V 133	Continued From page 6  This Rule is not met as evidenced by: Based on interviews the facility failed to request a criminal background check for people living in the facility. The findings are:  Interview on 9-14-22 with Alternative Family Living (AFL) provider's husband revealed: -He had several grown children and one fiance of his son's living in the house.  Interview on 9-15-22 with the AFL Provider revealed: -They had four adults in the house besides the AFL provider and her husband that were over 16.  Interview on 9-15-22 with the Program Director revealed: -She did not know the children were living in the house. -She knew that she had to request a criminal background check for anyone over 16 living in the facility. -They would take care of requesting a criminal background check for them immediately.	V 133		
V 289	27G .5601 Supervised Living - Scope  10A NCAC 27G .5601 SCOPE (a) Supervised living is a 24-hour facility which provides residential services to individuals in a home environment where the primary purpose of these services is the care, habilitation or rehabilitation of individuals who have a mental illness, a developmental disability or disabilities,	V 289		

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V 289	Continued From page 7  or a substance abuse disorder, and who require supervision when in the residence. (b) A supervised living facility shall be licensed if the facility serves either: (1) one or more minor clients; or (2) two or more adult clients. Minor and adult clients shall not reside in the same facility. (c) Each supervised living facility shall be licensed to serve a specific population as designated below: (1) "A" designation means a facility which serves adults whose primary diagnosis is mental illness but may also have other diagnoses; (2) "B" designation means a facility which serves minors whose primary diagnosis is a developmental disability but may also have other diagnoses; (3) "C" designation means a facility which serves adults whose primary diagnosis is a developmental disability but may also have other diagnoses; (4) "D" designation means a facility which serves minors whose primary diagnosis is substance abuse dependency but may also have other diagnoses; (5) "E" designation means a facility which serves adults whose primary diagnosis is substance abuse dependency but may also have other diagnoses; or (6) "F" designation means a facility in a private residence, which serves no more than three adult clients whose primary diagnoses is mental illness but may also have other disabilities, or three adult clients or three minor clients whose primary diagnoses is developmental disabilities but may also have other disabilities who live with a family and the family provides the service. This facility shall be	V 289		



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V 289	<p>Continued From page 8</p> <p>exempt from the following rules: 10A NCAC 27G .0201 (a)(1),(2),(3),(4),(5)(A)&amp;(B); (6); (7) (A),(B),(E),(F),(G),(H); (8); (11); (13); (15); (16); (18) and (b); 10A NCAC 27G .0202(a),(d),(g)(1) (i); 10A NCAC 27G .0203; 10A NCAC 27G .0205 (a),(b); 10A NCAC 27G .0207 (b),(c); 10A NCAC 27G .0208 (b),(e); 10A NCAC 27G .0209[(c)(1) - non-prescription medications only] (d)(2),(4); (e) (1)(A),(D),(E);(f);(g); and 10A NCAC 27G .0304 (b)(2),(d)(4). This facility shall also be known as alternative family living or assisted family living (AFL).</p> <p>This Rule is not met as evidenced by: Based on observations, interviews and record reviews the facility failed to operate within the scope of their license effecting three of three clients (Client #1, #2, and #3) The findings are:</p> <p>Review on 8-31-22 of the facility's license revealed: -27G. 5600F Supervised Living Alternative Family Living in a Private Residence. -Capacity: 3.</p> <p>Observation on 9-14-22 at approximately 10:30 am revealed: -Clients #1, #2, and #3, with a fourth client downstairs working and watching TV.</p> <p>Review on 9-8-22 of email sent by Division of Health Service Regulations-Construction division dated 9-8-22 revealed: -"There are a lot of unknowns with this site; in their original submittal they submitted a plan indicating the homes three levels , The first story</p>	V 289		

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V 289	<p>Continued From page 9</p> <p>"main Living Area" indicated two (2) client bedrooms and the second story "upper level" indicating another bedroom for client use; also in their submittal was a plan for the basement showing one bed (unknown use). That room per the plan has no window for emergency egress as required by code, please note that if any of the basement rooms are being used for sleeping purposes (licensed or not they are in violation of the North Carolina State Residential Code).</p> <p>Both Cabarrus County Zoning and Tax records show this site as a two story Dwelling not three, in addition per their application submittal This site [facility] is classified by their Zoning and Tax Department's as a Single Family dwelling, having a lower separate space or unit (Licensed or not) will be in violation of their current zoned use of "SFR"</p> <p>SFR, or Single Family Residential, means that a single family will be expected to live in the home, and it's not zoned as a duplex, triplex, or other multi-family option where there will be more than one unit. While people who are unrelated can certainly live in an SFR together, and it doesn't have to technically be for a family, the zoning stops people from dividing a house into a number of apartments, for example, and then letting a number of different families live in those apartments.</p> <p>Per the Sanitation approval that was submitted with their application this site is NOT on a public water or waste water system, any additional capacity may very well tax said systems and place them in an unapproved or provisional status with their county environmental health department."</p>	V 289		

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V 289	<p>Continued From page 10</p> <p>Review on 8-31-22 of Client #1's record revealed: -Diagnoses include: Mild Intellectual Disability, Conduct Disorder, Diabetes, Hypothyroidism, Hyperlipidemia, Dementia, Anxiety, and Major Depression.</p> <p>Review on 8-31-22 of Client #2's record revealed: -Diagnoses include: Specified Mental Disorders Due to Physiological Conditions, 9 Developmental Disorder of Scholastic Skills, Unspecified, Epilepsy, Unspecified Not Retractable Without Status Epilepticus.</p> <p>Review on 9-14-22 of Client #4's record revealed: -Diagnoses include: Moderate Intellectual Disability, Smith-Magenis syndrome, arthritis.</p> <p>Review on 8-31-22 of Client #3's record revealed: -Diagnoses include: Profound intellectual disabilities, Congenital malformation syndromes predominantly associated with short stature, Gastro-esophageal reflux disease without esophagitis, Rumination disorder of infancy.</p> <p>Interview on 9-2-22 with Client #1 revealed: -She is not sure who lives downstairs, but thinks the Alternative Family Living (AFL) Provider knows her.</p> <p>Interview on 9-14-22 with Client #2 revealed: -Sometimes Client #4 is upstairs and sometimes downstairs. -Both the AFL Provider and her husband works with Client #4.</p> <p>Interview on 9-14-22 with Client #4 revealed: -The AFL Provider's husband takes care of her. -The AFL provider helps her shower sometimes.</p>	V 289		

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V 289	<p>Continued From page 11</p> <p>-Client #4 was not very verbal and was reluctant to answer questions.</p> <p>Interview on 9-2-22 with the AFL Provider revealed:</p> <p>- "A lady that lives there is supported living.</p> <p>- The woman was put there by a different agency.</p> <p>- The woman's address is a "hyphenated A" so it is a separate residence.</p> <p>- As long as it is separate and has it's own entrance and exit it is considered a separate residence.</p> <p>- Her husband cooks dinner for her.</p> <p>- Her husband has to be down there with her.</p> <p>- The woman does need help with all her hygiene.</p> <p>Interview on 8-31-22 with the Program Director revealed:</p> <p>- There was a client living in a downstairs apartment.</p> <p>- The agency had told her that the client couldn't live there as the facility was licensed for three.</p> <p>- The facility was in the process of changing ownership.</p>	V 289		