

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: MHL0601558	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED C 01/21/2025
NAME OF PROVIDER OR SUPPLIER NEWPORT ACADEMY-LODGE		STREET ADDRESS, CITY, STATE, ZIP CODE 10450 BRIEF ROAD CHARLOTTE, NC 28227		
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V 000	<p>INITIAL COMMENTS</p> <p>A complaint survey was completed on 1/21/25. The complaints were unsubstantiated (Intake #NC00224895, #NC00224539). Deficiencies were cited.</p> <p>This facility is licensed for the following service category 10A NCAC 27G 1300 Residential Treatment for Children or Adolescents.</p> <p>This facility is licensed for 6 and has a current census of 6. The survey sample consisted of audits of 3 current clients, 3 former clients.</p>	V 000		
V 131	<p>G.S. 131E-256 (D2) HCPR - Prior Employment Verification</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 interview and record review, the facility failed to ensure the Health Care Personnel Registry (HCPR) was accessed prior to hire for 1 of 1 Executive Director/Qualified Professional (ED/QP)). The findings are:</p> <p>Review on 1/8/25 of the ED/QP's employee record revealed:</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 -date of hire 9/19/22. -date of HCPR verification 1/13/23. Interview on 1/8/25 with the ED/QP revealed: -Human Resources conducted HCPR checks. -Was not aware the HCPR checks needed to be conducted prior to hire.	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 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	V 133		

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V 133	Continued From page 2 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	V 133		

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V 133	<p>Continued From page 3</p> <p>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> <p>(1) The level and seriousness of the crime.</p> <p>(2) The date of the crime.</p> <p>(3) The age of the person at the time of the conviction.</p> <p>(4) The circumstances surrounding the commission of the crime, if known.</p> <p>(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.</p> <p>(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.</p> <p>(7) The subsequent commission by the person of a relevant offense.</p> <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> <p>(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.</p>	V 133		

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V 133	Continued From page 4 (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 and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related	V 133		

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V 133	<p>Continued From page 5</p> <p>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 review and interview, the facility failed to ensure a criminal history check was requested within 5 business days of a conditional</p>	V 133		

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V 133	Continued From page 6 offer of employment affecting 1 of 1 Executive Director/Qualified Professional (ED/QP)). The findings are: Review on 1/8/25 of the ED/QP employee record revealed: -Hire date of 9/19/22. -A criminal background check was requested 8/23/22. Review of email correspondence dated 1/7/25-1/9/25 revealed: -Requested ED/QP's date or confirmation of date of hire on 1/7/25, 1/8/25. -ED/QP confirmed date of hire as 9/19/22 in emails on 1/9/25. Interview on 1/14/25 with the ED/QP revealed: -"I was hired on 9/19/22...we opened the facility on 10/4/23." -"I was hired to find the house (facility location), write policies and apply for the license." -Human Resources staff was responsible for requesting and receiving criminal background checks on staff.	V 133			
V 367	27G .0604 Incident Reporting Requirements 10A NCAC 27G .0604 INCIDENT REPORTING REQUIREMENTS FOR CATEGORY A AND B PROVIDERS (a) Category A and B providers shall report all level II incidents, except deaths, that occur during the provision of billable services or while the consumer is on the providers premises or level III incidents and level II deaths involving the clients to whom the provider rendered any service within 90 days prior to the incident to the LME responsible for the catchment area where	V 367			

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V 367	<p>Continued From page 7</p> <p>services are provided within 72 hours of becoming aware of the incident. The report shall be submitted on a form provided by the Secretary. The report may be submitted via mail, in person, facsimile or encrypted electronic means. The report shall include the following information:</p> <p>(1) reporting provider contact and identification information;</p> <p>(2) client identification information;</p> <p>(3) type of incident;</p> <p>(4) description of incident;</p> <p>(5) status of the effort to determine the cause of the incident; and</p> <p>(6) other individuals or authorities notified or responding.</p> <p>(b) Category A and B providers shall explain any missing or incomplete information. The provider shall submit an updated report to all required report recipients by the end of the next business day whenever:</p> <p>(1) the provider has reason to believe that information provided in the report may be erroneous, misleading or otherwise unreliable; or</p> <p>(2) the provider obtains information required on the incident form that was previously unavailable.</p> <p>(c) Category A and B providers shall submit, upon request by the LME, other information obtained regarding the incident, including:</p> <p>(1) hospital records including confidential information;</p> <p>(2) reports by other authorities; and</p> <p>(3) the provider's response to the incident.</p> <p>(d) Category A and B providers shall send a copy of all level III incident reports to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services within 72 hours of becoming aware of the incident. Category A</p>	V 367		

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V 367	<p>Continued From page 8</p> <p>providers shall send a copy of all level III incidents involving a client death to the Division of Health Service Regulation within 72 hours of becoming aware of the incident. In cases of client death within seven days of use of seclusion or restraint, the provider shall report the death immediately, as required by 10A NCAC 26C .0300 and 10A NCAC 27E .0104(e)(18).</p> <p>(e) Category A and B providers shall send a report quarterly to the LME responsible for the catchment area where services are provided. The report shall be submitted on a form provided by the Secretary via electronic means and shall include summary information as follows:</p> <p>(1) medication errors that do not meet the definition of a level II or level III incident;</p> <p>(2) restrictive interventions that do not meet the definition of a level II or level III incident;</p> <p>(3) searches of a client or his living area;</p> <p>(4) seizures of client property or property in the possession of a client;</p> <p>(5) the total number of level II and level III incidents that occurred; and</p> <p>(6) a statement indicating that there have been no reportable incidents whenever no incidents have occurred during the quarter that meet any of the criteria as set forth in Paragraphs (a) and (d) of this Rule and Subparagraphs (1) through (4) of this Paragraph.</p> <p>This Rule is not met as evidenced by: Based on record reviews, observation, and interviews, the facility failed to report all Level II</p>	V 367		

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V 367	<p>Continued From page 9</p> <p>and Level III incidents in the Incident Response Improvement System (IRIS) and notify the Local Management Entity (LME)/Managed Care Organization (MCO) responsible for the catchment area where services are provided as required. The findings are:</p> <p>Reviews 1/7/25 and 1/16/25 of the IRIS from 10/1/24 - 12/30/24 revealed:</p> <ul style="list-style-type: none"> -There were no Level II incident reports submitted by the facility for the following incidents: 10/13/24-Former Client (FC) #4 Self harm requiring offsite medical assessment. 10/19/24-FC #1 taken to emergency room (ER) to address left knee pain. 10/22/24-contraband (scissors) for self harm. 10/30/24-FC #3 suicide attempt with emergency services contacted and transport to the hospital for psychiatric evaluation. 11/19/24-FC #2's allegation that FC #3 violated boundary (sexual). 11/24/24-FC #1 AWOL (Absent Without Leave) requiring police assistance. -There was no Level III incident report submitted by the facility for the following: 12/3/24-FC #1's allegation that she was slapped on 11/22/24 by the Registered Nurse (RN) <p>Observation on 1/14/25, 4:00-4:15pm of the RN revealed:</p> <ul style="list-style-type: none"> -Demonstrated how she touched FC #1 during a group game with facility clients by lightly tapping her left forefinger on the top portion of her right wrist two times. <p>Interview on 1/15/25 with Staff #1 revealed:</p> <ul style="list-style-type: none"> -Incidents are completed by "care coordinators, staff. It depends on who is witnessing or working about the time of the incident." - "I believe that clinical team reports to IRIS." 	V 367		

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V 367	<p>Continued From page 10</p> <p>-Regarding the incident alleging FC #1 was slapped by the RN, "I know [RN], she was my teacher in high school. [FC #1] mentioned that [RN] was trying to get her attention. I don't know if [FC #1] took that as 'I don't want to be touched'...I think [RN] was just trying to get her (FC #1) attention or bring her (focus) back to the group ...From what I know of [RN], I don't think she would hurt anyone."</p> <p>-Did not witness how FC #1 was touched by the RN (11/22/24).</p> <p>- "I'm not aware of the incident (11/19/24) with [FC #3] and [FC #2]..."</p> <p>Interview on 1/14/25 with the RN revealed:</p> <p>- "...when I tapped her (FC #1) the other girls (facility clients) caught on that I was trying to give her the answer and she (FC #1) said 'stop hitting me [RN]'; she was laughing and we (RN and facility clients) thought she was playing and they (facility clients) all wanted to continue playing and they kept playing about 20-30 minutes more, she (FC #1) bought it (incident) up later when she was upset with me."</p> <p>- "...it happened during my group (11/22/24), we (RN and facility clients) were playing a jeopardy game, I couldn't speak and she (FC #1) had to put the answer in the form of a question. I couldn't speak to give her the answer so I touched her (FC #1) hand with my fingers ...they (facility clients) all giggled about it and they wanted to continue to play the game ...I tapped her to let her know she needed to put the answer in the form of a question."</p> <p>- "I'm thinking it was an incident report, because they had me go through a [online continuing education] training about not touching (12/6/24 Therapeutic Boundaries)"</p> <p>- "...maybe a day or so (administrative leave, 12/3/24) while they (facility) investigated."</p>	V 367		

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V 367	<p>Continued From page 11</p> <p>- "I'm sure there were incident reports...the care coordinators do that ...not sure about IRIS reporting."</p> <p>- Did not recall incident (11/19/24) involving FC #2 and FC #3.</p> <p>Interview on 1/7/25 with Executive Director/Qualified Professional revealed:</p> <p>- "Not submitting IRIS reports because we (facility) don't take clients with Medicaid, we were directed (by licensee) to not send IRIS reports because we feel it is a HIPAA (Health Insurance Portability and Accountability Act) violation. They (licensee) are not sure whether we (facility) have to or not (submit reports to IRIS) and are waiting on an answer (from the state) as to whether they (licensee) have to or not ...we're (facility) in a holding pattern and haven't been given direction on whether we should do those or not."</p> <p>- "We (facility) have an internal reporting system that we follow, it is not the same as the IRIS manual incident reports, but they are all level ones; we also do self-reports to DHSR (Division of Health Service Regulation) or HCPR (Health Care Personnel Registry) or DSS (Department of Social Services) if there is incident of neglect, abuse or exploitation."</p> <p>- "We have a national compliance team that reviews all incidents that are reported in the portal (facility's incident report portal)."</p> <p>- Had never submitted any Level II or III incident reports in IRIS.</p> <p>Further interview on 1/14/25 with ED/QP revealed:</p> <p>- Was aware of incident on 11/19/24 with FC#2 and FC#3.</p> <p>- Completed investigation of 11/19/24 incident on 11/22/24 and unsubstantiated "due to both clients saying it didn't happen."</p>	V 367		

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NAME OF PROVIDER OR SUPPLIER NEWPORT ACADEMY-LODGE		STREET ADDRESS, CITY, STATE, ZIP CODE 10450 BRIEF ROAD CHARLOTTE, NC 28227		
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V 367	<p>Continued From page 12</p> <p>-Aware of incident reported on 12/3/24 alleging that on 11/22/24 the RN slapped FC #1 when playing a group game.</p> <p>-FC #1 reported "an incident of mistreatment on 11/22/24 ...[FC #1] reported that [RN] hit or tapped her. I did an investigation (12/3/24) and educated [RN]. [FC #1] said 'you're hitting me' and [RN] brushed it off."</p> <p>-FC #1 told primary therapist (Saturday, 11/30/24) and "the therapist forgot to make the report ...it was the end of the day and she (therapist) didn't make the report before she left. I educated all staff to ensure that these things are reported immediately."</p> <p>-Learned of and completed the investigation on 12/3/24 for the 11/22/24 incident, that was reported on 12/3/24.</p> <p>-The RN was placed on administrative leave (12/3/24) pending the investigation and was retrained 12/6/24 on therapeutic boundaries.</p> <p>"Everybody can complete incident reports, we're all trained ...the care coordinators write them and the residential manager reviews and submits them to the national team..."</p> <p>"We try to report everything (incidents). The clinical program manager does risk, cause analysis..."</p> <p>"I am ultimately responsible if we were reporting in IRIS, myself, is ultimately responsible to make sure we are following state regs (regulations)."</p>	V 367		