

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: MHL090-219	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED R-C 01/27/2025
NAME OF PROVIDER OR SUPPLIER PENA COTTAGE		STREET ADDRESS, CITY, STATE, ZIP CODE 1915 HASTY ROAD, SUITE E MARSHVILLE, NC 28103		
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V 000	INITIAL COMMENTS A complaint and follow up survey was completed on 1-27-25. The complaint was substantiated (intake #NC00224435). Deficiencies were cited. This facility is licensed for the following service category: 10A NCAC 27G .1300 Residential Treatment For Children Or Adolescents. This facility is licensed for 12 and currently has a census of 6. The survey sample consisted of audits of 1 current client and 1 former client.	V 000		
V 112	27G .0205 (C-D) Assessment/Treatment/Habilitation Plan 10A NCAC 27G .0205 ASSESSMENT AND TREATMENT/HABILITATION OR SERVICE PLAN (c) The plan shall be developed based on the assessment, and in partnership with the client or legally responsible person or both, within 30 days of admission for clients who are expected to receive services beyond 30 days. (d) The plan shall include: (1) client outcome(s) that are anticipated to be achieved by provision of the service and a projected date of achievement; (2) strategies; (3) staff responsible; (4) a schedule for review of the plan at least annually in consultation with the client or legally responsible person or both; (5) basis for evaluation or assessment of outcome achievement; and (6) written consent or agreement by the client or responsible party, or a written statement by the provider stating why such consent could not be obtained.	V 112		

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

TITLE

(X6) DATE

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V 112	<p>Continued From page 1</p> <p>This Rule is not met as evidenced by: Based on record reviews and interviews, the facility failed to develop and implement strategies to meet the needs of 2 of 2 audited clients (client #1 and former client #7 (FC #7). The findings are:</p> <p>Review on 1-3-25 of client #1's record revealed: -Date of admission: 11-7-23. -Age: 14. -Diagnoses: Attention Deficit Hyperactivity Disorder (ADHD); Generalized Anxiety Disorder; Major Depressive Disorder; General Disability. -Person Centered Plan (PCP) dated 8-16-24 documenting the following goal: "[Client #1] will attend school in the community and reduce the number of absences compared to the previous year." -PCP update on 10-29-24 documenting the following: "10/29/24 [Client #1] struggles to go to school in the community. [Client #1] refuses school daily, on the days that [client #1] attends school he makes threats or acts out to get suspended." -School attendance records which documented that out of 25 possible school days between 8-26-24 (first day of school) and 9-19-24 (the last day client #1 attended school), client #1 was absent 9 days (8-27-24, 9-4-24, 9-6-24, 9-11-24, 9-13-24, 9-16-24, 9-17-24, 9-18-24, and 9-19-24). Client #1 was suspended from school on 9-20-24</p>	V 112		

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V 112	<p>Continued From page 2</p> <p>due to making a threat to 'blow up' (bomb) the school and did not return to school after his suspension was lifted.</p> <p>-There were no strategies developed or implemented to address client #1's refusal to attend school.</p> <p>Review on 1-3-25 of FC #7's record revealed:</p> <p>-Date of admission: 11-8-22.</p> <p>-Date of discharge: 12-6-24.</p> <p>-Age: 14.</p> <p>-Diagnoses: Post-Traumatic Stress Disorder (PTSD); Separation Anxiety Disorder; Unspecified Intellectual Developmental Disability.</p> <p>-PCP dated 5-12-24 documenting the following goal: "Attend public school in the community."</p> <p>-Therapy notes documenting the following:</p> <p>"10-10-24: Staff informed therapist that client (FC #7) is refusing to go to school... 10-17-24: Refusing school last 10 days (FC #7 had refused to go to school on the previous 10 school days)."</p> <p>-School attendance records which documented that out of 27 possible school days between August 26, 2024 (first day of school) and October 2, 2024 (last day FC #7 attended school), FC #7 was absent 10 days (8-27-24, 8-28-24, 8-29-24, 8-30-24, 9-3-24, 9-4-24, 9-16-24, 9-18-24, 9-25-24, and 9-30-24,). FC #7's last attended school on 10-2-24.</p> <p>-There were no strategies developed or implemented to address client #1's school attendance.</p> <p>Interview on 1-3-25 with Client #1 revealed:</p> <p>-Was not currently attending school in the community.</p> <p>-"Yes, something happened (at school) but I don't want to talk about it."</p> <p>Phone calls and voice message on 1-15-25 and</p>	V 112		

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V 112	<p>Continued From page 3</p> <p>1-21-25 to FC #7's legal guardian was not returned by survey exit date.</p> <p>Interview on 1-3-25 with the facility's Care Coordinator revealed:</p> <ul style="list-style-type: none"> -She was responsible for coordinating with the local school system for client #1 and FC #7. -She was aware that client #1 and FC #7 were not attending school. -"We couldn't make them (client #1 and FC #7) go to school. We can't make any of the clients go to school. If a client refuses to go to school, we wait about 30 minutes and ask them again. While we are waiting we encourage them to go to school. We are talking to them to try to explain to them the importance of attending school. We will usually give them a little time and ask them again and try to get them to go. We will ask several times, even if we have to take them to school late. We will usually try to talk them into going until around 9am. If they still refuse they will go to the classroom (educational setting on the facility's campus). No one (clients) is allowed in the cottages during the day. They (clients) have to be out of the cottages so if they don't go to school they go to the classroom." -"They (client #1 and FC #7) were just refusing to go. There was never a reason given. Staff would get them up for school and they would just say they didn't want to go." -She met with school personnel (school social worker, school counselor and client #1 and FC #7's teachers) on several occasions (10-30-24 and 11-22-24) to discuss both client #1 and FC #7's school attendance. -"We were in the process of applying for homebound services for both [client #1] and [FC #7]." -"[FC #7] was discharged before that process (homebound services) could be completed for 	V 112		

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V 112	<p>Continued From page 4</p> <p>him, and before we could finalize all the paperwork for [client #1] he (client #1) came to us and stated he wanted to go back to school. So we meet with the school. I'll have to look for the date, we met and made a plan for him (client #1) to return after the break (1-6-25) on modified days (half days)."</p> <p>-She is not responsible for updating the PCP's. "No, that's not my job, I'm not exactly sure who's responsible for that (updating PCP's)."</p> <p>Interview on 1-16-25 with Therapist #1 revealed: -She was the assigned therapist for client #1 and FC #7. -"We discussed school attendance for [client #1] and [FC #7] during CFT (child and family team) meetings. I would talk with them (client #1 and FC #2) during our individual sessions (therapy). I would talk about the importance of going to school and obtaining their education." -"I know there were meetings (unsure of dates) to discuss getting them (client #1 and FC #7) back in school. I made note of their school attendance in the CFT notes." -She is not responsible for completing the PCP's. "[Therapist #2] is responsible for that (developing goals and strategies)."</p> <p>Interview on 1-17-25 with Therapist #2 revealed: -The facility staff will usually inform her when there is an issues with clients not attending school. -"I will have a conversation with them (clients) and ask them why they are not attending school, what class are they struggling with and ask how can we (facility) support you. I talk to them about the importance of going to school. We will pull the school (school staff) in for support." -"Myself, I'm responsible for updating the PCP's. Usually once monthly (update the PCP),</p>	V 112		

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V 112	<p>Continued From page 5</p> <p>depending on the person, usually after we meet for CFTs."</p> <p>- "Yes we discussed during CFTs the need to add new goals for [client #1] and [FC #7], for both to return to school."</p> <p>- Not sure why the plan was not updated. "I know it was noted in the plan."</p> <p>Interview on 1-27-25 with the Chief Agency Officer revealed:</p> <p>- "We have had extensive training on all of that (PCP's and updating goals and strategies when needed.). I'm not sure why we are still having this issue. I will arrange another training and make sure everyone is retrained on completing and updating the PCP's."</p> <p>Interview on 1-7-25 with Client # 1 and FC #7's school Social Worker revealed:</p> <p>- "We (school personnel) had concerns because the students (client #1 and FC #7) were not coming to school. I reached out to Anderson to try to find out what was going on and to see if we could come together to try figure out how we could get these students in school. All they would say is 'that they (client #1 and FC #7) are refusing to come to school. When I spoke to [Chief Agency Officer] or [Care Coordinator] they would say 'we can't make them go.'"</p> <p>- "Yes, I was reaching out weekly to get an update on the students. I spoke with [Care Coordinator] or [Chief Agency Officer] they were good about talking to us and communicating when the students would not be in school. But when we pressed them on what to do to try to get them back in school they would repeat, 'we can't make them go'. There was never a plan put in place to try to get them back to school."</p> <p>- Eventually we did (Social Worker and the Exceptional Children's (EC) go out to Anderson's</p>	V 112		

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V 112	Continued From page 6 for a meeting (10-30-24) We were able to see the students (client #1 and FC #7) and spend some time with them that day. No we didn't leave with any concrete plans just an understanding that we would keep in communication and keep meeting."	V 112		
V 131	G.S. 131E-256 (D2) HCPR - Prior Employment Verification 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. This Rule is not met as evidenced by: Based on record review and interviews, the facility failed to access the Healthcare Personal Registry (HCPR) prior to making an offer of employment, affecting 1 of 2 audited staff (the Care Coordinator). The findings are: Review on 1-3-25 of the Care Coordinator's record revealed: -Date of hire: 7-1-24. -HCPR check: 12-10-24 Interview on 1-3-25 with the Quality Director revealed: -There was no record or documentation in the Care Coordinators personnel record of a HCPR	V 131		

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V 131	Continued From page 7 check prior to 12-10-24. -"I'm really not sure what happened there (why the HCPR check was not completed prior to 12-10-24). But this is all we have in her record. So I guess this is it (12-10-24 HCPR report)." Interview on 1-27-25 with the Chief Agency Officer revealed: -" I thought we had already been cited for that and did a plan of correction for that." -"I already put in place a protocol for that. We are suppose to do the HCPR and background check as soon as we feel like we want to hire them (potential employees), before we extend an offer of employment. I guess I'll have to do some more training on as well."	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	V 133		

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V 133	Continued From page 8 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 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	V 133		

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V 133	<p>Continued From page 9</p> <p>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 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"> (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. <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</p>	V 133		

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V 133	Continued From page 10 of the criminal history record check to the applicant. (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	V 133			

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V 133	<p>Continued From page 11</p> <p>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 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>	V 133			

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(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
V 133	<p>Continued From page 12</p> <p>This Rule is not met as evidenced by: Based on record review and interviews, the facility failed to ensure a criminal history check was requested within 5 business days of a conditional offer of employment affecting 1 of 2 audited staff (the Care Coordinator). The findings are:</p> <p>Review on 1-3-25 of the Care Coordinator's record revealed: -Date of hire: 7-1-24. -Criminal History Background check : 12-10-24.</p> <p>Interview on 1-3-25 with the Quality Director revealed: -There was no record or documentation in the Care Coordinators personnel record of a background check prior to 12-10-24. -"I'm really not sure what happened there (why the background check was not completed prior to 12-10-24). But this is all we have in her record. So I guess this is it (12-10-24 criminal background check)."</p> <p>Interview on 1-27-25 with the Chief Agency Officer revealed: -" I thought we had already been cited for that and did a plan of correction for that." -"I already put in place a protocol for that. We are suppose to do the HCPR and background check as soon as we feel like we want to hire them (potential employees), before we extend an offer of employment. I guess I'll have to do some more training on as well."</p>	V 133		

Division of Health Service Regulation

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