

Division of Health Service Regulation

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: HAL009027	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED R 08/05/2015
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NAME OF PROVIDER OR SUPPLIER HIGHLAND GARDENS ASSISTED LIVING OF C	STREET ADDRESS, CITY, STATE, ZIP CODE 53 SOUTH SMITH STREET CLARKTON, NC 28433
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{D 000}	<p>Initial Comments</p> <p>The Adult Care Licensure Section and the Bladen County Department of Social Services conducted a follow-up survey and a complaint investigation on 8/4/15 - 8/5/15.</p> <p>D 137 10A NCAC 13F .0407(a)(5) Other Staff Qualifications</p> <p>10A NCAC 13F .0407 Other Staff Qualifications (a) Each staff person at an adult care home shall: (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;</p> <p>This Rule is not met as evidenced by: Based on interviews and record review, the facility failed to assure one of four staff (Staff B) had no substantiated findings listed on the North Carolina Health Care Personnel Registry (NCHCPR) prior to hire in accordance with G.S. 131E-256.</p> <p>The findings are:</p> <p>Review of Staff B's personnel record revealed: -Staff B was hired on 09/30/2013. -Staff B was hired as a Medication Aide. -Documentation of a Health Care Personnel Registry (NCHCPR) check completed 08/05/2015 with no listing found on the NCHCPR. -There was no documentation of a NCHCPR check completed for Staff B prior to 08/05/2015.</p> <p>Interview on 08/05/2015 at 3:40pm with the Owner/Administrator revealed: -The Resident Care Coordinator (RCC) was responsible for checking the NCHCPR on new</p>	{D 000}		

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

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D 137	<p>Continued From page 1</p> <p>hires.</p> <ul style="list-style-type: none"> -She did not know if a NCHCPR check had been completed for Staff B prior to today (08/05/2015). -The Owner/Administrator had expectations that NCHCPR checks would be completed before hiring the new staff. <p>Interview on 08/05/2015 at 3:50pm with the Resident Care Coordinator (RCC) revealed:</p> <ul style="list-style-type: none"> -The Administrator-In-Charge (AIC) normally did NCHCPR checks on new staff. -The NCHCPR checks were done upon hire. -When the RCC did a NCHCPR check, she usually called the NCHCPR to complete the NCHCPR check instead of completing the NCHCPR by use of the computer. -The RCC had not done a NCHCPR on Staff B. -When the RCC looked in the personnel file for Staff B earlier today, she did not see a NCHCPR check completed, so the AIC was notified. <p>Interview on 08/05/2015 at 4:25pm with the Administrator-In-Charge (AIC) revealed:</p> <ul style="list-style-type: none"> -The AIC was responsible to complete NCHCPR checks on staff. -The AIC knew the NCHCPR check had been done for Staff B because she (AIC) had checked the NCHCPR for all staff when the facility first opened. -The AIC thought Staff B had another personnel file someplace that would have the NCHCPR check in it. -The AIC would have to look for the other file. <p>Interview with the AIC on 08/05/2015 at 5:15pm revealed Staff B was presently out on sick leave and had last worked at the facility 07/10/2015 as the Medication Aide.</p> <p>No additional NCHCPR checks were provided by</p>	D 137		

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D 137	Continued From page 2 the facility for review.	D 137		
D 139	<p>10A NCAC 13F .0407(a)(7) Other Staff Qualifications</p> <p>10A NCAC 13F .0407 Other Staff Qualifications (a) Each staff person at an adult care home shall: (7) have a criminal background check in accordance with G.S. 114-19.10 and 131D-40;</p> <p>This Rule is not met as evidenced by: TYPE B VIOLATION Based on interview and record review, the facility failed to assure one of four sampled staff (Staff C) had a criminal background check in accordance with G.S. 114-19.10 and 131D-40.</p> <p>The findings are:</p> <p>Review of personnel file for Staff C on 08/05/2015 revealed: -Staff C was hired 06/11/2014. -Staff C was hired as the Activity Assistant and Dietary Aide. -There was no documentation of a criminal background check for Staff C having been done by the facility.</p> <p>Interview with the Owner/Administrator on 08/05/2015 at 3:40pm revealed: -Results of criminal background check done by the facility were kept in a separate file from employee personnel file. -The Administrator-In-Charge (AIC) kept the file with results of staff criminal background checks. -The AIC was responsible for requesting the criminal background checks on facility staff.</p> <p>Interview with the Administrator-In-Charge (AIC)</p>	D 139		

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D 139	<p>Continued From page 3</p> <p>on 08/05/2015 at 4:20pm revealed:</p> <ul style="list-style-type: none"> -The AIC was responsible for getting the criminal background checks completed on facility staff. -The criminal background check on staff was supposed to be done upon hire. -The AIC knew Staff C, and Staff C was a relative of staff at the facility. -The AIC did not have a criminal background check completed on Staff C, nor had the AIC ever had a criminal background check done on Staff C. <p>According to the facility's Plan of Protection dated 8/19/15, the facility's Administrator/Owner will obtain a criminal background check for Staff C immediately. The Administrator/Owner The facility's personnel office will maintain a log with all employee's criminal background checks including the new employees and will prompt the Administrator/Owner if a criminal background check is needed for a new employee to maintain compliance.</p> <p>THE CORRECTION DATE FOR TYPE B VIOLATION SHALL NOT EXCEED SEPTEMBER 19, 2015.</p>	D 139		
D 438	<p>10A NCAC 13F .1205 Health Care Personnel Registry</p> <p>10A NCAC 13F .1205 Health Care Personnel Registry</p> <p>The facility shall comply with G.S. 131E-256 and supporting Rules 10A NCAC 13O .0101 and .0102.</p> <p>This Rule is not met as evidenced by:</p>	D 438		

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D 438	<p>Continued From page 4</p> <p>A2 VIOLATION</p> <p>Based on interviews and record reviews, the facility failed to report allegations of abuse against 1 of 3 staff (Staff A) to the NC Health Care Personnel Registry (NCHCPR), have documentation that alleged acts were investigated and reported to the NCHCPR within 5 days and to protect residents from harm. The findings are:</p> <p>Confidential interview with a resident revealed: -Staff A, personal care aide (PCA) discharged a stun gun which made a loud popping noise against the right outer thigh of the Resident #2, which occurred about 2 -3 weeks ago. -The resident reported the incident to the Administrator-in-Charge (AIC) soon after the incident occurred, the AIC dismissed his claim with a defensive hostile attitude. -The resident stopped reporting complaints to the AIC because she did not do anything to stop the abuse in the past.</p> <p>Confidential interview with a second resident revealed: -The resident told the AIC that Staff A fired a stun gun 3 weeks ago and "she didn't do nothing about (Staff A or Staff C, dietary aide/activity assistant) because it's her son and family." -The AIC has a history of backing up Staff A. -Interviewee remained fearful to tell the AIC of any complaint.</p> <p>Confidential interview with a third resident revealed: - durring the last 3-4 weeks, Staff A and Staff B, PCA refused a morning request on several occasions to change her diaper which did not occur until bedtime.</p>	D 438		

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D 438	<p>Continued From page 5</p> <ul style="list-style-type: none"> -Staff A and B complained to the resident during her diaper change with demeaning comments. -Resident complained to the AIC regarding the verbal abuse and lack of care, and the AIC dismissed her claim. -Resident reported that after her complaint that Staff A and Staff B were really mean to her for a week after, so she does not report any complaints to the AIC anymore because she feared she would get even less care. -Staff B and C were related to the AIC and she protected them dismissing several previous complaints in the past few months. -The resident no longer complained for fear of reprisal. -The AIC and RCC got very irritable anytime a resident or staff member would make a complaint. <p>Confidential Interview with a fourth resident revealed:</p> <ul style="list-style-type: none"> -Interviewee reported being hit by Staff A to the AIC. -When the AIC interviewed the resident, the resident was afraid to say anything regarding being hit by Staff A for fear of reprisal. -The AIC tried to intimidate the resident into saying nothing happened when the resident reported being hit by Staff A. -The interviewee worried someone would discover this conversation with a state surveyor regarding the assault by Staff A. <p>Confidential interview with a fifth resident on 8/4/15 revealed:</p> <ul style="list-style-type: none"> - The resident reported being hit by Staff A to the AIC. - When the AIC interviewed the resident, the resident was afraid to say anything regarding being hit by Staff A for fear of reprisal. 	D 438		

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D 438	<p>Continued From page 6</p> <ul style="list-style-type: none"> - The AIC tried to intimidate the resident into saying nothing happened when the resident reported being hit by Staff A. - The resident worried someone would discover this conversation with the state surveyor regarding the assault by Staff A. <p>Interview with the facility's AIC on 8/4/15 at 4:10pm revealed:</p> <ul style="list-style-type: none"> - Facility policy regarding accusation of resident abuse by staff was to immediately start an in-house investigation. The accused staff member was taken off the schedule immediately and employment may be terminated. The AIC was to send a report to the Health Care Personnel Registry (NCHCPR). - The AIC was aware Resident #1 had accused Staff A of hitting him about 2 weeks ago. - The AIC talked to Resident #1 and the resident stated the accusation was not true. - The RCC had investigated the accusation. - The AIC investigated the accusation the same day and stated "I was done with it." - Staff A was not suspended nor was she was not taken off the schedule during the investigation because she was off on that particular that day. - There was no need to send a 24 hour or a 5 day report to the NCHCPR because the abuse did not happen since it was the resident's word against the staff 's word. - The facility has the authority to determine whether allegations of resident abuse need to be reported to NCHCPR and local law enforcement. - The Owner/Administrator and AIC did not agree or support the mandatory reporting rule after the rule was recited to them from the Adult Health Care rule book. - Staff A's livelihood should not be destroyed due to the jealousy of other female staff at the facility 	D 438		

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D 438	<p>Continued From page 7</p> <p>Interview with Owner/Administrator, AIC, RCC, Staff A and Staff A's family member on 8/5/15 at 4:10pm revealed:</p> <ul style="list-style-type: none"> -Resident #1's allegations of being hit by Staff A were unsubstantiated by the AIC and were not reported to the Health Care Registry. -The AIC and Owner/Administrator did not contact the Health Care Registry because they do not report allegations of abuse that they themselves cannot substantiate. -The AIC stated that Staff A's coworkers were making up allegations of Staff A stunning the residents because they are jealous of her. -The AIC said she would have pulled Staff A from the work schedule if she believed Staff A was abusing residents. -The AIC was aware of an abuse complaint regarding Resident #1 and unsubstantiated the claim stating that Resident #1 recanted his claim thus she did not investigate or report the incident to NCHCPR. -The AIC stated that after a verbal interview with each purported victims of abuse, she never documented the event stating "there was nothing to document because they all denied anything happened." -The AIC would not disclose how many reported allegations there have been in the last year. -The Owner/Administrator and AIC verbalized they did not need to report any abuse to the NCHCPR because they believed there was no history of abuse after each internal investigation. -When informed of the rule to report all allegations of abuse regardless of being their perception of being substantiated or unsubstantiated, the Owner/Administrator and AIC reiterated that there was nothing to report in their eyes so they did not alert the NCHCPR. 	D 438		

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D 438	<p>Continued From page 8</p> <p>-The AIC stated "I am not reporting something (to the NCHCPR) that ain't true."</p> <p>_____</p> <p>According to the facility's Plan of Protection dated 8/4/15, reports of abuse allegations (Resident #1 and #2) will be filed with the NCHCPR on 8/5/15. Staff A was removed immediately from the facility and work schedule during the investigation (8/4/15). The facility's policies will be revised specifically in the area of "reasons for termination." The owner will have a meeting with employees on the topic "No Tolerance Policy and Consequences." The AIC and RCC will request a consult with the area ombudsman for additional education on internal investigation policies and methods. The facility's Resident Care Coordinator will be responsible for completing and sending all 24 hour reports to the HCPR.</p> <p>THE CORRECTION DATE FOR A2 VIOLATION SHALL NOT EXCEED SEPTEMBER 4, 2015.</p>	D 438		
D 457	<p>10A NCAC 13F .1212 (h) Reporting Of Accidents And Incidents</p> <p>10A NCAC 13F .1212 Reporting Of Accidents And Incidents</p> <p>(h) The facility shall immediately report any assault resulting in harm to a resident or other person in the facility to the local law enforcement authority.</p> <p>This Rule is not met as evidenced by: TYPE A2 VIOLATION</p>	D 457		

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D 457	<p>Continued From page 9</p> <p>Based on interview and record reviews, the facility failed to immediately notify local law enforcement of the use of a stun gun by staff.</p> <p>The findings are:</p> <p>[Refer to 10A NCAC 13F.1205 Health Care Personnel Registry (NCHCPR).]</p> <hr/> <p>According to the facility's Plan of Protection dated 8/05/15, the facility will suspend the employee during the investigation, prepare required written reports, notify the state nurse aide registry and notify and cooperate with authorities.</p> <p>THE CORRECTION DATE FOR A2 VIOLATION SHALL NOT EXCEED SEPTEMBER 4, 2015.</p>	D 457		
D914	<p>G.S. 131D-21(4) Declaration of Residents' Rights</p> <p>G.S. 131D-21 Declaration of Residents' Rights Every resident shall have the following rights: 4. To be free of mental and physical abuse, neglect, and exploitation.</p> <p>This Rule is not met as evidenced by: Based on interviews and record reviews, the facility failed to assure every resident was free from physical abuse and neglect as related to Criminal Background Checks, Management of Facility, Residents' Rights and Health Care Personnel Registry. The findings are:</p>	D914		

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D914	<p>Continued From page 10</p> <ol style="list-style-type: none"> Based on interview and record review, the facility failed to assure one of four sampled staff (Staff C) had a criminal background check in accordance with G.S. 114-19.10 and 131D-40. [Refer to Tag D139, 10A NCAC 13F.0407(a)(7) Other Staff Qualifications (Type B Violation).] Based on interviews and record review, the Administrator-in-Charge neglected to protect all residents from abuse by not reporting and investigating allegations of resident abuse and failing to assure that all required duties were carried out in the facility related to criminal background checks, resident rights, health care personnel registry and reporting of accidents and incidents. [Refer to Tag D176, 10A NCAC 13F.0601(a) Management of Facilities (Type A1 Violation).] Based on interviews and record reviews, the facility failed to ensure each resident was free from physical abuse related to the abuse of 2 residents (Resident #1 who was hit by Staff A and Resident #2 who was hit and shocked with a stun gun by Staff A). [Refer to Tag D338, 10A NCAC 13F.0909 Resident Rights (Type A1 Violation).] Based on interviews and record reviews, the facility failed to report allegations of abuse against 1 of 3 staff (Staff A) to the NC Health Care Personnel Registry (NHCPR), have documentation that alleged acts were investigated and reported to the NHCPR within 5 days and to protect residents from harm. [Refer to Tag D348, 10A NCAC 13F.1205 Health Care Personnel Registry (Type A2 Violation).] Based on interview and record reviews, the facility failed to immediately notify local law enforcement of the use of a stun gun by staff. 	D914		

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D914	Continued From page 11 [Refer to Tag D457, 10A NCAC 13F.1212 Reporting of Accidents and Incidents (Type A2 Violation).]	D914		