MSDH - Health Facilities Licensure and Certification

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	24LA	A. BUILDING: _____ B. WING _____	10/19/2017

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
LAKEVIEW NURSING CENTER	16411 ROBINSON ROAD GULFPORT, MS 39503

(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
M 000	Initial Comments CI #CI4814 and #CI4817 The State Agency (SA) conducted an annual survey along with a complaint investigation (CI #CI4814 and #CI4817) from 10/16/17 to 10/19/17. The result of the complaint investigation was unsubstantiated with no deficiencies cited related to the complaints. During the annual recertification survey from 10/16/17 to 10/19/17, the SA determined the facility was not in compliance with State Licensure Regulations for the Aged or Infirm, and cited State Statutes at M460. The census at time of survey was 89 with a license for 105.	M 000		
M 460	45.16.3 Criminal History Record Checks Criminal History Record Checks. Pursuant to Section 43-11-13, Mississippi Code of 1972, the covered entity shall require to be preformed a disciplinary check with the professional licensing agency, if any, for each employee to determine if any disciplinary action has been taken against the employee by the agency, and a criminal history record check on: 1. Every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 01, 2003, and 2. Every employee of a covered entity employed prior to July 01, 2003, who has documented disciplinary action by his or her present employer. 3. Except as otherwise provided in this paragraph, no employee hired on or after July 01,	M 460		11/16/17

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M 460	Continued From page 1 2003, shall be permitted to provide direct patient care until the results of the criminal history record check revealed no disqualifying record or the employee has been granted a waiver. Provided the covered entity has documented evidence of submission of fingerprints for the background check, any person may be employed and provide direct patient care on a temporary basis pending the results of the criminal history record check but any employment offer, contract, or arrangement with the person shall be voidable, if he/she receives a disqualifying criminal record check and no waiver is granted. 4. If such criminal history record check discloses a felony conviction; a guilty plea; and/or a plea of nolo contendere to a felony for one (1) or more of the following crimes which has not been reversed on appeal, or for which a pardon has not been granted, the applicant/employee shall not be eligible to be employed at the licensed facility: a. possession or sale of drugs b. murder c. manslaughter d. armed robbery e. rape f. sexual battery g. sex offense listed in Section 45-33-23(g), Mississippi Code of 1972 h. child abuse i. arson j. grand larceny k. burglary l. gratification of lust m. aggravated assault n. felonious abuse and/or battery of vulnerable adult	M 460		

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M 460	Continued From page 2 5. Documentation of verification of the employee ' s disciplinary status, if any, with the employee ' s professional licensing agency as applicable, and evidence of submission of the employee ' s fingerprints to the licensing agency must be on file and maintained by the facility prior to the new employees first date of employment. The covered entity shall maintain on file evidence of verification of the employee ' s disciplinary status from any applicable professional licensing agency and of submission and/or completion of the criminal record check, the signed affidavit, if applicable, and/or a copy of the referenced notarized letter addressing the individual ' s suitability for such employment. 6. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency shall require every employee of a covered entity employed prior to July 01, 2003, to sign an affidavit stating that he or she does not have a criminal history as outlined in paragraph (3) above. 7. From and after December 31, 2003, no employee of a covered entity hired before July 01, 2003, shall be permitted to provide direct patient care unless the employee has signed an affidavit as required by this section. The covered entity shall place the affidavit in the employee ' s personnel file as proof of compliance with this section. 8. If a person signs the affidavit required by this section, and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed herein, and the conviction or pleas has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is	M 460		

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M 460	Continued From page 3 guilty of perjury as set out in Section 43-11-13, Mississippi Code of 1972. The covered entity shall immediately institute termination proceedings against the employee pursuant to the facility ' s policies and procedures. 9. The covered entity may, in its discretion, allow any employee unable to sign the affidavit required by paragraph (7) of this subsection or any employee applicant aggrieved by the employment decision under this subsection to appear before the covered entity ' s hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the employee or employee applicant to be employed at the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (1) age at which the crime was committed; (2) circumstances surrounding the crime; (3) length of time since the conviction and criminal history since the conviction; (4) work history; (5) current employment and character references; and (6) other evidence demonstrating the ability of the individual does not pose a threat to the health or safety of the patients in the licensed facility. 10. The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars ($50.00). 11. Should results of an employee applicant ' s criminal history record check reveal no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his	M 460		

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M 460	Continued From page 4 or her authorized designee, confirming the employee applicant ' s suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity licensed by the Mississippi State Department of Health without the necessity of an additional criminal record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant ' s criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history check as required in this subsection. 12. For individuals contacted through a third party who provide direct patient care as defined herein, the covered entity shall require proof of a criminal history record check. 13. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency, the covered entity, and their agents, officer, employees, attorneys, and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section. This Statute is not met as evidenced by: Level II	M 460	CNA #1 did not work in the facility at any time once the discrepancy was noted.	

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M 460	Continued From page 5 Based on record review, facility policy review, and staff interviews the facility failed to implement the established methods for the screening of new employee hires for one (1) of six (6) new hire employee files reviewed. Findings include: Review of the facility policy titled "Policy: Preventing Abuse", not dated, revealed that background checks will be completed for all persons seeking employment with the facility. The facility policy revealed that the screening process consist of criminal background checks through the police department, personal character references, employment reference checks through prior employment, and credential checks for Certified Nursing Assistants (CNA) and nurses. Review of the facility personnel file for CNA #1, revealed that the employee was hired on 08/14/17. The personnel file revealed no documentation of previous employer reference checks. There was a letter from the Mississippi State Department of Health (MSDH) dated October 7, 2016, as relating to the Federal Bureau of Investigation (FBI) fingerprint checks. The letter cleared the employee to work within a licensed childcare facility. The letter did not mention any clearance to work within a licensed Long Term Care (LTC) nursing facility. The review of the personnel file for CNA #1 also revealed that CNA #1's employment was terminated with the facility on 09/11/17. During an interview, on 10/17/17 at 1:55 PM, the Nursing Facility Administrator (NFA) confirmed that the new hire screening procedure for CNA #1	M 460	** All residents have the potential to be affected by this same deficient practice. All hire packets were reviewed. There were two other discrepancies which have been corrected. *** Human Resources (HR) will verify all employee references. HR will only accept background letters from the State Department of Health Criminal History Record Check Division that state "this agency found no violations that prevent (name) from working with patients, residents or clients being served by a licensed hospital, nursing home, personal care home, home health agency or hospice". Administrator in-serviced HR personnel on the importance of correct background checks and validating reference checks. **** Quality Assurance (QA)will monitor five new hire files per month (if applicable) for a period of six months to ensure new hire policy has been followed. They will bring their findings to the monthly QA Committee meeting.	

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M 460	Continued From page 6 was incomplete. The NFA stated that when the new hire screening error was discovered, an attempt was made to correct the employee file. However, the employee left the facility resulting in his termination before the new hire screening error could be corrected. During an interview, on 10/18/2017 at 10:20 AM, the Human Resource Director (HRD) confirmed that she had not followed the correct procedure for the new hire screening process for CNA #1. The HRD stated that she had not made any references checks to CNA #1's previous employers. The HRD stated that when CNA #1 presented the letter from MSDH to her at the time of hire, it looked legitimate. The HRD stated that she did not notice any of the discrepancies on the letter. The HRD also stated that she thought that if CNA #1 was clear to work with children that he would be clear to work with the elderly.	M 460		