



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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LME/MCO Joint Communication Bulletin # J423

DATE: July 7, 2022
TO: Local Management Entities/Managed Care Organizations (LME/MCOs)
FROM: Deb Goda, Associate Director, Behavioral Health and I/DD, NC Medicaid
Renee Rader, Interim Deputy Director/Chief Operating Officer, DMH/DD/SAS
SUBJECT: **Placement of Minors in Unlicensed Alternative Family Living Homes (AFLs)**

This bulletin serves to reiterate laws and rules governing both the operation and provision of services within a licensable facility as outlined in [Joint Communication Bulletin #J244](#).

The NC Department of Health and Human Services (DHHS) received notification that LME/MCOs may be participating in the coordination of placement for minor children and adolescents in unlicensed Alternative Family Living Homes (AFLs). **Engagement in this practice must cease as it violates the laws and rules governing licensure of facilities.**

The following is a summary of the main statutes and rules that require an AFL to be licensed if it is providing services to one or more minors or to two or more adults.

1. N.C.G.S. § 122C-3(14) defines a “licensable facility” as “a facility for one or more minors or for two or more adults that provides services to individuals who have mentally illness or intellectual or other developmental disabilities, or substance abusers. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities.”
2. N.C.G.S. § 122C-21 states the purpose of the licensure laws. The purpose of the licensure laws and rules is to provide for licensure of facilities for individuals with mental health disorders, developmental disabilities, and substance use disorders by the development, establishment, and enforcement of basic rules governing the provision of services to individuals who receive services from licensable facilities and the construction, maintenance, and operation of these licensable facilities that, based on existing knowledge, will ensure safe and adequate treatment of these individuals.

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3. N.C.G.S. § 122C-23(a) states “No person shall establish, maintain, or operate a licensable facility for individuals with mental illness, individuals with intellectual or other developmental disabilities, or substance abusers without a current license issued by the Secretary.”
4. 10A NCAC 27G .5601(a) defines “Supervised living” as “a 24-hour facility which provides residential services to individuals in a home environment where the primary purposes of these services is the care, habilitation, or rehabilitation of individuals who have a mental illness, a developmental disability or disabilities, or a substance abuse disorder, and who require supervision when in the residence.”
5. 10A NCAC 27G .5601(b) requires that a supervised living facility “be licensed if the facility serves either: (1) one or more minor clients; or (2) two or more adult clients.”
6. N.C.G.S. § 122C-28 states: “Operating a licensable facility without a license is a Class H felony, including a fine of one thousand dollars (\$1,000) per day that the facility is in operation in violation of [Article 2 of Chapter 122C of the General Statutes].”

In summary, an AFL must be licensed if it serves one or more minors or two or more adults. If LME/MCOs are engaging in the coordination of care and payment of placement in unlicensed facilities that do not meet licensing requirements as written in the statutes and rules, this practice must cease immediately to protect client safety and ensure adequate treatment.

The Division of Health Service Regulation (DHSR) has provided some of the content in this bulletin.

If you have any questions, please contact Chameka Jackson at 919-417-8145 or Chameka.L.Jackson@dhhs.nc.gov.

Previous bulletins can be accessed at: www.ncdhhs.gov/divisions/mhddsas/joint-communication-bulletins

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