

Connecting the Dots

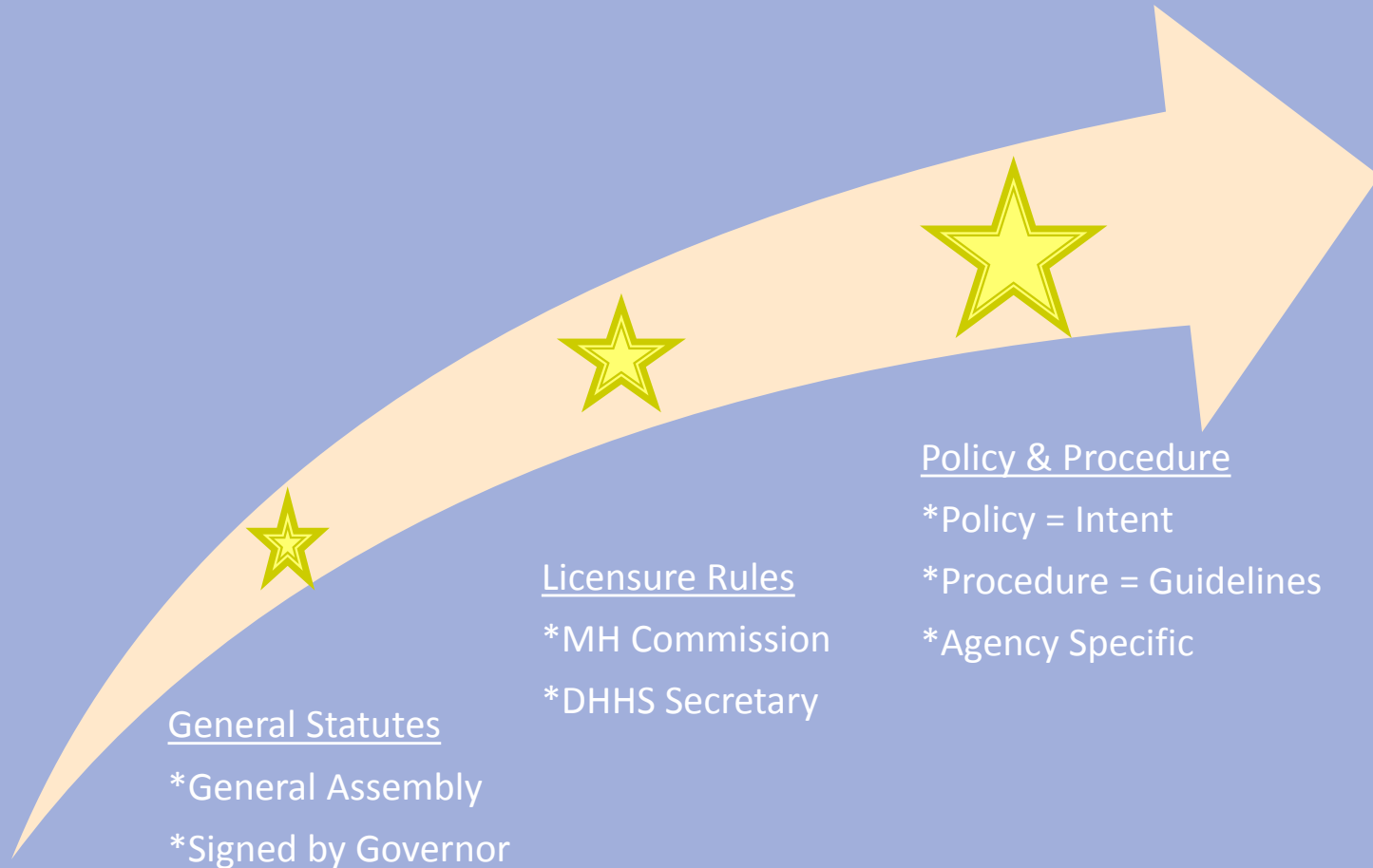
Division of Health Service Regulation
Mental Health Licensure & Certification

Revised 9-4-19

After this Training...

- Each participant will be familiar with the importance of:
 - Rules & Statutes
 - DHSR Survey Process
 - Roles of DHSR, DMH/DD/SAS and LME-MCO
 - Administrative Sanctions
 - Appeal Opportunities
 - Knowing How to Access Resources

Statute, Rule, Policy & Procedure



Policy and Procedure

- Policies are the business rules under which an agency will operate. They ensure consistency and compliance with state rule and statute.
- Policies are the guidelines under which procedures are developed

Are your policies and procedures written clearly enough that your newest least skilled staff person would know what to do?

Applicable Rules

- 10A NCAC Chapter 26 Mental Health, General
- 10A NCAC Chapter 27 Mental Health, Community Facilities and Services

Core Rules

- Every licensed facility must adhere to all core rules in 10A NCAC 27G .0100 - .0905
- Can you think of an example of a core rule?

Core Licensure Rules

- Core rules include, but are not limited to:
 - General & staff definitions
 - Governing body policy requirements
 - Client record requirements
 - Staff record & training requirements
 - Client services & treatment plan requirements
 - Emergency plan requirements
 - Medication requirements
 - Physical plant requirements
 - Licensing requirements
 - Incident reporting requirements

Program Specific Rules

- In addition to core rules, facilities must also adhere to the program specific rules for the licensed service category.
- Program specific rules are within 10A NCAC Chapter 27G .1000 - .7101
- Can you think of an example of a program specific rule for your program?

Program Specific Licensure Rules

- Providers must know the service they are licensed to provide and ensure they adhere to the correct program specific rules
- For example: a provider licensed to provide residential services to adults with mental illness would be licensed as a “5600A”
 - In addition to the core rules, the provider must also adhere to rules 27G .5601 - .5604

Client Rights Rules

- In addition to core and program specific rules, facilities must adhere to all client rights rules.
- Client rights rules are within 10A NCAC Chapter 27 in separate subchapters.
- Client rights rules cannot be waived
- Can you think of an example of a client rights rule?
- And let's not forget rules in 24- Hour facilities.

Related Statutes

- In addition to the NC mental health rules and statutes, facilities must also adhere to a variety of other North Carolina General Statutes aimed at protecting the clients served.
- Can you think of a related statute?

Session Law 2015-36: Burt's Law

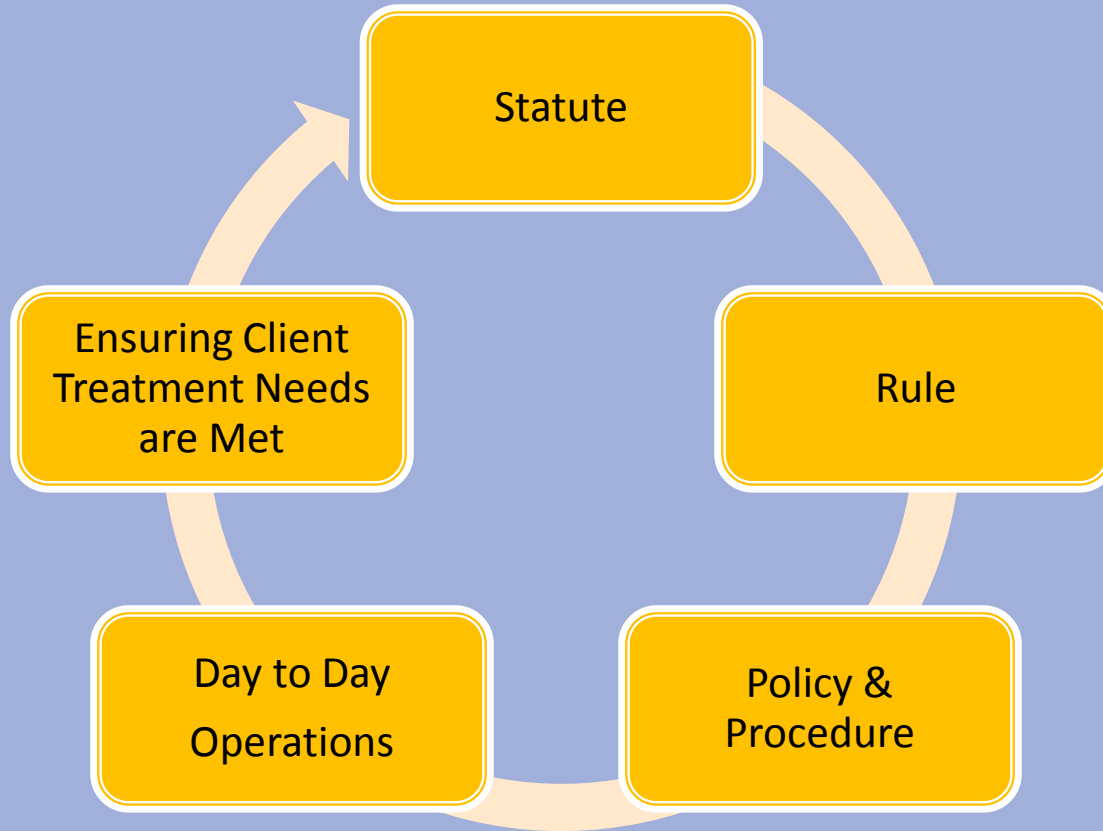
- Effective 12/1/2015
 - Enhances the protections for clients of facilities whose primary purpose is to provide services for the care, treatment habilitation or rehabilitation of individuals with mental illness, developmental disabilities or substance abuse disorders.
 - Imposes a reporting requirement on employees and volunteers who witness a sexual offense or offense against morality perpetrated against a client.
 - Makes failure to report these violations a class A1 misdemeanor.

Session Law 2015-36: Burt's Law

N.C. General Statute 122C-66: Protection from abuse and exploitation; reporting:

“(b1) The employee of or volunteer at a facility who witnesses a client become a victim of a violation of Article 7A or Article 26 of Chapter 14 of the General Statutes shall report the allegations within 24 hours after witnessing the violation to one of the following: (i) the department of social services in the county where the facility serves the client; (ii) the district attorney in the district where the facility serves the client; or (iii) the appropriate local law enforcement agency in the city or county where the facility serves the clients. A violation of this section is a Class A1 misdemeanor. No employee making a report may be threatened or harassed by any other employee of volunteer on account of the report”

Why is this important for me?



Purpose

- The purpose of all MHLC surveys is to determine compliance with rules and statutes

Are treatment needs being met in a safe and healthy environment?

Types of Surveys

- Initial
- Annual
- Complaint
- Follow Up
- Unlicensed Facility Investigations

Surveys are...

- Unannounced
- Client focused
- Conducted using
 - Observation
 - Interviews
 - Record Reviews

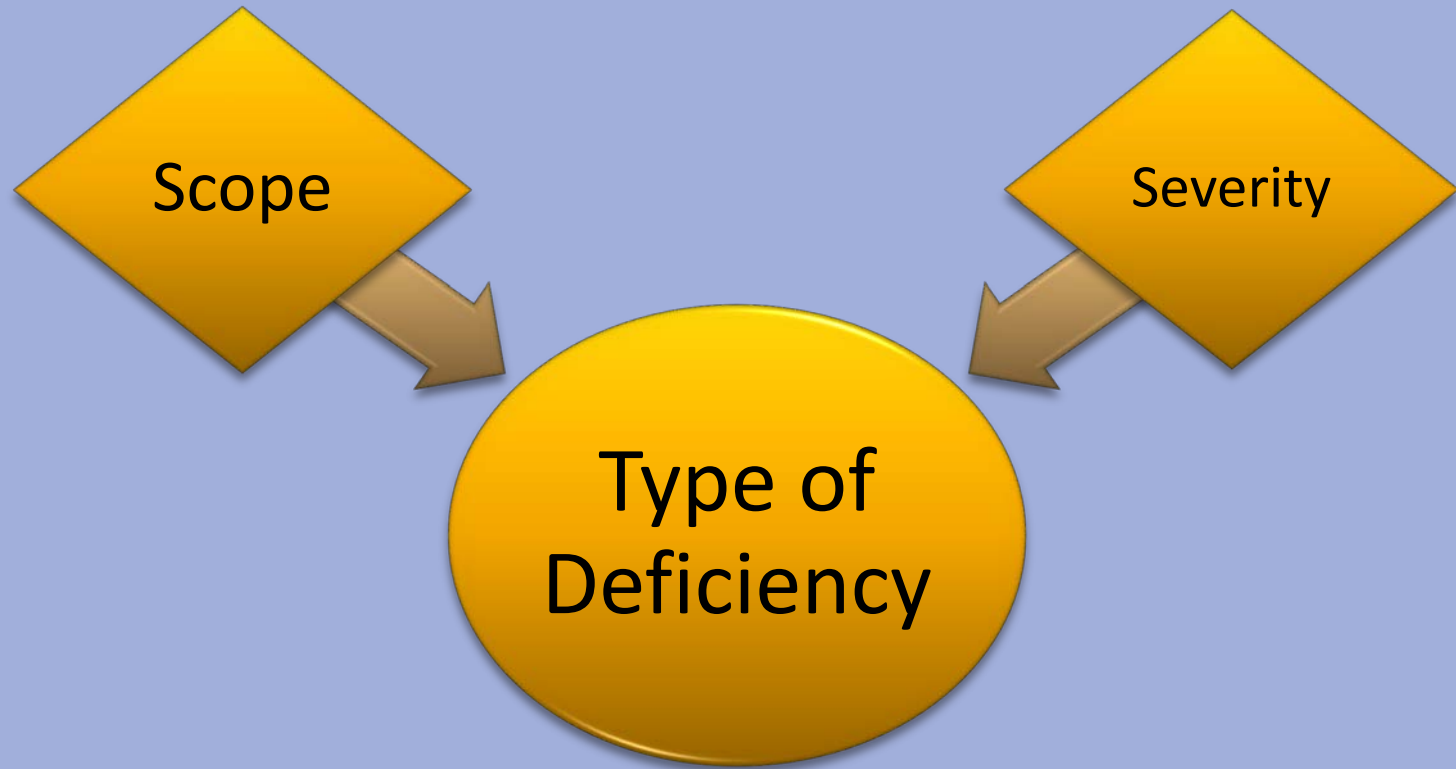
Surveyors...

- Begin a survey with the assumption that the facility is in compliance with rule.
- Are trained to gather evidence to determine compliance and/or non compliance.
- Do not individually interpret rules.
- Do not tell providers how to fix problems.

Annual Survey

- Performed to determine compliance or non-compliance of key rules.
- The surveyor focuses on the rule areas with the greatest impact on the health, safety and welfare of clients.
- Findings indicating non-compliance trigger a more detailed and comprehensive survey of that specific rule area and related rules.

Analyzing Deficiencies



Scope = How Big

Severity = How Bad

Results of the Survey

- Citations are issued as standard deficiencies or as violations.
- Survey results are documented in a statement of deficiencies (SOD).
- The SOD is a report of the *what*. As a licensee, you want to determine the *why*.
 - Don't just refill the client's missing medications. Determine why they ran out so you can develop a plan so you don't run out in the future.

G.S. 122C-24.1 Penalties and Remedies

- Initial penalties range from \$500.00 – \$20,000.00
- Ongoing penalties range from \$200.00 - \$1,000.00 *per day*
- For more information about Penalties and NCGS 122C visit the following web page:
 - <http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0122C>

Violations

- Type A1
- Type A2
- Type B

Licensure Actions

- Suspension of Admissions
- Intent to Revoke
- Notice of Revocation
- Summary Suspension

So What Do I Do Now?

- Read your correspondence CAREFULLY
- Let's look at the example in your Resource Book
- Appeal Rights
 - Formal
 - Informal

Provider Penalty Tracking Database

- Actions entered into the Provider Penalty Tracking Database include:
 - Type A's and Type B violations in Client Rights with accompanying penalties
 - Provisional License downgrade*
 - Summary Suspension
 - Notice of Revocation

<https://providertracking.dhhs.state.nc.us/>

Use of the Database

- If the fine or action is removed as a result of an appeal, the entry is removed.
- An “active” entry means
 - The facility will show findings if an LME/MCO requests compliance information from MHLC.
 - The provider will not be able to open a new facility or Medicaid service until the end of the “Prohibition End Date”

DHSR Role

- To conduct initial, annual, complaint and follow up surveys. Annual surveys are conducted of all residential facilities and all outpatient Opioid treatment facilities.
- Levies penalties and sanctions for non-compliance up to revocation.

Local LME-MCO Role²⁹

- Monitors contracts with all providers
- Conducts routine monitoring of day programs
- Conducts limited monitoring of non-contracted facilities
- Provides technical assistance to providers
- Provides care coordination to consumers.

DHSR and LME-MCO³⁰ Coordination

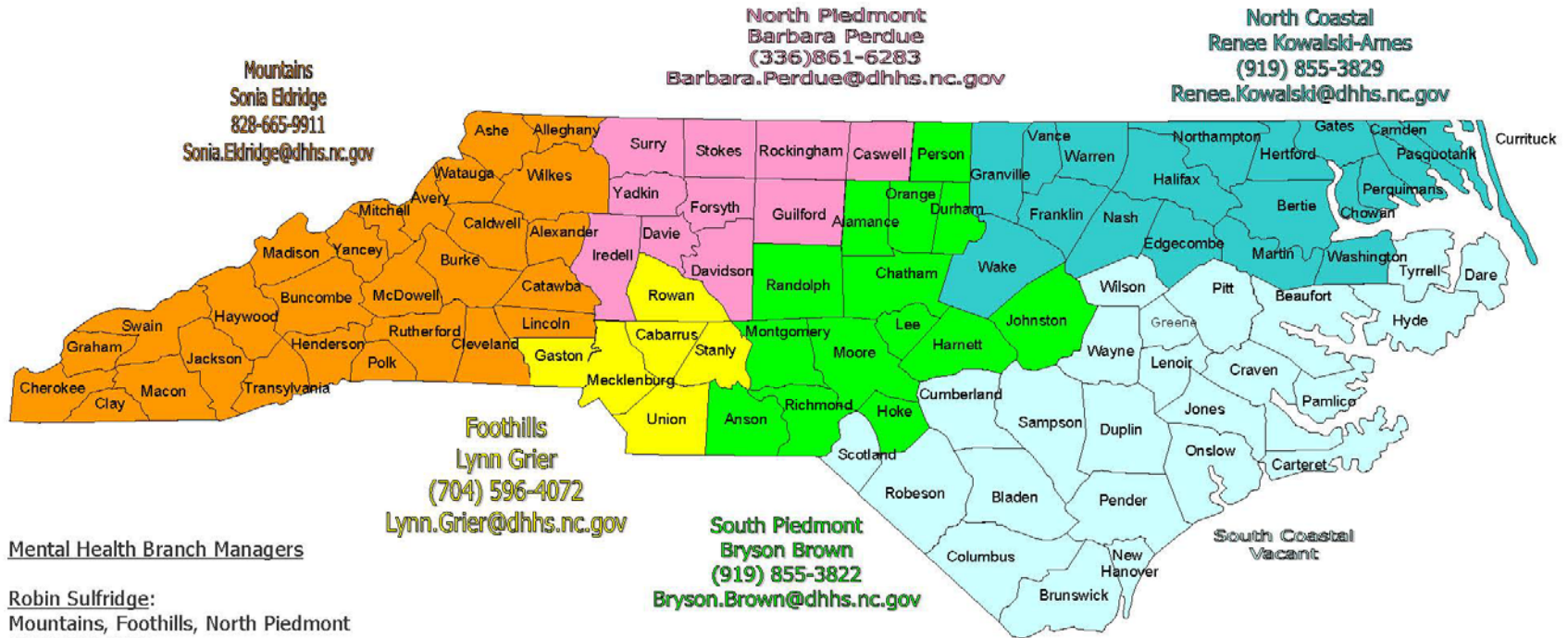
- All statements of deficiency are sent to the home LME/MCO and contracting LME/MCO.
- For Residential Facilities and Outpatient Opioid Treatment Facilities surveys/LME-MCO accept DHSR surveys instead of conducting their own surveys/LME-MCO
- Standard Deficiencies require no monitoring or action by the LME/MCO

LME-MCO Response to DHSR Surveys

- The LME/MCO determines if their individual consumers are getting their treatment needs met in the facility.
- The LME/MCO will make decisions regarding their contract with the provider.

NC Division of Health Service Regulation Mental Health Licensure & Certification Section Mental Health Branch Territories

updated 8/29/19



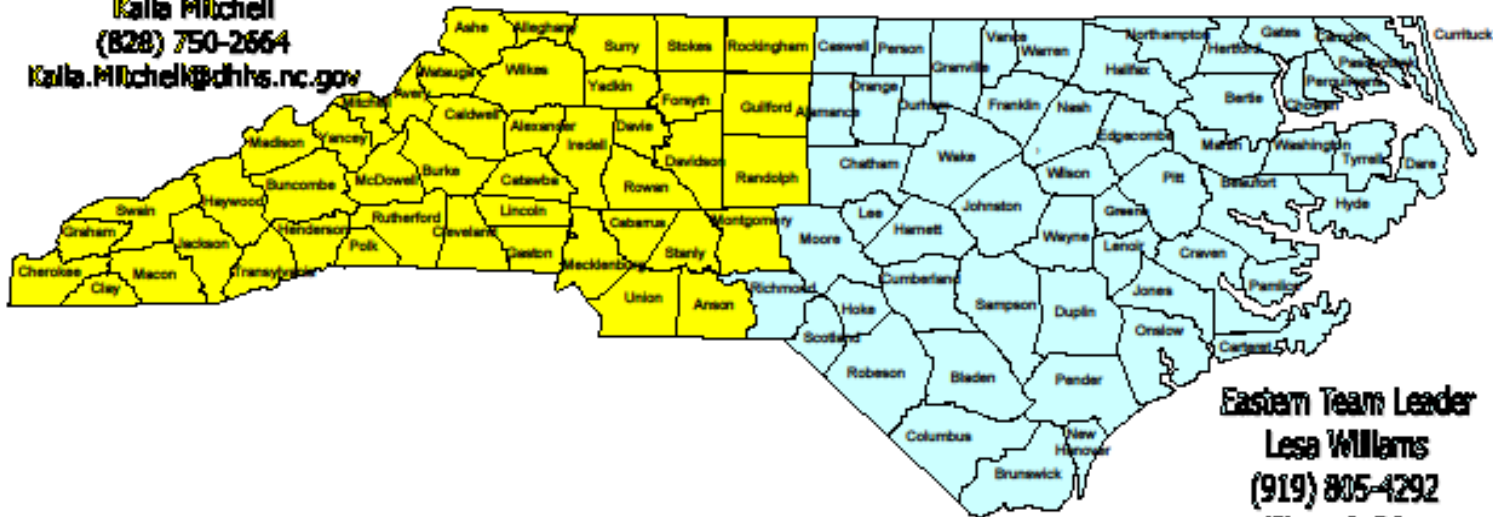
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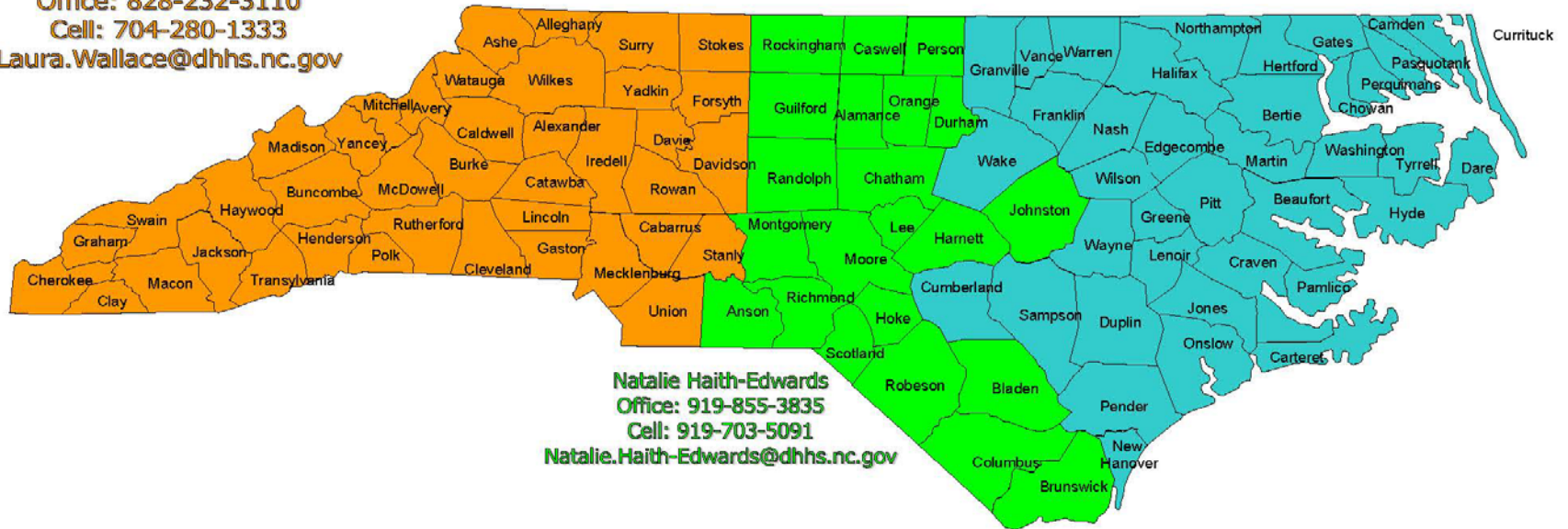
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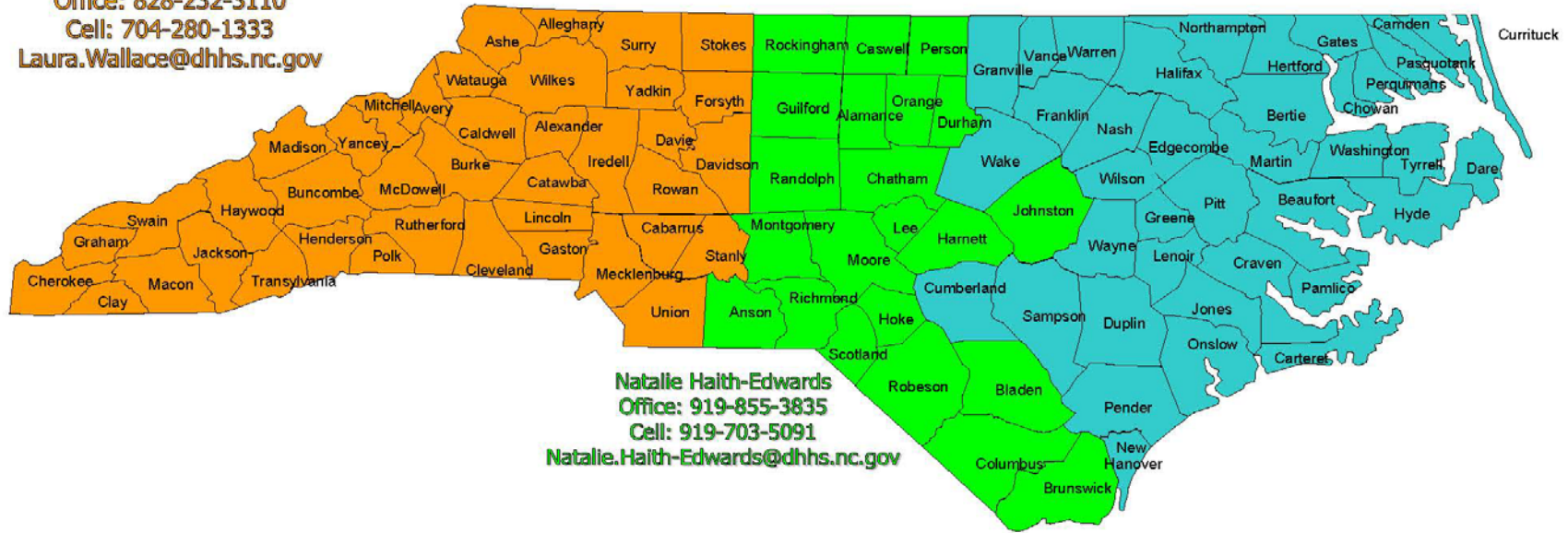
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DHSR MHL&C Resources

- **DHSR MHLC web site:**

- <https://info.ncdhhs.gov/dhsr/>

- **Rules and Resources web page**

- <https://info.ncdhhs.gov/dhsr/mhlcs/rules.html>

- **Forms and Applications web page**

- <https://info.ncdhhs.gov/dhsr/mhlcs/mhforms.html>

- **Provider Trainings web page**

- <https://info.ncdhhs.gov/dhsr/mhlcs/newproviders.html>

- **Provider Penalty Tracking Database web page**

- <https://providertracking.dhhs.state.nc.us/>