

CHAPTER He-P 800 RESIDENTIAL AND HEALTH CARE FACILITY RULES

Statutory Authority: RSA 151:9

PART He-P 807 RULES FOR RESIDENTIAL TREATMENT AND REHABILITATION FACILITIES

Statutory Authority: RSA 151:9, I.

He-P 807.01 Purpose. The purpose of this part is to set forth the licensing requirements for all residential treatment and rehabilitation facilities (RTRF) pursuant to RSA 151:2, I(d).

Source. #1779 eff 7-19-81; ss by #2347, eff 4-28-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5751, eff 12-2-93, EXPIRED: 12-2-99

New. #9873-A, eff 2-24-11

He-P 807.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association or other legal entity operating a RTRF, except:

- (a) All facilities listed in RSA 151:2, II(a)-(g); and
- (b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h).

Source. #9873-A, eff 2-24-11

He-P 807.03 Definitions.

- (a) “Abuse” means any one of the following:
 - (1) “Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of clients;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to clients; and
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving clients with or without his or her informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing and self-management of medications.
- (c) “Administrative remedy” means a corrective action imposed upon a licensee in response to non-compliance with RSA 151 and He-P 807.
- (d) “Administrator” means the person responsible for all aspects of the operation of a RTRF on a day-to-day basis.
- (e) “Admission” means accepted by a licensee for the provision of services to a client.
- (f) “Advance directive” means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make

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health care decisions. The term “advance directive” shall include living wills and durable powers of attorney for health care, in accordance with RSA 137-J.

(g) “Affiliated or related parties” means companies or individuals that serve as operators, landlords, management companies or advisors, real estate or consulting companies, members of limited liability companies, administrative services companies, lenders and companies providing financial guarantees, or captive or affiliated insurance companies.

(h) “Agent” means an adult to whom authority to make health care decisions is delegated under an activated durable power of attorney for health care executed in accordance with RSA 137-J.

(i) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a RTRF pursuant to RSA 151:2, I(d).

(j) “Assessment” means a systematic data collection which enables facility staff to plan care that allows the client to reach his or her highest practicable level of physical, mental, and psychosocial functioning.

(k) “Care plan” means a documented guide developed by the licensee, in consultation with the licensed practitioner, personnel, the client, and/or the client’s guardian, agent or personal representative, if any, as a result of the assessment process for the provision of care and services. This term also includes “treatment plan.”

(l) “Change of ownership” means the transfer in the controlling interest of an established RTRF to any individual, agency, partnership, corporation, government entity, association or other legal entity.

(m) “Chemical restraint” means any medication prescribed to control a client’s behavior or emotional state without a supporting diagnosis, or without the presence of a hospice plan of care, or for the convenience of program staff.

(n) “Client” means any person admitted to or in any way receiving care, services or both from a RTRF licensed in accordance with RSA 151 and He-P 807.

(o) “Client record” means documents maintained for each client receiving care and services, which includes all documentation required by RSA 151 and He-P 807 and all documentation compiled relative to the client as required by other federal and state requirements.

(p) “Clinical or social detoxification” means a residential recovery service provided by appropriately trained staff who provide 24 hour supervision, observation and support for clients who are intoxicated or experiencing withdrawal with no staff-administered medication.

(q) “Commissioner” means the commissioner of the New Hampshire department of health and human services or his or her designee.

(r) “Comprehensive evaluation” means a multi-disciplinary assessment of level of function by healthcare professionals licensed or certified in the field of rehabilitation.

(s) “Contracted employee” means a temporary employee working under the direct supervision of the RTRF but employed by an outside agency.

(t) “Core services” means those services provided by the licensee that are included in the basic rate.

(u) “Days” means calendar days unless otherwise specified in the rule.

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(v) “Deficiency” means any action, failure to act or other set of circumstances that cause a licensee to be out of compliance with RSA 151 or He-P 807.

(w) “Department” means the New Hampshire department of health and human services, at 129 Pleasant St., Concord, NH 03301.

(x) “Detoxification” means a process whereby a client withdraws from taking a substance that is addicting or toxic and that causes physical, emotional or psychological side effects that might require medical attention.

(y) “Direct care personnel” means any person providing hands-on clinical care or hands-on services to a client including but not limited to medical, psychological or rehabilitative treatments, bathing, transfer assistance, feeding, dressing, toileting, and grooming.

(z) “Directed plan of correction” means a plan developed and written by the department that specifies the actions the licensee must take to correct identified deficiencies.

(aa) “Dietitian” means a person who is licensed under RSA 326-H.

(ab) “Do not resuscitate order (DNR order)” means an order, signed by a licensed provider, that in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the client will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs. This term also includes “do not attempt resuscitation order (DNAR order).”

(ac) “Emergency plan” means a document outlining the responsibilities of personnel in an emergency.

(ad) “Employee” means anyone employed by the RTRF and for whom the RTRF has direct supervisory authority.

(ae) “Exploitation” means the illegal use of a client’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from a client through the use of undue influence, harassment, duress, deception or fraud.

(af) “Facility” means “facility” as defined in RSA 151:19, II.

(ag) “Guardian” means a person appointed in accordance with RSA 463, for a minor, RSA 464-A, for an incapacitated adult, or the laws of another state, to make informed decisions over the individual’s person and/or estate.

(ah) “Infectious waste” means those items specified by Env-Sw 103.28.

(ai) “Informed consent” means the decision by a person or his/her guardian or agent to agree to a proposed course of treatment, after the person has received full disclosure of the facts, including information about risks and benefits of the treatment and available alternatives, needed to make the decision intelligently.

(aj) “Inspection” means the process followed by the department to determine a licensee’s compliance with RSA 151 and He-P 807 or to respond to allegations of non-compliance with RSA 151 and He-P 807.

(ak) “License” means the document issued to an applicant which authorizes operation of a RTRF in accordance with RSA 151 and He-P 807, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

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(al) "License certificate" means the document issued by the department to an applicant or licensee that, in addition to the information contained on a license, includes the name of the administrator, the type(s) of services authorized and the number of beds that the RTRF is licensed for.

(am) "Licensed clinical supervisor" means, pursuant to RSA 330-C:2, XIV, an individual licensed by the board to practice and supervise substance use counseling who meets the initial licensing qualifications set forth in RSA 330-C:18.

(an) "Licensed practitioner" means:

(1) Medical doctor;

(2) Physician's assistant;

(3) Advanced practice registered nurse;

(4) Doctor of osteopathy;

(5) Doctor of naturopathic medicine; or

(6) Anyone else with diagnostic and prescriptive powers licensed by the appropriate New Hampshire licensing board.

(ao) "Licensed premises" means the building, or portion thereof, that comprises the physical location the department has approved for the licensee to conduct operations in accordance with its license.

(ap) "Licensee" means any person or legal entity to which a license has been issued pursuant to RSA 151.

(aq) "Mechanical restraint" means devices designed to prohibit a client's free movement, including full bed rails; gates that prohibit a clients free movement throughout the living areas of a unit; half doors that prohibit a clients free movement throughout the living areas of a unit; geri chairs, when used in a manner that prevents or restricts a client from getting out of the chair at will; wrist or ankle restraints; vests or pelvic restraints; or other similar devices that prevent a client's free movement.

(ar) "Medical director" means a medical doctor, advanced practice registered nurse, doctor of osteopathy or doctor of naturopathic medicine licensed in New Hampshire in accordance with RSA 329 or 326-B who is responsible for overseeing the quality of medical care and services in a RTRF.

(as) "Medical detoxification" means a residential recovery service provided by appropriately trained staff who provide 24 hour supervision, observation and support for clients who are intoxicated or experiencing withdrawal with prescription medication administered based on the results of an appropriate assessment tool.

(at) "Medication" means a substance available with or without a prescription, which is used as a curative or remedial substance.

(au) "Neglect" means an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional or physical health and safety of any client.

(av) "Orders" means prescriptions, instructions for administering or discontinuing treatments, special diets or therapies given by a licensed practitioner, or other health professional according to their legally authorized scope of practice.

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(aw) "Owner" means a person or organization who has controlling interest in the RTRF.

(ax) "Patient rights" means the privileges and responsibilities possessed by each client provided by RSA 151:21.

(ay) "Personal representative" means a person designated in accordance with RSA 151:19 to assist the client for a specific, limited purpose or for the general purpose of assisting a client in the exercise of any rights.

(az) "Personnel" means individual(s), either paid or volunteer, including independent contractors, who provide direct care or services to a client.

(ba) "Physical restraint" means the use of any hands-on or other physically applied techniques to physically limit the client's freedom of movement, which include but are not limited to forced escorts, holding, prone restraints or other containment techniques.

(bb) "Plan of correction (POC)" means a plan developed and written by the licensee, which specifies the actions that will be taken to correct identified deficiencies.

(bc) "Procedure" means a licensee's written method of performing duties and providing services.

(bd) "Pro re nata (PRN) medication" means medication taken as circumstances may require.

(be) "Protective care" means the provision of client monitoring services, including but not limited to:

(1) Knowledge of client whereabouts; and

(2) Minimizing the likelihood of accident or injury.

(bf) "Qualifications" means education, experience and skill requirements specified by the federal government, state government, an accredited professional review agency, or by policy of the licensee.

(bg) "Residential treatment and rehabilitation facility"(RTRF) means a place, excluding hospitals as defined in RSA 151-C:2, which provides residential care, treatment and comprehensive specialized services relating to the individual's medical, physical, psychosocial, vocational, educational and or substance abuse therapy needs.

(bh) "Self administration" means an act whereby a person administers his/her own medication.

(bi) "Self administration with supervision" means an act whereby the client takes his or her own medication(s) after being prompted by personnel, but without requiring physical assistance from others.

(bj) "Self directed medication administration" means an act whereby a client, who has a physical limitation that prohibits him or her from self-administering, directs personnel to physically assist in the medication process.

(bk) "Service" means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a client, such as dietary, laboratory, nursing or surgery.

(bl) "Significant change" means a visible or observable change in functional, cognitive or daily activity ability or limitations of the client.

(bm) "Time out" means requesting an individual to remove himself/herself to an area with fewer distractions until he/she can participate in activities without disrupting the current milieu according to a written behavioral program. Time out is not to be utilized as punishment but only as a technique to assist a client to re-gain control of his/her emotions.

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(bn) “Unexplained absence” means an incident involving a client leaving the premises of the RTRF without the knowledge of the RTRF personnel.

(bo) “Unusual incident” means an occurrence of any of the following while the client is either in the RTRF or in the care of RTRF personnel:

- (1) The unanticipated death of a client that is not related to their diagnosis or underlying condition;
- (2) An unexplained accident, fall or other circumstance that has resulted in an injury that requires treatment by a licensed practitioner;
- (3) An unexplained absence from the RTRF or other circumstances that resulted in the notification and/or involvement of law enforcement; or
- (4) Any event that results in the activation of the emergency response plan.

Source. #9873-A, eff 2-24-11

He-P 807.04 Initial License Application Requirements.

(a) Each applicant for a license shall comply with the requirements of RSA 151:4, I-III(a), and submit the following to the department:

- (1) A completed application form entitled “Application for Residential or Health Care License,” signed by the applicant or 2 of the corporate officers affirming the following:

“I affirm that I am familiar with the requirements of RSA 151 and the rules adopted thereunder and that the premises are in full compliance. I understand that providing false information shall be grounds for denial, suspension, or revocation of the license, and the imposition of a fine.”;

- (2) A floor plan of the prospective RTRF;
- (3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in New Hampshire in the form of one of the following:
 - a. “Certificate of Authority,” if a corporation;
 - b. “Certificate of Formation,” if a limited liability corporation; or
 - c. “Certificate of Trade Name,” if a sole proprietorship or if otherwise applicable;
- (4) List of affiliated or related parties;
- (5) The applicable fee in accordance with RSA 151:5, I(c), payable in cash in the exact amount of the fee or, if paid by check or money order, the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”;
- (6) A resume identifying the name and qualifications of the RTRF administrator;
- (7) Copies of applicable licenses and/or certificates for the RTRF administrator;
- (8) Written local approvals as follows:

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a. For an existing building, the following written local approvals shall be obtained no more than 90 days prior to submission of the application, from the following local officials, or if there is no such official(s), from the board of selectmen or mayor:

1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
4. The fire chief verifying that the applicant complies with the state fire code, Saf-C 6000, including the National Fire Protection Association (NFPA) 101 as adopted by the commissioner of the department of safety, and local fire ordinances applicable for an RTRF; and

b. For a building under construction, the written approvals required by a. above shall be submitted at the time of the application based on the local official's review of the building plans and again upon completion of the construction project;

(9) If the RTRF uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Dw 700, or if public water supply, a copy of a water bill; and

(10) The results of a criminal records check from the NH department of safety for the applicant, including the licensee, and administrator, as applicable.

(b) The applicant shall mail or hand-deliver the documents to:

Department of Health and Human Services
Health Facilities Administration
129 Pleasant Street
Concord, NH 03301

Source. #9873-B, eff 2-24-11

He-P 807.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 807.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 807.04(a), the department shall notify the applicant in writing of the items required before the application can be processed.

(c) Any licensing fee submitted to the department in the form of a check or money order and returned to the state for any reason shall be processed in accordance with RSA 6:11-a.

(d) Licensing fees shall not be transferable to any other application(s).

(e) Following an inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 807.

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(f) The department shall deny a licensing request after reviewing the information in He-P 807.04(a)(10) above if it determines that the applicant, licensee or administrator:

- (1) Has been convicted of any felony in this or any other state;
- (2) Has been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;
- (3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person; or
- (4) Otherwise poses a threat to the health, safety or well-being of clients.

Source. #9873-A, eff 2-24-11

He-P 807.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire the following year on the last day of the month it was issued unless a completed application for renewal has been received.

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 807.04(a)(1) at least 120 days prior to the expiration of the current license.

(c) The licensee shall submit with the renewal application:

- (1) The materials required by He-P 807.04(a)(1) and (5);
- (2) The current license number;
- (3) A request for renewal of any existing waivers previously granted by the department, in accordance with He-P 807.10(f), if applicable;
- (4) A statement identifying any variances applied for or granted by the state fire marshal; and
- (5) A list of current employees who have a permanent waiver granted in accordance with He-P 807.18(f).

(d) In addition to (c) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704 for nitrates.

(e) Following an inspection as described in He-P 807.09, a license shall be renewed if the department determines that the licensee:

- (1) Submitted an application containing all the items required by (c) and (d) above as applicable, prior to the expiration of the current license;
- (2) Has submitted a POC that has been accepted by the department and implemented by the licensee if deficiencies were cited at the last licensing inspection or investigation; and
- (3) Is found to be in compliance with RSA 151 and He-P 807 at the renewal inspection.

Source. #9873-A, eff 2-24-11

He-P 807.07 RTRF Construction, Modifications or Renovations.

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(a) Sixty days prior to initiating construction, the RTRF shall provide to the department notice and written plans drawn to scale for construction, renovation or structural alterations for the following:

- (1) A new building;
- (2) Structural alterations to any client area;
- (3) Alterations that require approval from local or state authorities; and
- (4) Alterations that might affect compliance with the health and safety, fire or building codes, including but not limited to, fire suppression, detection systems and means of egress.

(b) The department shall review plans for construction, renovation or structural alterations of a RTRF for compliance with all applicable sections of RSA 151 and He-P 807 and notify the applicant or licensee as to whether the proposed changes comply with these requirements.

(c) Department approval shall not be required prior to initiating construction, renovations or structural alterations, however an applicant or licensee who proceeds prior to receiving approval shall do so at their own risk.

(d) The RTRF shall comply with all applicable licensing rules when doing construction, modifications or alterations.

(e) A licensee or applicant constructing, renovating, or modifying a building shall comply with the following:

- (1) The state fire code, Saf-C 6000, including, but not limited to, NFPA 1 and NFPA 101 as adopted by the commissioner of the department of safety under RSA 153; and
- (2) The state building code as defined in RSA 155-A:1, IV, as amended by the Building Code Review Board pursuant to RSA 155-A:10, V.

(f) All RTRFs newly constructed or renovated after the 2011 effective date of He-P 807 shall follow the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Health Care Facilities," Residential Healthcare chapter or General Hospital chapter, 2010 edition, as applicable.

(g) The completed building shall be subject to an inspection pursuant to He-P 807.09 prior to its use.

Source. #9873-A, eff 2-24-11

He-P 807.08 RTRF Requirements for Organizational Changes.

(a) The RTRF shall provide the department with written notice at least 30 days prior to changes in any of the following:

- (1) Ownership;
- (2) Physical location;
- (3) Address;
- (4) Name;
- (5) Capacity; or
- (6) Affiliated parties or related parties.

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(b) When there is a change in the name, the RTRF shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.

(c) The RTRF shall complete and submit a new application and obtain a new or revised license, license certificate or both, as applicable, prior to operating, for:

- (1) A change in ownership;
- (2) A change in the physical location; or
- (3) An increase in the number of clients beyond what was authorized under the initial license.

(d) When there is a change in address without a change in location the RTRF shall provide the department with a copy of the notification from the local, state or federal agency that requires the change.

(e) The RTRF shall inform the department in writing as soon as possible when there is a change in administrator and provide the department with the following:

- (1) The information specified in He-P 807.04(a)(10);
- (2) A resume identifying the name and qualifications of the new administrator; and
- (3) Copies of applicable licenses for the new administrator.

(f) Upon review of the materials submitted in accordance with (e) above, the department shall make a determination as to whether the new administrator:

- (1) Does not have a history of any of the criteria identified in He-P 807.05(f); and
- (2) Meets the qualifications for the position as specified in He-P 807.18(j).

(g) If the department determines that the new administrator does not meet the qualifications as specified in He-P 807.18(j), it shall so notify the RTRF in writing so that a waiver can be sought or the program can search for a qualified candidate.

(h) When there is to be a change in the services provided, the RTRF shall provide the department with a description of the service change and, where applicable, identify what additional personnel will be hired and their qualifications, how the new services will be incorporated into the infection control and quality improvement programs and describe what changes, if any, in the physical environment will be made.

(i) The department shall review the information submitted under (h) above and determine if the added services can be provided under the RTRF's current license.

(j) An inspection by the department shall be conducted prior to operation when there are changes in the following:

- (1) Ownership, unless the current licensee has no outstanding administrative actions in process and there will be no changes made by the new owner in the scope of services provided;
- (2) The physical location; or
- (3) An increase in the number of clients beyond what was authorized under the initial license.

(k) A new license and license certificate shall be issued for a change in ownership or a change in physical location.

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(l) A revised license and license certificate shall be issued for changes in the RTRF's name.

(m) A revised license certificate shall be issued for any of the following:

- (1) A change of administrator;
- (2) An increase in the number of clients beyond what was authorized under the initial license; or
- (3) When a waiver has been granted.

(n) Licenses issued under (j)(1) above shall expire on the date the license issued to the previous owner would have expired.

(o) The licensee shall return the previous license to the division within 10 days of the RTRF changing its ownership, physical location, address or name.

Source. #9873-A, eff 2-24-11

He-P 807.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 807, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The licensed premises;
- (2) All programs and services provided by the RTRF; and
- (3) Any records required by RSA 151 and He-P 807.

(b) The department shall conduct an inspection to determine full compliance with RSA 151 and He-P 807, to include a clinical and a life safety inspection, prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 807.08(j)(1);
- (3) A change in the licensee's physical location;
- (4) An increase in the number of clients beyond what was authorized under the initial license;
- (5) Occupation of space after construction, renovations or structural alterations; or
- (6) The renewal of a license.

(c) In addition to (b) above, the department shall verify the implementation of any POC accepted or issued by the department.

Source. #9873-A, eff 2-24-11

He-P 807.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 807 shall submit a written request for a waiver to the commissioner that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary;

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(3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and clients as the rule from which a waiver is sought; and

(4) The period of time for which the waiver is sought.

(b) Waivers shall not exceed 12 months, or the current license expiration date, except as allowed by He-P 807.18(g).

(c) A request for waiver shall be granted if the commissioner determines that the alternative proposed by the applicant or licensee:

(1) Meets the objective or intent of the rule;

(2) Does not have the potential to negatively impact the health or safety of the environment of care; and

(3) Does not negatively affect the quality of client services.

(d) The licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(e) Waivers shall not be transferable.

(f) When a licensee wishes to renew the waiver beyond the approved period of time, the licensee shall apply for a new waiver by submitting the information required by (a) above:

(1) When the licensee submits its application for license renewal pursuant to He-P 807.06(c); or

(2) At least 15 days prior to the expiration of the waiver if the waiver expires on a date other than the expiration date of the licensing certificate.

(g) The request to renew a waiver shall be subject to (b) through (f) above.

Source. #9873-A, eff 2-24-11

He-P 807.11 Complaints.

(a) The department shall investigate complaints that allege:

(1) A violation of RSA 151 or He-P 807;

(2) That an individual or entity is operating as a RTRF without being licensed; or

(3) That an individual or entity is advertising or otherwise representing the RTRF as having or performing services for which they are not licensed to provide, pursuant to RSA 151:2, III.

(b) When practicable the complaint shall be in writing and contain the following information:

(1) The name and address of the RTRF, or the alleged unlicensed individual or entity;

(2) The name, address and telephone number of the complainant; and

(3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 807.

(c) For the RTRF, the department shall:

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(1) Provide written notification of the results of the investigation to the licensee along with an inspection report if deficiencies were found as a result of the investigation; and

(2) Notify any other federal, state or local agencies of alleged violations of their statutes or rules based on the results of the investigation, as appropriate.

(d) If the department determines that the complaint is unfounded or that the alleged act does not violate any statutes or rules, the department shall so notify the unlicensed individual or licensee and take no further action.

(e) If the investigation results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 807.12(c).

(f) For the unlicensed individual or entity the department shall provide written notification to the owner or person responsible that includes:

(1) The date of inspection;

(2) The reasons for the inspection; and

(3) Whether or not the inspection resulted in a determination that the services being provided require licensing under RSA 151:2, I(f).

(g) The owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (f) above to respond to a finding that they are operating without a license or submit a completed application for a license in accordance with RSA 151:7-a, II.

(h) If the owner of an unlicensed RTRF does not comply with (g) above, or if the department does not agree with the owner's response, the department shall:

(1) Issue a written warning to immediately comply with RSA 151 and He-P 807; and

(2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.

(i) Any person or entity who fails to comply after receiving a warning, as described in (h) above, shall be subject to an action by the department for injunctive relief under RSA 151:17.

(j) The fact that the department takes action for injunctive relief under RSA 151:17 shall not preclude the department from taking other action under RSA 151, He-P 807 or other applicable laws.

(k) Complaint investigation files shall be confidential in accordance with RSA 151:13, and shall not be disclosed publicly but shall be released by the department on written request only:

(1) To the department of justice when relevant to a specific investigation;

(2) To law enforcement when relevant to a specific criminal investigation;

(3) When a court of competent jurisdiction orders the department to release such information; or

(4) In connection with any adjudicative proceedings relative to the licensee.

Source. #9873-A, eff 2-24-11

He-P 807.12 Administrative Remedies.

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(a) The department shall impose administrative remedies for violations of RSA 151, He-P 807 or other applicable licensing rules, including:

- (1) Requiring a licensee to submit a POC;
- (2) Imposing a directed POC upon a licensee;
- (3) Imposing fines upon an unlicensed individual, applicant or licensee;
- (4) Suspension of a license; or
- (5) Revocation of a license.

(b) When fines are imposed, the department shall provide a written notice, as applicable, which:

- (1) Identifies each deficiency;
- (2) Identifies the specific remedy(s) that has been proposed; and
- (3) Provides the licensee with the following information:
 - a. The right to a hearing in accordance with RSA 541-A and He-C 200 prior to the fine becoming final; and
 - b. The automatic reduction of a fine by 25% if the licensee waives the right to a hearing, the fine is paid within 10 days of the date on the written notice from the department and the deficiency has been corrected, or a POC has been accepted and approved by the department.

(c) A POC shall be developed and enforced in the following manner:

- (1) Upon receipt of a notice of deficiencies, the licensee shall submit a POC detailing:
 - a. How the licensee intends to correct each deficiency;
 - b. What measures will be put in place, or what system changes will be made to ensure that the deficiency does not recur; and
 - c. The date by which each deficiency shall be corrected;
- (2) The licensee shall submit a POC to the department within 21 days of the date on the letter that transmitted the inspection report unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:
 - a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21 day period but has been unable to do so; and
 - b. The department determines that the health, safety or well-being of a client will not be jeopardized as a result of granting the extension;
- (3) The department shall review and accept each POC that:
 - a. Achieves compliance with RSA 151 and He-P 807;
 - b. Addresses all deficiencies and deficient practices as cited in the inspection report;
 - c. Prevents a new violation of RSA 151 or He-P 807 as a result of the implementation of the POC; and

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- d. Specifies the date upon which the deficiencies will be corrected;
- (4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;
- (5) If the POC is not acceptable:
- a. The department shall notify the licensee in writing of the reason for rejecting the POC;
 - b. The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14 day period, the licensee requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:
 - 1. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and
 - 2. The department determines that the health, safety or well being of a client will not be jeopardized as a result of granting the waiver;
 - c. The revised POC shall comply with (1) above and be reviewed in accordance with (3) above; and
 - d. If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with (f)(11) below;
- (6) The department shall verify the implementation of any POC that has been submitted and accepted by:
- a. Reviewing materials submitted by the licensee;
 - b. Conducting a follow-up inspection; or
 - c. Reviewing compliance during the next annual inspection;
- (7) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (8) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection the licensee shall be:
- a. Notified by the department in accordance with (b) above; and
 - b. Issued a directed POC in accordance with (d) below and shall be subject to a fine in accordance with (f)(12) below.
- (d) The department shall develop and impose a directed POC that specifies corrective actions for the licensee to implement when:
- (1) As a result of an inspection, deficiencies were identified that require immediate corrective action to protect the health and safety of the clients and personnel;

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- (2) A revised POC is not submitted within 14 days of the written notification from the department; or
 - (3) A revised POC submitted by the licensee or administrator has not been accepted.
- (e) If at the time of the next inspection the directed POC referenced in (d) above has not been implemented by the completion date stated in the directed POC the department shall, as appropriate:
- (1) Issue a warning that enforcement action will be taken if the POC is not implemented;
 - (2) Impose a fine;
 - (3) Deny the application for a renewal of a license; or
 - (4) Revoke or suspend the license in accordance with He-P 807.13.
- (f) The department shall impose fines as follows:
- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2 the fine shall be \$2000.00 for an applicant or unlicensed provider;
 - (2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant, unlicensed provider or a licensee shall be \$2000.00;
 - (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee or unlicensed provider shall be \$500.00;
 - (4) For a failure to transfer a client whose needs exceeds the services or programs provided by the RTRF in violation of RSA 151:5-a, the fine shall be \$500.00;
 - (5) For admission of a client whose needs exceed the services or programs authorized by the RTRF licensing classification, in violation of RSA 151:5-a, II, and He-P 807.15(a), the fine for a licensee shall be \$1000.00;
 - (6) For a failure to comply with the directives of a warning issued by the department in violation of RSA 151:7-a and He-P 807.11(h), the fine shall be \$500.00;
 - (7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 807.06(b), the fine shall be \$100.00;
 - (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 807.08(a)(1), the fine shall be \$500.00;
 - (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 807.08(a)(2), the fine shall be \$500.00;
 - (10) For a refusal to allow access by the department to the RTRF's premises, programs, services or records, in violation of He-P 807.09(a), the fine for an applicant, individual or licensee shall be \$2000.00;
 - (11) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 807.12(c)(2) or (5)(b), the fine for a licensee shall be \$100.00 unless an extension has been granted by the department;

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- (12) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 807.12(c)(8), the fine for a licensee shall be \$1000.00;
- (13) For a failure to establish, implement or comply with licensee policies, as required by He-P 14(b) the fine for a licensee shall be \$500.00;
- (14) For a failure to provide services or programs required by the licensing classification and specified by He-P 807.14(c), the fine for a licensee shall be \$500.00;
- (15) For exceeding the maximum number of clients, in violation of He-P 807.14(o), the fine for a licensee shall be \$500.00;
- (16) For falsification of information contained on an application or of any records required to be maintained for licensing, in violation of He-P 807.14(u), the fine shall be \$500.00 per offense;
- (17) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 807.18(a) and (j), the fine for a licensee shall be \$500.00;
- (18) For failure to report an unusual incident as required by He-P 807.14(l), the fine for a licensee shall be \$2000.00 per occurrence;
- (20) For failure to report infections and process measures as identified and required by He-P 807.21(b)(5), the fine for a licensee shall be \$1000.00 per occurrence;
- (21) When an inspection determines that a violation of RSA 151 or He-P 807 has the potential to jeopardize the health, safety or well-being of a client, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same deficiency is cited within 2 years of the original deficiency, the fine for a licensee shall be double the initial fine, but not to exceed \$2000.00; and
 - b. If the same deficiency is cited a third time within 2 years of being fined in a. above, the fine for a licensee shall be triple the fine, but not to exceed \$2000.00;
- (22) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 807 shall constitute a separate violation and shall be fined in accordance with He-P 807.12(f); and
- (23) If the applicant or licensee is making good faith efforts to comply with (4), (6) or (17) above, the department shall not issue a daily fine.
- (g) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” or cash in the exact amount due; and
 - (2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.

Source. #9873-A, eff 2-24-11

He-P 807.13 Enforcement Actions and Hearings.

- (a) At the time of imposing a fine, or denying, revoking or suspending a license, the department shall send to the applicant or licensee a written notice that sets forth:

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- (1) The reasons for the proposed action;
 - (2) The action to be taken by the department; and
 - (3) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable before the enforcement action becomes final.
- (b) The department shall deny an application or revoke a license if:
- (1) An applicant or a licensee has violated provisions of RSA 151 or He-P 807, which violations have the potential to harm a client's or employee's health, safety or well-being;
 - (2) An applicant or a licensee has failed to pay a fine imposed under administrative remedies;
 - (3) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order or certified check;
 - (4) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 807.04;
 - (5) An applicant, licensee or any representative or employee of the applicant or licensee:
 - a. Provides false or misleading information to the department;
 - b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
 - c. Fails to provide requested files or documents to the department;
 - (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 807.12(d) and (e);
 - (7) The licensee is cited a third time under RSA 151 or He-P 807 for the same violations within the last 5 inspections;
 - (8) A licensee, including corporation officers or board members, has had a license revoked and submits an application during the 5-year prohibition period specified in (h) below;
 - (9) Upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 807;
 - (10) The department makes a determination that one or more of the factors in He-P 807.05(f) is true; or
 - (11) The applicant or licensee fails to employ a qualified administrator or received a waiver allowing the employment of an administrator who does not meet all of the qualifications listed in He-P 807.18(j).
- (c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.
- (d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.

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(e) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of care of clients when it finds that the health, safety or welfare of clients is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(f) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 807 is achieved.

(g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(h) When a RTRF's license has been denied or revoked, the applicant, licensee or administrator shall not be eligible to reapply for a license or be employed as an administrator for 5 years, if the enforcement action pertained to their role in the RTRF.

(i) The 5 year period referenced in (h) above shall begin on:

(1) The date of the department's decision to revoke or deny the license, if no request for an administrative hearing is requested; or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(j) Notwithstanding (i) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 807.

(k) RSA 541 shall govern further appeals of department decisions under this section.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 807.

(m) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with a deficiency cited by the department on a statement of findings, provided that the applicant or licensee submits a written request for an informal dispute resolution.

(n) The informal dispute resolution shall be requested in writing by the applicant, licensee or program director no later than 14 days from the date the statement of findings was issued by the department.

(o) The department shall review the evidence presented and provide a written notice to the applicant or licensee of its decision.

(p) An informal dispute resolution shall not be available for any applicant or licensee against whom the department has initiated action to suspend, revoke, deny or refuse to issue or renew a license.

Source. #9873-A, eff 2-24-11

He-P 807.14 Duties and Responsibilities of the Licensee.

(a) The licensee shall comply with all relevant federal, state and local laws, rules, codes and ordinances as applicable.

(b) The licensee shall have written policies and procedures setting forth:

(1) The rights and responsibilities of clients in accordance with the patients bill of rights, and

(2) The policies described in He-P 807.14(i), He-P 807.16(c)(1)i., and He-P 807.19(d).

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- (c) The licensee shall provide the following core services:
- (1) Health and safety services to minimize the likelihood of accident or injury, with protective care and oversight provided regarding:
 - a. The clients' functioning, safety and whereabouts;
 - b. The clients' health status, including the provision of intervention as necessary or required; and
 - c. Personnel safety.
 - (2) Emergency response and crisis intervention;
 - (3) Medication services in accordance with He-P 807.17;
 - (4) Food services in accordance with He-P 807.20;
 - (5) Housekeeping, laundry and maintenance services;
 - (6) On-site activities designed to sustain and promote physical, intellectual, social and spiritual well-being of all clients;
 - (7) Assistance in arranging medical and dental appointments, including arranging transportation to and from such appointments and reminding the clients of the appointments; and
 - (8) Personal supervision of clients when required to offset deficits that may pose a risk to self or others if the client is not supervised.
- (d) The licensee shall provide access, as necessary, to the following services pursuant to RSA 151:2, IV and RSA 151:9, VII(a)(4):
- (1) Nursing services, in accordance with RSA 326-B, including supervision and instruction of direct care personnel, relative to the delivery of nursing care;
 - (2) Rehabilitation services, including documentation of the licensed practitioner's order for the service, such as physical therapy, occupational therapy, and speech therapy; and
 - (3) Behavioral health care services.
- (e) The licensee shall:
- (1) Provide basic supplies necessary for clients to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush and toilet paper; and
 - (2) Not be responsible for the cost of purchasing a specific brand of product at a client's request.
- (f) The licensee shall educate personnel about the needs and services required by the clients under their care.
- (g) Physical or chemical restraints shall only be used as allowed by RSA 151:21, IX.
- (h) Immediately after the use of a physical or chemical restraint, the client's guardian or agent, if any, and the department shall be notified of the use of restraints.
- (i) The RTRF shall:

- (1) Have policies and procedures on:
 - a. What type of emergency restraints may be used;
 - b. When restraints may be used; and
 - c. Who may authorize the use of restraints; and
 - (2) Provide personnel with education and training on the limitations and the correct use of restraints.
- (j) The use of physical restraints shall be allowed only as defined under He-P 807.03(ba).
- (k) Time out may be used as an alternative to and is not considered to be a form of restraint
- (l) Licensees shall have responsibility for:
- (1) Providing the following information to the department within 24 hours by telephone, fax or e-mail and in writing within 72 hours, if the initial notice was made by telephone, or if additional information is available, of any unusual incident as defined in He-P 807.03(b):
 - a. The RTRF name;
 - b. A description of the incident, including identification of injuries, if applicable;
 - c. The name of the licensee(s) or personnel involved in, witnessing or responding to the unusual incident;
 - d. The name of client(s) involved in or witnessing the unusual incident;
 - e. The date and time of the unusual incident;
 - f. The action taken in direct response to the unusual incident;
 - g. If medical intervention was required, by whom and the date and time;
 - h. Whether the client's guardian or agent, if any, or personal representative, or emergency contact person was notified;
 - i. The signature of the person reporting the unusual incident; and
 - j. The date and time the client's licensed practitioner was notified, if applicable;
 - (2) Providing the department within 24 hours, by telephone, fax or e-mail the information required by (1) above, and in writing within 72 hours, if the initial notice was made by telephone, or if additional information is available, of the unanticipated death of any client who was living at the RTRF and who's death occurs within 10 days of an unusual incident;
 - (3) Immediately notifying the local police department, the department and the guardian, agent, or personal representative, if any, when a client has an unexplained absence after the licensee has searched the building and the grounds of the RTRF; and
 - (4) Notifying the department with a written report within 72 hours describing the actions taken by personnel, the final outcome or continuation of the unusual incident and actions taken to prevent a reoccurrence.

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- (m) Accidents, injuries and unusual incidents shall be documented and include:
 - (1) The date and time of the occurrence;
 - (2) A description of the occurrence, including identification of injuries, if applicable;
 - (3) The actions taken;
 - (4) The signature of the person documenting the unusual incident; and
 - (5) If medical intervention was required, the date and time that the emergency contact person and guardian or agent, if any, and the licensed practitioner were notified.
- (n) The licensee shall comply with the patient's bill of rights as set forth in RSA 151:19-30.
- (o) The licensee shall not exceed the maximum number of clients or beds licensed by the department, unless authorized by the department, such as during an emergency.
- (p) The licensee shall give a client a written notice as follows:
 - (1) For an increase in the cost or fees for any RTRF services 30 days advanced notice; or
 - (2) For an involuntary change in room or bed location 14 days advanced notice, unless the change is required to protect the health, safety and well-being of the client or other clients, in such case the notice shall be as soon as practicable.
- (q) In addition to the posting requirements specified in RSA 151:29, the licensee shall post the following documents in a public area:
 - (1) The current license certificate issued in accordance with RSA 151:2;
 - (2) The most recent inspection report as specified in RSA 151:6-a;
 - (3) A copy of the patient's bill of rights specified by RSA 151:21;
 - (4) A copy of the licensee's policies and procedures relative to the implementation of client's rights and responsibilities as required by RSA 151:20;
 - (5) A copy of the licensee's complaint procedure, including the address and phone number of the department to which complaints may also be made, which shall also be posted on the RTRF website if available; and
 - (6) The licensee's evacuation floor plan identifying the location of, and access to all fire exits.
- (r) The licensee shall determine the smoking status of the RTRF.
- (s) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66-69 and He-P 807.24(f).
- (t) The licensee may hold or manage a client's funds or possessions only when the facility receives written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other clients or other household members.
- (u) The licensee shall not falsify any documentation required by law or provide false or misleading information to the department.

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(v) The licensee shall respond to a notice of deficiencies by providing a POC in accordance with He-P 807.12(c).

(w) The licensee shall comply with all conditions of warnings and administrative remedies issued by the department and all court orders.

Source. #9873-A, eff 2-24-11

He-P 807.15 Client Admission Criteria, Temporary Absence, Transfer, and Discharge Criteria.

(a) The licensee shall only admit an individual or retain a client whose needs are compatible with the facility and the services and programs offered, and whose needs can be met by the RTRF.

(b) If an individual is admitted who requires lift equipment for transfers, all direct care personnel shall have been trained in the correct operation of such equipment.

(c) A licensee shall not deny admission to any person because that person does not have a guardian or an advanced directive, such as a living will or durable power of attorney for health care, established in accordance with RSA 137-H or RSA 137-J.

(d) The client shall be transferred or discharged, as defined under RSA 151:19, I-a and VII, in accordance with RSA 151:21, V, for reasons including, but not limited to, the following:

(1) The client's medical or other needs exceed the services offered by the licensee or are not otherwise met by third party providers that the licensee has contracted with;

(2) The client cannot be safely evacuated in accordance with Saf-C 6000; or

(3) The client or the client's guardian, if any, determines that the client shall leave the facility.

(e) The licensee shall develop a discharge plan with the input of the client and the guardian or agent, if any.

(f) The following documents shall accompany the client upon transfer:

(1) The most recent client assessment tool, care plan and quarterly progress notes;

(2) The most recent nursing assessment, if applicable;

(3) The most recent multi-disciplinary care plan, if applicable;

(4) Current medication records; and

(5) A licensed practitioner's order for transfer, if applicable.

(g) If the transfer or discharge referenced in (d) above is required by the reasons listed in RSA 151:26, II(b), a written notice shall be given to the client as soon as practicable prior to transfer or discharge.

(h) Notwithstanding (a) and (d) above, a client receiving hospice care from a licensed home health hospice caregiver, may remain in the RTRF upon written agreement with the client or his/her legal guardian and the RTRF.

Source. #9873-A, eff 2-24-11

He-P 807.16 Required Services.

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(a) The licensee shall provide administrative services that include the appointment of a full-time, on-site administrator who:

- (1) Is responsible for the day-to-day operations of the RTRF;
- (2) Meets the requirements of He-P 807.18(j) and (k); and
- (3) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(b) At the time of application for admission, the licensee shall provide the client a written copy of the clientele service agreement pursuant to RSA 161-J:4.

(c) In addition to (b) above, at the time of admission, the licensee shall provide a written copy to the client and the guardian or agent, if any, or personal representative, and receive written verification of receipt for the following:

- (1) An admissions contract including the following information:
 - a. The basic daily, weekly or monthly fee;
 - b. A list of the core services required by He-P 807.14(c) that are covered by the basic fee;
 - c. Information regarding the timing and frequency of cost of care increases;
 - d. The time period covered by the admissions contract;
 - e. The RTRF's house rules;
 - f. The grounds for immediate termination of the agreement, pursuant to RSA 151:21, V;
 - g. The RTRF's responsibility for client discharge planning;
 - h. Information regarding nursing, other health care services or supplies not provided in the core services, to include:
 1. The availability of services;
 2. The RTRF's responsibility for arranging services; and
 3. The fee and payment for services, if known;
 - i. The licensee's policies and procedures regarding:
 1. Arranging for the provision of transportation;
 2. Arranging for the provision of third party services, such as a hairdresser or cable television;
 3. Acting as a billing agent for third party services;
 4. Monitoring third party services contracted directly by the client and provided on the RTRF premises;
 5. Handling of client funds pursuant to RSA 151:24 and He-P 807.14(t);
 6. Storage and loss of the client's personal property; and

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7. Smoking;

j. The licensee's medication management services; and

k. The list of grooming and personal hygiene supplies provided by the RTRF as part of the basic daily, weekly or monthly rate;

(2) A copy of the most current version of the patients' bill of rights under RSA 151: 21 and the RTRF's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;

(3) The RTRF's policy and procedure for handling reports of abuse, neglect or exploitation which shall be in accordance with RSA 161-F:46 and RSA 169-C:29;

(4) Information on advanced directives; and

(5) Whether or not personnel are trained in cardiopulmonary resuscitation (CPR), first aid or both.

(d) The RTRF shall perform a preliminary assessment of each client's needs and develop a preliminary care plan upon admission or within 24 hours following admission.

(e) A comprehensive evaluation shall be completed within 30 days for neuro-rehabilitation facilities or within 7 days for substance abuse rehabilitation facilities.

(f) The evaluation required by (e) above shall:

(1) Be completed in consultation with the client's licensed practitioner, as applicable, and guardian or agent, if any;

(2) Be reviewed every 6 months or after any significant change as defined in He-P 807.03(b1);

(3) Include a medication review;

(4) Include a review of the client's clinical and treatment record; and

(5) Include an assessment for pain, vital signs, physical, cognitive, mental and behavioral status, as well as an assessment as to how the client is psychologically adapting to his or her social environment.

(g) A care plan or treatment plan shall be written and shall include the date the problem or need was identified, the client goal or treatment to be taken, the date of re-evaluation, and responsible person(s), as applicable.

(h) The care plan or treatment plan shall:

(1) Be completed within 24 hours of the comprehensive evaluation;

(2) Be updated following the completion of each future assessment;

(3) Be made available to personnel who assist clients in the implementation of the plan; and

(4) Address the needs identified by the comprehensive evaluation in (e) above.

(i) The care plan or treatment plan as defined in He-P 807.03(k) and required by (g) above, shall include:

(1) The date the problem or need was identified;

- (2) A description of the problem or need;
 - (3) The goal or objective of the plan;
 - (4) The action or approach to be taken;
 - (5) The responsible person(s) or position; and
 - (6) The date of reevaluation, review, or resolution.
- (j) Progress notes shall be written at least monthly and include at a minimum:
- (1) Treatment care plan outcomes;
 - (2) Changes in the client's physical, functional and mental abilities;
 - (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships; and
 - (4) Summary of protective care that has been provided.
- (k) At the time of a client's admission, the licensee shall ensure that orders from a licensed practitioner are obtained for medications, and that special dietary requirements are documented.
- (l) All personnel shall follow the orders of the licensed practitioner for each client and encourage clients to follow the practitioner's orders.
- (m) The licensee shall have each client obtain a health examination by a licensed practitioner within 30 days prior to admission or within 72 hours following admission to the RTRF.
- (n) The health examination in (m) above shall include:
- (1) Diagnoses, if any;
 - (2) The medical history;
 - (3) Medical findings, including the presence or absence of communicable disease;
 - (4) Vital signs;
 - (5) Prescribed and over-the-counter medications;
 - (6) Allergies;
 - (7) Dietary needs; and
 - (8) Pain assessment for neuro-rehabilitation clients.
- (o) Each client shall have at least one health examination every 12 months, unless the licensed practitioner determines that an annual physical examination is not necessary and specifies in writing an alternative time frame, or the client refuses in writing.
- (p) A client may refuse all care and services.
- (q) When a client refuses care or services that could result in a threat to their health, safety or well-being, or that of others, the licensee or their designee shall:
- (1) Inform the client and guardian of the potential results of their refusal;

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- (2) Notify the licensed practitioner of the client's refusal of care; and
 - (3) Document in the client's record the refusal of care and the client's reason for the refusal if known.
- (r) The licensee shall maintain an information data sheet in the client's record and promptly give a copy to emergency medical personnel in the event of an emergency transfer to another medical facility.
- (s) The information data sheet in (r) above shall include:
- (1) Full name and the name the client prefers, if different;
 - (2) Name, address and telephone number of the client's next of kin, guardian or agent, if any;
 - (3) Diagnosis;
 - (4) Medications, including last dose taken and when the next dose is due;
 - (5) Allergies;
 - (6) Functional limitations;
 - (7) Date of birth;
 - (8) Insurance information;
 - (9) Advanced directives; and
 - (10) Any other pertinent information not specified in (1)-(9) above.

Source. #9873-A, eff 2-24-11

He-P 807.17 Medication Services.

- (a) All medications and treatments shall be administered in accordance with the orders of the licensed practitioner, except as allowed in (b) below.
- (b) For facilities providing substance abuse rehabilitation, the facility shall have written approval from the resident's licensed practitioner, at time of admission and annually, of a list of approved over-the-counter (OTC) medications taken in accordance with the directions on the medication container or as ordered by the resident's licensed practitioner.
- (c) Medications, treatments and diets ordered by the licensed practitioner shall be available to give to the client within 24 hours or in accordance with the licensed practitioner's direction.
- (d) The licensee shall have a written policy and system in place instructing how to:
- (1) Obtain any medication ordered for immediate use at the RTRF;
 - (2) Reorder medications for use at the RTRF; and
 - (3) Receive and record new medication orders.
- (e) For each prescription medication being taken by a client, the licensee shall maintain, in the client's record, either the original or a copy of the written order signed by a licensed practitioner.
- (f) Each medication order shall legibly display the following information:

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- (1) The client's name;
- (2) The medication name, strength, prescribed dose and route, if different than by mouth;
- (3) The frequency of administration;
- (4) The indications for usage for all medications that are used PRN; and
- (5) The dated signature of the licensed practitioner.

(g) For PRN medications the licensed practitioner or a pharmacist shall indicate, in writing, the indications for use and any special precautions or limitations to use of the medication, including the maximum allowed dose in a 24-hour period.

(h) Each prescription medication shall legibly display the following information:

- (1) The client's name;
- (2) The medication name, strength, the prescribed dose and route of administration;
- (3) The frequency of administration;
- (4) The indications for usage of all pro re nata (PRN) medications;
- (5) The date ordered;
- (6) The name of the prescribing licensed practitioner; and
- (7) The expiration date of the medication(s).

(i) Pharmaceutical samples shall be used in accordance with the licensed practitioner's written order and labeled by the licensed practitioner, the administrator, licensee or their designee with the client's name and shall be exempt from (h)(2)-(6) above.

(j) The label of all medication containers maintained in the RTRF shall match the current written orders of the licensed practitioner unless authorized by (m) below.

(k) Only a pharmacist shall make changes to prescription medication container labels.

(l) Any change or discontinuation of medications taken at the RTRF shall be pursuant to a written order from a licensed practitioner.

(m) When the licensed practitioner changes the dose of a medication and personnel of the RTRF are unable to obtain a new prescription label:

- (1) The original container shall be clearly and distinctly marked, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the RTRF's written procedure, indicating that there has been a change in the medication order;
- (2) Personnel shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record; and
- (3) The change in dosage, without a change in prescription label as described in (1) and (2) above, shall be allowed for a maximum of 90 days from the date of the new medication order or

until the medications in the marked container are exhausted or, in the case of PRN medications, until the expiration date on the container, whichever occurs first.

- (n) Telephone orders shall be counter-signed by the licensed practitioner within 30 days of receipt.
- (o) Except as allowed in (b) above, over-the-counter medications shall be handled in the following manner:
 - (1) The licensee shall obtain written approval from the client's licensed practitioner annually; and
 - (2) Over-the-counter medication containers shall be marked with the name of the client using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner.
- (p) The medication storage area for medications not stored in the client's room shall be:
 - (1) Locked and accessible only to authorized personnel;
 - (2) Clean and organized with adequate lighting to ensure correct identification of each client's medication(s); and
 - (3) Equipped to maintain medication at the proper temperature.
- (q) All medication at the RTRF shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use except as authorized by (ac)(5) below.
- (r) Topical liquids, ointments, patches, creams, or powder forms of products shall be stored in such a manner that cross contamination with oral, optic, ophthalmic and parenteral products shall not occur.
- (s) If controlled substances, as defined by RSA 318-B, are stored in a central storage area in the RTRF, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.
- (t) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.
- (u) Except as allowed by (w) below, any contaminated, expired or discontinued medication shall be destroyed within 30 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first.
- (v) Controlled drugs shall be destroyed only in accordance with state law and;
 - (1) Be accomplished in the presence of at least 2 people; and
 - (2) Be documented in the record of the client for whom the drug was prescribed.
- (w) Medication(s) may be returned to pharmacies for credit only as allowed by the law.
- (x) When a client is going to be absent from the RTRF at the time medication is scheduled to be taken, the medication container shall be given to the client if the client is capable of self-administering, as described in (ac) and (ad) below.
- (y) If a client is going to be absent from the RTRF at the time medication is scheduled to be taken and the client is not capable of self-administering, the medication container shall be given to the person responsible for the client while the client is away from the RTRF.

(z) Upon discharge or transfer, the licensee shall make the client's current medications available to the client and the guardian or agent, if any.

(aa) A written order from a licensed practitioner shall be required annually for any client who is authorized to carry emergency medications, including but not limited to nitroglycerine and inhalers.

(ab) Clients shall receive their medications by one of the following methods:

- (1) Self-administered medication as allowed by (ac) below;
- (2) Self-directed administration of medication as allowed by (ad) below;
- (3) Self-administered with supervision as allowed by (ae) and (af) below; or
- (4) Administered by individuals authorized by law.

(ac) For clients who self-administer medication as defined in He-P 807.03(bh) the licensee shall:

- (1) Obtain a written order from a licensed practitioner on an annual basis:
 - a. Authorizing the client to self-administer medications without supervision;
 - b. Authorizing the client to store the medications in their room; and
 - c. Identifying the medications that may be kept in the client's room;
- (2) Evaluate the client on a 6 month basis or sooner, based on a significant change in the client, to ensure they maintain the physical and mental ability to self-administer;
- (3) Have the client store the medication(s) in his or her room by keeping them in a locked drawer or container to safeguard against unauthorized access and making sure that this arrangement will maintain the medications at proper temperatures;
- (4) Have a copy of the key to access the locked medication storage area in the client's room; and
- (5) Allow the client to fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.

(ad) The licensee shall allow the client to self-direct administration of medications as defined in He-P 807.03(bj) if the client:

- (1) Has a physical limitation due to a diagnosis that prevents them from self-administration;
- (2) Receives evaluations every 6 months or sooner, based on a significant change in the client, to ensure the client maintains the physical and mental ability to self-direct administration of medications;
- (3) Obtains an annual written verification of their physical limitation and self-directing capabilities from their licensed practitioner and requests the RTRF to file the verification in their client record; and
- (4) Verbally directs personnel to:
 - a. Assist them with preparing the correct dose of medication by pouring, applying, crushing, mixing or cutting; and

b. Assist the client to apply, ingest or instill the ordered dose of medication.

(ae) If a client self-administers medication with supervision, as defined in He-P 807.03(bi), personnel shall:

- (1) Remind the client to take the correct dose of his or her medication at the correct time;
- (2) Place the medication container within reach of the client;
- (3) Remain with the client to observe the client taking the appropriate amount and type of medication as ordered by the licensed practitioner;
- (4) Record on the client's daily medication record that they have supervised the client taking his or her medication; and
- (5) Document in the client's record any observed or reported side effects, adverse reactions, and refusal to take medications and or medications not taken.

(af) If a client self-administers medication with supervision, personnel shall not physically handle the medication in any manner.

(ag) Medication administered by individuals authorized by law to administer medications shall be:

- (1) Prepared immediately prior to administration; and
- (2) Prepared, identified, and administered by the same person in compliance with RSA 318-B and RSA 326-B.

(ah) Personnel shall remain with the client until the client has taken the medication.

(ai) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall follow the requirements of RSA 326-B.

(aj) A licensed nursing assistant (LNA) who is not licensed as a medication nurse assistant in accordance with RSA 326-B may administer the following when under the direction of the licensed nurse employed by the RTRF:

- (1) Medicinal shampoos and baths;
- (2) Glycerin suppositories and enemas; and
- (3) Medicinal topical products to intact skin as ordered by the licensed practitioner.

(ak) Except for those clients who self-administer medication, the licensee shall maintain a written record for each medication taken by the client at the RTRF that contains the following information:

- (1) Any allergies or allergic reactions to medications
- (2) The medication name, strength, dose, frequency and route of administration;
- (3) The date and the time the medication was taken;
- (4) The signature, identifiable initials and job title of the person who administers, supervises or assists the client taking medication;
- (5) For PRN medications, the reason the client required the medication and the effect of the PRN medication; and

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(6) Documented reason for any medication refusal or omission.

(al) Personnel who are not otherwise licensed practitioners, nurses or medication nursing assistants and who assist a client with self-administration with supervision, self-directed administration or administration of medication via nurse delegation shall complete, at a minimum, a 4-hour medication supervision education program covering both prescription and non-prescription medication.

(am) The medication supervision education program shall be taught by a licensed nurse, licensed practitioner or pharmacist, whether in-person or through other means such as electronic media.

(an) The medication supervision education program required by (al) above shall include:

(1) Infection control and proper hand washing techniques;

(2) The 5 rights which are:

a. The right client;

b. The right medication;

c. The right dose;

d. Administered at the right time; and

e. Administered via the right route;

(3) Documentation requirements;

(4) General categories of medications such as antihypertensives or antibiotics;

(5) Desired effects and potential side effects of medications; and

(6) Medication precautions and interactions.

(ao) The administrator may accept documentation of training required by (al) above if it was previously obtained by the applicant for employment at another licensed facility.

(ap) The licensee shall develop and implement a system for reporting any observed adverse reactions to medication and side effects, or medication errors such as incorrect medications, within 24 hours of the adverse reaction or medication error.

(aq) The written documentation of the report in (ap) above shall be maintained in the client's record.

Source. #9873-A, eff 2-24-11

He-P 807.18 Personnel.

(a) The licensee shall ensure that sufficient numbers of qualified personnel are present in the RTRF to meet the needs of clients at all times.

(b) There shall be at least one awake personnel member on duty at all times while clients are in the facility.

(c) Notwithstanding (b) above, for those RTRFs with 8 or fewer beds, an awake personnel member shall not be required during the night if:

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(1) There is an electronic communication system whereby the client can contact and awaken the sleeping personnel member via an intercom or other communication system in the personnel member's room; and

(2) The RTRF meets the needs of the client at all times as identified in their care plan.

(d) For all new hires, including employees and volunteers whose scope of employment will involve direct contact with a client, client records or client tissue, body fluids or other biological material, the licensee shall:

(1) Obtain and review a criminal records check from the New Hampshire department of safety in accordance with RSA 151:3-c;

(2) Review the results of the criminal records check in accordance with (e) below and verify the qualifications of all applicants prior to employment; and

(3) Verify that the potential employee is not listed on the BEAS Registry maintained by the department's bureau of elderly and adult services.

(e) Unless a waiver is granted in accordance with (f) below, the licensee shall not offer employment for any position if the individual:

(1) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;

(2) Has been found by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person; or

(3) Otherwise poses a threat to the health, safety or well-being of the clients.

(f) The department shall grant a waiver of (e) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of clients.

(g) The waiver in (f) above shall be permanent for as long as the individual remains in the same job unless additional convictions or findings under (e) above occur.

(h) If the information identified in (e) above regarding any employee is learned after the person is hired, the licensee shall immediately notify the department.

(i) The department shall review the information in (e) above and notify the licensee that the individual can no longer be employed if, after investigation, it determines that the individual poses a threat to the health, safety or well-being of a client.

(j) Administrators appointed after the 2011 effective date of these rules shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:

(1) A bachelor's degree from an accredited institution and one year of relevant experience working in a health related field;

(2) A New Hampshire license as an RN, with at least one year relevant experience working in a health related field; or

(3) An associate's degree from an accredited institution plus 3 years relevant experience in a health related field.

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(k) All administrators shall obtain and document in accordance with (s)(7) and (s)(8) below, 12 hours of continuing education related to the operation and services of the RTRF each annual licensing period.

(l) All personnel shall be at least 18 years of age if working as direct care personnel unless they are:

(1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or

(2) Involved in an established educational program working under the supervision of a licensed clinical supervisor.

(m) The licensee shall inform personnel of the line of authority at the RTRF.

(n) Prior to having contact with clients or food, personnel shall:

(1) Submit to the licensee the results of a physical examination or a health screening and submit results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, conducted not more than 12 months prior to employment;

(2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB; and

(3) Comply with the requirements of the Centers for Disease Control "Guidelines for Preventing the Transmission of Tuberculosis in Health Facilities/Settings" (2005) if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to *M. tuberculosis* through shared air space with persons with infectious tuberculosis.

(o) Within the first 7 days of employment all personnel shall receive a tour of the RTRF and an orientation that explains the following:

(1) The clients' rights in accordance with RSA 151:20;

(2) The RTRF's complaint procedures;

(3) The duties and responsibilities of the position;

(4) The medical emergency procedures;

(5) The emergency and evacuation procedures;

(6) The infection control procedures as required by He-P 807.21;

(7) The procedures for food safety for personnel involved in preparation, serving and storing of food; and

(8) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

(p) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:

(1) The licensee's client's rights and complaint procedures required under RSA 151;

(2) The licensee's infection control program; and

(3) The licensee's written emergency plan.

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(q) The licensee shall provide an annual review of its policies and procedures for self-administration of medication, self-administration of medication with supervision and self-directed medication administration to all direct care personnel, as applicable.

(r) The personnel file for each individual shall include the following:

- (1) A completed application for employment or a resume;
- (2) Proof that the individual meets the minimum age requirements;
- (3) A statement signed by each individual that he or she has received a copy of and received training on the implementation of the licensee's policy setting forth the clients rights and responsibilities as required by RSA 151:21;
- (4) A copy of the results of the criminal record check as described in (d) above;
- (5) A job description signed by the individual that identifies the:
 - a. Position title;
 - b. Qualifications and experience; and
 - c. Duties required by the position;
- (6) Record of satisfactory completion of the orientation program required by (o) above;
- (7) Information as to the general content and length of all in-service or educational programs attended;
- (8) Record of satisfactory completion of all required education programs required by (k) and (p) above;
- (9) A copy of a valid driver's license if the personnel member transports clients;
- (10) Documentation that the required physical examinations, health screenings, TB test results, and radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals; and
- (11) The statement required by (s) below.

(s) All personnel shall sign a statement at the time the initial offer of employment is made and then annually thereafter stating that they:

- (1) Do not have a felony conviction in this or any other state;
- (2) Have not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a client; or
- (3) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person.

(t) For individuals with the waiver described in (f) above, the statement required by (s) above shall cover the period of time since the waiver was granted.

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(u) An individual shall not be required to re-disclose any of the matters in (s) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment.

Source. #9873-A, eff 2-24-11

He-P 807.19 Client Records.

(a) The licensee shall maintain a legible, current and accurate record for each client based on services provided at the RTRF.

(b) At a minimum, client records shall contain the following:

- (1) A copy of the client's service agreement and all documents required by He-P 807.16(c);
- (2) Identification data, including:
 - a. Vital information including the client's name, date of birth, and marital status;
 - b. Client's religious preference, if known;
 - c. Client's veteran status, if known; and
 - d. Name, address and telephone number of an emergency contact person;
- (3) The name and telephone number of the client's licensed practitioner(s);
- (4) The client's health insurance information;
- (5) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
- (6) A record of the health examination(s) in accordance with He-P 807.16(m) and (o);
- (7) Written, dated and signed orders for the following:
 - a. All medications, treatments and special diets, as applicable; and
 - b. Laboratory services and consultations performed at the RTRF;
- (8) Results of any laboratory tests, X-rays or consultations performed at the RTRF;
- (9) All assessments and care and treatment plans, including documentation that the client and the guardian or agent, if any, has participated in the development of the care and treatment plans;
- (10) All admission and progress notes;
- (11) If services are provided at the RTRF by individuals not employed by the licensee, documentation that includes the name of the agency providing the services, the date services were provided, the name of the person providing services and a brief summary of the services provided;
- (12) Documentation of any alteration in the client's daily functioning such as:
 - a. Signs and symptoms of illness; and
 - b. Any action that was taken including practitioner notification;

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- (13) Documentation of any medical or specialized care;
 - (14) Documentation of unusual incidents;
 - (15) The consent for release of information signed by the client, guardian or agent, if any;
 - (16) Discharge planning and referrals;
 - (17) Transfer or discharge documentation, including notification to the client, guardian or agent, if any, of involuntary room change, transfer or discharge, if applicable;
 - (18) The information required by He-P 807.17(ak) as applicable;
 - (19) Information data sheet, which contains the information required by He-P 807.16(s);
 - (20) Documentation of nurse delegation of medications as required by the nurse practice act, as applicable; and
 - (21) Documentation of a client's refusal of any care or services.
- (c) Client records and client information shall be kept confidential and only provided in accordance with law.
- (d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a client's record shall occur. For all substance abuse rehabilitation facilities, this shall include compliance with 42 CFR part 2C of the Center for Medicaid Services rules.
- (e) When not being used by authorized personnel, client records shall be safeguarded against loss or unauthorized use or access.
- (f) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of residents and personnel that, at a minimum, include:
- (1) Procedures for backing up files to prevent loss of data;
 - (2) Safeguards for maintaining the confidentiality of information pertaining to residents and staff; and
 - (3) Systems to prevent tampering with information pertaining to residents and staff.
- (g) Records shall be retained for 4 years after discharge, except that when the client is a minor, records shall be retained until the person reaches the age of 19, but no less than 4 years after discharge.
- (h) The licensee shall arrange for storage of, and access to, client records as required by (g) above in the event the RTRF ceases operation.

Source. #9873-A, eff 2-24-11

He-P 807.20 Food Services.

- (a) The licensee shall provide food services that meet:
- (1) The US Department of Agriculture recommended dietary allowance as specified in the 2005 Dietary Guidelines for Americans;
 - (2) The nutritional needs of each client; and

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- (3) The special dietary needs associated with health or medical conditions for each client as identified on the nursing assessment.
- (b) Each client shall be offered at least 3 meals in each 24-hour period when the client is in the licensed premise unless contraindicated by the client's care plan.
- (c) There shall be no more than 14 hours between the evening meal and breakfast except if:
 - (1) The licensee offers snacks at bedtime;
 - (2) The client agrees, in writing, to allow more than 14 hours between the evening meal and breakfast; or
 - (3) The client refuses to eat a specific meal.
- (d) Snacks shall be available between meals and at bedtime if not contraindicated by the client's care plan.
- (e) If a client refuses the item(s) on the menu, a substitute shall be offered.
- (f) Each day's menu shall be posted in a place accessible to food service personnel and clients.
- (g) A dated record of menus as served shall be maintained for at least the previous 4 weeks.
- (h) The licensee shall provide therapeutic diets to clients only as directed by a licensed practitioner or other professional with prescriptive authority.
- (i) If a client has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the client's medical record and notify the client's licensed practitioner.
- (j) For the purposes of emergency preparedness, each licensee shall have the following supplies of foods maintained on the premises for the licensed capacity:
 - (1) Enough refrigerated, perishable foods for a 3-day period;
 - (2) Enough non-perishable foods for a 7-day period; and
 - (3) Enough drinking water for a 3-day period.
- (k) All food and drink provided to the clients shall be:
 - (1) Safe for human consumption and free of spoilage or other contamination;
 - (2) Stored, prepared and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;
 - (3) Served at the proper temperatures;
 - (4) Labeled, dated and stored at proper temperatures; and
 - (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.
- (l) The use of outdated, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded.

(m) All food not in the original package shall be stored in labeled and dated containers designed for food storage.

(n) All work surfaces shall be cleaned and sanitized after each use.

(o) All dishes, utensils and glassware shall be in good repair, cleaned and sanitized after each use and properly stored.

(p) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.

(q) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.

(r) If soiled linen is transported through food service areas, the linen shall be in an impervious container.

(s) Garbage or trash in the kitchen area shall be placed in lined containers with covers.

(t) All RTRF persons involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

Source. #9873-A, eff 2-24-11

He-P 807.21 Infection Control.

(a) The RTRF shall develop and implement an infection control program that educates and provides procedures for the prevention, control, and investigation of infectious and communicable diseases.

(b) The infection control program shall include written procedures for:

(1) Proper hand washing techniques;

(2) The utilization of standard precautions, as specified by the United States Centers for Disease Control and Prevention "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings," June 2007;

(3) The management of clients with infectious or contagious diseases or illnesses;

(4) The handling, storage, transportation and disposal of those items identified as infectious waste in Env-Sw 103.28;

(5) The reporting of infectious and communicable diseases as required by He-P 301; and

(6) Maintenance of a sanitary physical environment.

(c) The infection control education program shall address at a minimum the:

(1) Causes of infection;

(2) Effects of infections;

(3) Transmission of infections; and

(4) Prevention and containment of infections.

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(d) Personnel infected with a disease or illness transmissible through food, fomites or droplets, shall not work in food service or provide direct care in any capacity without personal protection equipment to prevent disease transmission until they are no longer contagious.

(e) Personnel infected with scabies or lice shall not provide direct care to clients or work in food services until such time as they are no longer infected.

(f) Pursuant to RSA 141-C:1, personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the RTRF until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.

(g) Personnel with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight fitting bandage.

(h) Each licensee caring for clients with infectious or contagious diseases shall have available appropriate isolation accommodations, equipment, rooms and personnel as specified by the United States Centers for Disease Control and Prevention "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings," June 2007.

(i) The licensee shall arrange for and document the immunization of all consenting clients for pneumococcal disease, as applicable, and all consenting personnel and clients for influenza in accordance with RSA 151:9-b and report immunization data to the department's immunization program.

Source. #9873-A, eff 2-24-11

He-P 807.22 Sanitation.

(a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.

(b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary and in good repair.

(c) A supply of potable water shall be available for human consumption and food preparation.

(d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the clients.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the Facility Guidelines Institute "Guidelines for the Design and Construction of Health Care Facilities," Residential Healthcare chapter, 2010 edition, and summarized as follows:

(1) 105-120 degrees Fahrenheit for clinical areas, representing the minimum and maximum allowable temperatures;

(2) 120 degrees Fahrenheit for dietary areas, except that provisions shall be made to provide 180 degrees Fahrenheit rinse water at the warewasher, which may be by separate booster, unless a chemical rinse is provided; and

(3) 160 degrees Fahrenheit for laundry by steam jet or separate booster heater, unless a proven processes which allows cleaning and disinfection of linen with decreased water temperatures is used which meets the designed water temperatures specified by the manufacturer.

(f) All client bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination.

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(g) Cleaning solutions, compounds and substances considered hazardous or toxic materials, as defined in RSA 147-A:2 VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place, such as a locked box, separate from food, medications and client supplies.

(h) Toxic materials shall not be used in a way that contaminates food, equipment or utensils or in any way other than in full compliance with the manufacturer's labeling.

(i) Only individuals authorized under RSA 430:33 may apply pesticides, as defined by RSA 430:29, XXVI, in food storage, food preparation or dining areas.

(j) Solid waste, garbage and trash shall be stored in a manner to make it inaccessible to insects and rodents, outdoor animals and facility pets.

(k) In-house trash and garbage receptacles shall be emptied in a timely manner and lined, or cleaned and disinfected after emptying or when visibly soiled.

(l) Trash receptacles in food service areas shall be covered.

(m) Laundry and laundry rooms shall meet the following requirements:

(1) Laundry and laundry rooms shall be kept separate from kitchen and dining areas;

(2) Clean linen shall be stored in a clean area and shall be separated from soiled linens at all times;

(3) Soiled materials, linens and clothing shall be transported in a laundry bag, sack or container and washed in a sanitizing solution used in accordance with the manufacturer's recommendations; and

(4) Soiled linens and clothing which are considered contaminated with infectious waste under Env-Sw 103.28 shall be handled as infectious waste.

(n) Laundry rooms and bathrooms shall have non-porous floors.

(o) Sterile or clean supplies shall be stored in dust and moisture-free storage areas.

(p) Any RTRF that has its own water supply and whose water has been tested and has failed to meet the acceptable levels identified in this section, or as required by the department of environmental services shall notify the department.

Source. #9873-A, eff 2-24-11

He-P 807.23 Physical Environment.

(a) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being and comfort of client(s) and personnel, including reasonable accommodations for clients and personnel with mobility limitations.

(b) Equipment providing heat within an RTRF including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood stove or pellet stove shall:

(1) Maintain a temperature as follows, except where clients have control of the thermostat in their own room:

a. Be at least 65 degrees Fahrenheit at night; and

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- b. Be at least 70 degrees Fahrenheit during the day if the client(s) are present; and
 - (2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.
- (c) Electric heating systems shall be exempt from (b)(2) above.
- (d) Portable space heating devices shall be prohibited, unless the following are met:
 - (1) Such devices are used only in employee areas where personnel are present and awake at all times; and
 - (2) The heating elements of such devices do not exceed 212 degrees Fahrenheit.
- (e) Unvented fuel-fired heaters shall not be used in any RTRF.
- (f) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code as adopted under RSA 329-A:15 and RSA 155-A.
- (g) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows that can be opened.
- (h) Each client bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage or comparable artificial lighting.
- (i) The number of sinks, toilets, tubs or showers shall be in a ratio of one for every 6 individuals, unless household members and personnel have separate bathroom facilities not used by clients.
- (j) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.
- (k) All hand-washing facilities shall be provided with hot and cold running water.
- (l) In an RTRF licensed for 16 or fewer clients, there shall be at least 80 square feet per room with a single bed and 160 square feet per room with 2 beds, exclusive of space required for closets, wardrobe and toilet facilities.
- (m) In an RTRF licensed for 17 or more clients, there shall be at least 100 square feet for each client in each private bedroom and at least 80 square feet for each client in a semi-private bedroom, exclusive of space required for closets, wardrobes and toilet facilities.
- (n) Existing bedrooms in an RTRF licensed prior to the effective date of these rules shall be exempt from (l) and (m) above.
- (o) Each bedroom shall:
 - (1) Contain no more than 2 beds;
 - (2) Have its own separate entry to permit the client to reach his/her bedroom without passing through the room of another client;
 - (3) Have a side hinge or pocket door, that meets applicable codes, and not a folding door or a curtain;

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- (4) Not be used simultaneously for other purposes;
 - (5) Be separated from halls, corridors and other rooms by floor to ceiling walls; and
 - (6) Be located on the same level as the bathroom facilities, if the client has impaired mobility as identified by the assessment.
- (p) The licensee shall provide the following for the clients' use, as needed:
- (1) A bed appropriate to the needs of the client;
 - (2) A firm mattress that complies with Saf-C 6000;
 - (3) Clean linens, blankets and a pillow;
 - (4) A bureau;
 - (5) A mirror;
 - (6) A bedside table;
 - (7) Adequate lighting;
 - (8) A chair;
 - (9) A closet or storage space for personal belongings; and
 - (10) Window blinds, shades or curtains that provide privacy.
- (r) The client may use his or her own personal possessions provided they do not pose a risk to the client or others.
- (s) The licensee shall provide the following rooms to meet the needs of clients:
- (1) One or more living rooms or multi-purpose rooms; and
 - (2) Dining facilities with a seating capacity capable of meeting the needs of all clients.
- (t) Each licensee shall have a communication system in place so that all clients can effectively contact personnel when they need assistance with care or in an emergency.
- (u) Lighting shall be available to allow clients to participate in activities such as reading, needlework or handicrafts.
- (v) All bathroom, bedroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (w) Screens shall be provided for:
- (1) Doors;
 - (2) Windows; or
 - (3) Other openings to the outside.
- (x) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (w) above.

Source. #9873-A, eff 2-24-11

He-P 807.24 Emergency and Fire Safety.

(a) All RTRFs shall, at a minimum, meet the Residential Board and Care chapter of NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000.

(b) All RTRFs, including those with 3 or fewer clients, shall have:

(1) Smoke detectors on every level and in every bedroom that are interconnected and either hardwired, powered by the RTRF's electrical service, or wireless, as approved by the state fire marshal for the RTRF;

(2) At least one ABC type fire extinguisher on every level; and

(3) An approved carbon monoxide monitor on every level.

(c) An emergency and fire safety program shall be developed and implemented to provide for the safety of clients and personnel.

(d) Immediately following any fire or emergency situation, licensees shall notify the department by phone to be followed by written notification within 72 hours, with the exception of:

(1) A false alarm or emergency medical services (EMS) transport for a non-emergent reason; or

(2) Emergency EMS transport related to pre-existing conditions.

(e) The written notification required by (d) above shall include:

(1) The date and time of the incident;

(2) A description of the location and extent of the incident, including any injury or damage;

(3) A description of events preceding and following the incident;

(4) The name of any personnel or clients who were evacuated as a result of the incident, if applicable;

(5) The name of any personnel or clients who required medical treatment as a result of the incident, if applicable; and

(6) The name of the individual the licensee wishes the department to contact if additional information is required.

(f) If the licensee has chosen to allow smoking under He-P 807.14(s), an outside location or a room used only for smoking shall be provided which:

(1) Has a dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;

(2) Has walls and furnishings constructed of non-combustible materials;

(3) Has metal waste receptacles and safe ashtrays; and

(4) Is in compliance with the requirements of RSA 155:64-77, the Indoor Smoking Act.

(g) Oxygen shall be stored in the following manner:

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- (1) Oxygen tanks shall be separated from combustibles or incompatible materials by either:
 - a. A minimum distance of 20 feet; or
 - b. A minimum distance of 5 feet if the entire building is equipped with an automatic sprinkler system installed in accordance with Saf-C 6000;
 - (2) Oxygen tanks shall be secured in a manner that prevents damage to the valves and cylinder;
 - (3) Portable liquid oxygen shall be used and stored in accordance with Compressed Gas Association CGA P-2.7, edition 2; and
 - (4) Any area where oxygen is stored or is in use shall have signage indicating that oxygen is in use or being stored.
- (h) Each licensee shall develop a written emergency plan that covers:
- (1) Loss of electricity;
 - (2) Loss of water;
 - (3) Loss of heat;
 - (4) Bomb threat;
 - (5) Severe weather;
 - (6) Fire;
 - (7) Gas leaks;
 - (8) Unexplained client absences; and
 - (9) Any situation that requires evacuation of the RTRF.
- (i) Each licensee shall:
- (1) Annually review and revise, as needed, its emergency plan;
 - (2) Submit its emergency plan to the local emergency management director for review and approval when initially written and whenever the plan is revised; and
 - (3) Maintain documentation on-site which establishes that the emergency plan has been approved as required under (2) above.
- (j) Each RTRF that has been pre-approved, in writing by the local emergency management director, as an emergency shelter may accept on an emergency basis, clients of their local community provided that:
- (1) They have a generator capable of supplying the entire facility;
 - (2) They have sufficient personnel and food to meet the needs of both the clients and any evacuees; and
 - (3) They make arrangements to transfer the evacuee as soon as practicable if they learn after accepting the evacuee that they cannot meet his or her needs.
- (k) Fire and/or evacuation drills shall be conducted monthly as follows:

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- (1) Each employee shall participate in at least one drill every calendar quarter; and
- (2) Each drill shall include the transmission of a fire alarm signal and simulation of emergency fire conditions.

(l) For personnel who are unable to participate in the scheduled drill described in (k) above, on the day they return to work the administrator or designee shall, if applicable, instruct them as to any changes in the facility fire and emergency plan and document such instruction in their personnel file.

(m) Personnel who are unable to participate in a drill in accordance with (k) and (l) above shall participate in a drill within the next quarter.

(n) Per-diem or temporary personnel shall not be the only person awake unless they have:

- (1) Participated in at least 2 actual fire drills in the facility in the past year; and
- (2) Participated in the facility's orientation program pursuant to He-P 807.18(o).

(o) The timing of monthly drills shall be at varying times to include all shifts and all clients and individuals in the RTRF at the time of the drill.

(p) All emergency and evacuation drills shall be documented and include the following information:

- (1) The names of the participating personnel and clients;
- (2) The time, date, month, and year the drill was conducted;
- (3) The exits utilized if the RTRF does not comply with the health care chapter of the state fire code;
- (4) The total time necessary to evacuate the RTRF, if required;
- (5) The time needed to complete the drill; and
- (6) Any problems encountered and corrective actions taken to rectify problems.

Source. #9873-A, eff 2-24-11

He-P 807.25 Medical Detoxification Facilities. In addition to meeting the requirements of He-P 807.01 through 807.24, facilities which utilize medical detoxification as a treatment modality shall comply with the following:

(a) Each RTRF shall follow the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Health Care Facilities," General Hospital chapter, 2010 edition, as applicable;

(b) Each RTRF shall have a medical director as defined in He-P 807.03(ar);

(c) There shall be a full time director of program services with at least 2 years of relevant experience in substance abuse rehabilitation and who meets the qualifications of a licensed clinical supervisor as defined by He-P 807.03(am);

(d) The director of program services shall be responsible for:

- (1) Establishing standards of nursing practice used in the RTRF;

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- (2) Ensuring that the admission process and client assessment process coordinates client requirements for nursing care with available nursing resources;
- (3) Participating with the administrator and personnel to improve the quality of nursing care at the RTRF;
- (4) Nursing care as authorized by the nurse practice act and according to RSA 326;
- (5) The overall health and safety of clients; and
- (6) Maintaining written personnel schedules, which shall be retained on-site for a period of at least 90 days and include:
 - a. At least one licensed nurse in the facility 24 hours a day; and
 - b. Licensed nursing assistants who have been verified in accordance with the New Hampshire board of registration in nursing;
- (e) The director of program services may hold more than one position as duties and time permit;
- (f) There shall be an assessment performed at the time of admission using an evaluation tool appropriate to the substance of detoxification and which:
 - (1) Is performed by a licensed nurse or licensed provider; and
 - (2) Is reviewed daily and revised as appropriate until discharge; and
- (g) A treatment plan shall be developed by the multidisciplinary treatment team and revised as appropriate during the course of treatment.

Source. #9873-A, eff 2-24-11

He-P 807.26 Medication Services for Medical Detoxification Facilities.

- (a) All medications shall be administered in accordance with the orders of the licensed practitioner.
- (b) Medications, treatments, and diets ordered by the licensed practitioner shall be made available to the client within 24 hours of the order, or in accordance with the licensed practitioner's direction.
- (c) The licensee shall have a written policy and system in place instructing how to:
 - (1) Obtain any medication ordered for immediate use at the RTRF;
 - (2) Reorder medications for use at the RTRF; and
 - (3) Receive and record new medication orders.
- (d) For each medication being taken by a client, the licensee shall maintain the original written order in the client's record, signed by a licensed practitioner or other professional with prescriptive powers.
- (e) Each medication order shall legibly display the following information unless it is an emergency medication as allowed by (x) below:
 - (1) The client's name:
 - (2) The medication name, strength, and prescribed dose and route, if different than by mouth;

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- (3) The frequency of administration;
- (4) The indications for usage for all medications that are used PRN; and
- (5) The dated signature of the ordering practitioner.

(f) Pharmaceutical samples shall be used in accordance with the licensed practitioner's written order and labeled with the client's name by the licensed practitioner, the administrator, or authorized personnel.

(g) The label of all medication containers maintained in the RTRF shall match the current written orders of the licensed practitioner and include the expiration date of the medication unless authorized by (x) below.

(h) Except as allowed by (f) above and (i) below, only a pharmacist shall make changes to prescription medication container labels.

(i) When the licensed practitioner changes the dose of a medication and personnel of the RTRF are unable to obtain a new prescription label:

- (1) The original container shall be clearly and distinctly marked, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the RTRF's written procedure, indicating that there has been a change in the medication order; and

- (2) Personnel shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record.

(j) The licensee shall require that all telephone orders for medications, treatments, and diets are immediately transcribed and signed by the individual receiving the order.

(k) The transcribed order in (j) above shall be counter-signed by the authorized provider within 30 days of receipt.

(l) The medication storage area shall be:

- (1) Locked and accessible only to authorized personnel;

- (2) Clean and organized with adequate lighting to ensure correct identification of each client's medication(s); and

- (3) Equipped to maintain medication at the proper temperature.

(m) All medication at the RTRF shall be kept in the original containers and properly closed after each use.

(n) Topical liquids, ointments, patches, creams, or powder forms of products shall be stored in such a manner that cross contamination with oral, optic, ophthalmic and parenteral products shall not occur.

(o) If controlled substances, as defined by RSA 318-B, are stored in a central storage area in the RTRF, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

(p) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.

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(q) All contaminated, expired, or discontinued medication shall be destroyed within 90 days of the expiration date, the end date of a licensed practitioner's orders, or the date the medication becomes contaminated, whichever occurs first.

(r) Controlled drugs shall be destroyed only in accordance with state law.

(s) Medication(s) may be returned to pharmacies for credit only as allowed by the law.

(t) The licensee shall develop a policy covering any current medications the client may bring with him/her to the detoxification facility to include how these medications are to be received, stored, administered and labeled while the client is in the care of the medical detoxification unit.

(u) Upon discharge or transfer, the licensee shall make the client's current medications available to the client and the guardian or agent, if any.

(v) The licensee shall maintain a written record for each medication taken by the client at the RTRF containing the following information:

- (1) Any allergies or allergic reactions to medications;
- (2) The medication name, strength, dose, frequency and route of administration;
- (3) The date and the time the medication was taken;
- (4) The signature, identifiable initials and job title of the person who administers, supervises or assists the client taking medication;
- (5) For PRN medications, the reason the client required the medication and the effect of the PRN medication; and
- (6) Documented reason for any medication refusal or omission.

(w) Non-prescription stock medications shall only be accessed and administered by the licensed nurse or medication nurse assistant on duty.

(x) A RTRF shall use emergency drug kits only in accordance with board of pharmacy rule Ph 705.03 under circumstances where the RTRF:

- (1) Has an RN licensed in accordance with RSA 326-B; and
- (2) Has a contractual agreement with a medical director who is licensed in accordance with RSA 329 and a consultant pharmacist who is licensed in accordance with RSA 318.

(y) The licensee shall develop and implement a system for reporting within 24 hours any observed adverse reactions to medication and side effects, or medication errors such as incorrect medications.

(z) The written documentation of the report in (y) above shall be maintained in the client's record.

Source. #9873-A, eff 2-24-11

APPENDIX

| Rule | Specific State or Federal Statutes the Rule Implements |
|-------------------------|--|
| He-P 807.01-He-P 807.03 | RSA 151:9, I; RSA 151:9, VII(a)(2) |
| He-P 807.04 | RSA 151:4, I – III-a and IV; RSA 151:9, I(c); |
| He-P 807.05-He-P 807.06 | RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d) |
| He-P 807.07 | RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a) |
| He-P 807.08-He-P 807.10 | RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e) |
| He-P 807.11 | RSA 151:6, I; RSA 151:9, I(e) |
| He-P 807.12-He-P 807.13 | RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a |
| He-P 807.14-He-P 807.23 | RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2) |
| He-P 807.24 (a) and (p) | NFPA 101 |
| He-P 807.24 (b)-(o) | RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2) |
| He-P 807.25-He-P 807.26 | RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2) |