

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

PART He-P 824 HOSPICE HOUSE

He-P 824.01 Purpose. The purpose of this part is to set forth the licensing requirements for all hospice houses (HH), pursuant to RSA 151.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association or other legal entity operating a HH, except:

- (a) All facilities listed in RSA 151:2, II(a)-(g);
- (b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h); and
- (c) Agencies that are certified by the department as other qualified agencies delivering personal care services in accordance with RSA 161-H.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.03 Definitions.

- (a) "Abuse" means "emotional abuse" or "physical abuse" as defined in this section.
- (b) "Activities of daily living (ADL)" means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing and self-management, monitoring, or supervision of medications.
- (c) "Administer" means "administer" as defined by RSA 318:1, I, namely "an act whereby a single dose of a drug is instilled into the body of, applied to the body of, or otherwise given to a person for immediate consumption or use."
- (d) "Administrative remedy" means a corrective action imposed upon a licensee in response to non-compliance with RSA 151 or He-P 824.
- (e) "Administrator" means the licensee or an individual appointed by the licensee to be responsible for all aspects of the daily operations of the HH.
- (f) "Admission" means acceptance by a licensee for the provision of care and services to a patient and when the patient physically moves into the HH.
- (g) "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.
- (h) "Applicant" means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an HH pursuant to RSA 151.
- (i) "Assessment" means an evaluation of the patient to determine the care and services that are needed.

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(j) “Care plan” means a written guide developed by the licensee or their personnel, in consultation with the patient, guardian, agent, or personal representative, if any, as a result of the assessment process for the provision of care and services as required by He-P 824.16(k)–(n).

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

(l) “Chemical restraints” means any medication prescribed to control a patient’s behavior or emotional state without a supporting diagnosis or for the convenience of program staff.

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

(n) “Coordinator” means a person from the HH who coordinates the care and services necessary to provide optimum health care management for the patient.

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

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

(q) “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 824.

(r) “Department” means the New Hampshire department of health and human services.

(s) “Direct care personnel” means any person providing hands-on care or services to a patient.

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

(u) “Discharge” means moving a patient from a licensed facility or entity to a non-licensed facility or entity.

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

(w) “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 a participant

(x) “Exploitation” means the illegal use of a patient’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 patient through the use of undue influence, harassment, duress, deception, or fraud.

(y) “Guardian” means a person appointed in accordance with RSA 464-A to make informed decisions relative to the patient’s health care and other personal needs.

(z) “Hospice” means a specialized program of care and supportive services, which provide a combination of medical, social and spiritual services to terminally ill patients and their families.

(aa) “Hospice house (HH)” means a residential setting providing a specialized program of care and supportive services, which provide a combination of medical, social and spiritual services to terminally ill patients and their families.

(ab) “Individual needs determination form” means the document approved by the department to assess

the needs of a patient or potential patient as required by RSA 151:5-a, I.

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

(ad) “In-service” means an educational program, which is designed to increase the knowledge, skills, and overall effectiveness of personnel.

(ae) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 824 or to respond to allegations of non-compliance with RSA 151 and He-P 824.

(af) “License” means the document issued to an applicant or licensee of an HH which authorizes operation in accordance with RSA 151 and He-P 824, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

(ag) “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 HH is licensed for.

(ah) “Licensed practitioner” means a:

- (1) Medical doctor;
- (2) Physician’s assistant;
- (3) Advanced registered nurse practitioner;
- (4) Doctor of osteopathy; or
- (5) Doctor of naturopathic medicine.

(ai) “Licensed premises” means the building(s) that comprises the physical location that the department has approved for the licensee to conduct operations in accordance with its license.

(aj) “Licensing classification” means the specific category of services authorized by a license.

(ak) “Mechanical restraint” means locked, secured or alarmed HH or units within an HH, or anklets, bracelets or similar devices that cause a door to automatically lock when approached, thereby preventing a patient from freely exiting the HH or unit within.

(al) “Medical director” means a physician licensed in New Hampshire in accordance with RSA 329, who is responsible for overseeing the quality of medical care and services within the HH.

(am) “Medication” means a substance available with or without a prescription, which is used as a curative or remedial substance.

(an) “Neglect” means an act or omission, which results, or could result, in the deprivation of essential services necessary to maintain the mental, emotional or physical health and safety of a patient.

(ao) “Orders” means prescriptions, instructions for treatments, special diets or therapies given by a licensed practitioner, or other professional authorized by law.

(ap) “Over-the-counter medications” means non-prescription medications.

(aq) “Owner” means any person, corporation, association, or any other legal entity, whether organized for profit or not, holding or claiming ownership of, or title to, a license.

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(ar) “Patient” means any person admitted to or in any way receiving care, services or both from a HH licensed in accordance with RSA 151 and He-P 824.

(as) “Patient record” means the documentation of all care and services, which includes all documentation required by RSA 151 and He-P 824 and any other applicable federal and state requirements.

(at) “Patient rights” means the privileges and responsibilities possessed by each patient provided by RSA 151:21.

(au) “Personal assistance” means providing or assisting a patient in obtaining one or more services as determined by their patient assessment tool.

(av) “Personal representative” means a person designated in accordance with RSA 151:19, V to assist the patient for a specific, limited purpose or for the general purpose of assisting the patient in the exercise of any rights.

(aw) “Personnel” means individual(s), either paid or volunteer, who provide direct or indirect care or services or both to a patient(s).

(ax) “Physical abuse” means the use of physical force that results or could result in physical injury to a patient.

(ay) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the patient’s freedom of movement, which includes but are not limited to forced escorts, holding, prone restraints or other containment techniques.

(az) “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.

(ba) “Pro re nata (PRN) medication” means medication taken as circumstances may require.

(bb) “Procedure” means a licensee’s written, standardized method of performing duties and providing services.

(bc) “Professional management responsibility” means that the professional staff of the HH provider continues to provide guidance and services to the patient regardless of the location of the patient.

(bd) “Professional staff” means:

- (1) Physicians;
- (2) Physician assistants;
- (3) Advanced registered nurse practitioners;
- (4) Registered nurses;
- (5) Registered physical therapists;
- (6) Speech therapists;
- (7) Licensed practical nurses;
- (8) Licensed respiratory therapists;
- (9) Occupational therapists;

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- (10) Medical social workers;
- (11) Dietitians;
- (12) Spiritual care coordinators;
- (13) Bereavement counselors; and
- (14) Volunteer coordinators.

(be) “Protective care” means the provision of patient monitoring services, including but not limited to:

- (1) Knowledge of patient whereabouts; and
- (2) Minimizing the likelihood of accident or injury.

(bf) “Self-administration of medication” means an act whereby the patient takes his or her own medication(s) without the assistance of another person.

(bg) “Significant change” means a visible or observable change in functional, cognitive or daily activity ability or limitations of the patient.

(bh) “State monitoring” means the placement of individuals by the department at an HH to monitor the operation and conditions of the facility.

(bi) “Temporary manager” means a person appointed by the department to assume responsibility for the day-to-day operation and administration of an HH.

(bj) “Transfer” means moving a patient from one licensed facility or entity to another licensed facility or entity.

(bk) “Unexplained absence” means an incident involving a patient leaving the premises of the HH without the knowledge of the HH personnel.

(bl) “Unusual incident” means an occurrence of an error, a negative outcome, an accident, the unanticipated death of a patient or other circumstance that has resulted in an injury that required treatment by a licensed practitioner within 24 hours.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.04 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 Patient or Health Care License,” signed by the applicant or 2 of the corporate officers, affirming to the following:

“I affirm that I am familiar with the requirements of RSA 151 and the rules adopted there under 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.”;

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- (2) A floor plan of the prospective HH;
- (3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in the state of 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," where applicable;
- (4) The applicable fee, in accordance with RSA 151:5, I(a), payable in cash or, if paid by check or money order, in the exact amount of the fee made payable to the "Treasurer, State of New Hampshire;"
- (5) A resume identifying the qualifications of the HH administrator;
- (6) Copies of applicable licenses for the HH administrator;
- (7) Written local approvals as follows:
 - 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 health care chapter of NFPA 101 as adopted by the commissioner of department of safety, and local fire ordinances applicable for a health care facility; 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;
- (8) Documentation that the water supply has been tested in accordance with RSA 485 and Env-Ws 313.01 and 314.01, or documentation that the HH is on a municipal water supply as defined in Env-Ws 302.45;
- (9) A written disclosure from the applicant, licensee if different than the applicant, administrator and medical director containing a list of any:
 - a. Convictions in this or any other state;
 - b. Adjudications of juvenile delinquency;
 - c. Permanent restraining or protective orders;

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d. Findings by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation; and

e. An explanation of the circumstances surrounding disclosure of matters described in a. through d. above; and

(10) The results of a criminal records check from the NH department of safety for the applicant, licensee if different than the applicant, administrator and medical director.

(b) Information disclosed regarding adjudication of juvenile delinquency, as required by (a)(9)b. above shall be confidential and shall not be released except in a proceeding involving the question of licensure or revocation of a license, or pursuant to court order.

(c) 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

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New. #9317, eff 11-8-08

He-P 824.05 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 824.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 824.04(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) The department shall deny a licensing request in accordance with He-P 824.13(b) after reviewing the information in He-P 824.04(a)(9) and (10) above if, after review, it determines that the applicant, licensee, administrator or medical director:

(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 other 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 patients.

(f) An inspection shall be completed in accordance with He-P 824.09 prior to the issuance of a license.

(g) 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 824.

(h) All licenses issued in accordance with RSA 151 shall be non-transferable by person or location.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.06 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 824.04(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 824.04(a)(1), (4), (6) and (9);

(2) The current license number;

(3) A request for renewal of any existing waiver previously granted by the department, in accordance with He-P 824.10(f), if applicable; and

(4) A statement identifying any variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03–6005.04.

(d) Applicants for renewal of a license shall obtain and submit 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-Ws 313.01 for bacteria and Env-Ws 314.01 for nitrates, or that the HH is on a municipal water supply as defined in Env-Ws 302.45.

(e) Following an inspection, a license shall be renewed if the department determines that the licensee:

(1) Submitted an application containing all the items required by (c) above, 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 824 at the renewal inspection.

(e) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license shall be required to submit an application for initial license pursuant to He-P 824.04.

(f) If a licensee chooses to cease operations of the HH, the licensee shall submit written notification to the department at least 30 days in advance.

(g) Prior to issuing a license, the department shall review any of the information submitted in accordance with He-P 824.04(a)(9) above and deny a license renewal in accordance with He-P 824.05(e).

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.07 HH Construction, Modifications or Renovations.

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

- (1) A new building;
- (2) Alterations to a patient's bedroom as specified in He-P 824.23;
- (3) Alterations that require approval from local or state authorities; and
- (4) Alterations that might effect 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 an HH for compliance with all applicable sections of RSA 151 and He-P 824 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 his or her own risk.

(d) The HH shall comply with all the applicable licensing regulations when doing construction, modifications or alterations.

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

- (1) The state fire code, Saf-C 6000, including but not limited to the health care chapter of 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 HHs newly constructed after the effective date of He-P 824 shall comply with the appropriate hospice or nursing home chapter of the American Institute of Architects, 2006 edition of "Guidelines for Design and Construction of Health Care Facilities."

(g) The completed building shall be subject to an inspection pursuant to He-P 824.09 prior to its use.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.08 HH Requirements for Organizational or Service Changes.

(a) The HH 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;

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- (4) Name;
- (5) Number of beds authorized under the current license; or
- (6) Services.

(b) The HH 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;
- (3) An increase in the number of beds authorized under the current license; or
- (4) A change in licensing category.

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

(d) The HH shall inform the department in writing as soon as possible prior to a change in administrator and provide the department with the following:

- (1) The information specified in He-P 824.04(a)(9) and (10);
- (2) A resume identifying the name and qualifications of the new administrator; and
- (3) Copies of applicable licenses for the new administrator.

(e) Upon review of the materials submitted in accordance with (d) 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 824.05(e); and
- (2) Meets the qualifications for the position as specified in He-P 824.15(h).

(f) If the department determines that the new administrator does not meet the qualifications for his or her position, it shall so notify the program in writing so that a waiver can be sought or the program can search for a qualified candidate.

(g) When there is a change in the name, prior to using the new name, the HH shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.

(h) When there is to be a change in the services provided, prior to providing the additional services the HH 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, will be made to the physical environment.

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

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

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- (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;
 - (3) A change in the number of beds or patients authorized under the current license; or
 - (4) A change in licensing classification.
- (k) A new license and license certificate shall be issued for a change in ownership or physical location.
- (l) A revised license and license certificate shall be issued for a change in name.
- (m) A revised license certificate shall be issued for any of the following:
- (1) A change of administrator;
 - (2) An increase or decrease in the number of beds;
 - (3) A change in the scope of services provided; or
 - (4) When a waiver has been granted.
- (n) Licenses issued under (k) 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 facility changing its ownership, physical location, address or name.

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New. #9317, eff 11-8-08

He-P 824.09 Inspections.

- (a) For the purpose of determining compliance with RSA 151 and He-P 824, 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 HH; and
 - (3) Any records required by RSA 151 and He-P 824.
- (b) The department shall conduct an inspection to determine full compliance with RSA 151 and He-P 824 prior to:
- (1) The issuance of an initial license;
 - (2) A change in ownership, except as allowed by He-P 824.08(j)(1);
 - (3) A change in the physical location;
 - (4) An increase in the number of beds;
 - (5) Occupation of space after construction, renovations or alterations;

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- (6) A change in the licensing classification; or
- (7) The renewal of a license.

(c) In addition to (b) above, the department shall conduct an inspection to verify the implementation of any POC accepted or issued by the department as part of an annual inspection, or as a follow-up inspection focused on confirming the implementation of a POC.

(d) A notice of deficiencies shall be issued when, as a result of an inspection, the department determines that the HH is in violation of any of the provisions of He-P 824 or RSA 151.

(e) If deficiencies are cited, the licensee shall submit a POC, in accordance with He-P 824.12(c).

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New. #9317, eff 11-8-08

He-P 824.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 824 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;
- (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and patients as the rule from which a waiver is sought; and
- (4) The period of time for which the waiver is sought.

(b) A waiver shall not exceed 12 months or the current license expiration date.

(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 negatively impact the health, safety or well-being of the patients; and
- (3) Does not affect the quality of patient 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 824.06(b) and (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 license certificate.

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

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New. #9317, eff 11-8-08

He-P 824.11 Complaints.

(a) The department shall investigate complaints that allege:

- (1) A violation of RSA 151 or He-P 824;
- (2) That an individual or entity is operating as an HH without being licensed; or
- (3) That an individual or entity is advertising or otherwise representing the HH as having or performing services 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 HH, 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 824.

(c) For a licensed HH, the department shall:

- (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 suspected 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 does not violate any statutes or rules, the department shall notify the licensee in writing and take no further action.

(e) If the inspection results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 824.12(c).

(f) For the unlicensed individual or entity, subsequent to inspection, 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, IV.

(g) In accordance with RSA 151:7-a, II, 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.

(h) If the owner of an unlicensed facility 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 824; 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 824 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 an adjudicative proceeding relative to the licensee.

Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 824 or other applicable licensing rules, including:

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

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

- (1) Identifies each deficiency;
- (2) Identifies the specific remedy(s) that has been imposed; and
- (3) Provides the following information:

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- a. In the case of administrative fines, the right to a hearing in accordance with RSA 541-A and He-C 200 prior to payment of the fine; and
 - b. The automatic reduction of a fine by 25% if:
 1. The fine is paid within 10 days of the date on the written notice from the department;
 2. The unlicensed individual, applicant, or licensee submits a written statement waiving the right to an administrative hearing; and
 3. 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 containing:
 - 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 resident will not be jeopardized as a result of granting the extension;
 - (3) The department shall review each POC and accept each plan that:
 - a. Achieves compliance with RSA 151 and He-P 824;
 - b. Addresses all deficient practices as cited in the inspection report;
 - c. Prevents a new violation of RSA 151 or He-P 824 as a result of this implementation; and
 - 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 applies;
 - (5) If the POC is not acceptable, the department shall notify the licensee in writing of the reason for rejecting the POC;
 - (6) 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:

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- a. 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
 - b. The department determines that the health, safety or well being of a patient will not be jeopardized as a result of granting the extension;
- (7) The revised POC shall comply with (1) above and be reviewed in accordance with (3) above;
- (8) 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 He-P 824.12(d) and a fine in accordance with He-P 824.12(f)(12);
- (9) 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 inspection;
- (10) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (11) If the 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 He-P 824.11(c); and
 - b. Issued a directed POC in accordance with He-P 824.12(d) and a fine in accordance with He-P 824.12(f)(12).
- (d) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or 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 patients and personnel;
 - (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 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) Impose a fine;
 - (2) Deny the application for a renewal of a license; or
 - (3) Revoke the license in accordance with He-P 824.13(b).
- (f) The department shall impose fines as follows:

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- (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 patient whose needs exceeds the services or programs provided by the HH, in violation of RSA 151:5-a, the fine for a licensee shall be \$500.00;
- (5) For admission of a patient whose needs exceed the services or programs authorized by the HH licensing classification, in violation of RSA 151:5-a, II and He-P 824.15(a) and (b), 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 824.11(i), the fine for an unlicensed provider or a licensee 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 824.06(b), the fine for a licensee shall be \$100.00;
- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 824.08(a)(1), the fine for a licensee 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 824.08(a)(2), the fine for a licensee shall be \$500.00;
- (10) For a failure to allow access by the department to the HH's premises, programs, services, patients or records, in violation of He-P 824.09(a)(1)-(3), the fine for an applicant, unlicensed 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 824.12(c)(2) and (6), the fine for a licensee shall be \$100.00;
- (12) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 824.12(c)(11), 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 824.14(e), 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 824.14(d), the fine for a licensee shall be \$500.00;
- (15) For exceeding capacity, in violation of He-P 824.14(m), 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 824.14(g), the fine for an applicant or licensee shall be \$500.00 per offense;

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- (17) For a failure to meet the needs of the patient, in violation of He-P 824.15(a), the fine for a licensee shall be \$500.00;
- (18) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 824.18(h)-(j), the fine for a licensee shall be \$500.00;
- (19) When an inspection determines that a violation of RSA 151 or He-P 824 has the potential to jeopardize the health, safety or well being of a patient, 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 original 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 original fine, but not to exceed \$2000.00;
- (20) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 824 shall constitute a separate violation and shall be fined in accordance with He-P 824.12; and
- (21) If the applicant or licensee is making good faith efforts to comply with (4) or (5) 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.
- (h) The department shall impose state monitoring under the following conditions:
- (1) Repeated poor compliance, as evidenced by multiple citations for violations of licensing rules, on the part of the facility in areas that may impact the health, safety or well-being of the patients;
 - (2) Concern that the facility is not ending the pattern of citations for violations of licensing rules and coming into compliance with those rules; or
 - (3) Conditions exist for implementation of temporary management as described in (i) below but no temporary manager can be found.
- (i) The department shall appoint a temporary manager to assume operation of a HH when, following an inspection, the department determines that:
- (1) The licensee has repeatedly failed to manage and operate the HH in compliance with RSA 151 and He-P 824 and such HH practices have failed to meet the needs of the patients;
 - (2) The licensee has failed to develop or implement policies and procedures for infection control, sanitation or life safety codes, imposing harm or the potential for harm to the patients; or
 - (3) The health, safety and well being of the patients are at risk and emergency action is required.

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Source. #5648, eff 6-25-93; ss by #7020, INTERIM, eff 6-23-99, EXPIRED: 10-21-99

New. #9317, eff 11-8-08

He-P 824.13 Enforcement Actions and Hearings.

(a) Prior to taking enforcement action against an applicant or licensee, the department shall send to the applicant or licensee a written notice that sets forth:

- (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, as applicable.

(b) The department shall deny an application or revoke a license if:

- (1) An applicant or a licensee violated a provision of RSA 151 or He-P 824 which poses a threat to the patient's health, safety or well-being;
- (2) An applicant or licensee has failed to pay an administrative fine imposed by the department;
- (3) An applicant or licensee 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, the applicant or licensee fails to submit an application that meets the requirements of He-P 824.04;
- (5) The applicant, licensee or any representative or employee of the applicant or licensee:
 - a. Provides false or misleading information to the department;
 - b. Prevents, interferes or fails to cooperate with any inspection or inspection 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 824.12(c)(11) and 12(e);
- (7) The licensee has submitted a POC that has not been accepted by the department in accordance with He-P 824.12(c)(3) and has not submitted a revised POC in accordance with He-P 824.12(c)(6);
- (8) The licensee is cited a third time under RSA 151 or He-P 824 for the same violation within the last 5 inspections;
- (9) A licensee, or its corporate officers, has had a license revoked and submits an application during the 5-year prohibition period specified in (i) below;
- (10) Upon inspection, the applicant's premises are not in compliance with RSA 151 or He-P 824;
- (11) The department makes a determination that one or more of the factors in He-P 824.05(e) is true; or

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- (12) The applicant or licensee fails to employ a qualified administrator.
- (c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to appeal.
- (d) If a written request is not made pursuant to (c) above, the action of the department shall become final.
- (e) The department shall order the immediate suspension of a license and the provision of services when it finds that the health, safety, or welfare of a patient 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 824 is achieved.
- (g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.
- (h) RSA 541 shall govern further appeals of department decisions under this section.
- (i) When an HH's license has been denied or revoked, if the enforcement action specifically pertained to his or her role in the program, the applicant, licensee, administrator or medical director shall not be eligible to reapply for a license, or be employed as an administrator or medical director for at least 5 years from:
- (1) The date the department's decision to revoke or deny the license became effective, if no request for an administrative hearing is requested; or
 - (2) The date an order is issued upholding the action of the department, if a request for an administrative hearing was made and a hearing was 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 824.
- (k) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A or He-P 824.

Source. #9317, eff 11-8-08

He-P 824.14 Duties and Responsibilities of All Licensees.

- (a) Each HH shall be owned and operated by a home hospice care provider licensed in New Hampshire in accordance with RSA 151:2.
- (b) The HH shall comply with all federal, state and local laws, rules, codes and ordinances, as applicable including RSA 161-F:49 and rules promulgated thereunder.
- (c) In accordance with RSA 151:20, the licensee shall have a written policy setting forth the rights and responsibilities of patients receiving services at the HH, as well as written procedures to implement its policy to ensure that the rights set forth in RSA 151:21, "Patients' Bill of Rights" are upheld.
- (d) The HH shall define, in writing, the scope and type of services to be provided by the HH, which shall include at a minimum, the core services listed in He-P 824.15.
- (e) The HH shall develop and implement written policies and procedures governing the operation and

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all services and shall assess and monitor the quality of care and service provided to patients on an ongoing basis.

(f) All policies and procedures shall be reviewed annually and revised as needed.

(g) The HH personnel shall not falsify any documentation or provide false or misleading information to the department.

(h) The HH shall not advertise or provide services that it is not licensed to provide, pursuant to RSA 151:2, III.

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

(j) The HH shall have responsibility and authority for:

(1) Managing, controlling and operating the HH;

(2) Meeting the needs of the patients during those hours that the patient is in the care of the HH;

(3) Initiating action to maintain the HH in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state and local laws, rules, regulations, and ordinances;

(4) The continuity of inpatient care;

(5) Establishing, in writing, a chain of command that sets forth the line of authority for the operation of the HH;

(6) Appointing an administrator;

(7) Verifying the qualifications of all personnel;

(8) Providing sufficient numbers of qualified personnel who are available to meet the needs of patients during all hours that the HH has told the patient that they will provide service;

(9) Providing personnel with sufficient supplies and equipment to meet the needs of the patients;

(10) Requiring all personnel to follow the orders of the licensed practitioner for every patient and to encourage the patient to follow the licensed practitioner's orders; and

(11) Implementing any POC that has been accepted or issued by the department.

(k) The licensee shall consider all patients to be competent and capable of making all decisions relative to their own health care unless the patient:

(1) Has a guardian or conservator appointed by a court of competent jurisdiction; or

(2) Has a durable power of attorney for health care that has been activated in accordance with RSA 137-J.

(l) The HH shall only admit a patient whose needs can be met through the program and services offered under the current license.

(m) The HH shall not exceed the maximum number of beds or patients as authorized by the department.

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(n) In addition to the posting requirements specified in RSA 151:29, the HH shall post the following documents in a public area:

- (1) The current license certificate issued in accordance with RSA 151:2;
- (2) All inspection reports issued in accordance with He-P 824.09(c) and He-P 824.11(d), for the previous 12 months;
- (3) A copy of the patients' bill of rights specified by RSA 151:21;
- (4) A copy of the licensee's policies and procedures relative to the implementation of patient rights and responsibilities as required by RSA 151:20;
- (5) The licensee's plan for fire safety, evacuation and emergencies, identifying the location of, and access to all fire exits; and
- (6) Information on how to contact the office of the long-term care ombudsman.

(o) The HH shall admit and allow any department representative to inspect the HH and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 824 as authorized by RSA 151:6 and RSA 151:6-a.

(p) Physical or chemical restraints shall only be used in the case of an emergency, pursuant to RSA 151:21, IX. Immediately after the use of a physical or chemical restraint, the patient's guardian or agent, if any, and the department shall be notified of the use of restraints.

(q) The HH shall:

- (1) Have policies and procedures on:
 - a. What type of emergency restraints may be used;
 - b. When restraints may be used; and
 - c. What professional personnel may authorize the use of restraints; and
- (2) Provide personnel with education and training on the limitations and the correct use of restraints.

(r) The use of mechanical restraints shall be allowed only as defined under He-P 824.03(ak).

(s) The following methods of mechanical restraints shall be prohibited:

- (1) Full bed rails;
- (2) Gates, if they prohibit a patient's free movement throughout the living areas of the HH;
- (3) Half doors, if they prohibit a patient's free movement throughout the living areas of the HH;
- (4) Geri chairs, when used in a manner that prevents or restricts a patient from getting out of the chair at will;
- (5) Wrist or ankle restraints;
- (6) Vests or pelvic restraints; and
- (7) Other similar devices that prevent a patient's free movement.

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(t) The HH shall:

(1) Within 24 hours contact the department by telephone, fax or e-mail to report an unusual incident and provide the following information, and in writing within 72 hours if the initial notice was made by telephone or if additional information becomes available subsequent to the time the initial contact was made:

- a. The HH 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 patient 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, including any follow-up;
- g. If medical intervention was required, by whom and the date and time;
- h. Whether the patient's guardian and or agent, if any, was notified;
- i. The signature of the person reporting the unusual incident; and
- j. The date and time the patient's licensed practitioner was notified; and

(2) Submit a written report to the department within 5 days of the unusual incident or unexplained absence describing the actions taken by personnel, the final outcome or continuation of the unusual incident and actions taken to prevent a reoccurrence.

(u) The HH shall respond to a notice of deficiencies by providing a POC in accordance with He-P 824.12(c).

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

(w) The HH shall, upon request, provide a patient or their legal guardian or agent, if applicable, with a copy of his or her patient record pursuant to the provisions of RSA 151:21, X.

(x) All records required for licensing shall be legible, current, accurate and available to the department during an inspection or investigation conducted in accordance with RSA 151:6 and RSA 151:6-a.

(y) Any licensee that maintains electronic records shall develop a system with written policies and procedures designed to protect the privacy of patients and staff 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 patients and staff; and
- (3) Systems to prevent tampering with information pertaining to patients and staff.

(z) The licensee shall develop policies and procedures regarding the release of information contained in patient records.

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(aa) At the time of admission, the HH shall give a patient, their guardian or agent, if applicable, a listing of all HH's charges and identify what care and services are included in the charge.

(ab) The HH shall give a patient a written notice 30 days prior to an increase in the fees for any HH services.

(ac) The HH shall provide all personnel with education in hospice philosophy and hospice care in compliance with the CMS conditions of participation.

(ad) The HH shall comply with all federal, state and local health, building, fire and zoning laws, rules and ordinances.

(ae) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66, RSA 155:68 and RSA 155:69 and He-P 824.24(h).

(af) If the HH holds or manages a patient's funds or possessions, the facility shall have 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 patients or other household members.

(ag) The HH shall not falsify any documentation required by law or provide false or misleading information to the department.

Source. #9317, eff 11-8-08

He-P 824.15 Required Services.

(a) The licensee shall provide the following core hospice care services:

(1) Nursing services sufficient to meet the nursing needs of the patient, which are:

- a. Determined by the patient's care plan; and
- b. Available, as needed, 24 hours a day;

(2) LNA and personal care services that are provided either directly or by contract as the needs of the patient dictate and as determined by the patient's care plan;

(3) Providing patients with pharmaceutical services such as equipment, appliances, medical supplies and other pharmaceutical services as the needs of the patient dictate and as determined by the patient's care plan;

(4) Medical social services shall be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services. Medical social services shall be provided by a qualified social worker;

(5) Hospice volunteer services;

(6) Nutritional counseling, physical or occupational therapy, and speech therapy that are provided or arranged for as needed in accordance with patient's care plan;

(7) Spiritual services which are offered in accordance with the patient's and family's beliefs and values;

(8) Bereavement services that are available to the family for up to one year following the death of the patient;

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(9) Health and safety services to minimize the likelihood of accident or injury, with care and oversight provided 24 hours a day regarding:

- a. The patients' functioning, safety and whereabouts; and
- b. The patients' health status, including the provision of intervention as necessary or required; and

(10) Medication services in accordance with He-P 824.17.

(b) In addition to the services in (a) above the licensee shall provide the following services:

- (1) Food services in accordance with He-P 824.21;
- (2) Housekeeping, laundry and maintenance services; and
- (3) Basic supplies necessary for patients to maintain personnel hygiene and grooming.

(c) If, on a temporary basis, not to exceed 90 days, the hospice care provider cannot provide any of the core care and services in (a) above, the HH shall have a written agreement with another agency to provide the required services.

(d) Any contractual agreement to provide care and services shall:

- (1) Identify the care and services to be provided;
- (2) Specify the qualifications of the personnel that will be providing the care and services;
- (3) Require that the HH must authorize the services; and
- (4) Stipulate the HH retains professional responsibility for all care and services provided.

(e) The HH shall provide or arrange for the provision of short-term in-patient stays in a hospital or nursing home during those times when the patient's pain or symptoms are unable to be managed in the HH.

(f) The HH shall retain professional management responsibility for all services that are provided including contracted services when a hospice patient is in another licensed facility. These responsibilities shall be defined in a written contractual agreement.

(g) The licensee shall ensure that the following positions are staffed at the HH location:

- (1) An administrator;
- (2) A director of patient services, but the administrator may also be the director of patient services if the administrator meets the qualifications of the position;
- (3) A volunteer coordinator;
- (4) A social services coordinator; and
- (5) A spiritual and or bereavement coordinator.

(h) Any administrator appointed after the effective date of these rules shall:

- (1) Have at least a bachelor's degree in business or a health-related field with a minimum of 3 years experience in hospice and or palliative care;

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- (2) Be a registered nurse; and
 - (3) Designate, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.
- (i) The administrator shall be responsible for maintaining the HH in full compliance with all federal, state and local laws, rules, codes and ordinances at all times.
- (j) The director of patient services shall:
- (1) Be a New Hampshire-licensed registered nurse or an advanced registered nurse practitioner; or
 - (2) Have a bachelor's degree in a health field related to hospice care.
- (k) The director of patient services shall:
- (1) Be responsible for the overall delivery of patient care and services;
 - (2) Provide sufficient nursing personnel to meet the need of the patients;
 - (3) Supervise the overall delivery of patient care and services; and
 - (4) Coordinate the supervision of licensed practical nurses (LPN), licensed nurse aides (LNA) and or personal care attendants (PCA) by a registered nurse and determine if the LNA and/or PCA is providing care and services in accordance with the patient's care plan.
- (l) The medical director, who shall be a physician licensed in the state of New Hampshire, shall be responsible for:
- (1) The oversight of the medical component of the HH's patient care program;
 - (2) Participating on the interdisciplinary patient care team if the patient's own licensed practitioner cannot participate; and
 - (3) Determining, in consultation with the interdisciplinary team, that an individual is appropriate for hospice and or palliative care services.
- (m) Volunteer services shall be provided under the direction of a coordinator of volunteer services who:
- (1) Implements a direct service volunteer program;
 - (2) Coordinates the orientation, education, support and supervision of direct service volunteers; and
 - (3) Coordinates the utilization of direct service volunteers with other hospice staff.
- (n) All volunteers shall be oriented and educated relative to their prescribed function according to the hospice care provider's policies and procedures.
- (o) The licensee shall develop and maintain policies and procedures for its volunteer services that address the following areas:
- (1) Recruitment and retention;
 - (2) Health screening and 2-step TB testing;

- (3) Orientation;
 - (4) Scope of function;
 - (5) Supervision;
 - (6) Ongoing training and support;
 - (7) Records of volunteer activities; and
 - (8) Criminal record checks.
- (p) The social services coordinator shall have:
- (1) At least a master's degree from a graduate school of social work; or
 - (2) A bachelor's degree in a related health or human services field, have at least 2 years' experience as a social worker and have established a consultative relationship with a person who qualifies in (1) above.
- (q) The social services coordinator shall:
- (1) Participate in the development of the care plan; and
 - (2) Work in conjunction with the director of patient services to coordinate all social services required by the care plan and ensure their delivery.
- (r) The coordinator of bereavement and spiritual care services shall be a person who has at least a bachelor's degree in an applicable field such as theology of education, psychology or counseling and who has education in death and dying, grief and bereavement.
- (s) Persons providing bereavement services shall have education in death and dying, grief and bereavement.
- (t) The coordinator of bereavement and spiritual care services shall be responsible for providing an organized program of bereavement services for up to 12 months after the death of the patient that includes but is not limited to:
- (1) Counseling to families after the patient's death; and
 - (2) Developing a care plan that reflects the needs of the patient's family

Source. #9317, eff 11-8-08

He-P 824.16 Patient Admission Criteria, Temporary Absence, Transfer and Discharge.

(a) An individual needs determination form shall be completed for each patient by a licensed practitioner, licensed nurse or a master of social work prior to the patient's admission and at least every 6 months thereafter as required by RSA 151:5-a, I.

(b) At the time of admission, personnel of the HH shall:

(1) Provide, both orally and in writing, to the patient, their guardian or agent, if applicable, the HH's:

a. Policy on patient rights and responsibilities;

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- b. Complaint procedure;
- c. List of care and services that are provided directly by the HH; and
- d. List of the care and services that are provided by contract;

(2) Obtain written confirmation acknowledging receipt of the items in (1) above from the patient, their guardian or agent, if applicable;

(3) Collect and record the following information:

- a. Patient's name, home address, home telephone number and date of birth;
- b. Name, address and telephone number of an emergency contact and guardian and/or agent, if applicable;
- c. Name of patient's primary care provider and their address and telephone number;
- d. Copies of all legal directives such as durable power of attorney, legal guardian or living will; and
- e. Written and signed consent for the provision of care and services; and

(4) Obtain documentation of informed consent and consent for release of information.

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

(1) A patient's agreement including the following information:

- a. The basic daily, weekly and monthly fee;
- b. A list of the core services required by He-P 824.15(a) and (b) 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 HH's house rules;
- f. The grounds for immediate termination of the agreement, pursuant to RSA 151:21, V;
- g. The HH's responsibility for patient 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 HH's responsibility for arranging services; and
 - 3. The fee and payment for services, if known;
- i. The licensee's policies and procedures regarding:

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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 patient and provided on the HH premises;
 5. Handling of patient funds pursuant to RSA 151:24 and He-P 824.14(af);
 6. Bed hold, in compliance with RSA 151:25;
 7. Storage and loss of the patient's personal property; and
 8. Smoking;
- j. The licensee's medication management services; and
- k. The list of grooming and personal hygiene supplies provided by the HH 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 HH's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
- (3) A copy of the patient's right to appeal an involuntary transfer or discharge under RSA 151:26, II(5); and
- (4) The HH'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.
- (d) The hospice care provider shall ensure that medical direction is provided either from the patient's attending licensed practitioner or the hospice medical director.
- (e) Patients who are admitted or accepted for services shall:
- (1) Have a nursing assessment at the following intervals to determine the level of care and services required by the patient:
 - a. Within 48 hours of admission; and
 - b. Thereafter as required by the CMS conditions of participation; and
 - (2) Have a signed and dated order for any service for which such order is required by the practice acts of the person providing care, renewed at least every 90 days.
- (f) The assessment required by (e)(1) above shall contain, at a minimum, the following:
- (1) Pertinent diagnoses including mental status;
 - (2) A pain assessment, including symptom control and vital signs;
 - (3) A physical assessment;
 - (4) A cognition and mental status assessment;

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- (5) A behavioral assessment;
 - (6) A psychosocial assessment;
 - (7) Medication and treatments;
 - (8) Functional limitations;
 - (10) Nutritional requirements;
 - (11) Any equipment required; and
 - (12) Any safety precautions.
- (g) In addition to the information required in (f) above, the nursing assessment shall include:
- (1) Reactions of the patient and family members to terminal illness;
 - (2) History of the patient's and family coping strengths and weaknesses;
 - (3) Social and financial concerns; and
 - (4) Spiritual beliefs and desires of the patient.

(h) If the assessment required by (e) above is completed by an LPN, the assessment shall be reviewed and co-signed by the registered nurse or physician that is supervising the LPN prior to the development of the patient's care plan.

- (i) The licensee shall establish an interdisciplinary hospice care team composed of at least:
- (1) A licensed practitioner;
 - (2) A registered nurse;
 - (3) A social worker; and
 - (4) A clergy person or counselor.

- (j) The interdisciplinary hospice care team shall:
- (1) Establish the care plan;
 - (2) Be the primary care delivery team for a patient and his or her family through the total duration of hospice care; and
 - (3) Be responsible for supervising any patient care and services provided by others.

(k) The interdisciplinary team shall, in conjunction with the patient, the patient's personal representative, and their family, develop an individualized care plan, which reflects the changing care needs of the patient and family.

- (l) The care plan required by (k) above shall include:
- (1) The date the problem or need was identified;
 - (2) A description of the problem or need;
 - (3) The goal for the patient;

- (4) The action or approach to be taken by HH personnel;
- (5) The responsible person(s) or position; and
- (6) The interventions used to address problems identified in the assessment including:
 - a. Medications ordered;
 - b. Pain control interventions, both pharmacological and non-pharmacological;
 - c. Symptom management treatment; and
 - d. Services required including frequency of visits.
- (m) The care plan required by (k) above shall be:
 - (1) Developed in conjunction with the patient and their guardian and/or agent, if applicable;
 - (2) Completed within 3 days after completion of the nursing assessment;
 - (3) Reviewed and revised at least every 30 days by the interdisciplinary team following the completion of each assessment; and
 - (4) Made available to all personnel that assist the patients.
- (n) The patient and their family shall be encouraged to participate in all components of care, including:
 - (1) Assessment and problem identification;
 - (2) Implementation of the plan of care; and
 - (3) Evaluation and revision of the plan, as needed.
- (o) At the time of a patient's admission, the licensee shall obtain orders from a licensed practitioner for medications, prescriptions and diet.
- (p) A patient may refuse all care and services.
- (q) When a patient refuses care or services that could result in a threat to their safety or that of others, the licensee or their designee shall:
 - (1) Inform the patient of the potential results of their refusal;
 - (2) Notify the licensed practitioner and guardian, if any, of the patient's refusal of care; and
 - (3) Document in the patient's record the refusal of care and the patient's reason for the refusal.
- (r) Progress notes shall be written by any member of the interdisciplinary team to document:
 - (1) Changes in the patient's physical, functional and mental abilities;
 - (2) Changes in the patient's behaviors such as eating or sleeping patterns; and
 - (3) Newly identified needs of the patient and or their family.
- (s) All staff of the HH shall follow the approaches stated in the care plan.

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(t) The licensee shall provide an emergency data sheet to emergency medical personnel in the event of an emergency transfer to another medical facility.

(u) The data sheet referenced in (t) above shall include:

- (1) The patient's full name and the name the patient prefers, if different;
- (2) Name, address and telephone number of the patient'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.

(v) Written notes shall be documented in the patient's record for any unusual incident, occurrence or explained absence involving the patient which shall include the information required by He-P 824.14(t) and the signature and title of the person reporting the incident or occurrence.

(w) For each patient accepted for care and services at the HH, a current and accurate record shall be maintained and include, at a minimum:

- (1) The written confirmation required by He-P 824.16(b)(1);
- (2) The identification data required by He-P 824.16(b)(2);
- (3) The admission agreement required by He-P 824.16(c)(1);
- (4) Consent and medical release forms, as applicable;
- (5) Pertinent medical information;
- (6) The emergency data sheet required by He-P 824.16(t);
- (7) All orders from a licensed practitioner, including the date and signature of the licensed practitioner required by He-P 824.16(e)(2);
- (8) All assessments required by He-P 824.16(e)(1);
- (9) All laboratory and x-ray reports if the tests were taken at the HH;
- (10) All consults;
- (11) All care plans required by He-P 824.16(k) including documentation that the patient or patient's guardian or agent, if applicable, participated in the development of the care plan;
- (12) All progress notes required by He-P 824.16(r) including the signature of the person providing the care;

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(13) All written notes required by He-P 824.16(v) including the signature of the person providing the care;

(14) All daily medication records required by He-P 824.17(aa);

(15) Discharge or transfer documentation, which shall include:

a. In the case of patient death:

1. Date and place of death; and
2. Bereavement follow-up plan; and

b. In the case of discharge other than patient death or transfer:

1. Date and time of patient discharge;
2. The physical, mental and medical condition of patient at discharge;
3. Discharge instruction and referral; and
4. Signed licensed practitioner's order for discharge, if applicable; and

(16) Documentation of any unusual incidents involving the patient including the information required by (v) above.

(x) Patient records shall be available to:

- (1) The patient, their guardian and/or agent;
- (2) HH personnel as required by their job responsibilities and subject to the licensee's policy on confidentiality;
- (3) Any individual given written authorization by the patient or their guardian and or agent;
- (4) Any individual authorized by a court of competent jurisdiction; and
- (5) The department or any individual authorized by law.

(y) The licensee shall develop and implement a method for the written release of information in patient record that is consistent with federal and state statute.

(z) Records shall be safeguarded against loss, damage or unauthorized use by being stored in locked containers, cabinets, rooms or closets except when they are being used by direct care staff.

(aa) Records shall be retained for a minimum of 4 years after discharge and in the case of minors, until one year after reaching age 18, but no less than 4 years after discharge.

(ab) The HH shall arrange for storage of, and access to, patient records as required by (x) above in the event that the HH ceases operation.

Source. #9317, eff 11-8-08

He-P 824.17 Medications.

(a) All medications shall be administered in accordance with the orders of the licensed practitioner or other professional authorized by law.

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(b) Medications, treatments and diets ordered by the licensed practitioner or other professional authorized by law shall be available to give to the patient within 24 hours 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 HH;
- (2) Reorder medications for use at the HH; and
- (3) Receive and record new medication orders.

(d) Each medication order shall legibly display the following information:

- (1) The patient'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 ordering practitioner.

(e) For PRN medications the ordering 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.

(f) For each prescription medication being taken by a patient, the licensee shall maintain either the original written order or a copy of the order in the patient's record, signed by a licensed practitioner or other individual authorized by law.

(g) Each medication, including licensed practitioner's samples, shall legibly display the following information:

- (1) The patient'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 PRN medications; and
- (5) The date ordered.

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

(i) Only a pharmacist shall make changes to a prescription medication container label. Any change or discontinuation of medications taken at the HH shall be pursuant to a written order licensed practitioner or other professional authorized by law.

(j) When the licensed practitioner or other professional authorized by law changes the dose of a medication and personnel of the HH are unable to obtain a new prescription label:

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- (1) The licensed nurse shall clearly and distinctly mark the original container, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the HH's written procedure, indicating that there has been a change in the medication order;
 - (2) Licensed nurse 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, 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.
- (k) The licensee shall require that all telephone orders for medications or treatments are:
- (1) Taken only by a licensed health care professional if such action is within the scope of their practice act;
 - (2) Immediately transcribed and signed by the individual taking the order; and
 - (3) Be counter-signed by the authorized licensed practitioner authorized by law within 30 days.
- (l) Over-the-counter medications shall be handled in the following manner:
- (1) The licensee shall obtain written approval from the patient's licensed practitioner annually; and
 - (2) Over-the-counter medication containers shall be marked with the name of the patient using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner.
- (m) The medication storage area for medications not stored in the patient'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 patient's medication(s); and
 - (3) Equipped to maintain medication at the proper temperature.
- (n) All medication at the HH shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use except as authorized by (x)(5) below.
- (o) 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.
- (p) If controlled substances, as defined by RSA 318-B, are stored in a central storage area in the HH, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.
- (q) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.
- (r) The destruction of contaminated, expired or discontinued medication shall be completed within 15 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first and shall:

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- (1) Be accomplished in the presence of at least 2 people if a controlled substance; and
 - (2) Be documented in the record of the patient for whom the drug was prescribed.
- (s) Upon discharge or transfer, the licensee shall make the patient's current medications except for controlled drugs which shall be destroyed in accordance with (r) above, available to the patient and the guardian or agent, if any.
- (t) Medication(s) may be returned to pharmacies for credit only as allowed by the law.
- (u) When a patient is going to be absent from the HH at the time medication is scheduled to be taken, the medication container shall be given to the patient if the patient is capable of self-administering, as described in (x) below.
- (v) A written order from a licensed practitioner shall be required every 90 days for any patient who is authorized to carry emergency medications, including but not limited to nitroglycerine and inhalers.
- (w) Patients shall receive their medications by one of the following methods:
- (1) Self-administered medication as allowed by (x) below; or
 - (2) Administered by individuals authorized by law.
- (x) For patients who self-administer medication as defined in He-P 824.03(bf), the licensee shall:
- (1) Obtain a written order from a licensed practitioner on an annual basis:
 - a. Authorizing the patient to self-administer medications without supervision;
 - b. Authorizing the patient to store the medications in their room; and
 - c. Identifying the medications that may be kept in the patient's room;
 - (2) Evaluate the patient's ability to self-administer medication upon admission and whenever there is a significant change in the patient, as defined in 824.03(bg), to ensure they maintain the physical and mental ability to self-administer;
 - (3) Have the patient 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 patient's room; and
 - (5) Allow the patient to fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.
- (y) 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.
- (z) Personnel shall remain with the patient until the patient has taken the medication.

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(aa) The licensee shall maintain a written record for each medication taken by the patient at the HH that contains the following information:

- (1) Name of the patient;
- (2) Any allergies or allergic reactions to medications;
- (3) The name, strength dose, frequency and route of the medication;
- (4) The date and the time the medication was taken;
- (5) The signature and identifiable initials and job title of the person administering the medication;
- (6) Documented reason for any medication refused or omitted; and
- (7) For PRN medications, the reason the patient required the medication and the effect of the PRN medication.

(ab) An 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 HH:

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

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

(ad) An HH shall use emergency drug kits only in accordance with board of pharmacy rule Ph 705.03 under circumstances where the HH:

- (1) Has a director of nursing who is a 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.

(ae) 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.

(af) If ordered by the department to do so, the HH shall obtain the services of a consulting pharmacist to rectify medication deficiencies, which present a risk to the patient's health and safety, as identified during an inspection or investigation.

Source. #9317, eff 11-8-08

He-P 824.18 Personnel.

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

(b) The licensee shall develop a job description for each position in the HH containing:

- (1) Duties of the position;

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- (2) Physical requirements of the position; and
- (3) Qualifications and educational requirements of the position.

(c) All applicants for employment shall obtain criminal records check from the New Hampshire department of safety in accordance with RSA 151:3-c. or, after January 1, 2009, in accordance with RSA 151:2-d.

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

- (1) Has been convicted or plead guilty to 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 the health, safety or well being of the patients.

(e) The department shall grant a waiver of (d) 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 patients.

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

(g) The department shall review the information in (d) 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 patient.

(h) All personnel shall:

- (1) Be at least 18 years of age if working as direct care personnel unless they are:
 - a. An LNA working under the supervision of an RN in accordance with Nur 700; or
 - b. Part of an established educational program working under the supervision of a registered nurse;
- (2) Be licensed, registered or certified if required by state statute;
- (3) Meet the educational and physical qualifications of the position;
- (4) Prior to contact with patients or food, submit to the HH the results of a physical examination or health screening and 2 step tuberculosis testing, Mantoux method, or other method approved by the Centers for Disease Control, conducted not more than 12 months prior to employment;
- (5) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first test are negative for TB;
- (6) 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 had 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;
- (7) Receive an orientation prior to contact with a patient that includes:

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- a. The HH's policy on patient rights and responsibilities and complaints in accordance with RSA 151:20;
- b. The duties and responsibilities of the position;
- c. The HH's policies, procedures and guidelines;
- d. The HH's infection control program;
- e. The HH's emergency and evacuation plans which outlines the responsibilities of personnel in an emergency;
- f. The procedures for food safety for those personnel involved in food preparation and the serving of food; and
- g. The mandatory reporting requirements such as RSA 161:F: 46-48 and RSA 169-C: 29-31; and

(8) Within the first 3 months of employment receive an orientation to hospice philosophy relative to the delivery of care and services to hospice patients and their families.

(i) All personnel shall complete mandatory annual in-service education, which shall include a review of the information required by (h)(7) and (8) above.

(j) 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 patient; and
- (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.

(k) All HHs using the service of independent clinical contractors who have direct contact with patients shall ensure that these personnel have:

- (1) Completed an orientation as specified in (h)(7) above;
- (2) Submitted results of a physical examination or health screening and 2 step tuberculosis testing, Mantoux method, that were conducted not more than 12 months prior to employment;
- (3) Provided a copy of any license required by (h)(2) above; and
- (4) A written agreement with the HH that describes the services that will be provided including agreement to comply with (1) through (3) above.

(l) Personnel, volunteers or independent contractors hired by the licensee who will have direct care contact with patients, as defined in He-P 824.03(s), or direct contact with food who have a history of TB or a positive skin test shall have a symptomatology screen in lieu of a TB test.

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

(n) The licensee shall maintain a current and complete personnel file, which includes the following:

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- (1) Application for employment;
 - (2) Identification data;
 - (3) Qualifications and experience;
 - (4) A statement signed by each personnel member acknowledging receipt of a copy of the HH's policy setting forth the patients rights and responsibilities and acknowledging training and implementation of the policy as required by RSA 151:20;
 - (5) A signed statement by the personnel member acknowledging that they comply with (e) above;
 - (6) Signed, dated copy of their job description that identifies the job title, required qualifications and experience;
 - (7) Copy of the criminal record check results as required by (c) above;
 - (8) Record of satisfactory completion of the orientation program required by (h)(7) above;
 - (9) A record of satisfactory completion of the annual continuing education program required by (i) above;
 - (10) Information as to the general content and length of all in-service and educational programs attended;
 - (11) A copy of each current New Hampshire license, registration or certification in a health care field, if applicable;
 - (12) Proof that the individual is 18 years of age or older accept as allowed by (h)(1) above;
 - (13) Documentation that the required physical examination or health screening, and TB test results or radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals; and
 - (14) The signed statement required by (j) above.
- (o) An individual need not re-disclose any matter in (j) above, if the documentation is available and the department previously reviewed the material and determined that the individual can continue employment.
- (p) Personnel records shall be:
- (1) Current, complete and maintained on an individual basis, separate and distinct from other employees;
 - (2) Contain only information relating to the specific personnel member; and
 - (3) Stored in locked containers or cabinets or in a locked room on the premises.
- (q) Personnel records may be stored at the offices of the parent HH provided that they are stored in accordance with (p)(3) above and be made available to the department at a the HH within 30 minutes of being requested.

Source. #9317, eff 11-8-08

He-P 824.19 Quality Improvement.

- (a) The HH shall develop and implement a quality improvement program that reviews policies and all

care and services provided to patients and maximize quality by preventing or correcting identified problems.

(b) As part of its quality improvement program, a quality improvement committee shall be established.

(c) The HH shall determine the size and composition of the quality improvement committee based on the size of the facility and the care and services provided.

(d) The quality improvement committee shall:

- (1) Determine the information to be monitored;
- (2) Determine the frequency with which information will be reviewed;
- (3) Determine the indicators that will apply to the information being monitored;
- (4) Evaluate the information that is gathered;
- (5) Determine the action that is necessary to correct identified problems;
- (6) Recommend corrective actions to the licensee; and
- (7) Evaluate the effectiveness of the corrective actions.

Source. #9317, eff 11-8-08

He-P 824.20 Infection Control.

(a) The HH 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 universal 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 patients with infectious or contagious diseases or illnesses;
- (4) The handling, storage, transportation and disposal of those items specified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904; and
- (5) The reporting of infectious and communicable diseases as required by He-P 301.

(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.

(d) Personnel infected with a disease or illness transmissible through food, fomites or droplets, shall not prepare food or provide direct care in any capacity until they are no longer contagious.

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

(f) Personnel with an open wound who prepare food or provide direct care in any capacity shall cover such wound at all times by an impermeable, durable, tight-fitting bandage.

(g) Personnel infected with scabies or lice/pediculosis shall not provide direct care to patients or prepare food until such time as they are no longer infected.

(h) If the licensee accepts a patient who is known to have a disease reportable under He-P 301 or an infectious disease, which means any diseases caused by the growth of microorganisms in the body which might or might not be contagious, the HH shall provide the required procedures, equipment and staff, 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).

Source. #9317, eff 11-8-08

He-P 824.21 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 patient; and
- (3) The special dietary needs associated with health or medical conditions for each patient as identified on the patient assessment.

(b) Each patient shall be offered at least 3 meals in each 24-hour period when the patient is in the licensed premises unless contraindicated by the patient's care plan.

(c) The licensee shall provide therapeutic diets to patients as directed by a licensed practitioner or other professional with prescriptive authority.

(d) 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.

(e) All food and drink provided to the patients 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

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- (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.
- (f) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.
- (g) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.
- (h) If soiled linen is transported through food service areas, the linen shall be in an impervious container.
- (i) Garbage or trash in the kitchen area shall be placed in lined containers with covers.

Source. #9317, eff 11-8-08

He-P 824.22 Sanitation.

- (a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.
- (b) All 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, pursuant to Env-Ws 315 and 316.
- (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 patients.
- (e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.
- (f) All patient bathing and toileting facilities shall be cleaned and disinfected after every use if used by more than one patient to prevent illness or contamination.
- (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 patient 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;
 - (4) Soiled linens and clothing, which are considered contaminated with infectious waste under Env-Wm 103.28 shall be, handled as infectious waste; and
 - (5) Soiled materials, linens and clothing shall be handled as little as possible and transported in a laundry bag, sack or a covered container.
- (n) Laundry rooms and bathrooms shall have non-porous floors.
- (o) There shall be a designated work area for soiled materials and linens that contain a work counter of at least 6 linear feet, a sink and a storage area.
- (p) Any HH 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. #9317, eff 11-8-08

He-P 824.23 Physical Environment.

- (a) The HH shall:
- (1) Have all entrances and exits accessible at all times;
 - (2) Be maintained in good repair and kept free of hazards to personnel and clients, including, but not limited to, hazards from falls, burns or electrical shocks;
 - (3) Be free from environmental nuisances, including excessive noise and odors;
 - (4) Keep all corridors free from obstructions; and
 - (5) Take measures to prevent the presence of rodents, insects and vermin.
- (b) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, welfare and comfort of patient(s) and personnel, including reasonable accommodations for patients and personnel with mobility limitations.
- (c) Equipment providing heat within an HH including, but not limited to, gas furnace or boiler, oil furnace or boiler, or wood stove or pellet stove shall:
- (1) Maintain a temperature as follows, except where patients have control of the thermostat in their own room:
 - a. Be at least 65 degrees Fahrenheit at night; and
 - b. Be at least 70 degrees Fahrenheit during the day if the patient(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.

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- (d) Electric heating systems shall be exempt from (c)(2) above.
- (e) 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.
- (f) Unvented fuel-fired heaters shall not be used in any HH.
- (g) 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.
- (h) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows in each room that can be opened.
- (i) Each patient 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.
- (j) The number of sinks, toilets, tubs or showers shall be in a ratio of at least one for every 6 patients.
- (k) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable and impervious to water.
- (l) All hand washing facilities shall be provided with hot and cold running water.
- (m) Each bedroom shall:
 - (1) Contain no more than 2 beds;
 - (2) Have its own separate entry to permit the patient to reach his/her bedroom without passing through the room of another patient;
 - (3) Have a side hinge door and not a folding or sliding door or a curtain;
 - (4) Provide accommodations for family members to remain with the patient throughout the night and physical space for family after a patient's death;
 - (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 patient has impaired mobility as identified by the HH assessment.
- (n) The licensee shall provide the following for the patient's use, as needed:
 - (1) A bed appropriate to the needs of the patient;
 - (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;

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- (7) A lamp;
- (8) A chair;
- (9) A closet or storage space for personal belongings; and
- (10) Window blinds, shades or curtains that provide privacy.

(o) The patient may use his or her own personal possessions provided they do not pose a risk to the patient or others.

(p) The licensee shall provide the following rooms to meet the needs of patients:

- (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 patients.

(q) Each licensee shall have a communication system in place so that all patients can effectively contact personnel when they need assistance with care or in an emergency.

(r) All bathroom, bedroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.

(s) Screens shall be provided for:

- (1) Doors;
- (2) Windows; and
- (3) Other openings to the outside.

(t) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (s) above.

Source. #9317, eff 11-8-08

He-P 824.24 Emergency and Fire Safety.

(a) All HHs shall meet the health care chapter of NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000.

(b) An emergency and fire safety program shall be developed and implemented to provide for the safety of patients and personnel and shall include at least the following:

- (1) The HH center shall have at least one multi-purpose fire extinguisher installed on each floor and maintained in accordance with National Fire Protection Association 10, Standard for Portable Fire Extinguisher, 2002 edition, as adopted by the state fire code, Saf-C 6000;
- (2) The HH center shall immediately notify the department by phone, fax or electronic mail within 24 hours and in writing within 72 hours of any fire or situation, excluding a false alarm, that requires either an emergency response to the HH or the evacuation of the licensed premises; and
- (3) The written notification under (2) above shall include:
 - a. The date and time of the incident;

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- b. A description of the location and extent of the incident, including any damage;
- c. A description of events preceding and following the incident; and
- d. The name of any personnel or clients who required medical treatment as a result of the incident, if applicable.

(c) For the use and storage of oxygen and other related gases, HHs shall comply with NFPA 99 as adopted by the commissioner of the department of safety under Saf-C 6000 including, but not limited to, the following:

- (1) All freestanding compressed gas cylinders shall be firmly secured to the adjacent wall or secured in a stand or rack;
- (2) Storage locations shall be outdoors in an enclosure or within an enclosed interior space of noncombustible or limited-combustible construction, with doors, or with gates if outdoors, that can be secured against unauthorized entry;
- (3) Oxidizing gases, such as oxygen and nitrous oxide, shall:
 - a. Not be stored with any flammable gas, liquid, or vapor;
 - b. Be separated from combustibles or incompatible materials by:
 - 1. A minimum distance of 20 ft (6.1 m);
 - 2. A minimum distance of 5 ft (1.5 m) if the entire storage location is protected by an automatic sprinkler system designed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems; or
 - 3. An approved, enclosed flammable liquid storage cabinet of noncombustible construction having a minimum fire protection rating of one-half hour for cylinder storage; and
 - c. Shall be secured in an upright position, such as with racks or chains;
- (4) A precautionary sign, readable from a distance of 5 ft (1.5 m), shall be conspicuously displayed on each door or gate of the storage room or enclosure, and shall include, at a minimum, the following: "CAUTION, OXIDIZING GAS(ES) STORED WITHIN - NO SMOKING"; and
- (5) Precautionary signs, readable from a distance of 5 ft (1.5 m), and with language such as "OXYGEN IN USE, NO SMOKING", shall be conspicuously displayed wherever supplemental oxygen is in use and in aisles and walkways leading to the area of use, and shall be attached to adjacent doorways or to building walls or be supported by other appropriate means.

(d) Flammable gases and liquids shall be stored in metal fire retardant cabinets.

(e) A written plan for fire safety, evacuation and emergencies shall be adopted and posted in multiple locations throughout the facility.

(f) Fire or evacuation drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions.

(g) All HHs shall have an approved carbon monoxide monitor on every level.

(h) All HHs shall have smoke detectors on every level and in every bedroom that are interconnected

and either hardwired, powered by the HH's electrical service, or AC 120volt wireless, as approved by the state fire marshal for the HH.

(i) If the licensee has chosen to allow smoking, a designated smoking area shall be provided which has, at a minimum:

- (1) A dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;
- (2) Walls and furnishings constructed of non-combustible materials; and
- (3) Metal waste receptacles and safe ashtrays.

(j) 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 patient absences; and
- (9) Any situation that requires evacuation of the HH.

(k) Each licensee shall:

- (1) Annually review and revise, as needed, its emergency plan;
- (2) Submit its emergency plan to the local emergency management director (EMD) and fire chief, if different from the EMD, 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.

(l) Each HH that has been pre-approved, in writing by the local emergency management director, as an emergency shelter may accept on an emergency basis, patients 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 patients 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.

(m) All facilities shall conduct fire drills monthly as follows:

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- (1) Each employee shall participate in at least one drill every calendar quarter;
 - (2) Each drill shall include the transmission of a fire alarm signal and simulation of emergency fire conditions; and
 - (3) For facilities not constructed to the health care chapter of NFPA 101 of the Life Safety Code as adopted by the commissioner of the department of safety under Saf-C 6000, the state fire code, the fire drills shall include evacuation.
- (n) For personnel who are unable to participate in the scheduled drill described in (m) 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.
- (o) Personnel who are unable to participate in a drill in accordance with (m) and (n) above shall participate in a drill within the next quarter.
- (p) Per-diem or temporary personnel shall not be the only person on duty 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 824.18(i)(7) and (8).
- (q) The timing of monthly drills shall be at varying times to include all shifts and all patients as deemed appropriate on the patient's condition and individuals in the HH at the time of the drill.
- (r) All emergency and evacuation drills shall be documented and include the following information:
- (1) The names of the participating personnel and patients;
 - (2) The time, including AM or PM, day, month, and year the drill was conducted;
 - (3) The exits utilized if the HH does not comply with the health care chapter of the state fire code;
 - (4) The total time necessary to evacuate the HH;
 - (5) The time needed to complete the drill; and
 - (6) Any problems encountered and corrective actions taken to rectify problems.

Source. #9317, eff 11-8-08

APPENDIX

Rule	Specific State or Federal Statutes the Rule Implements
He-P 824.01 – He-P 824.03	RSA 151:9,I(a) and (b)
He-P 824.04 – He-P 824.07	RSA 151:2,I and II and RSA 151:9,I(c) and (d)
He-P 824.08	RSA 151:9,I(a)
He-P 824.09	RSA 151:9,I(e)
He-P 824.10	RSA 151:9,I(a)
He-P 824.11	RSA 151:9,I(e)
He-P 824.12	RSA 151:9,I(f), (g), (l) and (m)
He-P 824.13	RSA 151:9,I(f), (h) and (l)
He-P 824.14 – He-P 824.24	RSA 151:9,I(a)