

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER He-A 300 CERTIFICATION AND OPERATION OF ALCOHOL AND OTHER DRUG DISORDER TREATMENT PROGRAMS

PART He-A 301 CERTIFICATION OF ALCOHOL AND OTHER DRUG ABUSE DISORDER TREATMENT PROVIDERS

Statutory Authority: RSA 172:8-b

He-A 301.01 Purpose and Scope.

(a) The purpose of these rules is to describe the necessary structures, policies, procedures, and practices in order to be certified by the division of alcohol and drug abuse prevention and recovery (DADAPR) as a certified alcohol and other drug abuse disorder treatment provider.

(b) These rules shall apply to all facilities regulated or funded by the department, including Medicaid and temporary assistance to needy families (TANF).

Source. #7496, eff 5-23-01

He-A 301.02 Definitions.

(a) “Abuse” means an act or omission by an employee, consultant or volunteer of a program which is not accidental and harms or threatens to harm a client’s physical, mental or emotional health or safety and includes emotional, physical and sexual abuse.

(b) “Administrator” means an applicant, or an individual appointed by an applicant to be responsible for all aspects of the daily operation of a program and its facility.

(c) “Applicant” means an individual, agency, partnership, corporation, or federal, state, county or local government entity, association, or other legal entity seeking certification or renewal of an existing certification pursuant to He-A 301.05.

(d) “Certification” means a document issued by the division to an applicant authorizing operation as an alcohol and other drug abuse disorder treatment provider.

(c) "Client" means:

(1) A person who is receiving a service from a program or community residence; or

(2) The person’s parent or guardian where the rules require the consent or informed decision of the client and he or she is either under the age of 18 and not an emancipated minor or is under guardianship.

(f) “Client rights” means the privileges possessed by each client provided services under a division issued certification as required by He-A 303.

(g) “Critical rules” means those rules, listed in Table 301-1, for which non-compliance has the potential to jeopardize the health, safety or well being of clients or staff.

(h) “Deficiency” means any action, failure to act, or other set of circumstances that causes an applicant or provider to be out of compliance with applicable rules in He-A 300.

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

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(j) "Directed plan of correction" means a plan developed and written by the division that specifies the actions the applicant is required to take to correct identified deficiencies and the projected date by which those deficiencies must be corrected.

(k) "Director" means director of the New Hampshire DADAPR in the department of health and human services.

(l) "Division" means the New Hampshire DADAPR.

(m) "Exploitation" means the unauthorized use of a client's person or property for another person's profit or advantage or the breach of a fiduciary relationship.

(n) "Facility" means the building and other structures that comprise the place or places that the applicant or provider uses to provide services and supports.

(o) "Good standing" means that an applicant:

(1) Is not currently involved in any administrative action within the department, including, at a minimum, having received a notice of denial, suspension, or revocation of certification; and

(2) In the most recent inspection, either:

a. Had 100% compliance with all relevant critical rules in He-A 300 and fewer than 30% deficiencies in all relevant non-critical rules; or

b. Had deficiencies for which a plan of correction has been accepted by the division and implemented by the applicant.

(p) "Inspection" means the process, pursuant to He-A 301.09, used by the division to determine an applicant's compliance with the relevant rules in He-A 300.

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

(r) "Owner" means any person, corporation, association, or any other legal entity, whether organized for profit or not, holding current, or applying for, certification from the division.

(s) "Procedure" means an applicant's written, standardized method of performing duties and providing services.

(t) "Program" means the vehicle by which a provider offers treatment and includes one or more alcohol and other drug abuse treatment services and the associated staff.

(u) "Provider" means any public or private corporation, individual or organization which operates one or more programs for people with alcohol and other drug abuse disorders when such programs are funded in whole or in part by state or federal funds or are operated or regulated by the division.

(v) "Scope" means the range and extent of deficiencies that affect the clients served by an applicant.

(w) "Service" means a specific activity performed by the applicant, or its employees, volunteers, students or contracted employees, the goal of which is to either directly or indirectly benefit or assist a client.

(x) "Severity" means the degree of harm or potential harm clients are subjected to because of a program's deficiencies.

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(y) “Staff” means all employees, students, volunteers and contracted employees used by the applicant to provide a service.

Source. #7496, eff 5-23-01

He-A 301.03 Certification Applicability and Exceptions. All programs operated within the State of New Hampshire shall be certified under He-A 300, except as follows:

(a) Any applicant that has a current contract with the division as of the effective date of these rules shall be deemed certified for 3 years or until such time that the division completes an inspection to determine certification status, whichever comes first;

(b) All alcohol and other drug abuse health promotion, prevention or screening clinics; and

(c) With the exception of programs operating under He-A 304, all entities legally providing alcohol and other drug abuse disorder treatment programs and receiving no state or federal funds from the department, including medicare and medicaid.

Source. #7496, eff 5-23-01

He-A 301.04 Application Submission.

(a) Any applicant for a certification shall obtain an application form from the division.

(b) All information entered on the application form shall be typewritten or legibly printed in ink.

(c) An applicant shall provide the following on an application:

(1) Name of applicant;

(2) Name of the facility, if different from name of applicant;

(3) Street address of the applicant including city, state, and zip code;

(4) Street address of the facility if different from that of the applicant including city, state, and zip code;

(5) Mailing address of the applicant, including city, state, and zip code;

(6) Telephone number of the applicant;

(7) Telephone numbers of the applicant’s facility, if different;

(8) Name of the applicant’s administrator;

(9) If not providing overnight beds, days and hours of operation;

(10) Type of ownership, such as individual, partnership, corporation, limited liability company or association;

(11) A list of the officers of the applicant entity, if applicable;

(12) Proof of authorization from the secretary of state to do business in New Hampshire;

(13) If required under RSA 151-C, written approval from the health services planning and review board relative to the applicant’s receipt of a certificate of need and obtained no less than 12 months prior to submission of the application;

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- (14) A description of the types of services to be provided;
- (15) Signature of the applicant, or if not a sole proprietorship, 2 of the officers of the governing board;
- (16) The date the application was signed;
- (17) Identification of the certification type, as follows:
  - a. New;
  - b. Change of ownership;
  - c. Change in physical location;
  - d. Change of name;
  - e. Change in certification service; or
  - f. Renewal of current certification; and
- (18) Identification of the specific service or services to be provided.

Source. #7496, eff 5-23-01

He-A 301.05 Local Approvals.

- (a) Except as allowed in (b) below, an applicant shall submit written approval from the following local officials, obtained no more than 120 days prior to submission of the application:
  - (1) The health officer, who shall verify that the applicant complies with all local health requirements;
  - (2) The building official, who shall verify that the applicant complies with all state and local building requirements;
  - (3) The zoning officer, who shall verify that the applicant complies with all local zoning requirements; and
  - (4) The fire chief, who shall verify that the applicant complies with all state and local fire requirements.
- (b) If the applicant's facility is under construction, during the planning stages the applicant shall provide:
  - (1) A written statement from the health officer acknowledging that plans comply with local health codes and ordinances;
  - (2) A written statement from the building official acknowledging that plans comply with local and state building codes and ordinances;
  - (3) A written statement from the zoning official acknowledging that the planned facility complies with applicable local zoning requirements; and

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(4) A written statement from the fire chief acknowledging that plans comply with local fire codes and ordinances.

Source. #7496, eff 5-23-01

He-A 301.06 Processing of Applications.

(a) If an application does not contain all the items required by He-A 301.04-He-A 301.05, the division shall notify the applicant in writing of which items are incomplete.

(b) The division shall process an application when it has received complete documentation as required by He-A 301.04-He-A 301.05.

(c) Following an inspection performed in accordance with He-A 301.09, if the division determines that the applicant has met 100% of all relevant critical rules listed in table 301-1 and 70%-89% of all applicable non-critical rules, a certification shall be issued for one year.

(d) Following an inspection, if the division determines that the applicant has met 100% of all relevant critical rules and 90% or higher of all applicable non-critical rules, a certification shall be issued for 2 years.

Table 301-1 Critical Rules

NUMBER	TITLE OF RULE
He-A 301.09	Inspections
He-A 301.10	Plans of corrections
He-A 302.04	Administrator responsibilities and administrative manual
He-A 302.05	Personnel manual
He-A 302.06	Clinical manual
He-A 302.10	Medication services
He-A 302.11	Quality improvement
He-A 304.06	Admission to methadone maintenance program
He-A 304.15	Hours of operation of methadone program
He-A 304.16	Community concerns

Source. #7496, eff 5-23-01

He-A 301.07 Certifications and Certificates.

(a) All certifications issued in accordance with He-A 301.06 shall be non-transferable.

(b) A certification issued to an applicant shall indicate:

- (1) The certification type and service;
- (2) The effective date of the certification; and
- (3) The expiration date of the certification.

(c) An applicant may hold certification for more than one type pursuant to He-A 301.04(c)(17), service pursuant to He-A 301.04(c)(18), or both.

Source. #7496, eff 5-23-01

He-A 301.08 Expiration of Certifications.

- (a) Certifications shall be issued for one and 2 year periods in accordance with He-A 301.06(c)-(d) and have an expiration date of the last day of the month in which the certificate was issued.
- (b) All certification holders shall apply to renew their certifications as required by He-A 301.12.
- (c) If an applicant fails to submit a complete application for renewal as required by He-A 301.12(a), the applicant shall:
  - (1) Cease operation of the certified program the day after the certification expires; or
  - (2) Cease operation on a later date specified by the division which will allow clients to be moved to other appropriate locations; and
  - (3) Not operate until a certification is obtained as required by RSA 318-B:10, VII(c) and RSA 172:8-b.
- (d) Any applicant whose certification has expired without having submitted a complete application for renewal under He-A 301.12 shall be treated as an applicant for a new certification.
- (e) Any certification that is changed due to a change in ownership shall expire in accordance with He-A 301.13.
- (f) Any certification that is changed due to a change in name shall expire in accordance with He-A 301.14.
- (g) Any certification that is changed due to a change in location shall expire in accordance with He-A 301.15.
- (h) Any certification that is changed due to a change in service shall expire in accordance with He-A 301.16.

Source. #7496, eff 5-23-01

He-A 301.09 Inspections.

- (a) The division shall conduct inspections prior to:
  - (1) Initial certification;
  - (2) Renewal of a certification;
  - (3) A change in ownership;
  - (4) A change in the certification type as described in He-A 301.04(c)(17); and
  - (5) A change in the certification service identified pursuant to He-A 301.04(c)(18).
- (b) Following an inspection, the division shall provide the applicant with a written inspection report.
- (c) The inspection report shall include:
  - (1) The name of the applicant;
  - (2) The address of the physical location where the program is operated;

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- (3) The certification type as described in He-A 301.04(c)(17);
- (4) The certification service(s) as identified pursuant to He-A 301.04(c)(18);
- (5) The date of inspection;
- (6) The name of the person or persons conducting the inspection; and
- (7) The inspection findings, including any deficiencies.

(d) If the report identifies deficiencies to be corrected, the applicant shall submit a plan of correction in accordance with He-A 301.10 within 21 working days of receiving the inspection findings.

Source. #7496, eff 5-23-01

He-A 301.10 Plans of Correction.

- (a) A plan of correction (POC) submitted in accordance with He-A 301.09(d) shall describe:
  - (1) How the applicant intends to correct each deficiency; and
  - (2) What measures will be put in place, or what changes will be made to ensure that the deficiency does not recur.
- (b) A POC shall specify the date by which each deficiency will be corrected. This date shall not be greater than 90 days from the date of submission of the POC.
- (c) The division shall review the POC to determine if it meets the criteria in (d) below.
- (d) The criteria for acceptability shall be whether the plan is designed to achieve 100% compliance with all critical rules and greater than 70% compliance with all relevant non-critical rules in He-A 300.
- (e) Issuance of a certificate or a written confirmation shall indicate the division's acceptance of the applicant's plan of correction.
- (f) The division shall reject a plan of correction when it fails to:
  - (1) Achieve compliance with the relevant statute and rules;
  - (2) Address a deficiency as written;
  - (3) Address all deficiencies cited in the inspection report;
  - (4) Prevent a new violation of statute or rule as a result of its implementation; or
  - (5) State a completion date that is no more than 90 days beyond the date of notice of rejection of the POC.
- (g) If the proposed plan of correction is rejected, the division shall notify the applicant in writing of the reason for rejection.
- (h) Within 21 days of the date of the written notice under (g) above, the applicant shall submit a revised plan of correction.
- (i) A revised plan of correction shall comply with (a) and (b) above.
- (j) The criteria for acceptability of the revised plan of correction shall be as in (d) and (f) above.

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- (k) An applicant shall be subject to a directed plan of correction when:
- (1) The division rejects a revised plan of correction pursuant to (j) above; or
  - (2) The POC is not submitted within 21 days of a written notice pursuant to (h) above.
- (l) The division shall verify that a plan of correction, as submitted and accepted, has been implemented by:
- (1) Reviewing materials submitted by the applicant;
  - (2) Conducting a follow-up inspection; or
  - (3) Reviewing compliance at the next inspection prior to certification renewal as required by He-A 301.09.
- (m) If the plan of correction has not been implemented, the applicant shall be:
- (1) Notified in writing of the reason(s) for rejection; and
  - (2) Subject to a directed plan of correction.
- (n) If the directed plan of correction issued in accordance with (k) above has not been implemented, the division shall deny or revoke the certification as required by He-A 301.18.

Source. #7496, eff 5-23-01

He-A 301.11 Scope and Severity.

- (a) All deficiencies identified during an inspection shall be rated based upon their scope and severity.
- (b) The division shall use Table 301.2 below to rate the scope and severity of any deficiencies identified during an inspection.
- (c) The scope of a deficiency shall be designated as follows:
- (1) “Isolated” shall be used for an occurrence in which between one and 5 clients or staff, or both, are affected in a 12 month period in only one location;
  - (2) “Pattern” shall be used for an occurrence or occurrences in which at least 5 but less than 10 clients or staff, or both, are affected in one or more locations or the same client and staff have been affected by repeated occurrences of the same deficient practice; and
  - (3) “Widespread” shall be used for the problem(s) causing the deficient practice affects all or most of the clients and staff and is pervasive throughout the facility or represents a facility system failure.
- (d) The severity of a deficiency shall be designated as follows:
- (1) “Potential for harm” shall describe a deficiency where there is a threat that actual harm might occur;
  - (2) “Actual harm” shall describe a deficiency where a physical or psychosocial event ranging from discomfort to death has occurred; and
  - (3) “Immediate jeopardy” shall describe a deficiency where there is a high probability that serious harm or injury will occur at any time or already has occurred and could occur again.



(e) Scope and severity shall be identified in accordance with table 301.2, Scope and Severity and Categorical Remedy Grid, as follows:

**Table 301.2 Scope and Severity and Categorical Remedy Grid**

	<b>ISOLATED</b>	<b>PATTERN</b>	<b>WIDESPREAD</b>
<b>POTENTIAL FOR HARM</b>	A Category 1	B Category 1	C Category 1
<b>ACTUAL HARM</b>	D Category 2	E Category 2 or 3	F Category 2 or 3
<b>IMMEDIATE JEOPARDY</b>	G Category 2	H Category 3	I Category 3

(f) Scope and severity shall be used to determine categorical remedies, as follows:

- (1) Plan of correction (POC) shall apply when the inspection cites deficiencies to be corrected as required by He-A 301.09(d);
- (2) Directed plan of correction (directed POC) shall apply for the reasons stated in He-A 301.10(k);
- (3) Denial of application shall apply for the reasons stated in He-A 301.18;
- (4) Revocation of certification shall apply for the reasons stated in He-A 301.18; and
- (5) Suspension of certification shall apply for the reasons stated in He-A 301.19.

(g) Categorical remedies shall be as listed in Table 301.3, Category Remedy Grid below:

**Table 301.3 Category Remedy Grid**

<b>Category 1 Remedies</b>	<b>Category 2 Remedies</b>	<b>Category 3 Remedies</b>
<ul style="list-style-type: none"> <li>• POC</li> </ul>	<ul style="list-style-type: none"> <li>• POC</li> <li>• Directed POC</li> <li>• Denial of Application</li> </ul>	<ul style="list-style-type: none"> <li>• Directed POC</li> <li>• Denial of application</li> <li>• Suspension or revocation of Certification, as applicable</li> </ul>

(h) In situations where the department has the option of imposing category remedy 2 or category remedy 3, the department shall impose category remedy 2 when:

- (1) Suspension or revocation of certification is not required by He-A 301.18(a)(1)-(6) or (8);-and
- (2) The inspection required by He-A 301.09 does not include:
  - a. Any repeat deficiency for the previous 2 years; or
  - b. Any violation of a critical rule, as defined by He-A 301.06, Table 301.1, Critical Rules.

(i) The director shall inform the applicant in writing of the required categorical remedy(ies) issued by the department.

Source. #7496, eff 5-23-01; amd by #7596, eff 11-20-01

He-A 301.12 Certification Renewal.

(a) To renew a current certification, an applicant shall complete and submit to the division an application for certification renewal at least 120 days prior to the expiration of the current certification.

(b) The division shall review applications for renewal of certification as follows:

(1) For any application submitted 120 or more days prior to expiration of the certification, the division shall review the application and issue a decision prior to the expiration date; and

(2) For any application submitted fewer than 120 days prior to expiration of the certification, the division shall review the application as resources allow.

(c) An applicant shall submit the following documents with the application for renewal:

(1) All information required by He-A 301.06-.07;

(2) A request for renewal of any existing waiver previously granted by the division in accordance with He-A 301.21, if applicable; and

(3) A statement identifying any exemptions or waivers applied for or granted by any state or local fire, building code, or zoning authority.

(d) The division shall approve an application for renewal of a certification if:

(1) The application contains all the information required by (b) and (c) above;

(2) The application is received at least 120 days prior to the expiration of the current certification; and

(3) At the last inspection, the applicant was found to be in compliance with all applicable rules contained in He-A 300.

Source. #7496, eff 5-23-01

He-A 301.13 Change of Ownership.

(a) When a change of ownership of an entity certified under He-A 301.08(d) is proposed, the proposed owner shall request new certification by submitting the following to the division at least 30 days prior to the change of ownership:

(1) The name of the applicant as it appears on the current certification;

(2) The name of the new applicant as it will appear on the new certification;

(3) The date upon which the change of ownership will take effect;

(4) A copy of any certificate of amendment of organizational filings issued by the New Hampshire secretary of state, if applicable; and

(5) A letter from the current certification holder acknowledging the change of ownership and when that change will be final.

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(b) Prior to operating under new ownership, the prospective applicant shall apply for a new certification in accordance with He-A 301.06.

(c) The division shall issue a certificate without first inspecting the premises if:

- (1) The current applicant is in good standing at the time of the sale;
- (2) No changes in services are proposed or made by the new owner; and
- (3) The application is complete.

(d) The division shall issue a certification granted pursuant to (c) above within 10 working days of receipt of a complete application.

(e) If the current applicant is not in good standing at the time of change of ownership, a certification shall be issued to the prospective applicant if:

- (1) The prospective applicant submits a POC for all of the current applicant's outstanding deficiencies, as identified pursuant to He-A 301.09(c); and
- (2) The division determines the POC to be acceptable pursuant to He-A 301.10(d).

(f) Certifications issued under He-A 301.13(c) or (e) above shall expire on the date the certification issued to the previous applicant would have expired.

Source. #7496, eff 5-23-01

He-A 301.14 Change in Name of Place Where Services are Delivered.

(a) When an applicant intends to change the name of the place where services authorized by a current certification are delivered, that applicant shall submit a written request to the division for a new certification at least 30 days prior to the intended date of change in name.

(b) The written request shall include:

- (1) The name of the place where services are delivered as it appears in the current certification;
- (2) The name of the place where services are delivered as it will appear in the new certification;
- (3) The effective date of the change; and
- (4) A copy of the certificate of any amendment of documents issued by the New Hampshire secretary of state, if applicable.

(c) Upon receipt of the request, the director shall issue a new certification reflecting the change in name. The certification expiration date shall not change.

Source. #7496, eff 5-23-01

He-A 301.15 Change in the Applicant's Physical Location.

(a) An administrator shall obtain a new certification in accordance with He-A 301.06-He-A 301.08 prior to changing the physical location of its service delivery site.

(b) The applicant shall return the current certification to the division within 30 days of any change in physical location.

(c) When an applicant, such as with an intensive outreach case management team, that regularly offers services at locations other than its authorized facility wishes to change location, the applicant shall apply for a new certificate in accordance with He-A 301.04 - He-A 301.06.

(d) When an application is submitted pursuant to (d) above:

(1) The applicant shall be exempt from the inspection required by He-A 301.09; and

(2) Current certifications issued under the relevant rules of He-A 300 shall expire on the date that the certification issued for the previous location would have expired.

Source. #7496, eff 5-23-01

He-A 301.16 Change in Applicant's Service.

(a) When an applicant certified under He-A 301 proposes to either add or discontinue a service, the applicant shall request the change by submitting the following to the division at least 60 days prior to the change:

(1) The reason for requesting the change;

(2) If required under RSA 151-C, written approval from the health services planning and review board relative to the applicant's receipt of a certificate of need, obtained no earlier than 12 months prior to submission of the application;

(3) If applicable, a description of the new service to be offered;

(4) If applicable, a description of the services to be discontinued;

(5) If applicable, the specific service requiring certification; and

(6) The date when the change is going to be in effect.

(b) An applicant who proposes to discontinue a certified program shall submit to the division in writing:

(1) A plan to transfer, discharge or refer all clients being served in the certified program; and

(2) A plan for the security and transfer of the client's records being served in the certified program as required by He-A 302.08 and He-A 302.09 and with the consent of the client.

(c) Prior to discontinuing a specified service, the prospective applicant shall apply for a new certification in accordance with He-A 301.06-.07 and (a) and (b) above.

(d) Upon receipt of a completed application, the division shall issue a certification to the applicant without first inspecting the premises if :

(1) The applicant is in good standing at the time of the request; and

(2) No changes in other services are proposed.

(e) If the applicant is not in good standing at the time of a request for discontinuance of a service, a certification shall not be issued to the applicant until an inspection has been completed to determine compliance with the relevant parts of He-A 300.

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(f) Prior to operating a new service, the applicant shall apply for a new certification in accordance with He-A 301.06 and He-A 301.16.

(g) The division shall issue a certificate to an applicant that wishes to operate a new service when an inspection has determined the applicant's compliance with the relevant parts of He-A 300.

(h) Certifications issued under He-A 301.16(c) shall expire on the date the certification issued previously would have expired.

Source. #7496, eff 5-23-01

He-A 301.17 Change in Applicant's Administrator. An applicant shall notify the division in writing of any change in the applicant's designated administrator no later than 7 days after the start of employment of the new administrator.

Source. #7496, eff 5-23-01

He-A 301.18 Denial, Revocation, and Reinstatement of Certification.

(a) The division shall deny an application or revoke an existing certification after an opportunity for a hearing pursuant to He-A 301.20 if:

- (1) The application has missing or incomplete items or items that do not meet the requirements of He-A 301.06 - .07 and the applicant has been notified of and given an opportunity to supply such items;
- (2) The applicant or administrator has been found guilty of abuse, neglect, or exploitation of any person, or assault, fraud or a felony against a person in this or any other state by a court of law;
- (3) The applicant or administrator has had a complaint investigation for abuse, neglect, or exploitation substantiated by the department and has not received a waiver in accordance with He-A 301.21;
- (4) The applicant or any representative or employee of the applicant knowingly provides materially false information to the division;
- (5) The applicant or any representative or employee of the applicant prevents or interferes with any inspection by the division;
- (6) The applicant or any representative or employee of the applicant fails to provide requested material files or documents to the division;
- (7) An inspection of an applicant for a new certification finds less than 100% compliance with applicable critical rules and less than 70% compliance with the applicable non-critical rules contained in He-A 300;
- (8) An inspection of an applicant for renewal of a certification finds less than 100% compliance with applicable critical rules and less than 70% compliance with the applicable non-critical rules contained in He-A 300;
- (9) The applicant has submitted an unacceptable plan of correction under He-A 301.10; or
- (10) The applicant has failed to fully implement and continue to comply with a plan of correction that has been accepted by the division in accordance with He-A 301.10.

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(b) Any person who has had a certification revoked shall not apply for a new or renewed certification while the revocation remains in effect.

(c) If a revoked certification expires without having been reinstated, the former applicant shall apply for a new certification in accordance with He-A 301.06 - He-A 301.07 before operating the proposed service.

(d) Upon receipt of a written request for reinstatement, the division shall complete an investigation within 60 days to determine if the deficiencies that resulted in the revocation have been corrected.

(e) Revoked certifications shall be reinstated when:

(1) The applicant submits a written request for reinstatement to the director; and

(2) An inspection completed in accordance with (d) above determines that the deficiencies that resulted in the revocation have been corrected.

(f) Any applicant aggrieved by the denial of an application may request an adjudicative proceeding in accordance with He-A 301.20.

Source. #7496, eff 5-23-01

He-A 301.19 Suspension of Certification.

(a) The director shall order immediate suspension of certification if a deficiency poses an immediate and serious threat to the health or safety of a program's clients or employees.

(b) Upon suspension, the director shall schedule a hearing to be held within 10 working days in accordance with He-C 204 and notify the applicant in writing of the suspension and hearing.

(c) The suspension shall remain in effect until one of the following occurs:

(1) A hearing is held and a decision is rendered pursuant to (b) above;

(2) A hearing is not held within 10 days from the date of the suspension; or

(3) The director or his or her designee has determined that the service is in compliance with all applicable department rules and no longer poses an immediate and serious threat to an individual's health or safety.

(d) A hearing held pursuant to (b) above shall determine:

(1) Whether in fact there was an immediate and serious threat to the health and safety of the individual at the time that the service's certification was suspended; and

(2) If applicable, whether the provider or provider agency has come into compliance with all relevant division rules and there is no longer an immediate and serious threat to the individual's health or safety.

(e) The division shall notify the applicant of any proposed denial, revocation, or reclassification as required by He-A 301.18 during a period of suspension.

(f) Upon receipt of the notification of suspension, the applicant or certified provider shall cease operation of the certified service until such time as the director or his or her designee determines to reinstate the certification.

Source. #7496, eff 5-23-01

He-A 301.20 Administrative Appeals and Hearings of Decisions to Revoke, Deny, Reclassify or Suspend a Certification.

(a) An applicant may appeal any proposed or final decision to revoke, deny, reclassify or suspend an application or certification by requesting a hearing pursuant to He-C 204.02 or an independent review pursuant to He-C 205.01.

(b) The applicant shall:

- (1) Submit in writing to the director the reasons for the appeal request within 10 days of receiving notification of the decision to deny, revoke, reclassify or suspend the certification; and
- (2) Request a hearing or review be convened to hear the appeal in accordance with He-C 200.

(c) If the applicant fails to request an appeal in writing within 10 days, the decision of the division shall be final.

(d) The director or his or her designee shall conduct a hearing or review within 30 days of receipt of a request and shall rule in writing within 15 days of the end of the hearing.

Source. #7496, eff 5-23-01

He-A 301.21 Waivers.

(a) Rules contained in He-A 300 shall apply to a variety of settings and organization structures. An agency or individual may request a waiver of a specific provision or procedure.

(b) Applicants seeking waivers of specific rules in He-A 300 shall submit a written request for waiver to the director.

(c) A request for waiver pursuant to (b) above shall include:

- (1) Specific reference to the rule for which a waiver is being sought;
- (2) Full explanation of why a waiver is necessary; and
- (3) Full explanation of alternatives proposed by the applicant.

(d) No provision or procedure prescribed by statute shall be waived.

(e) The director shall approve a request for waiver if:

- (1) Strict compliance with the provision or procedure sought to be waived will not negatively impact client care;
- (2) The director concludes that authorizing deviation from strict compliance with the rule from which waiver is sought does not contradict the intent of the rule; and
- (3) One of the following applies:
  - a. The alternative provisions or procedures proposed by the applicant are at least equivalent to the specific provisions or procedures contained in the rule; or

b. The alternative provisions or procedures proposed by the applicant are not equivalent to the provisions or procedures contained in the rule but are sufficient to ensure that the objective or intent of the relevant rule will be accomplished.

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

(g) Waivers shall not be transferable.

(h) Waivers shall be granted in writing for a specific duration which shall not exceed either one year or any period of certification, whichever comes first.

(i) The applicant may request a renewal of the waiver from the director. Such request shall be made at least 90 days prior to the expiration of the current waiver.

Source. #7496, eff 5-23-01

PART He-A 302 OPERATIONAL REQUIREMENTS FOR ALL ALCOHOL AND OTHER DRUG ABUSE DISORDER TREATMENT PROVIDERS

Statutory Authority: RSA 172:8-b

He-A 302.01 Purpose. The purpose of these rules is to describe the necessary structures, criteria, policies, procedures, and practices to be certified by the division of alcohol and drug abuse prevention and recovery as an approved alcohol and other drug abuse disorder treatment provider.

Source. #7496, eff 5-23-01

He-A 302.02 Definitions. The words and phrases used in these rules shall have the following meanings:

(a) "Administer" means an act whereby one or more doses of a medication is instilled into the body of, applied to the body of, or otherwise given to a person for immediate consumption or use by an individual authorized by law, including RSA 318-B and RSA 326-B.

(b) "Administrator" means an individual appointed by the governing body of the certified treatment program to be responsible for all aspects of the daily program operation.

(c) "Client" means:

(1) A person who is receiving a service from a program or community residence; or

(2) The person's parent or guardian where the rules require the consent or informed decision of the client and he or she is either under the age of 18 and not an emancipated minor or is under guardianship.

(d) "Director" means the director of the division of alcohol and drug abuse prevention and recovery.

(e) "Division" means the division of alcohol and drug abuse prevention and recovery within the department of health and human services.

(f) "Evidence based" means the performance or exclusion of specific procedures or services derived through a rigorous methodological approach that includes:



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- (1) A determination of appropriate criteria, such as effectiveness, efficacy, population benefit or client satisfaction; and
- (2) A literature review of the scientific studies to determine the strength of the findings in relationship to the criteria identified in (1) above.
- (g) “Governing body” means the legal entity responsible for the entire management, conduct and quality of the services and property of a certified treatment program.
- (h) “Guiding values” means a written list of principles the staff of a program use to guide its day to day work.
- (i) "Licensed practitioner" means a medical doctor, physician's assistant, advanced registered nurse practitioner, doctor of osteopathy or doctor of naturopathic medicine legally practicing in the State of New Hampshire.
- (j) “Manual” means a collection of policies and procedures addressing specific areas of program functioning such as administrative, personnel, or clinical, or a reference table pointing to existing policies and procedures in the specific areas.
- (k) “Mission” means a written statement of what an organization’s purpose is and what it strives to achieve on a day to day basis.
- (l) “Program” means the vehicle by which a provider offers treatment and includes one or more alcohol and other drug abuse treatment services and the associated staff.
- (m) “Provider” means any public or private corporation, individual or organization which operates one or more programs for people with alcohol and other drug abuse disorders when such programs are funded in whole or in part by state or federal funds or are operated or regulated by the department.
- (n) “Supervision” means regular monitoring of the administrative, clinical, personnel, or clerical work performance of a staff member, student, volunteer or contracted employee.
- (o) "Treatment" means a broad range of planned and continuing services, counseling, medical, psychiatric, psychological, educational, training, rehabilitation, pharmaceuticals, and case management that are extended to clients and that influence the behavior of clients toward identified goals and objectives.
- (p) “Treatment plan” means a written action plan, based on assessment data, that identifies the client’s clinical needs and goals, the strategy for providing services to meet those needs, treatment goals and objectives, written in behavioral terms, and the criteria for terminating specific interventions. The treatment plan includes specification and description of the indicators to be used to assess the individual’s progress.
- (q) “Vision” means a written statement, based on an organization’s guiding values, that describes what the organization wants to create for its clientele in the future.

Source. #7496, eff 5-23-01

### He-A 302.03 Governing Body.

- (a) To become an approved provider organized as a public or private corporation, sole proprietorship, partnership or any another lawful form of organization, the provider’s governing body shall:
- (1) Pursuant to bylaws, agreement, statement or other writing, as applicable, be legally responsible for:

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- a. The entire management, conduct, and quality of the services; and
  - b. Control of the property and affairs of the provider; and
- (2) Have the powers in (1) above listed within its bylaws, agreement, statement or other writing as applicable.
- (b) The bylaws of a public, voluntary, not-for-profit corporate provider's governing body shall specify that:
- (1) Members shall be generally representative of the geographic area served by the provider;
  - (2) Membership shall include representation from clients and their family members;
  - (3) No more than 20% of the members shall have served for more than 6 years total;
  - (4) Procedures shall exist for defining and removing members for cause, including inactivity; and
  - (5) Membership shall be open to all individuals except:
    - a. Employees of the New Hampshire department of health and human services;
    - b. Employees or spouses of employees of the provider, except that the governing body's selected administrator shall be eligible as an ex officio member;
    - c. Employees or spouses of employees under contract with the provider; and
    - d. Individuals or spouses of individuals under contract with the provider;
  - (6) Governing members or the spouses of governing members of agencies or programs under contract with the provider shall comprise no more that one third of the governing body;
  - (7) Members shall comply with all state and local disclosure laws including RSA 7:19-a;
  - (8) Any votes by the governing body that directly or indirectly bear upon a business relationship between the provider and the governing body member shall result in recusal of that member from both the deliberation and voting; and
  - (9) The governing body shall adopt and monitor a code of ethical conduct for the governing body.
- (c) Any provider that is not a public, voluntary, not-for-profit corporation shall appoint an advisory committee which meets the requirements of He-A 302.03 (b) (1)-(7) to advise the governing body concerning issues unique to the community where the provider is located which may effect the delivery of services.
- (d) The provider's governing body shall:
- (1) Appoint an administrator responsible for the day-to-day operation of the organization;
  - (2) Maintain a current job description and performance appraisal for the administrator, including the administrator's authority and duties;

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- (3) Establish a mission and guiding values for the agency;
- (4) Provide for the necessary personnel, facilities, equipment and supplies for the safety, maintenance and operation of the agency;
- (5) Review and approve written administrative, personnel and clinical policies and procedures required under He-A 302.04 - He-A 302.06; and
- (6) Ensure the administration and operation of the agency is in compliance with all applicable federal, state, and local laws, rules, licenses, permits and approvals.

Source. #7496, eff 5-23-01; ss by #7597, eff 11-20-01

He-A 302.04 Administrator Responsibilities and Administrative Manual.

(a) The administrator shall be responsible for the day-to-day operation of a certified provider including the following:

- (1) All administrative matters;
- (2) Client care services;
- (3) Ensuring that the administration and operation of the agency is in compliance with all applicable federal, state, and local laws, rules, licenses, permits and approvals;
- (4) Establishing and monitoring a code of ethics for the organization and the staff; and
- (5) Establishing a mechanism for reporting unethical conduct.

(b) When the administrator is not on duty or on call, a staff person shall be delegated the authority and responsibility to act in the administrator's behalf.

(c) The administrator shall ensure that administrative, personnel, and clinical policy and procedure manuals:

- (1) Are developed and adhered to;
- (2) Are reviewed and revised as necessary, and at least annually; and
- (3) Contain dates of reviews and revisions, and signatures of persons responsible for the reviews and revisions.

(d) The administrative policy and procedure manual shall contain at a minimum:

- (1) Articles and certificates of incorporation;
- (2) Partnership agreements, if applicable;
- (3) Statement of sole proprietorship, if applicable;
- (4) Provider bylaws, if applicable;
- (5) Copies of all applicable current certifications, licenses and/or approvals;
- (6) An organization chart showing:

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- a. Each staff position, including:
    1. Volunteers;
    2. Students; and
    3. Contractors; and
  - b. The total number of full or part-time people for each position;
- (7) Delegation of authority policy;
- (8) A copy of current fee schedules including procedures for those unable to pay;
- (9) Policy and procedures regarding collections from client fees, private or public insurance, and other payers responsible for the client's finances;
- (10) Procedures to determine eligibility for financial and medical services, including Medicaid, and Medicare and assisting the client in applying for such services;
- (11) Policy and procedures implementing state and federal regulations on client confidentiality, including provisions outlined in 42 CFR 2.13, RSA 172:8-a, and RSA 318-B:12;
- (12) Policies and procedures for reporting suspected child or abuse or neglect in accordance with RSA 169-C:29-30;
- (13) Policies and procedures for reporting to the division life threatening events involving staff or clients during treatment, and actions taken by the provider;
- (14) Client rights, grievance and appeals policies and procedures;
- (15) Policies and procedures for maintaining and monitoring a waiting list, including:
- a. Any client screened but not offered services;
  - b. Logs or registers of people seeking treatment when service capacity has been reached;
  - c. Logs or registers of phone calls from community agencies requesting treatment when service capacity has been reached;
  - d. Assuming responsibility to assist in placement of clients in appropriate available treatment settings; and
  - e. Periodic reporting to the division;
- (16) Policies and procedures for denial of services when service capacity has not been reached, including:
- a. Informing the applicant and referring agency of the reason;
  - b. Assuming responsibility to assist in placement of the client in an appropriate available treatment setting;
  - c. Logs or a register of treatment denials and reasons; and
  - d. Not denying service primarily because the client:

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1. Previously left treatment against the advise of staff;
  2. Relapsed from an earlier treatment; or
  3. Is on psychoactive medications;
- (17) Policies for smoking, alcohol, and other drug use while in treatment;
- (18) Safety procedures for staff working in the community; and
- (19) Fire monitoring, warning and safety drill policy and procedures.
- (e) The administrator shall ensure that the service site:
- (1) Is accessible to a person with a disability using ADA accessibility and barrier free guidelines, 42 U.S.C. 12131 et seq;
  - (2) Has a reception area separate from living and treatment areas;
  - (3) Has private space for personal consultation, charting, treatment and social activities, as applicable;
  - (4) Has secure storage of active and closed confidential client records;
  - (5) Is clean and in good repair;
  - (6) Has lighting, heating and ventilation;
  - (7) Has separate and secure storage of toxic substances; and
  - (8) Where applicable, is in full compliance with He-P 801, health facilities licensing rules.

Source. #7496, eff 5-23-01; amd by #7597, eff 11-20-01

He-A 302.05 Personnel Manual and Files.

- (a) The administrator shall have and adhere to a personnel manual that contains at a minimum:
- (1) Description of procedures for document and resume verification of prospective employees;
  - (2) Requirements regarding criminal background checks of prospective employees, which shall include:
    - a. That a prospective employee sign a release to allow the provider to obtain his or her criminal record; and
    - b. That the administrator or his or her designee review each prospective employee's application to eliminate those who pose an unacceptable risk to the provider's client population.
  - (3) Drug free workplace policy and procedures including a requirement for the filing of written reports of actions taken in the event of staff misuse of alcohol or other drugs;
  - (4) Methods for reporting employee injuries or occupational diseases as outlined in RSA 281-A:20;
  - (5) Method for reporting and appealing employee grievances;

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- (6) Methods for the provision of clinical supervision that meet, at a minimum, the following:
- a. One New Hampshire-licensed alcohol and drug counselor (LADC) shall supervise every 2 full-time equivalent positions that are unlicensed alcohol and drug counselors;
  - b. Each unlicensed alcohol and drug counselor shall be supervised by a LADC;
  - c. Unlicensed counselors shall receive at least one hour of supervision for every 20 hours of direct client contact;
  - d. Supervision shall be provided on an individual or group basis, or both, depending upon the employee's need, experience and skill level;
  - e. Supervision shall include following techniques:
    1. Review of case records;
    2. Observation of interactions with clients;
    3. Skill development; and
    4. Review of case management activities; and
  - f. Supervisors shall maintain a log of the supervision date, duration, content and who was supervised by whom;
- (7) Policies and procedures for employee, volunteer, and student screening for, and recording of the results of tuberculosis and other communicable diseases.
- (8) Policies and procedures for training, monitoring and managing biohazard spills and preventing the spread of communicable diseases including:
- a. Universal precautions;
  - b. Use of protective clothing and devices; and
  - c. Use of cleaning solutions in the contaminated area;
- (9) A current job description for all staff, including contract staff, volunteers, and students, which shall include:
- a. Minimum qualifications;
  - b. Job title;
  - c. Responsibilities;
  - d. Positions supervised; and
  - e. Title of immediate supervisor;
- (10) Description of methods of informing all new employees, contracted staff, volunteers, and students of the following no later than 2 working days after beginning work:
- a. Code of ethics including ethical conduct;
  - b. How to report unprofessional conduct;

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- c. Confidentiality requirements as required in He-A 302.04(d)(11);
  - d. Grievance procedures for both clients and staff as required in He-A 302.04(d)(14) and He-A 302.05(a)(5);
  - e. Topics covered by both the administrative and personnel manuals;
  - f. Clinical job requirements and topics covered by the clinical manual; and
  - g. Requirements regarding universal precautions, and the use of cleaning solutions and protective clothing and devices as required by He-A 302.05(a)(8);
- (11) Requirement that employees, staff, volunteers, and students provide signed and dated documentation that they have been informed as required by (10) above;
- (12) Description of methods of informing all staff of changes in existing policies, procedures, practices and benefits; and
- (13) Description of policy for updating the training of all staff in relevant policies and procedures.
- (b) The administrator or his or her designee shall maintain a current personnel file for each employee, student, volunteer, and contracted staff providing or supervising client care.
- (c) A personnel file shall include, at a minimum, the following:
- (1) A copy of the current job description or agreement;
  - (2) Written verification that the person meets the provider's qualifications for the assigned job description;
  - (3) A signed and dated record of orientation as required by He-A 302.05(a)(11);
  - (4) Records of screening for communicable diseases results required in He-A 302.05(a)(7);
  - (5) Written performance appraisals for each year of employment including description of any corrective actions, supervision, or training determined by the person's supervisor to be necessary;
  - (6) Descriptions of training programs attended, including in-service trainings while employed; and
  - (7) A signed commitment to adhere to the confidentiality requirements referenced in He-A 302.04(d)(11).

Source. #7496, eff 5-23-01

He-A 302.06 Clinical Manual.

- (a) Each provider shall have and adhere to a clinical care manual.
- (b) A provider's clinical care manual shall contain client care policies and procedures that, at a minimum:
- (1) Include methods for provision of programs and services that:
    - a. Focus on strengths;

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- b. Foster community integration or re-integration;
  - c. Foster employment, education and self-sufficiency;
  - d. Are sensitive and relevant to the diversity of the people served;
  - e. Are client and family centered;
  - f. Are responsive to crises and multiple needs;
  - g. Reduce the stigma associated with an alcohol and other drug abuse disorder;
  - h. Are evidence and outcome based; and
  - i. Assist families and communities to support the client;
- (2) Include methods for identification of community resources and client referral options;
- (3) Require implementation of He-A 302.07 through He-A 302.10;
- (4) Describe client placement criteria using the current version of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders (PPC);
- (5) Require tuberculosis screening for prevention and control of TB;
- (6) Require provision of HIV/AIDS screening, including:
- a. Information;
  - b. Brief risk assessment;
  - c. Intervention; and
  - d. Referral;
- (7) Include policies and procedures for the reporting, detection and prevention of infectious diseases as required in He-P 300;
- (8) Include urine and blood specimen collection policies and procedures that:
- a. Insure that collection is conducted in a manner that preserves client privacy as much as possible;
  - b. Minimize falsification;
  - c. Require storage and transportation in such a way as to avoid substitution, falsification or damage to the sample;
  - d. Are used for the purpose of diagnosis, treatment plan development, and monitoring; and
  - e. Require that when laboratories are used, they meet the requirements of He-P 808;
- (9) Require limitation of group counseling sessions to 12 clients or fewer;
- (10) Require provision of education to each client on:



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- a. Alcohol abuse and dependence;
  - b. Drug abuse and dependence;
  - c. Relapse prevention;
  - d. HIV/AIDS, hepatitis and TB; and
  - e. Sexually transmitted diseases;
- (11) Require provision of information to each client on:
- a. The impact of drug and alcohol use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of drug and alcohol use during pregnancy;
  - b. Emotional, physical and sexual abuse; and
  - c. Nicotine dependence;
- (12) Include an outline of each educational session included in the service, sufficient in detail for another trained staff person to deliver the session in the absence of the regular trained staff person;
- (13) Address the use of self-help groups including, when indicated, facilitated self-help;
- (14) Include client rights and responsibilities, as required by He-A 303.03, including possible disciplinary sanctions for non-compliance;
- (15) Include discharge policies and procedures including:
- a. Administrative discharges;
  - b. Clients leaving against advise of treatment staff;
  - c. Criteria for successful completion and determination of prognosis;
  - d. Follow-up care for clients requiring continuing supportive services or continued treatment; and
  - e. Appeal procedures consistent with He-C 200;
- (16) Include policies and procedures on:
- a. Medical emergencies;
  - b. Posting of emergency procedures;
  - c. Emergency closings;
  - d. Screening and treating of suicidal or mentally ill clients;
  - e. Medical screening and oversight by a licensed medical practitioner, including provision of a physical examination, on a person who:
    - 1. Is dependent on barbiturates or benzodiazepines;
    - 2. Is dependent on alcohol and at risk of alcohol withdrawal delirium or seizures; or

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3. Used intravenous drugs in the 30 days before admission;
- f. Laboratory tests; and
- g. Services and resources for women of reproductive age, such that:
  1. A pregnant woman who is not being seen by a licensed health care professional shall be referred for determination of prenatal care needs; and
  2. Services shall include discussion of pregnancy-specific issues and resources.

Source. #7496, eff 5-23-01

He-A 302.07 Stabilization and Assessment Requirements. An LADC or unlicensed counselor supervised by an LADC shall conduct and document a screening and assessment of each client's involvement with alcohol and other drugs that includes:

(a) A face-to-face screening interview to determine if the client will need physiological stabilization including, at a minimum:

- (1) Determining if alcohol or other drug use is hazardous use by using existing evidence based screening tools;
- (2) Determining if the presence of tolerance exists as outlined in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition;
- (3) Determining if the presence of withdrawal exists as outlined in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition;
- (4) Determining the potential for an alcohol withdrawal syndrome using The Clinical Institute Withdrawal Assessment for Alcohol , Revised (CIWA-Ar), as follows, to establish the applicant's level of:
  - a. Nausea and vomiting on a scale from 0 to 7, with 0 meaning no nausea or vomiting, one meaning mild nausea with no vomiting, 4 meaning intermittent nausea with dry heaves, and 7 meaning constant nausea and frequent dry heaves and vomiting;
  - b. Tremor on a scale from 0 to 7, with 0 meaning no tremor, one meaning tremor is not visible but can be felt fingertip to fingertip, 4 meaning moderate tremor with applicant's arms extended, and 7 meaning severe tremor, even with applicant's arms not extended;
  - c. Paroxysmal sweats on a scale from 0 to 7,, with 0 meaning no sweats visible, one meaning moist palms and barely perceptible sweating, 4 meaning beads of sweat obvious on the forehead, and 7 meaning drenching sweats;
  - d. Anxiety on a scale from 0 to 7, with 0 meaning no anxiety, one meaning mildly anxious, 4 meaning moderately anxious, or guarded so that anxiety is inferred, and 7 meaning anxiety equivalent to acute panic, such as is seen in severe delirium or acute schizophrenic reactions;
  - e. Agitation on a scale from 0 to 7, with 0 meaning normal activity, one meaning somewhat more than normal activity, 4 meaning moderately fidgety and restless, and 7 meaning pacing back and forth or constantly thrashing about;

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- f. Tactile disturbance on a scale from 0 to 7, with 0 meaning no disturbance, one meaning very mild itching, pins and needles, burning, or numbness, 4 meaning moderately severe hallucinations, and 7 meaning continuous hallucinations;
- g. Auditory disturbances on a scale from 0 to 7, with 0 meaning no disturbances, one meaning disturbances with very mild harshness or ability to frighten, 4 meaning moderately severe hallucinations, and 7 meaning continuous hallucinations;
- h. Visual disturbances on a scale from 0 to 7, with 0 meaning not present, one meaning very mild sensitivity, 4 meaning moderately severe hallucinations, and 7 meaning continuous hallucinations;
- i. Headache on a scale from 0 to 7, with 0 meaning not present, one meaning very mild, 4 meaning moderately severe, and 7 meaning extremely severe; and
- j. Orientation and clouding of sensorium on a scale from 0 to 4, with 0 meaning oriented and can do serial additions, one meaning cannot do serial additions or is uncertain about date, 2 meaning disoriented by more than 2 calendar days, and 4 meaning disoriented for place and/or person;

(5) Evaluating for possible barbiturate, benzodiazepene, or opioid tolerance or withdrawal;

(6) Considering and documenting a need for addiction-related pharmacology;

(7) Screening for other possible medical conditions;

(8) Evaluating the possibility of danger to self or others including, at a minimum, child and adult abuse or neglect; and

(9) Considering the possibility of using medically monitored or managed detoxification services as outlined in the ASAM Patient Placement Criteria (PPC criteria), Second Edition (ASAM PPC-2);

(b) A face-to-face diagnostic interview with each client to obtain, review, evaluate and document the following:

(1) A history of the client's involvement with alcohol and other drugs, including:

a. The type of substances used;

b. The route of administration;

c. Amount, frequency, and duration of use;

d. Patterns of use; and

e. Positive and negative consequences of using and not using;

(2) A history of alcohol or other drug treatment or education;

(3) The client's self-assessment of use of alcohol and other drugs;

(4) A relapse prevention and recovery history;

(5) If any, the status of the client's:

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- a. Current and active mental disorder; and
  - b. Past or in-remission mental disorder; and
- (6) The client's need, if any, of specialized treatment services using PPC criteria.
- (c) If the client is in need of alcohol or other drug abuse treatment, an additional assessment of the person's:
- (1) Motivation for recovery;
  - (2) Stage of readiness for change;
  - (3) Current risk behaviors;
  - (4) Ability to attain and maintain abstinence;
  - (5) Risk of relapse;
  - (6) Strengths and needs;
  - (7) Level of service need using PPC criteria; and
  - (8) Need of treatment for mental disorder, if any;
- (d) If the client is found to be in need of alcohol or other drug abuse treatment, an assessment of other factors affecting treatment, including:
- (1) Current and historical psychological and social data relevant to the treatment;
  - (2) The possibility of participation in treatment by family or a significant other;
  - (3) The need for referrals to other providers for services not provided by the certified program;
  - (4) The client's health history, including:
    - a. Physical status;
    - b. Mental status;
    - c. Medication use and history including over-the-counter medications; and
    - d. Availability and use of medical and other health care;
  - (5) For women, the likelihood of current pregnancy;
  - (6) Minor children's custody or living arrangements during treatment; and
  - (7) Legal history, including:
    - a. Past charges related to alcohol or other drug use;
    - b. Current charges and courts of jurisdiction; and
    - c. Probation and parole requirements; and
    - d. Conditional discharges pursuant to He-M 609.03.

- (e) Documentation of the information collected, as follows:
  - (1) Client-identified problem(s);
  - (2) Summary of data gathered as required by He-A 302.07(a)-(d);
  - (3) A diagnostic assessment interpretive summary including signs, symptoms and progression of client's involvement with alcohol and other drugs;
  - (4) A statement regarding provision of an HIV/AIDS screening, and referrals made; and
  - (5) Documentation of the type and length of treatment recommended, in accord with PPC.
- (f) Completion and submission of all reports and information required by the department, courts, or corrections.

Source. #7496, eff 5-23-01

He-A 302.08 Treatment, Rehabilitation, Transfer and Discharge Plans.

- (a) Providers shall maintain an individually-written treatment plan for each client.
- (b) The plan shall be developed within 7 days following admission to any daily residential or non-residential treatment or rehabilitation program, or following 3 sessions in an outpatient treatment program.
- (c) Individual treatment plans shall be developed in a way that acknowledges the client's:
  - (1) Cultural sensitivities
  - (2) Education level;
  - (3) Reading ability;
  - (4) Language comprehension; and
  - (5) Cognitive ability.
- (d) Individual treatment plans shall contain, at a minimum, the following elements:
  - (1) Problems to be addressed during treatment including possible barriers to treatment;
  - (2) Client strengths that can be used in resolving problems identified in (d)(1) above;
  - (3) Measurable long-term treatment goals that might be accomplished over a period of months or years that relate to problems identified in the assessment;
  - (4) Measurable short-term goals, that might be accomplished over a period of days or weeks leading to the completion of the long-term goals, that include:
    - a. Timeframes for the anticipated dates of achievement or completion of each goal, or for reviewing progress towards goals;
    - b. Specification and description of the indicators used to assess the individual's progress;
    - c. Documentation of participation by the client in the treatment planning process or the reason why the client did not participate; and

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- d. The treatment procedures proposed to assist the client in achieving these goals, including:
  - 1. Type and frequency of services or assigned activities to be provided; and
  - 2. Referrals for needed services that are not provided directly by the program;
- (5) Measurable personal goals that might be achieved if treatment goals are realized;
- (6) Measurable recovery plan goals; and
- (7) Signatures of the client and the counselor agreeing to the plan.
- (e) The treatment plan shall:
  - (1) Be reviewed and updated during the course of treatment;
  - (2) Document the degree to which the client is meeting his/her treatment, personal and recovery goals; and
  - (3) Modify existing goals or establish new ones as necessary.
- (f) The authorized counselor shall sign the updated plan at the time of review.
- (g) The authorized counselor shall:
  - (1) Ask the client to sign the updated plan; and
  - (2) If applicable, document in the client's record his or her refusal to sign.
- (h) The plan shall be reviewed at least:
  - (1) Every 7 days in a program of 30 days duration or less, including detoxification, residential and non-residential programs;
  - (2) Every 30 days for programs of 31 to 180 days;
  - (3) Every 90 days for programs in excess of 180 days; and
  - (4) Every 10 visits or every 3 months of outpatient care, whichever comes first.
- (i) When transferring a client from one treatment service to another within the same certified provider agency, a LADC or an unlicensed counselor shall:
  - (1) Update the client assessment and treatment plan; and
  - (2) Provide a summary report of the client's treatment and progress in the client's record.
- (j) Except in detoxification services or for a client who leaves treatment against the advice of treatment staff, the staff shall meet with the client at the time of discharge to:
  - (1) Make an effort to reengage the client for treatment and continuing care;
  - (2) Finalize a continuing care plan using PPC criteria to assist in determining appropriate recommendations for care;
  - (3) Assist in obtaining appropriate housing and access to treatment or document why this could not be accomplished; and

(4) Assist the client in making contact with other agencies or services as requested.

(k) When transferring a client to another treatment provider, the current provider shall forward copies of the following information to the receiving provider when a release of confidential information is signed by the client:

(1) Client demographic information as listed in He-A 302.09(c);

(2) Diagnostic assessment statement and other assessment information, including:

- a. Documentation of the HIV/AIDS intervention;
- b. TB test result;
- c. A record of the client's detoxification and treatment history;
- d. The reason for the transfer; and
- e. Court-mandated or agency-recommended follow-up treatment;

(3) Current treatment plan;

(4) Discharge summary when completed; and

(5) The plan for continuing care or treatment.

(l) In addition to the information contained in the transfer summary outlined in (j) above, an LADC or an unlicensed counselor shall complete a discharge summary, within 7 days of each client's discharge from the agency, that includes, at a minimum:

(1) The date of discharge or transfer;

(2) Except in detoxification services, a summary of the client's progress toward each treatment goal; and

(3) In detoxification services, a summary of the client's physical condition at the time of discharge.

Source. #7496, eff 5-23-01; amd by #7597, eff 11-20-01

He-A 302.09 Client Record System.

(a) Each provider shall have policies and procedures to implement a comprehensive client record system that complies with (b)-(g) below.

(b) The client record of each person served shall communicate information in a manner that is:

(1) Organized into related sections with entries in chronological order;

(2) Easy to read and understand;

(3) Complete, containing all the parts; and

(4) Up-to-date, including notes of most recent contacts.

(c) The individual record shall include, at a minimum:

(1) Identification data, including the person's:

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- a. Name;
  - b. Date of birth;
  - c. Address;
  - d. Telephone number; and
  - e. Social security number
- (2) The date of admission;
  - (3) If either of these have been appointed for the person, the name and address of:
    - a. The guardian; and
    - b. The representative payee;
  - (4) The name, address and telephone number of the person to contract in the event of an emergency;
  - (5) The name of the person currently coordinating the services of the person served;
  - (6) The location of any other records, such as follow-up reports;
  - (7) The name, address and telephone number of the primary health care provider;
  - (8) The name and address of the client's public or private health insurance provider(s), or both;
  - (9) The person's religious preference, if any;
  - (10) The person's health history;
  - (11) Current medications;
  - (12) Records and reports prepared prior to the person's current admission and determined by the LADC to be relevant;
  - (13) A record of the screening and assessment pursuant to He-A 302.07;
  - (14) The initial and ongoing assessment as required in He-A 302.07;
  - (15) A diagnostic interpretive summary;
  - (16) The individual treatment plan;
  - (17) A schedule of program activities;
  - (18) Signed and dated progress notes and reports from all programs involved;
  - (19) Signed receipt of notification of client rights as required by He-A 303.03(b);
  - (20) A discharge plan and summary, if applicable;
  - (21) Correspondence pertinent to the person served;
  - (22) Signed release forms; and



- (23) Documentation of referrals, both internal and external.
- (d) A person designated by the provider shall maintain the record system by:
  - (1) Determining and documenting who has access to records;
  - (2) Maintaining a mechanism to remove and return charts to the designated storage place;
  - (3) Maintaining a systematic method of identifying and filing individual client records so each can be readily retrieved;
  - (4) Assuring that each client record is complete and authenticated by the person providing the observation, evaluation or service; and
  - (5) Retaining client records after the discharge or transfer of the client, as follows:
    - a. For a minimum of 7 years for an adult; and
    - b. For a minimum of 7 years after age of majority for children.
- (e) The provider shall keep records within a secure storage system that:
  - (1) Promotes confidentiality of and limits access to both active and inactive records; and
  - (2) Protects active and inactive files from damage during storage.
- (f) In the event of a program closure, the provider closing its treatment program shall arrange for the continued management of all client records. The closing provider shall notify the division in writing of the address where records will be stored and specify the person managing the records.
- (g) The closing provider shall arrange for storage of each record through one or more of the following measures:
  - (1) Continue to manage the records and give written assurance to the division that it will respond to authorized requests for copies of client records within 10 working days;
  - (2) Transfer records of clients who have given written consent to another certified provider; or
  - (3) Enter into a limited service organization agreement with a certified provider to store and manage records.

Source. #7496, eff 5-23-01; amd by #7597, eff 11-20-01

He-A 302.10 Medication Services.

- (a) If the provider maintains a pharmacy on the premises, it shall comply with the applicable provisions of RSA 318.
- (b) All medications not ordered, approved or labeled for an individual client, including pharmaceutical samples, shall be the responsibility of a licensed practitioner in accordance with RSA 329 or RSA 326-B:10.
- (c) The licensee referenced in (b) above shall ensure that orders for medications, treatment, and, if needed, diet are available within 24 hours of admission.
- (d) Clients authorized in writing by the provider to self-administer their medications and store their medications in their rooms may utilize a pill planner provided that either the client or a pharmacy fills it.

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(e) Medications stored in a client's room shall be maintained at proper temperatures and locked up to safeguard against unauthorized access. Both the client and the administrator or designee shall have keys to access the locked medication storage area in a client's room.

(f) Clients who do not self-administer their medications shall have all medications administered by individuals authorized by law to administer medications.

(g) Providers shall maintain on the premises copies of written orders, to include faxes or copies signed by a licensed practitioner or other individual authorized by law, for each prescription medication being taken by a client.

(h) Each medication order required by (g) above shall legibly display the following information:

- (1) The client's name;
- (2) The medication name and strength;
- (3) The prescribed dose;
- (4) The route of administration;
- (5) The frequency of administration; and
- (6) The date ordered.

(i) Any change or discontinuation of medications shall require a written order from a licensed practitioner.

(j) Medications not stored in a client's room shall be:

- (1) Stored in a:
  - a. Room;
  - b. Cabinet;
  - c. Closet;
  - d. Cart;
  - e. Mobile workstation; or
  - f. Refrigerator; and
- (2) In a storage area that is:
  - a. Locked and accessible only to authorized personnel;
  - b. Clean;
  - c. Organized to allow correct identification of each client's medication(s);
  - d. Illuminated in a manner sufficient to allow reading of all medication labels; and
  - e. Equipped to maintain medication at the proper temperature.

(k) Schedule II controlled substances, as defined by RSA 318-B:1-b, shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

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(l) Topical liquids, ointments, creams and powder forms of products shall be stored separately from oral, optic, ophthalmic and parenteral products.

(m) Medications shall be kept in the original containers and properly closed after each use.

(n) Any discontinued, contaminated or expired medication shall be destroyed by incineration or by flushing into the waste water system within 7 days of being discontinued, contaminated, or expired.

(o) Destruction of controlled drugs under (n) above shall:

(1) Be accomplished in the presence of at least 2 people and documented in the clinical record of the client for whom the drug was prescribed; or

(2) Be accomplished by returning them to a pharmacy for destruction, provided that the provider obtains written verification of receipt of the controlled drugs from the pharmacist.

(p) Medication belonging to the provider's personnel shall not be accessible to clients.

(q) All medication container labels shall match the current written orders of the licensed practitioner.

(r) Any medication container label changes shall be made by a licensed medical practitioner or a pharmacist.

(s) All medication containers, including physician samples that have been given to a client, shall legibly display the following information:

(1) The client's name;

(2) The drug name;

(3) The strength;

(4) The route;

(5) The frequency; and

(6) The dose.

(t) All over-the-counter medications taken by clients shall be approved by a licensed practitioner in the following manner:

(1) A list of over-the-counter medications requested by the client shall be provided to the licensed practitioner by the client or the administrator;

(2) The licensed medical practitioner shall provide written approval for the specific over-the-counter medications requested by the client on an annual basis;

(3) All over-the-counter medication containers shall be marked with the name of the client using the medication; and

(4) Provisions shall be made to safeguard these medications from other clients.

(u) Over-the-counter medications taken by clients shall not be considered a prescribed order for the client unless they are issued under a specific prescription.

(v) The provider shall require of its staff that telephone and verbal orders for medications, treatments,

and diets are only taken:

- (1) By a person authorized by license, law or certification to receive a verbal or telephone order; and
  - (2) From a licensed practitioner or authorized prescriber.
- (w) A person taking an order pursuant to (u) above shall:
- (1) Immediately transcribe the order into the appropriate place in the client record;
  - (2) Include the name of the person prescribing;
  - (3) Include the date;
  - (4) Include the time;
  - (5) Sign the order; and
  - (6) Have the order countersigned by the authorized prescriber or his or her designee within 30 days.
- (x) Medications shall be:
- (1) Prepared immediately prior to administration; and
  - (2) Prepared, identified and administered by the same person in accordance with RSA 318 and RSA 326-B.
- (y) The provider shall administer medications in accordance with the orders of the licensed practitioner.
- (z) When supervising self-administration of medication, the authorized staff shall remain with the client until the medication has been taken by the client.
- (aa) The provider shall maintain a written daily medication record for each medication administered to a client containing:
- (1) The name of the medication;
  - (2) The dose administered;
  - (3) The date and the time the medication was administered;
  - (4) The signature and identifiable initials of the person administering the medication;
  - (5) Documented reason for any medication refused or omitted; and
  - (6) Any allergies to medications.
- (ab) Under the direction of a nurse on the provider's staff, a certified nursing assistant (CNA) may administer the following:
- (1) Topical products to intact skin;
  - (2) Medicinal shampoos and baths;
  - (3) Laxative suppositories and enemas; and

- (4) Other medications as allowed by law.
- (ac) The provider shall have a written policy and system in place instructing how to obtain:
  - (1) Any medication ordered for immediate use; and
  - (2) Any routine medications required with 24 hours.
- (ad) The provider shall have a written policy and system of reordering medications and receiving new orders.
- (ae) The provider shall report the following to the licensed practitioner:
  - (1) Any observed reactions to medication or side effects; and
  - (2) Any medication errors, including:
    - a. Incorrect medications;
    - b. Incorrect doses;
    - c. Incorrect clients;
    - d. Incorrect routes;
    - e. Incorrect times; or
    - f. Incorrect documentation.
- (af) Written documentation of the report shall be maintained in the client's clinical record.
- (ag) Unit dose medication shall be returned to pharmacies for credit only under the provisions of Ph 704.07.
- (ah) When a client is going to be absent from the facility at the time medication is scheduled to be administered or self-administered:
  - (1) The medication container(s) shall be taken by the client or by a trained staff member authorized to administer medications pursuant to He-M 1201.04 in those cases where the client is incapable of self administration at the appropriate times;
  - (2) The client, under the supervision of the nurse, shall take the correct dosage from the medication container(s) and place it in a container which was previously prepared by a pharmacist; and
  - (3) The container in (2) above shall be labeled with the name of the medication, dose and time of administration.
- (ai) Upon discharge or transfer:
  - (1) A client may take his or her current medication(s) if the medication(s) is in a labeled, closed container; and
  - (2) The provider shall not accept money, goods or services for free or below cost as compensation or inducement for supplying the client's medications.

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(aj) If the certified program is administering or supervising self-administration of medications, nothing in this section shall be construed as authorizing or permitting any person to do any act outside existing federal and state laws.

Source. #7496, eff 5-23-01

### He-A 302.11 Quality Improvement.

(a) Each provider shall develop a quality improvement committee consisting of representatives of the various professional disciplines within the certified program.

(b) The size and composition of the quality improvement committee shall be determined by each provider with consideration given to the number and types of services provided.

(c) 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 to be taken to correct identified problems;
- (6) Recommend corrective actions to the program; and
- (7) Evaluate the effectiveness of the corrective actions.

(d) The quality improvement committee shall meet at least quarterly.

(e) The quality improvement committee shall generate dated, written minutes of each meeting prior to the next meeting, including information on:

- (1) Member attendance;
- (2) Indicators reviewed at the present meeting;
- (3) Conclusions of the committee;
- (4) Recommendations for corrective action, if any; and
- (5) Indicators to be reviewed at the next meeting.

(f) Documentation of all quality improvement activities shall be maintained on-site for at least 2 years.

Source. #7496, eff 5-23-01; amd by #7597, eff 11-20-01

### He-A 302.12 Waivers.

(a) An agency or individual may request a waiver of a specific provision or procedure of He-A 302.

(b) Applicants seeking waivers of specific rules in He-A 302 shall submit a written request for waiver to the director that includes:

- (1) Specific reference to the rule for which a waiver is being sought;

- (2) Full explanation of why a waiver is necessary; and
  - (3) Full explanation of alternatives proposed by the applicant.
- (c) No provision or procedure prescribed by statute shall be waived.
- (d) The director shall approve a request for waiver if:
- (1) Strict compliance with the provision or procedure sought to be waived will not negatively impact client care;
  - (2) The director concludes that authorizing deviation from strict compliance with the rule from which waiver is sought does not contradict the intent of the rule; and
  - (3) One of the following applies:
    - a. The alternative provisions or procedures proposed by the applicant are at least equivalent to the specific provisions or procedures contained in the rule; or
    - b. The alternative provisions or procedures proposed by the applicant are not equivalent to the provisions or procedures contained in the rule but are sufficient to ensure that the objective or intent of the relevant rule will be accomplished.
- (e) The applicant's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which the waiver was sought.
- (f) Waivers shall not be transferable.
- (g) Waivers shall be granted in writing for a specific duration which shall not exceed either one year or any period of certification, whichever comes first.
- (h) The applicant may request a renewal of the waiver from the director. Such request shall be made at least 90 days prior to the expiration of the current waiver.

Source. #7496, eff 5-23-01

PART He-A 303 RIGHTS OF PERSONS RECEIVING TREATMENT FOR ALCOHOL AND OTHER DRUG ABUSE DISORDERS IN THE COMMUNITY

Statutory Authority: RSA 172:8-b

He-A 303.01 Purpose. The purpose of these rules is to define the rights of applicants for service or persons who receive treatment services under He-A 300. Clients might have additional rights under RSA 151:21 for residents of health care facilities.

Source. #7496, eff 5-23-01

He-A 303.02 Definitions. The words and phrases used in this chapter shall have the following meanings:

(a) "Abuse" means an act or omission by an employee, consultant or volunteer of a program which is not accidental and harms or threatens to harm a client's physical, mental or emotional health or safety and includes emotional, physical and sexual abuse.

(b) "Attorney" means a member of the New Hampshire Bar Association who is appointed by a court, retained, or employed to represent a client.

- (c) "Client" means:
- (1) A person who is receiving a service from a program or community residence; or
  - (2) The person's parent or guardian where the rules require the consent or informed decision of the client and he or she is either under the age of 18 and not an emancipated minor or is under guardianship.
- (d) "Client identifying information" means any information that identifies an individual as having applied for or received alcohol or other drug related services or as being an abuser of alcohol or other drugs, or a combination of alcohol and other drugs.
- (e) "Community" means a non-facility or non-institutional service setting that is integrated as much as possible into the service network available to all citizens in the geographic area served by the program.
- (f) "Director" means the director of the division of alcohol and drug abuse prevention and recovery.
- (g) "Division" means the division of alcohol and drug abuse prevention and recovery within the department of health and human services.
- (h) "Emotional abuse" means:
- (1) The misuse of power, authority or both;
  - (2) Verbal harassment; or
  - (3) Confinement that results or could result in mental anguish or emotional distress of a client.
- (i) "Evidence based" means the performance or exclusion of specific procedures or services derived through a rigorous methodological approach that includes:
- (1) A determination of appropriate criteria, such as effectiveness, efficacy, population benefit or client satisfaction; and
  - (2) A literature review of the scientific studies to determine the strength of the findings in relationship to the criteria identified in (1).
- (j) "Exploitation" means the use of a client's person or property for another's profit or advantage or breach of a fiduciary relationship through improper use of a client's person or property including situations where a person obtains money, property or services from a client through undue influence, harassment, deception, or fraud.
- (k) "Guardian" means a person appointed under RSA 464-A.
- (l) "Informed decision" means a choice made voluntarily by a client or applicant for services or, where appropriate, such person's legal guardian, after all relevant information necessary to making the choice has been provided, when:
- (1) The person or his or her guardian understands that he or she is free to choose or refuse any available alternative; and
  - (2) The person or his or her guardian clearly indicates or expresses his or her choice.



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(m) “Medical emergency” means a situation that poses an immediate threat to the health of an individual and requires immediate medical intervention.

(n) “Neglect” means an act of omission that results or could result in the deprivation of essential services necessary to maintain the minimum mental, emotional or physical health of a client.

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

(p) “Program” means the vehicle by which a provider offers treatment and includes one or more alcohol and other drug abuse treatment services and the associated staff.

(q) “Provider” means any public or private corporation, individual or organization which operates one or more programs for people with alcohol and other drug abuse disorders when such programs are funded in whole or in part by state or federal funds or are operated or regulated by the division.

(r) “Qualified service organization” means a person or agency that:

(1) Provides professional services to a program such as:

- a. Data processing;
- b. Dosage preparation;
- c. Laboratory analyses;
- d. Vocational counseling;
- e. Legal services;
- f. Medical services;
- g. Accounting services; or
- h. Other professional services that the program does not provide for itself;

(2) Has been approved by a provider to receive confidential client information by:

- a. Entering into a written agreement with the provider;
- b. Agreeing to not re-disclose client identifying information without signed consent;
- c. Agreeing to resist unauthorized efforts to gain access to client identifying information as required in He-A 303.06(k); and
- d. Agreeing to receive only the information needed by the organization to provide the services; and

(3) Is not a law enforcement agency.

(s) “Service” means any evaluation, training, counseling, therapy, habilitation, case management, or other type of assistance, medical care or treatment provided by a program.

(t) “Service delivery system” means those facilities and programs funded, in whole or in part, operated, monitored or regulated by the division.

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(u) "Sexual abuse" means contact or interaction of a sexual nature between a client and an employee of or a consultant or volunteer for a program.

(v) "Treatment" means a broad range of planned and continuing services, counseling, medical, psychiatric, psychological, educational, training, rehabilitation, pharmaceuticals, and case management that are extended to clients and that influence the behavior of clients toward identified goals and objectives.

(w) "Treatment plan" means a written action plan, based on assessment data, that identifies the client's clinical needs and goals, the strategy for providing services to meet those needs, treatment goals and objectives, written in behavioral terms, and the criteria for terminating specific interventions. The treatment plan includes specification and description of the indicators to be used to assess the individual's progress.

(x) "Within the program" means within the organization or organizational unit that provides alcohol and other drug abuse services.

Source. #7496, eff 5-23-01

### He-A 303.03 Notice of Client Rights.

(a) Programs shall inform clients of their rights under these rules in clear, understandable language and form, both verbally and in writing.

(b) The notification of rights required under (a) above shall include, at a minimum, the following measures:

(1) Applicants for services shall be informed of their rights to evaluations and access to treatment;

(2) Clients shall be advised of their rights upon entry into any program and at least once a year after entry;

(3) Initial and annual notifications of client rights as in (2) above shall be documented in the client's record; and

(4) Every program within the service delivery system shall post notice of the rights set forth in these rules, as follows:

a. The notice shall be posted continuously and conspicuously;

b. The notice shall be presented in clear, understandable language and form; and

c. Each program and residence shall have on the premises complete copies of rules pertaining to client rights that are available for client review.

Source. #7496, eff 5-23-01

### He-A 303.04 Fundamental Rights.

(a) No person receiving treatment for a alcohol and other drug abuse disorder shall be deprived of any legal right to which all citizens are entitled solely by reason of that person's admission to the treatment services system.

(b) The legal rights protected shall include, at a minimum:

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(1) The right to freedom of religious preference and practice, the right to be free from engaging in any religious activity, and the right to receive assistance to the extent practicable in attending places of worship;

(2) The right to not be discriminated against in any manner because of race, color, sex, religion, national origin, age, handicap, sexual orientation, or degree of disability as provided in state and federal laws, title VII of the civil rights act of 1964, section 504 of the rehabilitation act of 1973, the age discrimination act of 1975 and the provisions of certain block grants, including:

- a. Access to auxiliary aids needed by handicapped persons;
- b. Services which are accessible to persons of limited English proficiency; and
- c. Service locations that are physically accessible; and

(3) The right to legal remedies including the right to petition for and receive the benefits of a writ of habeas corpus and to seek any other remedy provided by law.

Source. #7496, eff 5-23-01; amd by #7598, eff 11-20-01

He-A 303.05 Personal Rights.

(a) Persons who are applicants for services or clients in the service delivery system shall be treated by program staff with dignity and respect at all times.

(b) Clients shall be free from abuse, neglect and exploitation including, at a minimum, the following:

- (1) Freedom from any verbal, non-verbal, mental, physical, or sexual abuse or neglect;
- (2) Freedom from the intentional use of physical force except the minimum force necessary to prevent harm to the client or others; and
- (3) Freedom from personal or financial exploitation.

(c) Clients shall have the right to privacy.

(d) Clients shall have the right to confidentiality of all information and records pertaining to individual clients and former clients.

Source. #7496, eff 5-23-01

He-A 303.06 Client Confidentiality.

(a) All client confidentiality requirements shall be in accord with 42 CFR part 2.

(b) Except as required by (k) below, a program shall only disclose information about a client when authorized by a signed consent form.

(c) A consent form shall contain all of the following:

- (1) Name of client;
- (2) Name or general designation of the program making the disclosure;
- (3) The purpose of the disclosure;

- (4) Who is to receive the information;
- (5) The information to be released, described as exactly and as narrowly as possible in light of the purpose of the release;
- (6) A section which includes a specific statement that the client understands:
  - a. That he or she may revoke the consent at any time;
  - b. That the revocation cannot stop disclosures previously made; and
  - c. That the revocation may be oral as well as written;
- (7) The date or condition upon which the consent expires;
- (8) The date the consent form is signed;
- (9) Notification prohibiting re-disclosure; and
- (10) The signature of the client.

(d) All client-identifying information that is authorized to be released by the program shall contain a notice prohibiting re-disclosure displayed prominently on all correspondence and information released.

(e) Programs shall not release confidential information in a client's record that pertains to other clients.

(f) In cases where a client, attorney or other authorized person, after review of the record, requests copies of the record, a program shall make such copies available free of charge for the first 25 pages and not more than 25 cents per page thereafter.

(g) If the client has died:

- (1) The executor of the estate, the spouse, or closest relative shall sign the consent form; and
- (2) No signed consent shall be needed to disclose information relating to the cause of death.

(h) If the client does not have legal capacity to authorize a release of information, a person appointed by a court to make such decisions shall sign.

(i) If a minor age 12 or older is treated for drug abuse without parental consent as authorized by RSA 318:B12-a, the following shall apply:

- (1) The minor's signature alone shall authorize a disclosure; and
- (2) Any disclosure to the minor's parents or guardians shall require a signed authorization to release.

(j) The following disclosures shall require a signed authorization to release client identifying information:

- (1) Confirming that a particular person is a client, even if the caller or visitor says that he or she is the client's family member and knows the client attends the program;
- (2) Sending a client a letter in an envelope that has information identifying the program;

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- (3) Faxing a letter on the program's stationery revealing or suggesting client status to the client's workplace;
  - (4) Leaving a telephone message revealing or suggesting a client's status with a client's spouse, parent, or roommate or on a client's answering machine where another person might hear the message;
  - (5) Disclosing the client's name and the fact that the client attended a program to a bill collection agency, attorney or small claims court;
  - (6) Having a program counselor appear at a client's workplace or home and revealing his or her relationship with the client to someone else; and
  - (7) Disclosing descriptive or anecdotal material from which a client's identity could be inferred.
- (k) Disclosure of client identifying information may be made without a signed consent form as follows:
- (1) Within a program or to an entity having direct administrative control over a program, in order to provide alcohol and other drug abuse services to the client;
  - (2) To a qualified service organization;
  - (3) To the medical personnel involved in treating a client's medical emergency;
  - (4) To the police when a client commits or threatens to commit a crime on the premises or against staff, with disclosed information to include:
    - a. The client's name;
    - b. The client's address and phone number;
    - c. The last known whereabouts; and
    - d. The crime or threat of crime without reference to previous crimes;
  - (5) For disclosures required by RSA 169-C:29, report of child abuse;
  - (6) For the purpose of research if:
    - a. The researcher has a written protocol to protect the security of client records;
    - b. The researcher agrees in writing that client identifying information will not be disclosed or re-disclosed without a signed consent; and
    - c. The division of behavioral health committee for the protection of human subjects has approved the research;
  - (7) For the purpose of an audit or evaluation that:
    - a. Is court-ordered pursuant to (k)(8) below;
    - b. Is to determine compliance with Medicaid or Medicare requirements;
    - c. Removes and/or copies a clinical record if the auditor/evaluator:

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1. Signs a written agreement to protect client identifying information from unauthorized release;
2. Agrees in writing to destroy all such information on completion of the audit or evaluation; and
3. Agrees in writing to not use the information except for the purpose of the audit or evaluation; and

(8) Pursuant to a federal, state or local court order if:

- a. The program and client have been notified of the order except when they are the object of that court order; and
- b. The program and client have the opportunity to respond to the notification.

(l) Search and arrest warrants shall not constitute a type of court order authorized in (k)(8) above. Therefore, client identifying information shall not be disclosed.

(m) If a search or arrest warrant is issued for a client, the program shall:

- (1) Produce a copy of He-A 303 and explain to the issuing officer that the program cannot cooperate with the warrant unless under court order;
- (2) Request time to notify legal counsel;
- (3) Ask to contact the prosecuting attorney or commanding officer to explain these requirements; and
- (4) If (1)-(3) above are attempted and refused, do not forcibly resist or actively assist.

(n) Clients shall have the right to complain about any matter, including any alleged violation of a right afforded by these rules or by any state or federal law or rule.

(o) Any person shall have the right to complain or bring a grievance on behalf of an individual client or a group of clients.

(p) The rules governing procedures for protection of client rights found at He-C 200 shall apply to such complaints and grievances.

Source. #7496, eff 5-23-01; amd by 7598, eff 11-20-01

He-A 303.07 Treatment Rights.

(a) Each client shall have the right to adequate and humane treatment, including:

- (1) The right of access to treatment including:
  - a. The right to evaluation to determine an applicant's need for services and to determine which programs are most suited to provide the services needed;
  - b. The right to provision of necessary services when those services are available, subject to the admission and eligibility policies and standards of each program; and

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c. The right to not be excluded from receiving services because of race, color, age, religion, sex, national origin, handicap, degree of disability, sexual orientation or inability to pay except as required in He-A 303.08;

(2) The right to quality treatment including:

a. Treatment and services in accordance with certification requirements and rules adopted by the commissioner in He-A 300 and applicable rules of other state agencies; and

b. Services provided in keeping with evidence-based clinical and professional standards applicable to the persons and programs providing the treatment and to the conditions for which the client is being treated;

(3) The right to receive services in such a manner as to promote the client's full participation in the community;

(4) The right to receive all services or treatment to which a person is entitled in accordance with the time frame set forth in the client's individual treatment plan;

(5) The right to an individual treatment plan developed, reviewed and revised in accordance with He-A 302 which addresses the client's own goals;

(6) The right to receive treatment and services contained in an individual treatment plan designed to provide opportunities for the client to participate in meaningful activities in the communities in which the client lives and works;

(7) The right to service and treatment in the least restrictive alternative or environment necessary to achieve the purposes of treatment including programs which least restrict:

a. Freedom of movement; and

b. Participation in the community, while providing the level of support needed by the client;

(8) The right to be served, whenever possible, in generic, integrated services rather than specialized programs, except that programs may restrict access to generic and integrated services by clients to:

a. Ensure the privacy or safety of the clients;

b. Achieve other necessary objectives contained in the individual treatment plan; or

c. Comply with provisions of law or orders of court;

(9) The right to be informed of all significant risks, benefits, side effects and alternative treatment and services and to give consent to any treatment, placement or referral following an informed decision such that:

a. Whenever possible, the consent shall be given in writing; and

b. In all other cases, evidence of consent shall be documented by the program and shall be witnessed by at least one person;

(10) The right to refuse to participate in any form of experimental treatment or research;

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- (11) The right to be fully informed of one's own diagnosis and prognosis;
- (12) The right to voluntary placement including the right to:
  - a. Seek changes in placement, services or treatment at any time; and
  - b. Withdraw from any form of voluntary treatment or from the service delivery system;
- (13) The right to services which promote independence including services directed toward:
  - a. Eliminating, or reducing as much as possible, the client's needs for continued services and treatment; and
  - b. Promoting the ability of the clients to function at their highest capacity and as independently as possible;
- (14) The right to refuse medication and treatment;
- (15) The right to referral for medical care and treatment including, if needed, assistance in finding such care in a timely manner;
- (16) The right to consultation and second opinion including:
  - a. At the client's own expense, the consultative services of:
    - 1. Private physicians;
    - 2. Psychologists;
    - 3. Licensed drug and alcohol counselors; and
    - 4. Other health practitioners; and
  - b. Granting to such health practitioners reasonable access to the client, as required by He-A 303.06, in programs and allowing such practitioners to make recommendations to programs regarding the services and treatment provided by the programs;
- (17) The right, upon request, to have one or more of the following present at any treatment meeting requiring client participation and informed decision-making:
  - a. Guardian;
  - b. Representative;
  - c. Attorney;
  - d. Family member;
  - e. Advocate; or
  - f. Consultant; and
- (18) The right to freedom from restraint including the right to be free from seclusion and physical, mechanical or pharmacological restraint.



(b) No treatment professional shall be required to administer treatment contrary to such professional's clinical judgment.

(c) Programs shall, whenever possible, maximize the decision-making authority of the client.

(d) In furtherance of (c) above, the following provisions shall apply to clients for whom a guardian has been appointed by a court of competent jurisdiction:

(1) The program shall ensure that in the course of service provision, the guardian and all persons involved in the provision of service are made aware of the client's views, preferences and aspirations;

(2) A guardian shall only make decisions that are within the scope of the powers set forth in the guardianship order issued by the court;

(3) The program shall request a copy of the guardianship order from the guardian and the order shall be kept in the client's record at the program;

(4) If any issues arise relative to the provision of services and supports which are outside the scope of the guardian's decision-making authority as set forth in the guardianship order, the client's choice and preference relative to those issues shall prevail unless the guardian's authority is expanded by the court to include those issues;

(5) A program shall take such steps as are necessary to prevent a guardian from exceeding the decision-making authority granted by the court including:

- a. Reviewing with the guardian the limits on his or her decision-making authority; and
- b. If necessary, bringing the matter to the attention of the court that appointed the guardian;

(6) The guardian shall act in a manner that furthers the best interests of the client;

(7) In acting in the best interests of the client, the guardian shall take into consideration the views, preferences and aspirations of the client;

(8) The program shall take such steps as are necessary to prevent a guardian from acting in a manner that does not further the best interests of the client and, if necessary, bring the matter to the attention of the court that appointed the guardian; and

(9) In the event that there is a dispute between the program and the guardian, the program shall inform the guardian of his or her right to bring the dispute to the attention of the probate court that appointed the guardian.

Source. #7496, eff 5-23-01

He-A 303.08 Termination of Services.

(a) A client shall be terminated from a provider's service if the client:

(1) Endangers or threatens to endanger other clients or staff, or engages in illegal activity on the property of the program;

(2) Is no longer benefiting from the service(s) he or she is receiving;

- (3) Cannot agree with the program on a mutually acceptable course of treatment;
  - (4) Refuses to pay for the services that he or she is receiving despite having the financial resources to do so; or
  - (5) Refuses to apply for benefits that could cover the cost of the services that he or she is receiving despite the fact that the client is or might be eligible for such benefits.
- (b) A termination from a provider's services shall not occur unless the program has given both written and verbal notice to the client and client's guardian, if any, that:
- (1) Give the effective date of termination;
  - (2) List the clinical or management reasons for termination; and
  - (3) Explain the rights to appeal and the appeal process pursuant to He-C 200.
- (c) A provider shall document in the record of a client who has been terminated that:
- (1) The client has been notified of the termination; and
  - (2) The termination has been approved by the program director.

Source. #7496, eff 5-23-01

He-A 303.09 Client Rights in Residential Programs.

- (a) In addition to the foregoing rights, clients of residential programs shall also have the following rights:
- (1) The right to a safe, sanitary and humane living environment;
  - (2) The right to privately communicate with others, including:
    - a. The right to send and receive unopened and uncensored correspondence;
    - b. The right to have reasonable access to telephones and to be allowed to make and to receive reasonable numbers of telephone calls except that residential programs may require a client to reimburse them for the cost of any calls made by the client;
    - c. The right to receive and to refuse to receive visitors except that residential programs may impose reasonable restrictions on the number and time of visits in order to ensure effective provision of services; and
    - d. The right to engage in social and recreational activities including the provision of regular opportunities for clients to engage in such activities;
  - (3) The right to privacy, including the following:
    - a. The right to courtesies such as knocking on closed doors before entering and ensuring privacy for telephone calls and visits;
    - b. The right to opportunities for personal interaction in a private setting except that any conduct or activity which is illegal shall be prohibited; and

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c. The right to be free from searches of their persons and possessions except in accordance with applicable constitutional and legal standards;

(4) The right to individual choice, including the following:

a. The right to keep and wear their own clothes;

b. The right to space for personal possessions;

c. The right to keep and to read materials of their own choosing;

d. The right to keep and spend their own money; and

e. The right not to work and to be compensated for any work performed, except that:

1. Clients may be required to perform personal housekeeping tasks within the client's own immediate living area and equitably share housekeeping tasks within the common areas of the residence, without compensation; and

2. Clients may perform vocational learning tasks or work required for the operation or maintenance of a residential program, if the work is consistent with their individual treatment plans and the client is compensated for work performed; and

(5) The right to be reimbursed for the loss of any money held in safekeeping by the residence.

(b) Nothing in He-A 303.09 shall require a residence to have policies governing the behavior of the residents.

(c) Clients shall be informed of any house policies upon admission to the residence.

(d) House policies shall be posted and such policies shall be in conformity with this section.

(e) House policies shall be periodically reviewed for compliance with this section in connection with quality assurance site visits.

(f) Notwithstanding (a)(3)c. above, certified providers may develop policies and procedures that allow searches for alcohol and illicit drugs be conducted:

(1) Upon the client's admission to the program; and

(2) If probable cause exists, including such proof as:

a. A positive test showing presence of alcohol or illegal drugs; or

b. Showing physical signs of intoxication or withdrawal.

Source. #7496, eff 5-23-01

PART He-A 304 OPERATIONAL REQUIREMENTS FOR OPIOID DETOXIFICATION AND METHADONE MAINTENANCE, TREATMENT AND REHABILITATION PROGRAMS

Statutory Authority: RSA 318-B:10, VII(b) and VIII(b)

He-A 304.01 Purpose. The purpose of these rules is to describe the requirements necessary to be certified by the New Hampshire bureau of drug and alcohol services as an approved provider of an opioid detoxification and methadone maintenance, treatment, and rehabilitation program.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.02 Definitions. The words and phrases used in these rules shall mean the following:

(a) “Buprenorphine” means a semi-synthetic opiate with partial agonist actions used in the treatment of opiate addiction.

(b) “Bureau” means the New Hampshire bureau of drug and alcohol services.

(c) “Client” means a person who is enrolled in a program and is receiving services from a provider certified by these rules.

(d) “Heroin” means “heroin” as defined in RSA 318-B:10, VII(d)(1), namely, “an illegal semi-synthetic drug produced from the morphine contained in sap of the opium poppy, and known to have the potential for devastating addictive properties in vulnerable individuals.”

(e) “Licensed practitioner” means a medical doctor, physician’s assistant, advanced registered nurse practitioner, doctor of osteopathy or doctor of naturopathic medicine legally practicing in the State of New Hampshire.

(f) “Methadone” means “methadone” as defined in RSA 318-B:10, VII(d)(2), namely, “a legal drug, methadone hydrochloride, which is a synthetic opioid that has been demonstrated to be an effective treatment agent for heroin abuse and dependence.”

(g) “Methadone detoxification treatment” means “methadone detoxification treatment” as defined in RSA 318-B:10, VII(d)(3), namely, “the dispensing of methadone or similar substance in decreasing doses to an individual in order to reduce or eliminate adverse physiological or psychological effects incident to the withdrawal from the sustained use of heroin.”

(h) “Methadone maintenance program” means “methadone maintenance program” as defined in RSA 318-B:10, VII(d)(4), namely, “a substance abuse treatment program substituting methadone or any of its derivatives, over time, to relieve withdrawal symptoms of heroin dependence, to reduce craving, and to permit normal functioning and engagement in rehabilitative services.”

(i) “Opioids” means a group of morphine-like substances that are:

(1) One of the following:

- a. Directly derived from the opium poppy, such as morphine and codeine;
- b. Semi-synthetic substances partially derived from the opium poppy, such as heroin; or
- c. Purely synthetic substances, such as hydromorphone and meperidine; and

(2) Active through specific receptors in the human body.

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(j) “Program” means an opioid treatment program which provides opioid detoxification and methadone maintenance, treatment, and rehabilitation services.

(k) “Provider” means any public or private corporation, individual or organization which operates one or more programs for people with alcohol and other drug abuse disorders when such programs are funded in whole or in part by state or federal funds or are operated, monitored or regulated by the bureau.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.03 Required Approvals. To be certified under He-A 304, an applicant for certification shall:

(a) Be in compliance with He-A 301 through He-A 304;

(b) Have either:

(1) A current accreditation as an opioid treatment program (OTP) from the Commission on Accreditation of Rehabilitation Facilities (CARF) or another Substance Abuse and Mental Health Services Administration (SAMHSA)-approved OTP accrediting body; or

(2) A provisional certification as an OTP from SAMHSA;

(c) Have a current registration with the U.S. Drug Enforcement Administration in accordance with 21 CFR 1301-1307;

(d) Have a pharmacy in compliance with RSA 318:51-b and licensed in accordance with Ph 600 as a limited retail drug distributor as defined in RSA 318:1, VII-a;

(e) Be in compliance with local planning and zoning ordinances;

(f) Have submitted copies of current documentation of required approvals in (b)-(e) above to the bureau; and

(g) Have set hours of operation and procedures for emergency closure and holiday closures that have been filed with the bureau.

Source. #7496, eff 5-23-01; amd by #7599, eff 11-20-01; ss by #9476, eff 5-22-09

He-A 304.04 Client Eligibility. A program shall determine eligibility for admission in accordance with 42 CFR Part 8, Section 8.12 (e).

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.05 Opportunity To Participate in Detoxification Treatment Required.

(a) The medical director shall ensure, and shall document in the client’s record, that each client is offered the opportunity to participate in a methadone or buprenorphine detoxification treatment program instead of a maintenance treatment program at the time of admission and at least every 6 months thereafter.

(b) When clinically appropriate, the medical director shall encourage clients to choose a methadone or buprenorphine detoxification treatment program over a maintenance treatment program.

(c) The medical director shall document in the client's record the clinical appropriateness of the form of treatment chosen.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.06 Required Medical, Treatment and Rehabilitation Services.

(a) The program shall have a designated medical director who shall be responsible for all medical services.

(b) The medical director shall ensure that, for every program client:

- (1) Treatment plans are prepared and updated pursuant to He-A 302.08 and these rules;
- (2) The client's need for methadone maintenance is evaluated at least every 6 months;
- (3) Any controlled substances prescribed for a client are clinically justified and documented in accordance with all applicable regulations, statutes and rules; and
- (4) A determination is made regarding the client's need for any other specialized services, such as alcoholism or psychiatric services, and any such conditions are identified and treated or a referral is made to an appropriate service provider.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.07)

He-A 304.07 Treatment Requirements for Long-Term Detoxification.

(a) For each client participating in long-term detoxification, the program shall administer methadone or buprenorphine in a way designed for a client to reach a drug-free state and to make progress in rehabilitation within a period of between 90 and 180 days, as follows:

- (1) The program shall maintain the client with a dose adequate to alleviate all withdrawal symptoms;
- (2) The program shall establish client dosing based on individual need, as detailed in the client's treatment plan; and
- (3) The program shall provide flexible dosage tapering at the client's request.

(b) All requirements of He-A 304.09 for maintenance treatment shall apply to long-term detoxification treatment with the following exceptions:

- (1) Take-home medications shall not be allowed during long-term detoxification except as allowed for state holidays and special circumstances as outlined in He-A 304.10(c) and (d);
- (2) A history of one-year physiologic dependence shall not be required for admission to long-term detoxification;
- (3) The medical director shall document in the client's record that short-term detoxification is not sufficiently long enough to provide the client with the additional services and supports the physician deems necessary for the client's rehabilitation;

(4) Clients who have been determined by the program physician to be currently physiologically dependent on opioids may be placed, at the physician's discretion, in long-term detoxification treatment regardless of age;

(5) Drug screens shall be performed as follows:

- a. An initial drug screen shall be performed for each client; and
- b. At least one additional random screen shall be performed monthly on each client during long-term detoxification;

(6) Before the long-term detoxification attempt is repeated, the program physician shall document in the client's record that the client continues to be or is again physiologically dependent on opioids; and

(7) The requirements in (1)-(6) above shall apply to both inpatient and outpatient long-term detoxification treatment.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.12)

He-A 304.08 Treatment Requirements for Short-Term Detoxification.

(a) For each client participating in short-term detoxification, the program shall administer methadone or buprenorphine in a way designed for a client to reach a drug-free state within a period no longer than 90 days, excluding the time needed for the program to maintain the client with a dose adequate to alleviate all withdrawal symptoms, as follows:

- (1) The program shall maintain the client with a dose adequate to alleviate all withdrawal symptoms;
- (2) The program shall establish client dosing based on individual need, as detailed in the client's treatment plan;
- (3) The program shall provide flexible dosage tapering at the client's request; and
- (4) The program shall conduct daily observation of the client, monitoring for withdrawal symptoms.

(b) For each client participating in short-term detoxification, the following program requirements shall apply:

- (1) Methadone or buprenorphine shall be administered daily;
- (2) Take-home medications shall not be allowed during short-term detoxification;
- (3) A history of one-year physiologic dependence shall not be required for admission to short-term detoxification;
- (4) No urine or blood test or analysis shall be required except for the initial drug screen;
- (5) Short-term detoxification shall not be repeated unless the medical director documents in the client's record that the client continues to be or, is again, physiologically dependent on opioids;
- (6) Subsequent short-term detoxifications allowed in (5) above shall be limited to one additional short-term detoxification in one 12-month period, in accordance with 42 CFR Part 8; and

(7) Short-term detoxification treatment shall only be used for a pregnant client if maintenance treatment has been determined by the treating physician to be ineffective.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.11)

He-A 304.09 Treatment Requirements for Methadone Maintenance.

(a) Based on the client’s treatment plan, methadone maintenance treatment shall include:

- (1) Daily methadone doses, either administered on site at a program facility or as unsupervised take-home doses;
- (2) Client counseling and rehabilitation;
- (3) Urine and/or blood screening; and
- (4) Over time, the gradual decrease in the number of required hours of counseling, and an increase in the allowable number of take-home methadone doses per week.

(b) During the first 90 days of treatment, clients shall:

- (1) Attend the program 7 days per week for observation and on-site administration of methadone;
- (2) Participate in 8 hours of counseling per month; and
- (3) Not be provided with any take-home methadone doses, except as detailed in He-A 304.10 below.

(c) Upon a client’s compliance with required treatment and counseling and the negative results for all urine and blood screens conducted, the required number of hours of counseling shall be reduced and the allowed number of take-home methadone doses shall be increased, in accordance with Table 304.01.

Table 304.1 Treatment, Counseling, and Take-Home Schedule

Days in Treatment	Required Hours of Counseling per Month	Allowed Doses of Take-Home Methadone per Week
1-90	8	0
91-180	8	1
181-364	6	2
365-540	4	3
541-730	4	4
731-909	2	5
910+	1	6

(d) No program shall issue more than a 6-day supply of take-home methadone to a client in one week.

(e) Regardless of the time already spent in treatment, a client who has a positive urine and/or blood screen shall be required to comply with the requirements in (b) above.

(f) Required counseling shall include, at a minimum:

- (1) Any combination of individual, group, self-help, or family counseling or other mental health services;



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- (2) Case management services, which may be substituted on an hour-for-hour basis for any required counseling;
  - (3) Discussion of the following issues in group counseling, individual sessions, or both:
    - a. Working with family or significant others;
    - b. Living and coping skills;
    - c. Medication and drug education;
    - d. Dealing with a positive drug screen;
    - e. Education, vocational training, employment, or any combination thereof; and
    - f. Education about acquired immunodeficiency syndrome (AIDS) and human immunodeficiency virus (HIV); and
  - (4) Discussion between the treatment and rehabilitation team and the client regarding the commencement of a methadone discontinuance plan, with projected target dates for implementation, which may:
    - a. Be short-term or long-term in nature based on the client's need and preference; and
    - b. Include intermittent periods of methadone maintenance between discontinuance attempts.
- (g) Documentation of methadone treatment shall be maintained in the client's record.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.08)

He-A 304.10 Unsupervised Take-Home Methadone.

- (a) A program's medical and clinical staff shall only give take-home methadone to a client who meets the take-home criteria in accordance with 42 CFR Part 8.12(h)(4)(i)(2).
- (b) In addition to the criteria in (a) above, a client shall complete individual or group counseling specific to the safe transport and storage of take-home medication to prevent diversion, theft, or use by another person, each time the client is eligible for consideration of an additional unsupervised take-home dose.
  - (b) Prior to granting take-home privileges, and each time the client's progress is reviewed, the medical director shall document in the client's record that the criteria in (a) above have been met and that, in his or her judgment, the potential risk of diversion or misuse is outweighed by the rehabilitative benefits to be derived from decreasing the frequency of clinic attendance and the client's demonstrated overall responsibility in the handling of methadone.
- (c) A client for whom take-home methadone is authorized may be provided with one day of extra medication if the client's regular pickup falls on a state holiday.
- (d) For clients who demonstrate a need for a more flexible take-home methadone schedule in order to enhance and extend their rehabilitative and community reintegration progress, a program may request of the state methadone authority, the department, approval to permit a client to follow a temporary take-home medication regimen.
- (e) The department shall approve such requests in (d) above if it determines that:

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- (1) The client is unable to comply with the required treatment, counseling, and/or take-home schedule because of exceptional circumstances such as:
    - a. Illness;
    - b. Personal or family crisis;
    - c. Travel difficulties, such as bad weather; or
    - d. Other hardship that would similarly prevent the client's compliance;
  - (2) The medical director has found the client to be responsible in using methadone as required in (b) above;
  - (3) The medical director has determined that a temporarily reduced clinic attendance schedule is appropriate;
  - (4) The client is not given more than a 2-week supply of methadone at one time;
  - (5) The reasons for permitting a temporarily reduced clinic attendance schedule have been recorded by program staff in the client's record;
  - (6) Program staff have evaluated the effectiveness of the temporary take-home regimen; and
  - (7) The medical director has submitted such exception requests on-line, using the SAMHSA OTP Exception Request Web site at <http://www.dpt.samhsa.gov/regulations/exrequests.aspx>.
- (f) All dispensed medication shall be labeled in accordance with He-A 302.10(b), (q), (r), (s), and (ah), and within the provisions outlined in RSA 318-B:13.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.09)

He-A 304.11 Discontinuance of Methadone.

- (a) Methadone shall be discontinued for all clients who request discontinuance.
- (b) The determination to voluntarily discontinue methadone shall be left to the judgment of the client, in consultation with the staff of the program.
- (c) If the staff of the program do not agree with the client's decision to discontinue methadone, the staff shall document the difference in the client's record.
- (d) Reduction of a client's methadone dosage shall:
  - (1) Be ordered and overseen by medical staff of the program;
  - (2) Occur gradually in a manner that facilitates the client's withdrawal, as determined by the medical staff; and
  - (3) Be in accordance with the client's treatment goals.
- (e) In situations where medical staff have determined that onsite discontinuance is undesirable, such as due to the client's violent behavior:
  - (1) Alternative arrangements shall be offered by the program staff; and

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(2) If the client refuses all of the arrangements, the refusal shall be documented by program staff in the clinical record.

(f) Programs shall have procedures that permit the timely and orderly re-admission of the client in the event of a relapse.

(g) Continued services and supports necessary to support the client through and after the discontinuance process shall be provided by the program in consultation with the clinical staff.

(h) Programs shall have discharge policies as required by He-A 302.06(b)(15).

Source. #7496, eff 5-23-01; amd by #7599, eff 11-20-01; ss by #9476, eff 5-22-09 (from He-A 304.13)

He-A 304.12 Urine and Blood Screens.

(a) In addition to the requirements of He-A 302.06(b)(8), a program shall perform, or have performed, tests of clients as described in (b)-(f) below.

(b) All new clients shall have a minimum of a urine or blood screen upon admission and randomly every week thereafter for the first 3 months of treatment.

(c) A minimum of monthly random urine or blood screens shall be collected from each client while in treatment.

(d) All required urine or blood screens shall include, at a minimum, the following substances, unless otherwise documented in the client record by staff:

- (1) Opiates;
- (2) Methadone;
- (3) Amphetamines;
- (4) Cocaine;
- (5) Benzodiazepines;
- (6) Barbiturates; and
- (7) Cannabis.

(e) A program shall test monthly for pregnancy any female client of childbearing age who is using buprenorphine.

(f) For all other females of childbearing age, a program shall:

- (1) Evaluate, by counselor interview, the risk of pregnancy;
- (2) If risk is found to be positive, order a pregnancy confirmation test; and
- (3) If pregnancy is confirmed:
  - a. Refer the client for health care for her pregnancy; and
  - b. Coordinate her treatment with her health care provider.

(g) If a pregnant client refuses to obtain primary care for her pregnancy, program staff shall ask the client to sign a statement indicating she has refused such care.

Source. #7496, eff 5-23-01; amd by #7599, eff 11-20-01; ss by #9476, eff 5-22-09 (from He-A 304.10)

He-A 304.13 Administrative Discharge.

(a) A program may administratively discharge a client from a treatment program only if:

- (1) The client's behavior on program premises is abusive, violent, or illegal;
- (2) The client fails to pay fees after being informed in writing and counseled regarding financial responsibility and possible sanctions including discharge;
- (3) The client misses 3 consecutive medication days, and the medical director, after a reevaluation of the client, has determined that administrative discharge is warranted; or
- (4) Clinical staff documents therapeutic reasons for discharge, which may include the client's continued use of illicit drugs or an unwillingness to follow appropriate clinical interventions.

(b) If a client is administratively discharged due to financial reasons in (a)(2) above, the program shall provide medically supervised withdrawal in accordance with (c) below, regardless of the client's ability to pay.

(c) For each client participating in medically supervised withdrawal, the program shall administer methadone or buprenorphine for a period no longer than 21 days, excluding the time needed for the program to maintain the client with a dose adequate to alleviate all withdrawal symptoms, as follows:

- (1) The program shall maintain the client with a dose adequate to alleviate all withdrawal symptoms;
- (2) The program shall establish client dosing based on individual need, as detailed in the client's treatment plan;
- (3) The program shall provide flexible dosage tapering at the client's request;
- (4) The program shall develop a detoxification schedule of not more than 21 days long with daily dosage reductions of not more than 10 percent of the original dose;
- (5) The program shall conduct daily observation of the client, monitoring for withdrawal symptoms;
- (6) Methadone or buprenorphine shall be administered daily; and
- (7) Take-home medications shall not be allowed during medically supervised withdrawal.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.14 Client Transfer between Programs.

(a) When a client transferring to a program has received a medical and laboratory examination within 3 months prior to admission, the program shall not conduct a repeat physical and laboratory examination unless requested by the medical director.

(b) The program to which a client transfers shall include copies of the previous examination and laboratory studies in the client's record within 30 days of admission.

(c) Upon receipt of an appropriately executed release of information, a program shall provide to the receiving program the client's clinical record, including attendance, dosage, previous 3 drug screens, and all pertinent medical information, even if the client still has an outstanding financial balance.

(d) Clients who are in good standing at their previous methadone or buprenorphine opiate treatment program may be accepted as a transfer client and continue to receive unsupervised take home doses at the same level, not to exceed 6 take home doses per week, as long as the receiving program has verified the client's compliance in their previous program.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09

He-A 304.15 Security of Drugs. In addition to being compliant with DEA regulations 21 CFR 1301-1307 and He-A 302.10, a program shall:

(a) Limit access to secure areas where methadone is stored and dispensed to staff licensed, registered, or certified to order, prepare, dispense, or administer methadone;

(b) Arrange that the area where methadone is stored and dispensed is securely and physically separate from the client and visitor areas;

(c) Select and install alarm systems in such a way so that codes and locks can be changed following the termination of an employee authorized under (a) above;

(d) Notify the bureau in writing of any theft, attempted theft, loss, or spillage of any methadone and send copies of DEA reporting forms to the bureau; and

(e) Handle containers as follows:

(1) Immediately after administration, containers shall be purged by rinsing, inversion, or by an alternative method that prevents the accumulation of residual methadone;

(2) Used containers shall be destroyed, including those containers used in the program as well as all take-home bottles dispensed to clients in maintenance-type programs; and

(3) Maintenance clients shall return take-home bottles before receiving further take-home medication.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.14)

He-A 304.16 Hours of Operation.

(a) A program shall be open 7 days a week.

(b) Dispensing hours shall be flexible enough to permit a client who is working or attending school to receive his or her methadone without jeopardizing such work or school.

(c) A program shall maintain hours of operation that:

(1) Include day, evening, or both, and weekend hours to accommodate client need; and

(2) Permit clients to receive medication individually and within 15 minutes of their scheduled dosing appointments.

(d) A program shall not close for holidays except for state holidays.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.15)

He-A 304.17 Community Concerns.

(a) A program shall ensure that its clients do not cause unnecessary disruption to the community by loitering near the program or acting in a manner that would constitute disorderly conduct or harassment.

(b) Clients who consistently cause disruption to the community or to the program shall be evaluated for possible discharge from the program pursuant to the program's policies.

(c) Each program shall provide to the bureau a specific plan describing its efforts to avoid disruption of the community and actions it will take to respond to community concerns.

(d) If the bureau determines that the program's plan is not sufficient to avoid disruption to the community, the program shall provide the bureau with a written corrective action plan, within 10 days, including time lines for implementation.

Source. #7496, eff 5-23-01; ss by #9476, eff 5-22-09 (from He-A 304.16)

He-A 304.18 Client Grievances. The program shall have a written policy for handling client grievances, including specific time frames for written responses to the client's written request for consideration or reconsideration of a program decision.

Source. #9476, eff 5-22-09

He-A 304.19 Waivers.

(a) A program may request a waiver of a specific provision or procedure of He-A 304, in writing, from the department.

(b) A request for a waiver shall include:

- (1) A specific reference to the section of the rule for which a waiver is being sought;
- (2) A full description of why a waiver is necessary; and
- (3) A full explanation of alternative provisions or procedures proposed by the applicant.

(c) No provision or procedure prescribed by statute shall be waived.

(d) A request for a waiver shall be granted after the commissioner or his or her designee determines that the alternative proposed by the applicant:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health or safety of clients; and
- (2) Does not affect the quality of provider services.

(e) Upon receipt of approval of a waiver request, the applicant's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which the waiver was sought.

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(f) Waivers shall not be transferable.

(g) Waivers shall be granted in writing for a specific duration which shall not exceed 3 years or until the end of the current certification period.

(h) The applicant may request a renewal of the waiver from the department. Such request shall be made at least 90 days prior to the expiration of the current waiver.

Source. #9476, eff 5-22-09 (from He-A 304.17)

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APPENDIX

<u>Rule Number</u>	<u>RSA/Federal Citation</u>
He-A 301, 302, 303, 304	RSA 172:2-a
He-A 301	RSA 172:8-b, III; RSA 172:10
He-A 302.04(d)(8)-(9)	RSA 172:14
He-A 302.05	RSA 318-B: 10, VII(b)(3)
He-A 302.04(e)(4); He-A 302.05(a)(10)c He-A 302.05(c)(7); He-A 302.09(e)(1)	RSA 172:8-a
He-A 302.06 He-A 302.07  He-A 302.08  He-A 302.10	RSA 318-B: 10, VII(b)(4)
He-A 302.09	RSA 318-B: 10, VII(b)(5)
He-A 302.11(b)	RSA 172:2-a
He-A 303.04(b)(1)	RSA 172:2-a
He-A 303.06	RSA 318-B:10, VII(b)(7)
He-A 303.08(a)(5)	RSA 172:14
He-A 304 (all sections)	RSA 172:2-a; RSA 318-B:10, VII(b)