

RULEMAKING NOTICE FORM

Notice Number 2018-108 Rule Number He-P 826

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| <p>1. Agency Name & Address: Dept. of Health and Human Services Health Facility Licensing Unit 129 Pleasant Street Concord, NH 03301</p> | <p>2. RSA Authority: <u>RSA 151:9, I(a)</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u>X</u></p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoption w/amendment _____</p> |
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5. Short Title: **Substance Use Disorder Residential Treatment Facility Licensing**

6. (a) Summary of what the rule says and of any proposed amendments:

He-P 826 sets forth the requirements necessary to establish, operate, and maintain a licensed substance use disorder residential treatment facility (SUD-RTF). As required by RSA 151:9, I(d), the proposed rule establishes specific provisions and criteria for such facilities in the areas of sanitation, organization, administration, physical environment, health and safety, nursing services, resident environment, dietary needs, medical records, medication, infection control, personnel, protective oversight services, and management of resident records. Groups affected by this rule include operators of licensed SUD-RTFs, providers of services, facility residents, and families of facility residents. New Hampshire currently has 17 such facilities. This is a new rule, currently these facilities are licensed under He-P 807 containing rules for residential treatment and rehabilitation facilities.

This new rule includes the following:

- **He-P 826.01 establishes the purpose of this rule in that it sets “forth the licensing requirements for all substance use disorder residential treatment facilities pursuant to RSA 151:2, I(d);”**
- **He-P 826.02 establishes the scope of this rule in that it applies to “any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a SUD-RTF.” Facilities not covered by this rule are facilities listed in RSA 151:2, II(a)-(g) and entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(i);**
- **He-P 826.03 sets forth the definitions used throughout this rule;**
- **He-P 826.04 sets for the requirements for license application submission;**
- **He-P 826.05 sets forth the requirements of processing of a SUD-RFT facility applications and the issuance of licenses;**
- **He-P 826.06 sets forth the license expirations and renewal procedures;**
- **He-P 826.07 sets forth the requirements for SUD-RTFs that are being newly constructed or undergoing rehabilitation, repair, renovation, modification, reconstruction, or additions;**
- **He-P 826.08 sets forth the requirements for organizational or services changes to a SUD-RTF;**
- **He-P 826.09 sets forth the criteria for inspections;**
- **He-P 826.10 sets forth the requirements for waiver requests;**
- **He-P 826.11 establishes the criteria of receiving and investigating complaints regarding a SUD-RTF;**

6. (a) Summary of what the rule says and of any proposed amendments continued:

- **He-P 826.12 sets forth the administrative remedies, i.e. penalties, that can be levied on a SUD-RTF, to include the requirement of a POC, imposing conditions on a license, monitoring a license, revocation of a license, and fines;**
 - **Additionally, He-P 826.12 establishes the use of informal dispute resolution as a means of resolving issues between the SUD-RTF and the Department;**
- **He-P 826.13 establishes the enforcement actions and hearings for a SUD-RTF that receives an administrative penalty, criteria for the denial of an initial license or the revocation of an existing license, and a fine schedule;**
- **He-P 826.14 clarifies the duties and responsibilities of the SUD-RTF;**
- **He-P 826.15 establishes the criteria for client admission, temporary absence, transfer, and discharge at a SUD-RTF;**
- **He-P 826.16 establishes the required services of a SUD-RTF;**
- **He-P 826.17 establishes the criteria for medication services at the SUD-RTF;**
- **He-P 826.18 establishes the criteria for personnel at a SUD-RTF;**
- **He-P 826.19 establishes the criteria for maintaining client records;**
- **He-P 826.20 establishes the food service criteria for residential clients;**
- **He-P 826.21 establishes the criteria for infection control at a SUD-RTF;**
- **He-P 826.22 establishes the criteria for sanitation at a SUD-RTF;**
- **He-P 826.23 establishes quality improvement criteria for a SUD-RTF;**
- **He-P 826.24 establishes the physical environment criteria for a SUD-RTF;**
- **He-P 826.25 establishes the fire safety criteria for a SUD-RTF; and**
- **He-P 826.26 establishes the emergency preparedness criteria for a SUD-RTF.**

6. (b) Brief description of the groups affected:

Groups affected by this rule include operators of licensed SUD-RTF s, providers of services, and clients of SUD-RTF s.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

| Rule | Specific State or Federal Statutes the Rule Implements |
|---------------------------|---|
| He-P 826.01 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.02 | RSA 151:2, II(i); RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.03 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.04 – He-P 826.06 | RSA 151:9, I(c); RSA 151:9, VII(a)(1) |
| He-P 826.07 – He-P 826.08 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.09 | RSA 151:9, I(e); RSA 151:9, VII(a)(1) |
| He-P 826.10 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.11 | RSA 151:9, I(e); RSA 151:9, VII(a)(1) |
| He-P 826.12 | RSA 151:9, I(l); RSA 151:9, VII(a)(1) |
| He-P 826.13 | RSA 151:9, I(f); RSA 151:9, VII(a)(1) |
| He-P 826.14 – He-P 826.26 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

| | | | |
|----------|--|----------|-----------------------------------|
| Name: | David Newton, Esq. | Title: | Legal Counsel – Rules Unit |
| Address: | Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301 | Phone #: | 271-9640 |
| | | Fax#: | 271-5590 |
| | | E-mail: | David.newton@dhhs.nh.gov |

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified:
Wednesday, July 18, 2018

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, July 9, 2018 at 3:00 PM**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **18:100**, dated **May 29, 2018**

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, as this is a new rule.

2. Cite the Federal mandate. Identify the impact of state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

Although this is a new rule, the Department of Health and Human Services notes that the regulated facilities are currently licensed under He-P 807. The costs and benefits identified in A-C below reflect differences between the existing He-P 807 rules and the proposed He-P 826 rules.

A. To State general or State special funds:

There are no costs to the state general fund, since these facilities are already being licensed under He-P 807. However, the schedule of fines may have an indeterminable impact on state general fund revenue.

B. To State citizens and political subdivisions:

Some citizens seeking treatment at a substance use disorder residential treatment facility (SUD-TRF) may benefit, in that the current licensing of facilities under He-P 807 is not individualized to such facilities. By licensing SUD-RTF facilities under He-P 826, the facilities will have licensing requirements focused on the services that they provide, resulting in a higher level of care.

C. To independently owned businesses:

The Department states that the costs and benefits to facilities will be different under He-P 826 than they were under He-P 807. In particular:

- Granting permanent waivers to licensees may result in a small but indeterminable administrative cost savings, depending on the number of waivers granted to an individual licensee and the administrative cost required to prepare and submit waiver requests.
- The schedule of fines will have an indeterminable impact. The Department notes that the issuance of fines is a rare occurrence, and can be avoided through compliance with the rule and applicable law.
- Requirements for an emergency preparedness plan may result in a small but indeterminable cost.
- To the extent that licensees do not already include the certain activities as a core service included in the basic rate, such as internet, television, and newspapers, this requirement may result in a small but indeterminable cost.
- Changes to the required administrator qualifications may result in an indeterminable cost.
- Requiring certain independent contractors to have a state criminal background check may result in a cost.
- Defining “volunteers” and clarifying that volunteers are required to have state criminal background checks may result in an indeterminable cost (attributable to RSA 151:2-d, II).
- Requiring immunization against influenza and pneumococcal disease for all consuming employees and residents may result in an indeterminable cost (attributable to RSA 151:9-b).
- Annual training requirements for fire and emergency preparedness may result in a small but indeterminable cost.
- Fire safety requirements to match the current codes may require fewer fire drills for some facilities, resulting in a potential savings in staff time and administrative costs.
- The Facilities Institute Guidelines’ 2014 Guidelines for Design and Construction of Health Care Facilities may result in a cost of \$200 for facilities who choose to purchase a copy.
- The requirement to have policies on CPR and firearms may result in a small but indeterminable administrative cost.
- The requirement to develop a quality improvement committee and evaluate quality within the organization may result in an indeterminable cost.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Adopt He-P 826 to read as follows:

PART He-P 826 SUBSTANCE USE DISORDER RESIDENTIAL TREATMENT FACILITIES

He-P 826.01 Purpose. The purpose of this part is to set forth the licensing requirements for all substance use disorder residential treatment facilities (SUD-RTF) pursuant to RSA 151:2, I(d).

He-P 826.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a SUD-RTF except:

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

He-P 826.03 Definitions.

- (a) “Abuse” means any one of the following:
 - (1) “Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or confinement which results or could result in the mental anguish or emotional distress of clients;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to clients; or
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving clients without his or her informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and medication management.
- (c) “Addition” means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.
- (d) “Administer” means an act whereby one or more doses of a medication is instilled into the body, 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.
- (e) “Administrator” means the licensee or individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premise.
- (f) “Admission” means the point in time when a client, who has been accepted by a licensee for the provision of services, physically moves into the facility.
- (g) “Advance directive” means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term “advance directive” shall include living wills and durable powers of attorney for health care, in accordance with RSA 137-J.

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

(i) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a SUD-RTF pursuant to RSA 151.

(j) “Area of non-compliance” means any action, failure to act, or other set of circumstances that cause a licensee to be out of compliance with RSA 151, He-P 826, or other federal and state requirements.

(k) “Building rehabilitation” means any of the following undertaken in an existing building, as defined in this section:

(1) Addition;

(2) Modification;

(3) Reconstruction;

(4) Renovation; and

(5) Repair.

(l) “Change of ownership” means a change in the controlling interest of an established SUD-RTF to an individual or successor business entity.

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

(n) “Client” means any person admitted to or in any way receiving care, services, or both from a SUD-RTF licensed in accordance with RSA 151 and He-P 826. This includes children residing in a SUD-RTF with a mother who is receiving SUD-RTF services.

(o) “Client record” means documents maintained for each client receiving care and services, which includes all documentation required by RSA 151 and He-P 826 and all documentation compiled relative to the client as required by other federal and state requirements.

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

(q) “Contracted employee” means a temporary employee working under the direct supervision of the SUD-RTF but employed by an outside agency.

(r) “Core services” means those minimal services to be provided to any client by the licensee that must be included in the basic rate.

(s) “Critical incident stress management (CISM)” means an adaptive, short-term psychological helping-process that focuses solely on an immediate and identifiable problem. Its purpose is to enable people to return to their daily routine more quickly and with less likelihood of experiencing post-traumatic stress disorder.

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

(u) “Demonstrated competency” means the ability of the employee to demonstrate to an evaluator that they are able to complete the required task in a way that reflects the minimum standard to a certificate of completion of course material or a post test to the training provided.

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

(w) “Direct care” means hands on care and services to a client, including but not limited to medical, nursing, psychological, or rehabilitative treatments.

(x) “Directed plan of correction” means a plan developed and written by the department that specifies the actions the licensee must take to correct identified areas of non-compliance.

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

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

(aa) “Dual-diagnosis” means a client who has signs and symptoms of a concurrent substance related and mental health disorder.

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

(ac) “Enforcement action” means the imposition of an administrative fine, the denial of an application for a license, or the revocation of a license in response to non-compliance with RSA 151 or He-P 826.

(ad) “Equipment or fixtures” means any plumbing, heating, electrical, ventilating, air-conditioning, refrigerating, and fire protection equipment, and any elevators, dumbwaiters, escalators, boilers, pressure vessels, or other mechanical facilities or installations related to building services.

(ae) “Evaluation” means a multi-disciplinary assessment of level of function by healthcare professionals licensed or certified in the field of substance use disorder rehabilitation which enables facility staff to plan care that allows the client to reach his or her highest practicable level of physical, mental, and psychosocial functioning.

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

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

(ah) “Health care occupancy” means facilities that provide sleeping accommodations for individuals who are incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupants control.

(ai) “Incident command system (ICS)” means a standardized on-scene emergency management system specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents.

(aj) “Infectious waste” means those items specified by Env-Wm 2604.

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

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

(am) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 826 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 or He-P 826.

(an) “Intoxication” means a clinical state marked by dysfunctional changes in physiological functioning, psychological functioning, mood state, or cognitive process as a consequence of consumption of a psycho-active substance.

(ao) “License” means the document issued by the department to an applicant at the start of operation as a SUD-RTF which authorizes operation of a SUD-RTF in accordance with RSA 151 and He-P 826, and includes the name of the licensee, the name of the business, the physical address, the license classification, the effective date, and license number.

(ap) “License certificate” means the document issued by the department to an applicant or licensee that, in addition to the information contained on a license, includes the name of the administrator, the type(s) of services authorized, and the number of beds for which the SUD-RTF is licensed.

(aq) “Licensed clinical supervisor” means and RN licensed under the state of New Hampshire pursuant to RSA 326-B, or an individual licensed by the board of licensing for alcohol and other drug use professionals or board of mental health practice to practice and supervise substance use counseling who meets the initial licensing qualifications set forth in RSA 330-C:18.

(ar) “Licensed counselor” means a master licensed alcohol and drug counselor (MLADC), a licensed alcohol and drug counselor (LADC), or a licensed mental health professional who has demonstrated competency in the treatment of substance use disorders.

(as) “Licensed practitioner” means a:

- (1) Medical doctor;
- (2) Physician’s assistant;
- (3) Advanced practice registered nurse (APRN);
- (4) Doctor of osteopathy;

- (5) Doctor of naturopathic medicine; or
 - (6) Any other practitioner with diagnostic and prescriptive powers licensed by the appropriate state licensing board.
- (at) “Licensed premises” means the building or buildings that comprise the physical location that the department has approved for the licensee to conduct operations in accordance with its license.
- (au) “Licensee” means any person or other legal entity to which a license has been issued pursuant to RSA 151.
- (av) “Licensing classification” means the specific category of services authorized by a license.
- (aw) “Life safety code” means the National Fire Protection Association (NFPA) 101, as adopted by the commissioner of the department of safety in Saf-C 6000 under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control.
- (ax) “Mechanical restraint” means locked or secured SUD-RTFs or units within a SUD-RTF, or anklets, bracelets, or similar devices that cause a door to automatically lock when approached, thereby preventing a client from freely exiting the SUD-RTF or unit within.
- (ay) “Medical director” means a licensed practitioner in New Hampshire in accordance with RSA 329 or 326-B who is responsible for overseeing the quality of medical care and services in a SUD-RTF.
- (az) “Medically cleared” means a determination made within 24 hours prior to admission by the medical director that an individual is physically capable of participating in facility activities and programming and not at risk of medical complications that would be unmanageable by the facility.
- (ba) “Medication” means a substance available with or without a prescription, which is used as a curative or remedial substance.
- (bb) “Modification” means the reconfiguration of any space; the addition, relocation, elimination of any door or window, the addition or elimination of load-bearing elements, the reconfiguration or extension of any system, or the installation of any additional equipment. The term does not include repair or replacement of interior finishes.
- (bc) “Neglect” means an act or omission that results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health and safety of a client.
- (bd) “Notice to correct” means a report issued pursuant to RSA 151:6-a, II, following a life safety code inspection when a facility is found to be out of compliance with applicable life safety rules or codes.
- (be) “Nursing care” means the provision or oversight of a physical, mental, or emotional condition or diagnosis by a nurse.
- (bf) “Orders” means written prescriptions, instructions for treatments, special diets or therapies given by a licensed practitioner, or other professional with prescriptive powers.
- (bg) “Over-the-counter medications” means non-prescription medications.

(bh) “Patient rights” means the privileges and responsibilities possessed by each client provided by RSA 151:21. This term includes “resident rights” and “client rights.”

(bi) “Personal care” means personal care services that are non-medical, hands-on services provided to a client to assist with activities of daily living such as grooming, toileting, eating, dressing, bathing, getting into or out of a bed or chair, walking, or reminding the client to take medications.

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

(bk) “Personnel” means an individual who is employed by the facility, a volunteer, or an independent contractor who provides direct or personal care services to clients.

(bl) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the client’s freedom of movement, such as forced escorts, holding, prone restraints, or other containment techniques.

(bm) “Plan of correction (POC)” means a plan developed and written by the licensee, which specifies the actions that will be taken to correct non-compliance with applicable rules or codes identified at the time of a clinical or life safety inspection conducted pursuant to RSA 151:6-a or during the course of a complaint investigation conducted pursuant to RSA 151:6.

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

(bo) “Pro re nata (PRN) medication” means medication taken as circumstances may require in accordance with licensed practitioner’s orders.

(bp) “Protective care” means the provision of client monitoring services which includes:

- (1) Knowledge of client whereabouts;
- (2) Minimizing the likelihood of accident or injury; and
- (3) Other means of ensuring client safety.

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

(br) “Qualified personnel” means facility staff that have been trained to adequately perform certain assigned tasks. For example, housekeeping staff trained in infection control or kitchen staff trained in food safety protocols.

(bs) “Reconstruction” means the reconfiguration of a space that affects an exit or a corridor shared by more than one occupant space, or the reconfiguration of a space such that the rehabilitation work area is not permitted to be occupied because existing means of egress and fire protection systems, or their equivalent, are not in place or continuously maintained.

(bt) “Removal” means requesting an individual to remove himself/herself to an area with fewer distractions until he/she can participate in activities without disrupting the client’s current social environment

according to a written behavioral program. Time out is not to be utilized as punishment but only as a technique to assist a client to re-gain control of his/her emotions.

(bu) “Renovation” means the replacement in kind or strengthening of building elements, or upgrading of building elements, material, equipment, or fixtures, without involving the reconfiguration of spaces.

(bv) “Repair” means the patching, restoration, or painting of materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition.

(bw) “Reportable incident” means an occurrence of any of the following while the client is either in the SUD-RTF or in the care of SUD-RTF personnel:

(1) The unanticipated death of the client;

(2) An injury to a client, that is of a suspicious nature of potential abuse or neglect under circumstances where the injury was not observed by any person or the cause of the injury could not be explained by the client; or

(3) The unexplained absence of a client from the SUD-RTF who is determined to be a danger to themselves or others.

(bx) “Self administration of medication with assistance” means the client takes his or her own medication(s) after being prompted by personnel, but without requiring physical assistance from others.

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

(bz) “Self directed medication administration” means an act whereby a client, who has a physical limitation that prohibits him or her from self-administering, directs personnel to physically assist in the medication process which may not include assisting with injections or filling insulin syringes.

(ca) “Service” means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a client.

(cb) “Significant change” means a change in cognitive or physical capabilities that decreases a client's ability to care for himself beyond an episodic event.

(cc) “Social or non-medical withdrawal management” means a treatment service provided by appropriately trained staff who provide 24-hour supervision, observation, and support for clients who are intoxicated or experiencing withdrawal with no staff-administered medication.

(cd) “State monitoring” means the placement of individuals by the department at a SUD-RTF to monitor the operation and conditions of the facility.

(ce) “Substance use disorder residential treatment facility” (SUD-RTF) means a place, excluding hospitals as defined in RSA 151-C:2, which provides residential substance use disorder treatment relating to the individual's medical, physical, psychosocial, vocational, and educational needs.

(cf) “Therapeutic diet” means a diet ordered by a licensed practitioner or other licensed professional with prescriptive authority as part of the treatment for disease, clinical conditions, or increasing or decreasing specific nutrients in the food consumed by the client.

(cg) “Treatment plan” means a written guide developed by the licensee, in consultation with the licensed practitioner, personnel, the client, or the client’s guardian, agent, or personal representative, if any, as a result of the evaluation process for the provision of care and services.

(ch) “Unexplained absence” means an incident involving a client leaving the premises of the SUD-RTF without the knowledge of the SUD-RTF personnel in a manner that is contrary to their normal routine.

(ci) “Volunteer” means an unpaid person who assists with the provision of personal care services, food services, or activities, and who does not provide direct care or assist with direct care. This term does not include visitors or those persons who provide religious services or entertainment.

(cj) “Written and signed orders” means a document, produced electronically or via paper, by a licensed practitioner for medications, treatments, recommendations, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denotes approval by the licensed practitioner.

(ck) “Withdrawal management” means a residential treatment service provided by appropriately trained staff who provide 24-hour supervision, observation, and support for clients who are intoxicated or experiencing withdrawal with prescription medication administered based on the results of an appropriate evaluation tool.

He-P 826.04 License Application Submission.

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

(1) A completed application form entitled “Application for Residential or Health Care License,” (May 2017 edition), signed by the applicant or 2 of the corporate officers, affirming and certifying the following:

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

b. For any SUD-RTF to be newly licensed on or after July 1, 2016:

“I certify that I have notified the public of the intent to file this application with a description of the facility to be licensed by publishing a notice in a newspaper of general circulation covering the area where the facility is to be located in at least 2 separate issues of the newspaper no less than 10 business days prior to the filing of this application.” And

c. For any SUD-RTF to be newly licensed on or after July 1, 2016 and to be located within a radius of 15 miles of a hospital certified as a critical access hospital, pursuant to 42 C.F.R. 485.610 (b) and (c):

“I certify that the facility is to be located within a radius of 15 miles of a hospital certified as a critical access hospital, pursuant to 42 C.F.R. 485.610 (b) and (c), and that I have given written notice of the intent to file this application with a description of the facility to be licensed to the chief executive officer of the hospital by registered mail no less than 10 business days prior to the filing of this application.”:

- b. The name, physical address, and mailing address of the facility;
- c. A current and accurate e-mail address, phone, and fax number;
- d. The name of the qualified administrator; and
- e. The name of the qualified medical director.

(2) A floor plan of the prospective SUD-RTF;

(3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in the state of New Hampshire in the form of one of the following:

- a. “Certificate of Authority,” if a corporation;
- b. “Certificate of Formation,” if a limited liability corporation; or
- c. “Certificate of Trade Name,” where applicable;

(4) The applicable fee, in accordance with RSA 151:5, XXI, payable in cash or, if paid by check or money order, in the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”;

(5) A resume identifying the qualifications of the SUD-RTF administrator and medical director;

(6) Copies of applicable licenses for the SUD-RTF administrator and medical director;

(7) Written local approvals as follows:

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

- 1. The health officer verifying that the applicant complies with all applicable local health, drinking water, and wastewater requirements;
- 2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
- 3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
- 4. The fire chief verifying that the applicant complies with the state fire code, Saf-C 6000, including, at a minimum, the new residential board and care chapter of the life safety code, and the applicable local fire ordinances; and

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

(8) If the SUD-RTF uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Dw 702.02 and Env-Dw 704.02, or if a public water supply, a copy of a water bill;

(9) The results of a criminal records check from the NH department of safety for the administrator and medical director for which the application is submitted;

(10) A copy of the SUD-RTF's admission agreement;

(11) A copy of the SUD-RTF's criminal attestation form as described in He-P 826.19(s);

(12) A complete description of all services provided or to be provided including a determination of which of the following tier(s) the facility falls into. All require licensure unless otherwise noted:

a. Tier 1- Full Medical Withdrawal Management – Clients may be incapable of evacuating a facility on their own, may have medical conditions that require immediate medical intervention. Example: seizures, tremors, delirium, cardiac, a danger to themselves or others, etc. Clients receive full medical withdrawal management with 24-hour nursing supervision and overseen by a Licensed Practitioner.

b. Tier 2- Limited Medical Withdrawal Management - Clients must be capable of evacuating the facility without assistance, be medically cleared from full medical withdrawal management by a licensed practitioner prior to or at the time of admissions, and not be a danger to themselves or others. Clients may be receiving maintenance medication for the symptoms of withdrawal or side effects.

c. Tier 3- Residential Treatment - Clients do not require limited or full medical withdrawal management. Clients require medication supervision and general oversight with regard to knowing the clients whereabouts but do not require medications for the signs and symptoms of withdrawal.

d. Tier 4- Sober Living – Three levels of sober living for individuals recovering from alcohol and other drug use. Each level ranges in structure and intensity and each house maintains its own unique culture where different values and principles are upheld. Level I and II do not require licensure, however, level III does require licensure.

1. Level I - Peer Run - extended long-term recovery that is peer driven where the house members vote on decisions. No hierarchy exists within this level and there are no paid staff or 24-hour structures. Additional services and other requirements, such as urine drug testing, will vary by house.

2. Level II – Monitored – extended long-term recovery managed by a senior peer who has extended sobriety. There are no paid positions but senior peer may receive privileges such as his/her own room, discounted rent, and specific tasks. There is no 24-hour structure but clients have access to the senior peer, urine drug testing is

conducted, minimal documentation is maintained, and clients encouraged to participate in treatment services through external sources.

3. Level III- Supervised – extended long-term recovery, typically for individuals coming directly from residential treatment or institutional settings. The house has paid staff positions with many holding a license or certification, 24-hour structure, staff available as needed, urine drug testing conducted, documentation maintained, clinical treatment services provided on-site or externally if owned by the same entity.

(13) When more than one tier is offered in a single facility, the facility shall be licensed at the highest tier.

(14) Documentation, required by RSA 151:4, III(a)(5), that the public has been notified of the intent to open a licensed facility by notice published in a newspaper, covering the area in which the licensed facility or service is to be operated, in at least 2 editions of the paper within 10 days of the filing of the application for a license. Such notice shall include a description of the facility and services to be offered.

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

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

He-P 826.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 826.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 826.04(a) the department shall notify the applicant in writing of the items required before the application can be processed.

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

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

(e) Unless a waiver has been granted, the department shall deny a licensing request in accordance with He-P 826.13(b) if it determines that the applicant, administrator, or medical director:

(1) Has been convicted of a felony in this or any other state;

(2) Has been convicted of a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation in this or any other state;

(3) Has a finding by the department or any administrative agency in this or any other state for assault, fraud, theft, abuse, neglect, or exploitation of any person; or

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

(f) The applicant shall have on hand and available for inspection at the time of the initial onsite inspection the following:

- (1) A copy of the SUD-RTF's admission agreement;
- (2) Personnel records; and
- (3) A copy of the SUD-RTF's standard disclosure form.

(g) Following both a clinical and life safety code inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 826.

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

(i) A written notification of denial, pursuant to He-P 826.13(b)(10) will be sent to an applicant applying for an initial license if it has been determined by the inspection mentioned in (g) above and a maximum of 2 follow-up inspections, if needed, that the prospective premises are not in full compliance with RSA 151 and He-P 826.

(j) A written notification of denial, pursuant to He-P 826.13(b)(4), shall be sent to an applicant applying for an initial license if the department has received no communication from the applicant within 90 days of sending written notification to the applicant that their application is complete and an inspection needs to be scheduled.

He-P 826.06 License Expirations and Procedures for Renewals.

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

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 826.04(a)(1) at least 120 days prior to the expiration of the current license.

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

- (1) The materials required by He-P 826.04(a)(1) and (4);
- (2) The current license number;
- (3) A request for renewal of any existing non-permanent waivers previously granted by the department, in accordance with He-P 826.10(f), if applicable. If such request is not received, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license;
- (4) A list of any current employees who have a permanent waiver granted in accordance with He-P 826.19(f); and
- (5) A copy of any non-permanent or new variances applied for and granted by the state fire marshal, in accordance with Saf-C 6005.01 - 6005.04;

(d) In addition to (c) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702.02 for bacteria and Env-Dw 704.02 for nitrates.

(e) Following an inspection as described in He-P 826.09, a license shall be renewed if the department determines that the licensee:

(1) Submitted an application containing all the items required by (c) and (d) above as applicable, prior to the expiration of the current license; and

(2) Is found to be in compliance with RSA 151 and He-P 826 at the renewal inspection, or submitted an acceptable plan of correction if areas of non-compliance were cited.

(f) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license and does not intend to cease operation, shall be required to submit an application for an initial license pursuant to He-P 826.04.

(g) If a licensee chooses to cease operation of a SUD-RTF, the licensee shall submit written notification to the department at least 45 days in advance, which shall include a written closure plan that ensures adequate care of clients until they are transferred or discharged to an appropriate alternate setting.

He-P 826.07 SUD-RTF New Construction Existing Building Rehabilitation.

(a) For new construction and for rehabilitation, repair, renovation, modification, reconstruction, or addition of an existing building, all construction documents, shop drawings, and architectural, sprinkler, and fire alarm plans shall be submitted to the department 60 days prior to the start of such work.

(b) The architectural, sprinkler, and fire alarm plans in (a) above shall accurately show the room designation(s) and exact measurements of each area to be licensed, including windows and door sizes and each room's use.

(c) Architectural, sprinkler, and fire alarm plans shall be submitted to the state fire marshal's office as required by RSA 153:10-b, V.

(d) Any licensee or applicant who wants to use performance-based design to meet the fire safety requirements shall provide the department with documentation of fire marshal approval for such methods.

(e) The department shall review construction documents, drawings, and plans of a newly proposed or existing facility for compliance with all applicable sections of RSA 151 and He-P 826 and shall notify the applicant or licensee as to whether the proposal complies with these requirements.

(f) Construction and building rehabilitation initiated prior to receiving department approval shall be done at the applicant or licensee's own risk.

(g) The SUD-RTF shall comply with all applicable state laws, rules, and local ordinances when undertaking construction or building rehabilitation.

(h) A licensee or applicant undertaking construction or building rehabilitation shall comply with the following:

(1) The state fire code, Saf-C-6000, applies as follows:

- a. For 3 clients or fewer, the One and Two Family Dwelling chapter of the life safety code;
- b. For 4 clients or more, the Residential Board and Care Occupancy chapter of the life safety code; and
- c. If licensed as a tier 1 program, the Health Care Occupancy chapter of the life safety code; and

(2) The state building code as defined in RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155-A:10, V; and

(i) All SUD-RTF's newly constructed or rehabilitated after the 2018 effective date of these rules shall comply with the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities," Residential Healthcare chapter, 2014 edition, available as listed in Appendix A.

(j) Where building rehabilitation is done within an existing facility, all such work shall comply, insofar as practicable, with applicable sections of the FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities," Residential Healthcare chapter, 2014 edition, available as listed in Appendix A.

(k) Per the FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities," Residential Healthcare chapter, 2014 edition, available as listed in Appendix A, and notwithstanding (j) above, where it is evident that a reasonable degree of safety is provided, the requirements for existing buildings shall be permitted to be modified if their application would be impractical in the judgment of the authority having jurisdiction.

(l) The department shall be the authority having jurisdiction for the requirements in (i)-(k) above and shall negotiate compliance and grant waivers in accordance with He-P 826.10 as appropriate.

(m) Penetrations, holes, or other openings in fire walls, fire partitions, smoke barriers, floors, and ceilings that allow the transfer of fire, heat, or smoke shall be closed and sealed using a listed and approved sealant that provides an equivalent rating as provided by the original surface.

(n) Waivers granted by the department for construction or building rehabilitation under the FGI guidelines above shall not require annual renewal unless the underlying reason or circumstances for the waivers change.

(o) Exceptions or variances pertaining to the state fire code referenced in (h)(1) above shall be granted only by the state fire marshal.

(p) The building, including all construction and rehabilitated spaces, shall be subject to an inspection pursuant to He-P 826.09 prior to its use.

He-P 826.08 SUD-RTF Requirements for Organizational or Service Changes.

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

- (1) Ownership;
- (2) Physical location;
- (3) Address;
- (4) Name;
- (5) Number of beds; or
- (6) Services, to include all services referenced in He-P 826.04 (a)(12) or tier or level changes.

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

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

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

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

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

(f) The department shall review the information submitted under (e) above and determine if the added services can be provided under the SUD-RTF's current license.

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

- (1) Ownership, unless an inspection was conducted within 90 days of the date of the change in ownership and a plan of correction designed to address any areas of non-compliance was submitted and accepted by the department;
- (2) The physical location;
- (3) An increase in the number of beds or clients;
- (4) A change in license classification;
- (5) A change that placed the facility under a different life safety code occupancy chapter; or

(6) A change in tier or level.

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

(i) A revised license and license certificate shall be issued for a change in the SUD-RTF name.

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

(1) A change of administrator;

(2) A change in the number of clients from what is authorized under the current license, if applicable;

(3) A change in address without a change in physical location; or

(4) When a waiver has been granted.

(k) The SUD-RTF shall inform the department in writing no later than 5 days prior to a change in administrator or medical director or as soon as practicable in the event of a death or other extenuating circumstances requiring an administrator change and provide the department with the following:

(1) A resume identifying the name and qualifications of the new administrator;

(2) The results of the criminal record check conducted under He-P 826.19(d);

(3) Copies of applicable licenses for the new administrator; and

(4) A copy of the criminal attestation as described He-P 826.19(s).

(l) Upon review of the materials submitted in accordance with (k) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position as specified in He-P 826.19(j) and (k):

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

(n) The SUD-RTF shall inform the department in writing via e-mail, fax, or mail of any change in the e-mail address as soon as practicable and in no case later than 10 days of the change as this is the primary method used for all emergency notifications to the facility.

(o) A organizational or service restructuring of an established SUD-RTF that does not result in a transfer of the controlling interest of the facility, but which might result in a change in the name of the facility or corporation, shall not constitute a change in ownership and a new license shall not be required.

(p) Licenses issued for a change in ownership shall expire on the date the license issued to the previous owner would have expired.

He-P 826.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 826, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The licensed premises;
- (2) All programs and services provided by the SUD-RTF; and
- (3) Any records required by RSA 151 and He-P 826.

(b) The department shall conduct a clinical and life safety code inspection as necessary, to determine full compliance with RSA 151 and He-P 826 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 826.08(g)(1);
- (3) A change in the physical location of the SUD-RTF;
- (4) A change in the licensing classification;
- (5) An increase in the number of beds;
- (6) Occupation of space after construction or building rehabilitation; or
- (7) The renewal of a license.

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

(d) A statement of findings for clinical inspections or notice to correct for life safety inspections shall be issued when, as a result of any inspection, the department determines that the SUD-RTF is in violation of any of the provisions of He-P 826, RSA 151, or other federal or state requirements.

(e) If areas of non-compliance were cited in either a notice to correct or a statement of findings, the licensee shall submit a POC, in accordance with He-P 826.12(c) within 21 days of the date on the letter that transmits the inspection report.

(f) A written notification of denial will be sent to an applicant applying for an initial license if it has been determined by the inspection mentioned in (b) above, that the prospective premises is not in full compliance with RSA 151 and He-P 826.

He-P 826.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 826 shall submit a written request for a waiver to the department that includes:

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

- (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and clients as the rule from which a waiver is sought or provide a reasonable explanation why the applicable rule should be waived.
- (b) A waiver shall be permanent unless the department specifically places a time limit on the waiver.
- (c) A request for waiver shall be granted if the department determines that the alternative proposed by the applicant or licensee:
 - (1) Meets the objective or intent of the rule;
 - (2) Does not negatively impact the health, safety, or well-being of the clients; and
 - (3) Does not negatively affect the quality of client services.
- (d) The licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.
- (e) Waivers shall not be transferable.
- (f) When a licensee wishes to renew a non-permanent waiver beyond the approved period of time, the licensee shall apply for a new waiver with he renewal application or at least 60 days prior to the expiration of the existing waiver, as appropriate, by submitting the information required by (a) above.
- (g) The request to renew a waiver shall be subject to (b) through (f) above.

He-P 826.11 Complaints.

- (a) The department shall investigate any complaint that meet the following conditions:
 - (1) The alleged violation(s) occurred since the last onsite clinical or life safety inspection;
 - (2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s); or
 - (3) There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of RSA 151 or He-P 826.
- (b) When practicable the complaint shall be in writing and contain the following information:
 - (1) The name and address of the SUD-RTF, or the alleged unlicensed individual or entity;
 - (2) The name, address, and telephone number of the complainant; and
 - (3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 826.

(c) Investigations shall use all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, which include:

- (1) Requests for additional information from the complainant;
- (2) A physical inspection of the premises;
- (3) Review of any records that might be relevant and have probative value; and
- (4) Interviews with individuals who might have information that is relevant to the investigation and might have probative value.

(d) For a licensed SUD-RTF the department shall:

- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if areas of non-compliance were found as a result of the investigation;
- (2) Notify any other federal, state, or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate;
- (3) Notify the licensee in writing and take no further action if the department determines that the complaint is unfounded, under (a) above, or does not violate any statutes or rules; and
- (4) Require the licensee to submit a POC in accordance with He-P 826.12(c) if the inspection results in areas of non-compliance being cited.

(e) The following shall apply for the unlicensed individual or entity:

(1) The department shall provide written notification to the owner or person responsible that includes:

- a. The date of investigation;
- b. The reasons for the investigation; and
- c. Whether or not the investigation resulted in a determination that the services being provided require licensing under RSA 151:2, IV;.

(2) In accordance with RSA 151:7-a, II, the owner or person responsible shall be allowed 7 business days from the date of the notice required by (1) above to submit a completed application for a license or cease operating services;

(3) If the owner of an unlicensed facility does not comply with (2) above, the department shall issue a written warning to immediately comply with RSA 151 and He-P 826; and

(4) Any person or entity who fails to comply after receiving a warning as described in (3) above, shall be subject to an action by the department for injunctive relief under RSA 151:17 and an administrative fine pursuant to He-P 826.13(c)(1).

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

- (1) To the department of justice when relevant to a specific investigation;
- (2) To law enforcement when relevant to a specific criminal investigation;
- (3) When a court of competent jurisdiction orders the department to release such information; or
- (4) In connection with an adjudicative proceeding relative to the licensee.

He-P 826.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 826, or other applicable licensing rules, including:

- (1) Requiring a licensee to submit a POC in accordance with (c) below;
- (2) Imposing a directed POC upon a licensee in accordance with (d) below;
- (3) Imposing conditions upon a license; or
- (4) Monitoring of a licensee.

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

- (1) Identifies each area in which the licensee is not in compliance with RSA 151 or a provision of these rules; and
- (2) Identifies the specific remedy(s) that has been imposed;

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

(1) Upon receipt of a statement of findings or a notice to correct, the licensee shall submit its written POC for each item, written in the appropriate place on the statement or notice and containing:

- a. How the licensee intends to correct each area of non-compliance;
- b. What measures will be put in place, or what system changes will be made to ensure that the non-compliance does not recur, to include how the measures will be evaluated for effectiveness;
- c. The date by which each area of non-compliance shall be corrected; and
- d. The position of the employee responsible for the corrective action;

(2) The licensee shall submit a written POC to the department within 21 days of the date on the letter that transmitted the statement of findings or notice to correct unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline based on the following criteria:

- a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21 calendar day period but has been unable to do so; and
- b. The department determines that the health, safety, or well-being of a client will not be jeopardized as a result of granting the extension;

(3) The department shall review each POC and accept each plan that:

- a. Achieves compliance with RSA 151 and He-P 826;
- b. Addresses all areas of non-compliance as cited in the statement of findings or notice to correct;
- c. Prevents a new violation of RSA 151 or He-P 826 as a result of the implementation of the POC; and
- d. Specifies the date upon which the areas of non-compliance will be corrected;

(4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;

(5) If the POC is not acceptable:

- a. The department shall notify the licensee in writing of the reason for rejecting the POC;
- b. The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14 day period, the licensee requests an extension, via telephone or in writing, and the department grants the extension, based on the following criteria:
 1. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and
 2. The department determines that the health, safety or well being of a client will not be jeopardized as a result of granting the waiver;
- c. The revised POC shall comply with (c)(1) above and be reviewed in accordance with (c)(3) above; and
- d. If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, unless the department has granted an extension, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with He-P 826.13(c)(12);

(6) The department shall verify the implementation of any POC that has been submitted and accepted by:

- a. Reviewing materials submitted by the licensee;
- b. Conducting an onsite follow-up inspection; or

c. Reviewing compliance during the next annual inspection;

(7) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and

(8) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection, the licensee shall be:

a. Notified by the department in accordance with He-P 826.12(b); and

b. Issued a directed POC in accordance with (d) below and shall be subject to a fine, as appropriate, in accordance with He-P 826.13(c)(13).

(d) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or licensee to implement when:

(1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the clients and personnel;

(2) A revised POC is not submitted within 14 days of the written notification from the department or such other date as applicable if an extension was granted by the department; or

(3) A revised POC submitted by the licensee has not been accepted.

(e) If at the time of the next inspection the directed POC referenced in (d) above has not been implemented by the completion date stated in the directed POC, the department shall, as appropriate:

(1) Impose a fine;

(2) Deny the application for a renewal of a license in accordance with He-P 826.13(b); or

(3) Revoke the license in accordance with He-P 826.13(b).

(f) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with an area or areas of non-compliance cited by the department on a statement of findings or a notice to correct, provided that the applicant or licensee submits a written request for an informal dispute resolution.

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

(h) The department shall change the statement of findings or the notice to correct if, based on the evidence presented, the statement of findings is determined to be incorrect. The department shall provide a written notice to the applicant or licensee of the determination.

(i) The deadline to submit a POC in accordance with (c) above shall not apply until the notice of the determination in (h) above has been provided to the applicant or licensee.

(j) Any violations cited for the state fire code may be appealed to the New Hampshire state fire marshal and shall not be the subject of informal dispute resolution as describe in this section.

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

He-P 826.13 Enforcement Actions and Hearings.

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

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department;
- (3) If a fine is imposed, the automatic reduction of the fine by 25% if the fine is paid within 10 days of the date on the written notice from the department and the area of non-compliance has been corrected, or a POC has been accepted and approved by the department; and
- (4) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable before the enforcement action becomes final.

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

- (1) An applicant or a licensee violated a provision of RSA 151 or He-P 826 which poses a risk of harm to the health, safety, or well-being of a client;
- (2) An applicant or licensee has failed to pay an administrative fine imposed by the department;
- (3) An applicant or licensee had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order, or certified check;
- (4) After being notified of and given an opportunity to supply missing information or schedule an initial inspection, the applicant or licensee fails to submit an application that meets the requirements of He-P 826.04 or fails to schedule an inspection;
- (5) The applicant, licensee, or any representative or employee of the applicant or licensee:
 - a. Provides false or misleading information to the department;
 - b. Prevents, interferes, or fails to cooperate with any investigation conducted by the department; or
 - c. Fails to provide requested files or documents to the department;
- (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 826.12(c), (d) and (e);
- (7) A licensee has submitted a POC that has not been accepted by the department in accordance with He-P 826.12(c)(5) and has not submitted a revised POC as required by He-P 826.12(c)(5)b.;

- (8) The licensee is cited a third time under RSA 151 or He-P 826 for the same violation within the last 5 inspections;
 - (9) A licensee, or its corporate officers, has had a license revoked and submits an application during the 5 year prohibition period specified in (k) below;
 - (10) Unless a waiver has been granted, upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 826;
 - (11) Unless a waiver has been granted, the department makes a determination that the applicant, administrator, licensee, or household member has been found guilty of, or plead guilty to, a felony assault, theft, fraud, abuse, neglect, or exploitation of any person, in this or any other state, or had an investigation for abuse, neglect, or exploitation adjudicated and founded by the department or any administrative agency in this or any other state;
 - (12) The applicant or licensee fails to employ a qualified administrator;and
 - (13) The applicant has had a license revoked or denied by another division or unit of the department within a 5 year period of the application.
- (c) The department shall impose fines as follows:
- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 for an applicant or unlicensed entity;
 - (2) For a failure to cease operations after a denial of a license, after receipt of an order to cease and desist operations, in violation of RSA 151:2 and RSA 541-A:30, or continuing to operate after a failure to renew the license by the expiration date, the fine for an applicant, unlicensed entity, or a licensee shall be \$2000.00;
 - (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III,and He-P 826.14(u), the fine for an applicant, licensee, or unlicensed entity shall be \$500.00;
 - (4) For a failure to transfer a client whose needs exceeds the services or programs provided by the SUD-RTF, in violation of RSA 151:5-a the fine for a licensee shall be \$500.00;
 - (5) For admission of a client whose needs at the time of admission exceed the services or programs authorized by the SUD-RTF licensing classification, in violation of RSA 151:5-a, II, and He-P 826.15(a), the fine for a licensee shall be \$1000.00;
 - (6) For a failure to comply with the directives of a warning issued by the department in violation of RSA 151:7-a and He-P 826.11(f), the fine for an unlicensed provider or a licensee shall be \$500.00;
 - (7) For a failure to submit a renewal application for a license at least 120 days prior to the expiration date, in violation of He-P 826.06(b), the fine for a licensee shall be \$100.00;

- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 826.08(a)(1), the fine for a licensee shall be \$500.00;
- (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 826.08(a)(2), the fine for a licensee shall be \$1000.00;
- (10) For a failure to notify the department of a change in e-mail address as required by He-P 826.08(n) the fine shall be \$100.00;
- (11) For a failure to allow access by the department to the SUD-RTF's premises, programs, services, or records, in violation of He-P 826.09(a), the fine for an applicant, unlicensed individual, or licensee shall be \$2000.00;
- (12) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, or the date of an extension as granted, in violation of He-P 826.12(c)(2) and (5), the fine for a licensee shall be \$500.00;
- (13) For a failure to implement or maintain the corrective action set forth in any POC that has been accepted or issued by the department, in violation of He-P 826.12(c)(8), the fine for a licensee shall be \$1000.00;
- (14) For a failure to establish, implement, or comply with licensee policies, as required by He-P 826.14(b-d) and (t) and He-P 826.20(d), the fine for a licensee shall be \$500.00;
- (15) For a failure to provide services or programs required by the licensing classification and specified by He-P 826.16, the fine for a licensee shall be \$500.00;
- (16) For exceeding the licensed capacity, in violation of He-P 826.15(x), the fine for a licensee shall be \$500.00 per day;
- (17) For providing false or misleading information or documentation in violation of He-P 826.14(h), the fine for an applicant or licensee shall be \$1000.00 per offense;
- (18) For a failure to meet the needs of a client or clients, in violation of He-P 826.14(g)(2), the fine for a licensee shall be \$1000.00 per client;
- (19) For placing a client in a room that has not been approved or licensed by the department, in violation of He-P 826.09(b)(6), the fine for a licensee shall be \$500.00.
- (20) For employing an administrator or other personnel who do not meet the qualifications for the position, without having a waiver granted by the department in accordance with He-P 826.10, in violation of He-P 826.18(j), the fine for a licensee shall be \$500.00;
- (21) For failure to cooperate with the inspection or investigation conducted by the department, in violation of He-P 826.09(a), the fine shall be \$2000.00;
- (22) For failure to submit architectural plans or drawings, when applicable, prior to undertaking construction or renovation of the licensed facility in violation of He-P 826.07(a), the fine for a licensed facility shall be \$500.00;

- (23) For occupying a renovated area of a licensed facility or new construction prior to approval by local and state authorities, as required by He-P 826.09(b)(6), the fine shall be \$500 which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department;
- (24) When an inspection determines that a violation of RSA 151 or He-P 826 has the potential to jeopardize the health, safety, or well-being of a client, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same area of non-compliance is cited within 2 years of the original area of non-compliance the fine for a licensee shall be \$1000.00; or
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in a. above the fine for a licensee shall be \$2000.00;
- (25) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 826 shall constitute a separate violation and shall be subject to fines in accordance with He-P 826.13(c); and
- (26) If the applicant or licensee is making good faith efforts to comply with (4) and (10) and (15) above, as verified by documentation or other means, the department shall not issue a daily fine.
- (d) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” or cash in the exact amount due; and
 - (2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.
- (e) The department shall impose state monitoring under the following conditions:
- (1) Repeated poor compliance on the part of the facility in areas that may impact the health, safety, or well-being of clients; or
 - (2) Concern that the conditions in the SUD-RTF have the potential to worsen.
- (f) An applicant, licensee, or unlicensed entity shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.
- (g) If a written request for a hearing is not made pursuant to (e) above, the action of the department shall become final.
- (h) The department shall order the immediate suspension of a license and the cessation of operations when it finds that the health, safety, or welfare of a client is in jeopardy and requires emergency action in accordance with RSA 541:A-30, III.
- (i) If an immediate suspension is upheld the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 826 is achieved.
- (j) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(k) When a SUD-RTF's license has been denied or revoked, the applicant, licensee, administrator, or medical director shall not be eligible to reapply for a license, or be employed as an administrator or medical director for at least 5 years if the denial or revocation specifically pertained to their role in the program.

(l) The 5 year period referenced in (k) above shall begin on:

(1) The date the department's decision to revoke or deny the license became effective, if no appeal is filed; or

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

(m) Notwithstanding (k) above, the department shall consider an application submitted after the decision to revoke or deny becomes final if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 826.

(n) If the department has reasonable information or evidence that a licensee, applicant, administrator, or others are circumventing rule (k) above by applying for a license through an agent or other individual and will retain ownership or management authority, the department shall deny the application.

(o) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 826.

(p) Any violations cited for fire code must be appealed to the New Hampshire state fire marshal.

He-P 826.14 Duties and Responsibilities of the Licensee.

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

(b) The licensee shall have written policies and procedures to include:

(1) The rights and responsibilities of clients in accordance with the patients' bill of rights under RSA 151:20, II;

(2) The policies described in He-P 826.14(d), He-P 826.18(d), and He-P 826.20(d); and

(3) A policy that ensures the safety of all persons present on the licensed premises where firearms are permitted.

(c) The licensee shall define, in writing, the scope and type of services to be provided at the SUD-RTF.

(d) The licensee shall have a system to regularly identify the SUD-RTF's daily census, including times client is absent from the SUD-RTF.

(e) The licensee shall comply with the patients' bill of rights as set forth in RSA 151:19-30.

(f) The licensee shall develop and implement written policies and procedures governing the operation of the SUD-RTF to include a clinical care manual covering the policies and procedures for all clinical services provided.

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

(h) All clinical services provided by the licensee shall:

(1) Focus on the clients strengths;

(2) Be sensitive and relevant to the diversity of the clients;

(3) Be client and family centered;

(4) Be evidenced based by meeting one of the following:

a. The service is included in the Substance Abuse and Mental Health Services Administration's (SAMSHA) National Registry of Evidence-Based Programs and Practices (NREPP), available as listed in Appendix A.

b. The services are published in a peer reviewed journal and found to have positive effects;
or

c. The treatment and support service provider shall be able to document the services effectiveness based on a theoretical model with validated research or a documented body of research generated from similar services that indicates effectiveness;

(5) Be designed to acknowledge the impact of violence and trauma on client's lives which shall be addressed in the services provided; and

(6) Be delivered in accordance with the appropriate guidelines consistent with generally accepted standards of care to include but not be limited to the American Society of Addiction Medicine (ASAM) Criteria available as listed in Appendix A, the Treatment Improvement Protocols and Technical Assistance Publications promulgated by SAMSHA available as listed in Appendix A., or the National Alliance for Recovery Residences, available as listed in Appendix A.

(i) The licensee shall assess and monitor the quality of care and services it provides to clients on an ongoing basis.

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

(k) The licensee shall not advertise or otherwise represent the SUD-RTF as having residential care or health care programs or services for which it is not licensed to provide.

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

(m) Licensees shall:

(1) Meet the needs of the clients during the hours that the clients are in the care of the SUD-RTF;

- (2) Initiate action to maintain the SUD-RTF in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state, and local laws, rules, regulations, and ordinances;
 - (3) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the SUD-RTF;
 - (4) Appoint a medical director who shall meet the requirements of He-P 826.19(k);
 - (5) Appoint an administrator who shall meet the requirements of He-P 826.19(j);
 - (6) Verify the qualifications of all personnel;
 - (7) Provide sufficient numbers of personnel who are present in the SUD-RTF and are qualified to meet the needs of clients during all hours of operation.
 - (8) Provide at least one certified recovery support worker (CRSW) for every 50 clients;
 - (9) Provide for all unlicensed counselors, at least one hour of supervision for every 20 hours of direct client contact which shall include:
 - a. Review of case records;
 - b. Observation of interactions with clients;
 - c. Skill development;
 - d. Review of case management activities; and
 - e. The maintenance of a log of the supervision date, duration, content, and the identity of the participants;
 - (10) Ensure that personnel, licensed or certified, by the NH Board of Licensing for Alcohol and Other Drug Use Professionals or any other licensing or certification board, receive supervision in accordance with the requirements set forth for the licenses or certifications held by the individual;
 - (11) No LADC or MLADC shall supervise more than 8 unlicensed staff;
 - (12) Provide the SUD-RTF with sufficient supplies, equipment, and lighting to ensure that the needs of clients are met;
 - (12) Implement any POC that has been accepted or issued by the department; and
 - (13) Require that all personnel follow the orders of the licensed practitioner for each client and encourage the clients to follow the licensed practitioner's orders.
- (n) The licensee shall employ or contract with a nurse who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and who is an RN or LPN with at least 2 years relevant experience in substance use disorder treatment or behavioral health services.

(o) The licensee shall employ or contract with a clinical services director who is a LADC or MLADC licensed by the NH Board of Licensing for Alcohol and Other Drug Use Professionals or an individual licensed by the Board of Mental Health Practice and who has at least 2 years relevant experience in substance use disorder treatment or behavioral health services.

(p) The licensee shall:

- (1) Make available basic supplies necessary for clients to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush, and toilet paper. Such basic supplies shall be included in the basic rate, except that there may be an additional charge for specific brands or items required to meet individual clients' needs or requests;
- (2) Not be responsible for the cost of purchasing a specific brand of product at a client's request;
- (3) Identify in the admission agreement the cost, if any, of basic supplies or other services for which there will be a charge;
- (5) Ensure that all personnel have received the training necessary to be qualified personnel to include demonstrated competency in the training given with documentation maintained in the employee personnel file;
- (6) Require any paid provider providing direct care, other than an employee, to provide a brief written, signed, and dated note describing the reason for the service(s), and the next planned visit, if known;
- (7) Have a clearly identified policy for CPR that includes the following:
 - a. If CPR is not performed, the policy shall include a statement that 911 shall be called in an emergency;
 - b. If CPR is performed, the policy shall include a statement that 911 shall be called and there shall be either at least one person on duty per shift who is certified to perform CPR or an AED available for use; and
 - c. This policy shall be signed by each client and their guardian, agent, or personal representative, if any, and be located in the client's file with their admission agreement; and
- (8) There shall be at least one personnel on the premises during all hours the facility is open.

(q) The licensee shall educate personnel about the needs and services required by the clients under their care and document such education to include demonstrated competencies.

(r) Physical or chemical restraints shall only be used in the case of an emergency, pursuant to RSA 151:21, IX.

(s) As soon as is practicable but no longer than 24 hours after the use of a physical or chemical restraint, the client's licensed practitioner, the department, and the client's guardian, agent, or personal representative, if any, shall be notified of the use of such restraints.

(t) The SUD-RTF shall:

- (1) Have policies and procedures on:
 - a. What type of emergency restraints may be used;
 - b. When restraints may be used; and
 - c. Who may authorize the use of restraints; and
 - (2) Provide personnel with education and training on the limitations and the correct use of restraints.
- (u) The use of physical restraints shall be allowed only as defined under He-P 826.03(bn).
- (v) Separation from a situation may be used as an alternative to physical restraint and is not considered a form of restraint.
- (w) For reportable incidents, licensees shall have responsibility for:
- (1) Completing an investigation to determine if abuse or neglect could have been a contributing factor to the incident;
 - (2) Faxing to 271-4968 or, if a fax machine is not available, conveying by electronic or regular mail, the following information to the department within 48 hours of a reportable incident:
 - a. The SUD-RTF name;
 - b. A description of the incident, including identification of injuries, if applicable;
 - c. The name of the licensee(s) or personnel involved in, witnessing, or responding to the reportable incident;
 - d. The name of client(s) involved in or witnessing the reportable incident;
 - e. The date and time of the reportable incident;
 - f. The action taken in direct response to the reportable incident, including any follow-up;
 - g. If medical intervention was required, by whom and the date and time;
 - h. When the client's guardian, agent, or personal representative, if any, was notified;
 - i. The signature of the person reporting the reportable incident; and
 - j. The date and time the client's licensed practitioner was notified, if applicable; and
 - k. The date the facility performed the investigation required by (1) above;
 - (3) As soon as practicable, notifying the local police department, the department, and the guardian, agent, or personal representative, if any, when a client has an unexplained absence and the licensee has searched the building and the grounds of the SUD-RTF without finding the client and it has been determined by the facility that the client is a danger to themselves or others; and

- (4) Notifying the department with a written report within 5 days describing the actions taken by personnel, the final outcome or continuation of the reportable incident, and actions taken to prevent a reoccurrence if it was not submitted in the initial report.
- (x) The licensee shall not exceed the maximum number of clients or beds licensed by the department, unless authorized by the department, such as during an emergency.
- (y) The licensee shall give a client a written notice as follows:
- (1) For an increase in the cost or fees for any SUD-RTF services, 30 days advanced notice shall be required except for clients receiving Medicaid whose financial liability is determined by the state's standard of need; or
 - (2) For an involuntary change in room or bed location, the facility shall make reasonable accommodation of individual needs and preferences and give 14 days advanced notice, unless the change is required to protect the health, safety, and well-being of the client or other clients, in such case the notice shall be as soon as practicable.
- (z) In addition to the posting requirements specified in RSA 151:29, the licensee shall post the following documents in a conspicuous area accessible to clients, employees, and visitors:
- (1) The current license certificate issued in accordance with RSA 151:2;
 - (2) All statement of findings for the last 12 months in accordance with He-P 826.09(d) and He-P 826.11(d);
 - (3) A copy of the patient's bill of rights specified by RSA 151:21; and
 - (4) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted, in writing, to The Department of Health and Human Services, Office of Legal and Regulatory services, Health Facilities Administration, 129 Pleasant Street, Concord, N.H. 03301 or by calling 1-800-852-3345, and information on how to contact the office of the long-term care ombudsman.
- (aa) The licensee shall determine the smoking status of the SUD-RTF.
- (ab) If smoking is allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66-69 and He-P 826.26(f).
- (ac) The licensee may hold or manage a client's funds or possessions only when the facility receives written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other clients, or other household members.

He-P 826.15 Client Admission Criteria, Temporary Absence, Transfer, and Discharge Criteria.

- (a) The licensee shall only admit an individual or retain a client who has been determined to need the level(s) of care that the facility offers, and whose needs can be met by the SUD-RTF.

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

(c) The client shall be transferred or discharged, as defined under RSA 151:19, I-a and VII, in accordance with RSA 151:21, V, for reasons including the following:

- (1) The client's medical or other needs exceed the services offered by the licensee or are not otherwise met by third party providers that the licensee has contracted with;
- (2) The client cannot be safely evacuated in accordance with Saf-C 6000;
- (3) The client or the client's guardian or agent, if any, determines that the client shall leave the facility;
- (4) The client is a danger to himself/herself or others;
- (5) Program completion or transfer based on changes in the client's functioning relative to ASAM criteria; and
- (6) Program termination, including:
 - a. Administrative discharge;
 - b. Non-compliance with the program;
 - c. The client left the program before completion against advice of treatment staff; and
 - d. The client is inaccessible, such as the client has been jailed or hospitalized.

(d) In all cases of client discharge or transfer, the counselor shall complete a narrative discharge summary, which includes:

- (1) The dates of admission and discharge or transfer;
- (2) The client's psychosocial substance use history and legal history;
- (3) A summary of the client's progress toward treatment goals in all ASAM domains;
- (4) The reason for discharge or transfer;
- (5) The client's DSM 5 diagnosis and summary, to include other evaluation testing completed during treatment;
- (6) A summary of the client's physical condition at the time of discharge or transfer;
- (7) A continuing care plan, including all ASAM domains;
- (8) The dated signature of the counselor completing the summary; and
- (9) Any other information pertinent to the client's discharge or transfer.

(e) The discharge summary shall be completed:

- (1) No later than 7 days following a client's discharge or transfer from the program; or
- (2) For withdrawal management services, by the end of the next business day following a client's discharge or transfer from the program.

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

(g) When transferring a client, either from one level of care to another within the same certified provider agency or to another treatment provider, the counselor shall:

- (1) Complete a progress note on the client's treatment and progress towards treatment goals, to be included in the client's record; and
- (2) Update the client evaluation and treatment plan.

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

- (1) The discharge summary;
- (2) Client demographic information, including the client's name, date of birth, address, telephone number, and the last 4 digits of his or her Social Security number; and
- (3) A diagnostic evaluation statement and other evaluation information, including:
 - a. TB test results;
 - b. A record of the client's treatment history; and
 - c. Documentation of any court-mandated or agency-recommended follow-up treatment.

(i) A counselor shall meet with the client at the time of discharge or transfer to establish a continuing care plan that:

- (1) Includes recommendations for continuing care in all ASAM domains;
- (2) Addresses the use of self-help groups including, when indicated, facilitated self-help; and
- (3) Assists the client in making contact with other agencies or services.

(j) A counselor shall document in the client record if and why the meeting in (i) could not take place.

(k) A provider may involuntarily 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 is non-compliant with prescription medications;
- (3) Clinical staff documents therapeutic reasons for discharge; or
- (4) The client violates program rules in a manner that is consistent with the provider's progressive discipline policy.

He-P 826.16 Required Services.

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

- (1) Is responsible for the day-to-day operations of the SUD-RTF;
- (2) Meets the requirements of He-P 826.19(j) and (k); and
- (3) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(b) The clinical services director or designee must be available for consultation at all times any client is present at the SUD-RTF.

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

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

- (1) An admissions contract including the following information:
 - a. The basic daily, weekly, or monthly fee;
 - b. A list of the core services required by He-P 826.14(n) that are covered by the basic fee;
 - c. Information regarding the timing and frequency of cost of care increases;
 - d. The time period covered by the admissions contract;
 - e. The SUD-RTF's house rules;
 - f. The grounds for immediate termination of the agreement, pursuant to RSA 151:21, V;
 - g. The SUD-RTF's responsibility for client discharge planning;
 - h. Information regarding nursing, other health care services, or supplies not provided in the core services, to include:
 1. The availability of services;
 2. The SUD-RTF's responsibility for arranging services; and

3. The fee and payment for services, if known;
 - i. The licensee's policies and procedures regarding:
 1. Arranging for the provision of transportation;
 2. Arranging for the provision of third party services, such as a cable television;
 3. Acting as a billing agent for third party services;
 4. Handling of client funds pursuant to RSA 151:24 and He-P 826.14(ac); and
 5. Storage and loss of the client's personal property;
 - j. The licensee's medication management services; and
 - k. The list of grooming and personal hygiene supplies provided by the SUD-RTF as part of the basic daily, weekly, or monthly rate;
- (2) A copy of the most current version of the patients' bill of rights under RSA 151: 21 and the SUD-RTF's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
- (3) The SUD-RTF's policy and procedure for handling reports of abuse, neglect, or exploitation which shall be in accordance with RSA 161-F:46 and RSA 169-C:29; and
- (4) Information on advanced directives.
- (e) The licensee shall provide the following core services:
- (1) Health and safety services to minimize the likelihood of accident or injury, with protective care and oversight regarding:
 - a. The clients' functioning, safety, and whereabouts; and
 - b. The clients' health status, including the provision of intervention as necessary or required;
 - (2) Emergency response and crisis intervention;
 - (3) Assistance with taking and ordering medications as needed;
 - (4) Provide nutritious meals and snacks in accordance with He-P 826.21 unless the client chooses other options according to their admission agreement;
 - (5) Housekeeping, laundry, and maintenance services in accordance with the admission agreement;
 - (6) The availability of activities, for which the facility shall make reasonable accommodation for clients with disabilities, including television, radio, internet, games, newspapers, visitors, and music, designed to sustain and promote physical, intellectual, social, and spiritual well-being of all clients in accordance with the admission agreement;

- (7) Assistance in arranging medical and dental appointments, which shall include assistance in arranging transportation to and from such appointments and reminding the clients of the appointments; and
 - (8) Supervision of clients when required to offset cognitive deficits that may pose a risk to self or others if the client is not supervised.
- (f) The licensee shall provide access to the following services:
- (1) A screening and evaluation interview conducted or supervised by a licensed counselor to determine:
 - a. That the client meets the requirements for treatment of a substance use disorder;
 - b. A determination of the appropriate level of care needed; and
 - c. The clients income level and associated cost share;
 - (2) If the interview in (1) above indicates a need for a clinical evaluation, the clinical evaluation shall be conducted by a licensed counselor in accordance with “TAP 21: Addiction Counseling Competencies,” available as listed in Appendix A.using an evidenced based evaluation tool and addressing all ASAM domains to determine:
 - a. If the client meets the Diagnostic and Statistical Manual of Mental Disorders (Fifth Edition, Text Revision) (DSM-5), available as listed in Appendix A criteria for a substance use disorder and document the appropriate DSM-5 diagnosis(es);
 - b. The appropriate initial level of care for the client based on ASAM criteria; and
 - c. Areas to be addressed in the treatment plan;
 - (3) Behavioral health care services on-site or through referral; and
 - (4) Mental health services on-site or through referral; and
 - (5) HIV/AIDS screening to include:
 - a. Testing referral, as appropriate, within 7 days of admission;
 - b. Risk assessment and education; and
 - c. Intervention and risk reduction education as appropriate.
- (g) The SUD-RTF shall perform an evaluation of each client’s needs and develop a treatment plan upon admission or within 24 hours following admission as described in (h) below.
- (h) Individual treatment plans shall contain, at a minimum, the following elements:
- (1) Goals, objectives, and interventions written in terms that are specific, measurable, attainable, realistic, and timely;

- (2) Identifies the client's clinical needs, treatment goals, and objectives;
 - (3) Identifies the client's strengths and resources for achieving goals and objectives in (1) above;
 - (4) Defines the strategy for providing services to meet those needs, goals, and objectives;
 - (5) Identifies referral to outside providers for the purpose of achieving a specific goal or objective when the service cannot be delivered by the treatment program;
 - (6) Provides the criteria for terminating specific interventions;
 - (7) Includes specification and description of the indicators to be used to assess the client's progress;
 - (8) Documentation of participation by the client in the treatment planning process or the reason why the client did not participate; and
 - (9) Signatures of the client and the counselor agreeing to the treatment plan, or if applicable, documentation of the client's refusal to sign the treatment plan.
- (i) Treatment plans shall be updated weekly based on any changes in any ASAM domain.
- (j) Treatment plan updates shall include:
- (1) Documentation of the degree to which the client is meeting treatment plan goals and objectives;
 - (2) Modification of existing goals or addition of new goals based on changes in the clients functioning relative to ASAM domains and treatment goals and objectives.
 - (3) The counselor's evaluation of whether or not the client needs to move to a different level of care based on changes in functioning in any ASAM domain and documentation of the reasons for this evaluation.
 - (4) The signature of the client and the counselor agreeing to the updated treatment plan, or if applicable, documentation of the client's refusal to sign the treatment plan.
- (k) In addition to the individualized treatment planning in (h) above, all providers shall provide client education on:
- (1) Substance use disorders;
 - (2) Relapse prevention;
 - (3) Infectious diseases associated with injection drug use, including but not limited to, HIV, hepatitis, and tuberculosis (TB);
 - (4) Sexually transmitted diseases;
 - (5) Emotional, physical, and sexual abuse;

(6) Nicotine use disorder and cessation options; and

(7) 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.

(l) When group education and counseling are provided as part of the treatment program, the provider shall:

(1) Maintain an outline of each educational and group therapy session provided; and

(2) Limit the group session to 12 or fewer clients per counselor.

(m) All client activities and services shall be documented in accordance with “TAP 21: Addiction Counseling Competencies,” available as listed in Appendix A.

(n) At the time of a client’s admission, the licensee shall ensure that orders from a licensed practitioner are obtained for medications, and that special dietary requirements are documented.

(o) The licensee shall have each client obtain a health examination by a licensed practitioner within 30 days prior to admission or within 72 hours following admission to the SUD-RTF.

(p) The health examination in (o) above shall include:

(1) Diagnoses, if any;

(2) The medical history;

(3) Medical findings, including the presence or absence of communicable disease;

(4) Vital signs;

(5) Prescribed and over-the-counter medications;

(6) Allergies; and

(7) Dietary needs.

(q) The licensee shall maintain a daily shift change log which documents such things as client behavior and significant events that a subsequent shift should be made aware of.

(r) When a client refuses care or services that could result in a threat to their recovery, health, safety, or well-being, or that of others, the licensee or their designee shall:

(1) Inform the client and guardian or agent, if any, of the potential results of their refusal;

(2) Notify the licensed practitioner of the client’s refusal of care; and

(3) Document in the client’s record the refusal of care and the client’s reason for the refusal if known.

(s) The licensee shall maintain an information data sheet in the client's record and promptly give a copy to emergency medical personnel in the event of an emergency transfer to another medical facility.

(t) The information data sheet in (s) above shall include:

- (1) Full name and the name the client prefers, if different;
- (2) Name, address, and telephone number of the client's next of kin, guardian, or agent, if any;
- (3) Diagnosis;
- (4) Medications, including last dose taken and when the next dose is due;
- (5) Allergies;
- (6) Functional limitations;
- (7) Date of birth;
- (8) Insurance information;
- (9) Advanced directives; and
- (10) Any other pertinent information not specified in (1)-(9) above.

He-P 826.17 Medication Services.

(a) All medications and treatments shall be administered in accordance with the orders of the licensed practitioner, except as allowed in (b) below.

(b) The facility shall have written approval from the client's licensed practitioner, at time of admission, of a list of approved over-the-counter (OTC) medications taken in accordance with the directions on the medication container or as ordered by the client's licensed practitioner.

(c) Medications, treatments, and diets ordered by the licensed practitioner shall be available to give to the client within 24-hours or in accordance with the licensed practitioner's direction.

(d) The licensee shall have a written policy and system in place instructing how to:

- (1) Obtain any medication ordered for immediate use at the SUD-RTF;
- (2) Reorder medications for use at the SUD-RTF; and
- (3) Receive and record new medication orders.

(e) For each prescription medication being taken by a client, the licensee shall maintain, in the client's record, either the original or a copy of the written order signed by a licensed practitioner.

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

- (1) The client's name:

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

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

(h) All prescription medications brought by a client to program shall be in their original containers and comply with (f) above.

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

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

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

(k) The label of all medication containers maintained in the SUD-RTF shall match the current written orders of the licensed practitioner unless authorized by (n) below.

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

(m) Any change or discontinuation of medications taken at the SUD-RTF shall be pursuant to a written order from a licensed practitioner.

(n) When the licensed practitioner changes the dose of a medication and personnel of the SUD-RTF are unable to obtain a new prescription label:

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

- (2) Personnel shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record; and
 - (3) The change in dosage, without a change in prescription label as described in (1) and (2) above, shall be allowed for a maximum of 90 days from the date of the new medication order or until the medications in the marked container are exhausted or, in the case of PRN medications, until the expiration date on the container, whichever occurs first.
- (o) Telephone orders shall be counter-signed by the licensed practitioner within 15 days of receipt.
- (p) All prescription medications, with the exception of nitroglycerin, epi-pens, and rescue inhalers, which may be kept on the client's person or stored in the client's room, shall be stored as follows:
- (1) Kept in a storage area that is:
 - a. Locked and accessible only to authorized personnel;
 - b. Organized to allow correct identification of each client's medication(s);
 - c. Illuminated in a manner sufficient to allow reading of all medication labels; and
 - d. Equipped to maintain medication at the proper temperature;
 - (2) 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 and accessible only to authorized personnel; and
 - (3) Topical liquids, ointments, patches, creams, and powder forms of products shall be stored in a manner such that cross-contamination with oral, optic, ophthalmic, and parenteral products shall not occur.
- (q) Over-the-counter (OTC) medications shall be handled in the following manner:
- (1) Only original, unopened containers of OTC medications shall be allowed to be brought into the program;
 - (2) OTC medication shall be stored in accordance with (p)(1) above; and
 - (3) OTC medication containers shall be marked with the name of the client using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner;
- (r) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.
- (s) The SUD-RTF shall have a clearly identified policy for storage and administration of naloxone that includes the following:
- (1) The process for regularly reviewing and updated the standing order for the naloxone kits on the premises;

- (2) The process for ensuring regular review of naloxone kits for expiration;
- (3) If naloxone is administered, the policy shall include a statement that 911 shall be called immediately; and
- (4) If naloxone is not administered but an overdose is suspected, the policy shall include a statement that 911 shall be called immediately.

(t) The SUD-RTF shall have at least one personnel on the premises during all hours the facility is open must be trained by an individual approved by the NH Bureau of Emergency Services.

(u) All medications self-administered by a client, with the exception of nitroglycerin, epi-pens, and rescue inhalers, which may be taken by the client without supervision, shall be supervised by the program staff, as follows:

- (1) Staff shall remind the client to take the correct dose of his or her medication at the correct time;
- (2) Staff may open the medication container but shall not be permitted to physically handle the medication itself in any manner;
- (3) Staff shall remain with the client to observe them taking the prescribed dose and type of medication; and
- (4) For each medication taken, staff shall document in an individual client medication log the following:
 - a. The medication name, strength, dose, frequency, and route of administration;
 - b. The date and the time the medication was taken;
 - c. The signature or identifiable initials of the person supervising the taking of said medication; and
 - d. The reason for any medication refused or omitted.

(v) Except as allowed by (v) below, any contaminated, expired, or discontinued medication shall be destroyed within 30 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first.

(w) Controlled drugs shall be destroyed only in accordance with state law and;

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

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

(y) When a client is going to be absent from the SUD-RTF at the time medication is scheduled to be taken, the medication container shall be given to the client if the client is capable of self-administering, as described in (ab) and (ac) below.

(z) If a client is going to be absent from the SUD-RTF at the time medication is scheduled to be taken and the client is not capable of self-administering, the medication container shall be given to the person responsible for the client while the client is away from the SUD-RTF.

(aa) Upon discharge or transfer, the licensee shall make the client's current medications available to the client and the guardian or agent, if any, unless determined by a licensed practitioner, licensed clinical supervisor, or licensed counselor that the client is a risk to themselves or others.

(ab) A written order from a licensed practitioner shall be required for any client who is authorized to carry emergency medications, including nitroglycerine and inhalers.

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

- (1) Self-administered as described in (s) above;
- (2) Self-directed administration of medication as allowed by (ab) below;
- (3) Self-administered with assistance as allowed by (ac) and (ad) below; or
- (4) Administered by individuals authorized by law.

(ad) The licensee shall allow the client to self-direct administration of medications as defined in He-P 826.03(ca) if the client:

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

(ae) If a client self-administers medication with assistance, as defined in He-P 826.03(by), personnel shall:

- (1) Remind the client to take the correct dose of his or her medication at the correct time;
- (2) Place the medication container within reach of the client;

- (3) Remain with the client to observe the client taking the appropriate amount and type of medication as ordered by the licensed practitioner;
 - (4) Record on the client's daily medication record that they have supervised the client taking his or her medication; and
 - (5) Document in the client's record any observed or reported side effects, adverse reactions, and refusal to take medications and or medications not taken.
- (af) If a client self-administers medication with assistance, personnel shall not physically handle the medication in any manner.
- (ag) Medication administered by individuals authorized by law to administer medications shall be:
- (1) Prepared immediately prior to administration; and
 - (2) Prepared, identified, and administered by the same person in compliance with RSA 318-B and RSA 326-B.
- (ah) Personnel shall remain with the client until the client has taken the medication.
- (ai) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall follow the requirements of RSA 326-B.
- (aj) A licensed nursing assistant (LNA) who is not licensed as a medication nurse assistant in accordance with RSA 326-B may administer the following when under the direction of the licensed nurse employed by the SUD-RTF:
- (1) Medicinal shampoos and baths;
 - (2) Glycerin suppositories and enemas; and
 - (3) Medicinal topical products to intact skin as ordered by the licensed practitioner.
- (ak) The licensee shall maintain a written record for each medication taken by the client at the SUD-RTF that contains the following information:
- (1) Any allergies or allergic reactions to medications;
 - (2) The medication name, strength, dose, frequency, and route of administration;
 - (3) The date and the time the medication was taken;
 - (4) The signature, identifiable initials, and job title of the person who administers, supervises, or assists the client taking medication;
 - (5) For PRN medications, the reason the client required the medication and the effect of the PRN medication; and
 - (6) Documented reason for any medication refusal or omission.

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

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

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

- (1) Infection control and proper hand washing techniques;
- (2) The 5 rights which are:
 - a. The right client;
 - b. The right medication;
 - c. The right dose;
 - d. Administered at the right time; and
 - e. Administered via the right route;
- (3) Documentation requirements;
- (4) General categories of medications, such as antidepressants or antibiotics;
- (5) Desired effects and potential side effects of medications; and
- (6) Medication precautions and interactions.

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

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

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

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

(as) The facility administrator, licensed nurse, if available, or the administrator's designee who has completed the 4-hour medication assistance supervision program required by He-P 804.17(ak) shall provide and document in writing, an annual review of its policies and procedures for self administration of medication without assistance, self administration of medication with assistance, and self-directed medication administration to all direct care personnel.

He-P 826.18 Personnel.

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

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

(c) SUD-RTF's with 8 or more beds must have an awake personnel member during the night.

(d) For all applicants for employment, for all volunteers, for all independent contractors who will provide direct care or personal care services to clients or who will be unaccompanied by an employee while performing non-direct care or non-personal care services within the facility, the licensee shall:

(1) Obtain and review a criminal records check from the New Hampshire department of safety, except, pursuant to RSA 151:2-d, VI, for those licensed by the New Hampshire board of nursing;

(2) Review the results of the criminal records check in accordance with (1) above in accordance with (e) below;

(3) Verify the qualifications of all applicants prior to employment; and

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

(e) Unless a waiver is granted in accordance with (g)(2) below, the licensee shall not offer employment, contract with, or engage a person in (d) above, if the person:

(1) Has been convicted of a felony in this or any other state;

(2) Has been convicted for sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation in this or any other state;

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

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

(f) If the information identified in (e) above regarding any person in (d) above is learned after the person is hired, contracted with, or engaged, or after the person becomes a household member, the licensee shall immediately notify the department and either:

(1) Cease employing, contracting with, or engaging the person, or not permit the household member to continue to reside in the residence; or

(2) Request a waiver of (e) above.

(g) If a waiver of (e) above is requested, the department shall review the information and the underlying circumstances in (e) above and shall either:

- (1) Notify the licensee that the person cannot or can no longer be employed, contracted with, or engaged by the licensee, or the person cannot or can no longer reside in the facility if, after investigation, it determines that the person poses a threat to the health, safety, or well-being of a client; or
 - (2) Grant a waiver of (e) above if, after investigation, it determines that the person does not pose a current threat to the health, safety, or well-being of a client(s).
- (h) The licensee shall check the names of the persons in (d) above against the bureau of elderly and adult services (BEAS) state registry, maintained pursuant to RSA 161-F:49 and He-E 720, and against the NH board of nursing, nursing assistant registry, maintained pursuant RSA 326-B:26 and 42 CFR 483.156, prior to employing, contracting with, or engaging them, or prior to allowing or continuing to allow a household member to reside at the residence.
- (i) The licensee shall not employ, contract with, engage, or allow to reside in the facility any person in (d) above who is listed on the BEAS state registry or the NH board of nursing, nursing assistant registry unless a waiver is granted by BEAS or the NH board of nursing, respectively.
- (j) In lieu of (d) and (h) above, the licensee may accept from independent agencies contracted by the licensee or by an individual client to provide direct care or personal care services a signed statement that the agency's employees have complied with (d) and (h) above and do not meet the criteria in (e) and (i) above.
- (k) Administrators shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:
- (1) A bachelor's degree from an accredited institution and one year of relevant experience working in a health related field;
 - (2) A New Hampshire license as an RN, with at least one year relevant experience working in a health related field;
 - (3) An associate's degree from an accredited institution plus 3 years relevant experience in a health related field; or
 - (4) A MLADC or LADC license issued by the State of New Hampshire
 - (5) An individual licensed by the board of mental health practice with at least one year relevant experience working in substance use disorder treatment.
- (l) All administrators shall obtain and document in accordance with (s)(7) and (s)(8) below, 12 hours of continuing education related substance use disorder services each annual licensing period.
- (m) The licensee shall employ or contract with a medical director who is:
- (1) A licensed practitioner who is licensed in the state of New Hampshire; and
 - (2) Has experience providing medical services to clients with behavioral health or substance use disorder needs.
- (n) All direct care personnel shall be at least 18 years of age unless they are:

- (1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
 - (2) Involved in an established educational program working under the supervision of a nurse.
- (o) The licensee shall inform personnel of the line of authority at the SUD-RTF.
- (p) The licensee shall educate personnel about the needs and services required by the clients under their care.
- (q) Prior to having contact with clients or food, personnel shall:
- (1) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or a licensed practitioner and the results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, both conducted not more than 12 months prior to employment, contract, or engagement;
 - (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB; and
 - (3) Comply with the requirements of the Centers for Disease Control and Prevention “Guidelines for Preventing the Transmission of M. tuberculosis in Health-Care Settings” (2005 edition), available as noted in Appendix A, if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to M. tuberculosis through shared air space with persons with infectious tuberculosis.
- (r) In lieu of (q)(1) above, independent agencies contracted by the facility or by an individual client to provide direct care or personal care services may provide the licensee with a signed statement that its employees have complied with (q)(1) and (3) above before working at the SUD-RTF.
- (s) Prior to having contact with clients or food, personnel shall receive a tour of and orientation to the SUD-RTF that includes the following:
- (1) The clients’ rights in accordance with RSA 151:20;
 - (2) The SUD-RTF’s complaint procedures;
 - (3) The duties and responsibilities of the position;
 - (4) The medical emergency procedures;
 - (5) The emergency and evacuation procedures;
 - (6) The infection control procedures as required by He-P 826.21;
 - (7) The facility confidentiality requirements;
 - (8) Grievance procedures for both staff and clients;
 - (9) The procedures for food safety for personnel involved in preparation, serving, and storing of food; and

- (10) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
- (t) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:
 - (1) The licensee's client's rights and complaint procedures required under RSA 151;
 - (2) The licensee's infection control program;
 - (3) The licensee's written emergency plan; and
 - (4) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
- (u) The SUD-RTF shall maintain a separate employee file for each employee, which shall include the following:
 - (1) A completed application for employment or a resume;
 - (2) Proof that the individual meets the minimum age requirements;
 - (3) A statement signed by each individual that he or she has received a copy of and received training on the implementation of the licensee's policy setting forth the clients rights and responsibilities as required by RSA 151:21;
 - (4) A copy of the results of the criminal record check as described in (b) above;
 - (5) A job description signed by the individual that identifies the:
 - a. Position title;
 - b. Qualifications and experience; and
 - c. Duties required by the position;
 - (6) Record of satisfactory completion of the orientation program required by (s) above;
 - (7) Information as to the general content and length of all in-service or educational programs attended;
 - (8) Record of satisfactory completion of all required education programs required by (t) above;
 - (9) A copy of each current driver's license, including proof of insurance, if the employee transports clients using their own vehicle;
 - (10) Documentation that the required physical examinations, health screenings, TB test results, and radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals; and
 - (11) The statement required by (w) below; and
 - (12) The results of the registry checks in (h) above.

(v) The ALR-RC shall maintain the records, but not necessarily a separate file, for all volunteers and for all independent contractors who provide direct care or personal care services to clients or who will be unaccompanied by an employee while performing non-direct care or non-personal care services within the facility, as follows:

- (1) For volunteers, the information in (u)(1), (3), (4), (6), and (8)-(12) above; and
- (2) For independent contractors, the information in (u)(3), (4), (6), and (8)-(12) above, except that the letter in (j) and (q) above may be substituted for (u)(4), (10), and (12) above, if applicable.

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

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

(x) An individual shall not have to re-disclose any of the matters in (w) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment, contract, or engagement.

(y) The licensee shall protect and store in a secure and confidential manner all records described in (u) and (v) above.

(z) The licensee shall document evidence of immunization against influenza and pneumococcal disease for all consenting employees and shall provide to its consenting employees annual immunizations against influenza, to include:

- (1) That immunizations shall be provided and reported in accordance with RSA 151:9-b, I-V; and
- (2) The facility shall have a plan that identifies and documents, with dates, employees that have received or declined to receive immunizations.

(aa) Personnel shall not be impaired while on the job by any substances including, but not limited to, legally prescribed medication, therapeutic cannabis, or alcohol.

(ab) The ALR-RC shall have a written policy, as described in RSA 151:41, establishing procedures for the prevention, detection, and resolution of controlled substance abuse, misuse, and diversion, which shall apply to all personnel, and which shall be the responsibility of a designated employee or interdisciplinary team.

(ac) The policy in (ab) above shall include:

- (1) Education;

- (2) Procedures for monitoring the distribution and storage of controlled substances;
- (3) Voluntary self-referral by employees who are addicted;
- (4) Co-worker reporting procedures;
- (5) Drug testing procedures to include at a minimum, testing where reasonable suspicion exists;
- (6) Employee assistance procedures;
- (7) Confidentiality;
- (8) Investigation, reporting, and resolution of controlled drug misuse or diversion; and
- (9) The consequences for violation of the controlled substance abuse, misuse, and diversion prevention policy.

He-P 826.19 Client Records.

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

(b) Client records shall contain the following:

- (1) A copy of the client's service agreement and all documents required by He-P 826.16(c);
- (2) Identification data, including:
 - a. Vital information including the client's name, date of birth, and marital status;
 - b. Religious preference, if any; and
 - c. Name, address and telephone number of an emergency contact person;
- (3) The name and telephone number of the client's licensed practitioner(s);
- (4) Contact information for the person referring the client for services, as applicable;
- (5) The name, address, and telephone number of the behavioral health care provider, if applicable;
- (6) The client's health insurance information;
- (7) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
- (8) A record of the health examination(s) in accordance with He-P 826.16(m) and (n);
- (9) Written, dated, and signed orders for the following:

- a. All medications, treatments, and special diets, as applicable; and
 - b. Laboratory services and consultations performed at the SUD-RTF;
- (10) Results of any laboratory tests, X-rays, or consultations performed at the SUD-RTF;
 - (11) All evaluations and treatment plans, including documentation that the client and the guardian or agent, if any, has participated in the development of the care and treatment plans;
 - (12) All admission and progress notes;
 - (13) If services are provided at the SUD-RTF by individuals not employed by the licensee, documentation that includes the name of the agency providing the services, the date services were provided, the name of the person providing services, and a brief summary of the services provided;
 - (14) Documentation of any alteration in the client's daily functioning such as:
 - a. Signs and symptoms of illness; and
 - b. Any action that was taken including practitioner notification;
 - (15) Documentation of any medical or specialized care;
 - (16) Documentation of unusual incidents;
 - (17) The consent for release of information signed by the client, guardian, or agent, if any;
 - (18) Discharge summary, planning, and referrals;
 - (19) Transfer or discharge documentation, including notification to the client, guardian, or agent, if any, of involuntary room change, transfer, or discharge, if applicable;
 - (20) The information required by He-P 826.16(k) as applicable;
 - (21) Information data sheet, which contains the information required by He-P 826.16(r);
 - (22) Release of information sheet;
 - (23) Documentation of nurse delegation of medications as required by the nurse practice act, as applicable; and
 - (24) Documentation of a client's refusal of any care or services.
- (c) Client records and client information shall be kept confidential and only provided in accordance with law.
- (d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a client's record shall occur. For all SUD-RTF facilities, this shall include compliance with 42 CFR part 2C.

(e) When not being used by authorized personnel, client records shall be safeguarded against loss or unauthorized use or access.

(f) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of clients and personnel that include:

- (1) Procedures for backing up files to prevent loss of data;
- (2) Safeguards for maintaining the confidentiality of information pertaining to clients and staff; and
- (3) Systems to prevent tampering with information pertaining to clients and staff.

(g) Records shall be retained for 7 years after discharge, except that when the client is a minor, records shall, in addition, be retained 7 years after the minor reaches the age of majority.

(h) The licensee shall arrange for storage of, and access to, client records as required by (g) above in the event the SUD-RTF ceases operation.

He-P 826.20 Food Services for Residential Clients.

(a) The licensee shall provide food services to the clients that:

- (1) Meet the US Department of Agriculture recommended dietary allowance as specified in the 2015-2020 Dietary Guidelines for Americans, available as listed in Appendix A;
- (2) Meet the special dietary needs associated with health or medical conditions for each client as identified in their client record; and
- (3) Offers at least 3 meals in each 24-hour period when the client is in the licensed premise unless contraindicated by the client's treatment plan.

(b) Snacks shall be available between meals and at bedtime if not contraindicated by the client's treatment plan.

(c) If a client refuses the item(s) on the menu, a substitute shall be offered.

(d) Each day's menu shall be posted in a place accessible to food service personnel and clients.

(e) A dated record of menus as served shall be maintained for at least the previous 4 weeks.

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

(g) If a client has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the client's medical record and notify the client's licensed practitioner.

(h) All food and drink provided to the clients shall be:

- (1) Safe for human consumption, free of spoilage, and free from other contamination;

- (2) Stored, prepared, and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including but not limited to those set forth in He-P 2300 and chapter 3 of the U.S. Department of Health and Human Services, Public Health Services, Food and Drug Administration, Food Code, 2013 edition, available as listed in Appendix A;;
 - (3) Served at the proper temperature;
 - (4) Labeled, dated, and stored at proper temperatures; and
 - (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling, and all other sources of contamination.
- (i) The use of outdated, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded.
 - (j) All food not in the original package shall be stored in labeled and dated containers designed for food storage.
 - (k) All work surfaces shall be cleaned and sanitized after each use.
 - (l) All dishes, utensils, and glassware shall be in good repair, cleaned, and sanitized after each use and properly stored.
 - (m) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.
 - (o) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.
 - (p) If soiled linen is transported through food service areas, the linen shall be in an impervious container.
 - (q) Garbage or trash in the kitchen area shall be placed in lined containers with covers.
 - (r) All SUD-RTF persons involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

He-P 826.21 Infection Control.

- (a) The SUD-RTF shall develop and implement an infection control program that educates and provides procedures for the prevention, control, and investigation of infectious and communicable diseases.
- (b) The infection control program shall include written procedures for:
 - (1) Proper hand washing techniques;
 - (2) The utilization of universal precautions;
 - (3) The management of clients with infectious or contagious diseases or illnesses;

- (4) The handling, storage, transportation, and disposal of those items identified as infectious waste in Env-Wm 2604;
 - (5) The reporting of infectious and communicable diseases as required by He-P 301; and
 - (6) Maintenance of a sanitary physical environment.
- (c) The infection control education program shall address:
- (1) Causes of infection;
 - (2) Effects of infections;
 - (3) Transmission of infections; and
 - (4) Prevention and containment of infections.
- (d) Personnel infected with a disease or illness transmissible through food, fomites, or droplets, shall not work in food service or provide direct care in any capacity without personal protection equipment to prevent disease transmission until they are no longer contagious.
- (e) Personnel infected with scabies or lice shall not provide direct care to clients or work in food services until such time as they are no longer infected.
- (f) Pursuant to RSA 141-C:1, personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the SUD-RTF until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.
- (g) Personnel with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight fitting bandage.
- (h) Each licensee caring for clients with infectious or contagious diseases shall have available appropriate isolation accommodations, equipment, rooms, and personnel as specified by the United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings,” June 2007, available as listed in Appendix A.
- (i) The licensee shall arrange for and document the immunization of all consenting clients for pneumococcal disease, as applicable, and all consenting personnel and clients for influenza in accordance with RSA 151:9-b and report immunization data to the department’s immunization program.

He-P 826.22 Sanitation.

- (a) The licensee shall maintain a clean, safe, and sanitary environment, both inside and outside.
- (b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary, and in good repair.
- (c) A supply of potable water shall be available for human consumption and food preparation.
- (d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the clients.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.

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

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

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

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

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

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

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

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

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

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

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

(4) Soiled linens and clothing which are considered contaminated with infectious waste under Env-Wm 2604 shall be handled as infectious waste.

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

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

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

He-P 804.23 Quality Improvement

(a) The SUD-RTF shall develop and implement a quality improvement program that reviews policies and services and maximizes quality by preventing or correcting identified problems.

- (b) As part of its quality improvement program, a quality improvement committee shall be established.
- (c) The SUD-RTF shall determine the size and composition of the quality improvement committee based on the size of the facility and the care and services provided.
- (d) The quality improvement committee shall:
 - (1) Determine the information to be monitored;
 - (2) Determine the frequency with which information will be reviewed;
 - (3) Determine the indicators that will apply to the information being monitored;
 - (4) Evaluate the information that is gathered;
 - (5) Determine the action that is necessary to correct identified problems;
 - (6) Recommend corrective actions to the SUD-RTF; and
 - (7) Evaluate the effectiveness of the corrective actions and determine additional corrective actions as applicable.
- (d) The quality improvement committee shall meet at least quarterly.
- (e) The quality improvement committee shall generate dated, written minutes after each meeting.
- (f) Documentation of all quality improvement activities, including minutes of meetings, shall be maintained on-site for at least 2 years from the date the record was created.

He-P 826.24 Physical Environment.

- (a) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being, and comfort of client(s) and personnel, including reasonable accommodations for clients and personnel with mobility limitations.
- (b) The SUD-RTF shall:
 - (1) Have all emergency entrances and exits accessible at all times;
 - (2) Be maintained in good repair and kept free of hazards to personnel and clients, including hazards from falls, burns, or electric shocks;
 - (3) Be free from environmental nuisances, including excessive noise and odors;
 - (4) Keep all corridors free from obstructions; and
 - (5) Take reasonable measures to prevent the presence of rodents, insects, and vermin to include:
 - a. Having tightly fitting screens on all doors, windows, or other openings to the outside unless the door is self-closing and remains closed when not in use;

b. Repairing holes and caulking of pipe channels; and

c. Extermination by a pesticide applicator licensed under RSA 430.

(c) Equipment providing heat within an SUD-RTF including, gas furnace or boiler, oil furnace or boiler, wood stove, or pellet stove shall:

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

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

b. Be at least 70 degrees fahrenheit during the day if the client(s) are present; and

(2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.

(d) Electric heating systems shall be exempt from (c)(2) above.

(e) Unvented fuel-fired heaters shall not be used in any SUD-RTF.

(f) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code as adopted under RSA 329-A:15 and RSA 155-A.

(g) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows that can be opened.

(h) Each client bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage or comparable artificial lighting.

(i) The number of sinks, toilets, tubs, or showers shall be in a ratio of one for every 6 individuals, unless household members and personnel have separate bathroom facilities not used by clients.

(j) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.

(k) All hand-washing facilities shall be provided with hot and cold running water.

(l) In an SUD-RTF licensed for 16 or fewer clients, there shall be at least 70 square feet per room with a single bed and 120 square feet per room with 2 beds, exclusive of space required for closets, wardrobe and toilet facilities.

(m) Existing bedrooms in an SUD-RTF licensed prior to the effective date of these rules shall be exempt from (l) and (m) above.

(n) Each bedroom shall:

(1) Contain no more than 2 beds;

- (2) Have its own separate entry to permit the client to reach his or her bedroom without passing through the room of another client;
 - (3) Have a side hinge or pocket door that latches and meets applicable codes, and not a folding door or a curtain;
 - (4) Not be used simultaneously for other purposes;
 - (5) Be separated from halls, corridors, and other rooms by floor to ceiling walls; and
 - (6) Be located on the same level as the bathroom facilities, if the client has impaired mobility as identified by the evaluation.
- (o) The licensee shall provide the following for the clients' use, as needed:
- (1) A bed appropriate to the needs of the client;
 - (2) A firm mattress that complies with Saf-C 6000;
 - (3) Clean linens, blankets, and a pillow;
 - (4) A bureau;
 - (5) A mirror;
 - (6) A bedside table;
 - (7) Adequate lighting;
 - (8) A chair;
 - (9) A closet or storage space for personal belongings; and
 - (10) Window blinds, shades, or curtains that provide privacy.
- (p) The client may use his or her own personal possessions provided they do not pose a risk to the client or others and may waive any of the items in (q) above with a note signed by the client or guardian and which note shall be placed in the client file.
- (q) The licensee shall provide the following rooms to meet the needs of clients:
- (1) One or more living rooms or multi-purpose rooms; and
 - (2) Dining facilities with a seating capacity capable of meeting the needs of all clients.
- (r) Each licensee shall have a communication system in place so that all clients can effectively contact personnel when they need assistance with care or in an emergency.
- (s) Lighting shall be available to allow clients to participate in activities such as reading or handicrafts.

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

(u) Screens shall be provided for:

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

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

He-P 826.25 Fire Safety.

(a) All new SUD-RTF's shall meet at a minimum the residential board and care chapter of NFPA 101 as adopted by the department of safety in Saf-C 6000.

(b) If providing withdrawal management, the new SUD-RTF's shall meet at a minimum the health care occupancy chapter of NFPA 101 as adopted by the department of safety in Saf-C 6000.

(c) All SUD-RTF's shall have:

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

(2) At least one UL Listed, ABC type portable fire extinguisher, with a minimum rating of 2A-10BC installed on every level of the building with a maximum travel distance to each extinguisher not to exceed 50 feet and maintained as follows:

- a. Fire extinguishers shall be inspected either manually or by means of an electronic monitoring device or system at least once per calendar month, at intervals not exceeding 31 days;
- b. Records for manual inspection, or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed;
- c. Annual maintenance shall be performed on each extinguisher by trained personnel, and a tag or label shall be securely attached that indicates that maintenance was performed; and
- d. The components of the electronic monitoring device or system in a. above, if used, shall be tested and maintained annually in accordance with the manufacturers listed maintenance manual; and

(3) An approved carbon monoxide monitor on every level of the SUD-RTF.

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

(e) Immediately following any fire or emergency situation, licensees shall notify the department by phone to be followed by written notification within 72-hours, with the exception of a false alarm or emergency medical services (EMS) transport for a non-emergent reason.

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

- (1) The date and time of the incident;
- (2) A description of the location and extent of the incident, including any injury or damage;
- (3) A description of events preceding and following the incident;
- (4) The name of any personnel or clients who were evacuated as a result of the incident, if applicable;
- (5) The name of any personnel or clients who required medical treatment as a result of the incident, if applicable; and
- (6) The name of the individual the licensee wishes the department to contact if additional information is required.

(g) If the licensee has chosen to allow smoking on the premises of the SUD-RTF, a designated smoking area shall be provided which:

- (1) Has a dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;
- (2) Has walls and furnishings constructed of non-combustible materials;
- (3) Has metal waste receptacles and safe ashtrays; and
- (4) Is in compliance with the requirements of RSA 155:64–77, the Indoor Smoking Act.

(h) A copy of the fire safety plan including fire drill actions shall be made available to and reviewed with the client, or the client's guardian or a person with durable power of attorney (DPOA), at the time of admission and a summary of the client's responsibilities shall be provided to the client. Each client shall receive an individual fire drill walk-through within 5 days of admission, as appropriate.

(i) The fire safety plan shall be reviewed and approved as follows:

- (1) A copy of the fire safety plan shall be made available, annually and whenever changes are made, to the local fire chief for review and approval;
- (2) The local fire chief shall give written approval initially to all fire safety plans; and
- (3) If changes are made to the plan, they shall be submitted to the local fire chief for review and approval, as appropriate, prior to the change.

(j) Fire drills shall be conducted as follows:

(1) For buildings constructed to the Residential Board and Care or One and Two Family Dwelling Chapters of the Life Safety Code (NFPA 101), the following shall be required:

- a. The administration of every residential board and care facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary;
- b. Clients shall be trained to assist each other in case of fire or emergency to the extent that their physical and mental abilities permit them to do so, without additional personal risk;
- c. All SUD-RTF Tier 2 and 3 facilities shall conduct fire drills not less than 6 times per year on a bimonthly basis, with not less than 2 drills conducted during the night when clients are sleeping. Actual exiting from windows shall not be required, however opening the window and signaling for help shall be an acceptable alternative;
- d. All SUD-RTF Tier 1 facilities shall conduct fire drills;....
- e. The drills shall involve the actual evacuation of all clients to an assembly point, as specified in the emergency plan, and approved by the department and the local fire authority based on construction of the building and shall provide clients with experience in egressing through all exits and means of escape;
- f. Facilities shall complete a written record of fire drills that includes the following:
 1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;
 2. The location of exits used;
 3. The number of people, including clients, personnel, and visitors, participating at the time of the drill;
 4. The amount of time taken to completely evacuate the facility;
 5. The name and title of the person conducting the drill;
 6. A list of problems and issues encountered during the drill;
 7. A list of improvements and resolution to the issues encountered during the fire drill; and
 8. The names of all staff members participating in the drill; and
- g. At no time shall a staff member who has not participated in a fire drill be the only staff member on duty within the facility;
- h. At admission, the facility shall conduct a client Fire Safety Evacuation Scoring System (FSES) as listed in NFPA 101A, Alternatives to Life Safety, to determine the clients needs during a fire drill including mobility, assistance to evacuate, staff needed, risk of resistance, clients ability to evacuate on his or her own, and choose an alternate exit; and

i. The fire drills for facilities built to the Residential Board and Care chapter of the Life Safety Code (NFPA 101), shall be permitted to be announced, in advance, to the clients just prior to the drill;

(2) For SUD-RTF's that were originally constructed to meet the Health Care Occupancy Chapter of Life Safety Code, NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control, and the rules and regulations adopted and enforced by the state fire marshal's office or the municipality or have been physically evaluated, renovated, and approved by a New Hampshire licensed fire protection engineer, the NH state fire marshal's office and the department to meet the Health Care Occupancy Chapter, the following shall be required:

a. The facility shall develop a fire safety plan, which provides for the following:

1. Use of alarms;
2. Transmission of alarms to fire department;
3. Emergency phone call to fire department;
4. Response to alarms;
5. Isolation of fire;
6. Evacuation of immediate area;
7. Evacuation of smoke compartment;
8. Preparation of floors and building for evacuation;
9. Extinguishment of fire; and
10. Written emergency telephone numbers for key staff, fire and police departments, poison control center, 911, and ambulance service(s);

b. Fire drills shall be conducted quarterly on each shift to familiarize facility personnel such as medical personnel, maintenance engineers, and administrative staff, with the signals and emergency action required under varied conditions;

c. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions;

d. Buildings that have a shelter in place, also known as defend in place, shall have this plan approved by the department and their local fire chief and shall be constructed to meet the Health Care Occupancy Chapter of the Life Safety Code;

e. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement shall be permitted to be used instead of audible alarms;

f. If the facility has an approved defend or shelter in place plan, then all personnel, clients, and visitors shall evacuate to that appropriate location or to the outside of the building to a selected assembly point and drills shall be designed to ensure that clients shall be given the experience of evacuating to the appropriate location or exiting through all exits;

g. Facilities shall complete a written record of fire drills and include the following:

1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;
2. The location of exits used;
3. The number of people, including clients, personnel, and visitors, participating at the time of the drill;
4. The amount of time taken to completely evacuate the facility or to an approved area of refuge or through a horizontal exit;
5. The name and title of the person conducting the drill;
6. A list of problems and issues encountered during the drill;
7. A list of improvements and resolution to the issues encountered during the fire drill; and
8. The names of all staff members participating in the drill; and

h. At no time shall a staff member who has not participated in a fire drill be the only staff member on duty within the facility; and

(3) The facility shall conduct a fire drill in the presence of a representative of the department, state fire marshal's office, or the local fire department upon request.

He-P 826.26 Emergency Preparedness.

(a) Each facility shall have an individual or group, known as an emergency management committee, with the authority for developing, implementing, exercising, and evaluating the emergency management program. The committee shall include the facility administrator and others who have knowledge of the facility and the capability to identify resources from key functional areas within the facility and shall solicit applicable external representation, as appropriate.

(b) The emergency management committee shall develop and institute a written Emergency Preparedness Plan (plan) to respond to a disaster or an emergency.

(c) The plan in (b) above shall:

- (1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, or severe weather and human-caused emergency, to include missing clients and bomb threats;

- (2) Be reviewed and approved by the local emergency management director and the local fire department;
- (3) Be available to all personnel;
- (4) Be based on realistic conceptual events;
- (5) Be modeled on the Incident Command System (ICS) in coordination with local emergency response agencies;
- (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;
- (7) Develop and implement a strategy to prevent an incident that threatens life, property, and the environment of the facility;
- (8) Develop and implement a mitigation strategy that includes measures to be taken to limit or control the consequences, extent, or severity of an incident that cannot be prevented;
- (9) Develop and implement a protection strategy to protect life, property, and the environment from human caused incidents and events and from natural disasters;
- (10) For (7-9) above, incorporate the findings of a hazard vulnerability assessment, the results of an analysis of impact, program constraints, operational experience, and cost-benefit analysis to provide strategies that can realistically be implemented without requiring undue expenses to the facility;
- (11) Conduct a facility wide inventory and review, to include the property that the facility is located on, to determine the status of hazards that may be incorporated into the prevention, protection, and mitigation strategies and to determine the outcome of prior strategies at least on an annual basis;
- (12) Include the facility's response to both short-term and long-term interruptions in the availability of utility service in the disaster or emergency, including establishing contingency plans for continuity of essential building systems or evacuation to include the following:
 - a. Electricity;
 - b. Potable water;
 - c. Non-potable water;
 - d. HVAC;
 - e. Fire protection systems;
 - f. Fuel required for building operations to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;

- g. Fuel for essential transportation to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;
- h. Communications systems; and
- i. Essential services, such as kitchen and laundry; and

(13) Include a plan for alerting and managing staff in a disaster, and accessing Critical Incident Stress Management (CISM), if necessary;

(14) Include the management of clients, particularly with respect to physical and clinical issues to include:

- a. Relocation of clients with their medical record including the medicine administration records, if time permits, as detailed in the emergency plan;
- b. Access, as appropriate, to critical materials such as pharmaceuticals, medical supplies, food supplies, linen supplies, and industrial and potable water; and
- c. How to provide security during the disaster;

(15) Identify a designated media spokesperson to issue news releases and an area where the media can be assembled, where they won't interfere with the operations of the facility;

(16) Reflect measures needed to restore operational capability with consideration of fiscal aspects because of restoration costs and possible cash flow losses associated with the disruption;

(17) Include an educational, competency-based program for the staff, to provide an overview of the components of the emergency management program and concepts of the ICS and the staff's specific duties and responsibilities; and

(18) If the facility is located within 10 miles of a nuclear power plant and is part of the New Hampshire plan for radiological emergency preparedness, include this plan in the event of a radiological disaster or emergency.

(d) The facility shall conduct and document with a detailed log, including personnel signatures, 2 drills a year at least one of which shall rehearse mass casualty response for the facility with emergency services, disaster receiving stations or both as follows:

- (1) Drills and exercises shall be monitored by at least one designated evaluator who has knowledge of the facility's plan and who is not involved in the exercise;
- (2) Drills and exercises shall evaluate program plans, procedures, training, and capabilities to identify opportunities for improvement;
- (3) The facility shall conduct a debriefing session not more than 72-hours after the conclusion of the drill or exercise. The debriefing shall include all key individuals, including observers; administration; clinical staff, and appropriate support staff; and
- (4) Exercises and actual events shall be critiqued to identify areas for improvement. The critique shall identify areas of non-compliance and opportunities for improvement based upon monitoring

activities and observations during the exercise. Opportunities for improvement identified in critiques shall be incorporated in the facility's improvement plan.

(e) For the purposes of emergency preparedness, each licensee shall have the following supplies of food and water maintained on the premises based on the average daily census of clients and staff:

- (1) Enough refrigerated, perishable food for a 3-day period;
- (2) Enough non-perishable food for a 7-day period; and
- (3) Potable water for a 3-day period.

(f) Each licensee shall have, in writing, a plan for the management of emergency food and water supplies required in (e) above. The plan shall include the following:

- (1) Assumptions for calculations of food and water supplies including maximum number of staff and clients, water source of supply, whether tap or commercial, and expiration in months, tracking of supplies, and rotation of products, contracts and memorandums of understanding with food and water suppliers;
- (2) Storage location(s); and
- (3) Back-up supplies.

Appendix A: Incorporation by Reference Information

| Rule | Title | Obtain at: |
|---------------------|---|---|
| He-P 826.07(i)-(k) | Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities," Residential Healthcare chapter, 2014 edition | This publication is published and may be obtained by contacting the Facilities Guidelines Institute (formerly the American Institute of Architects) either by phone: 1-800-242-2626; or in writing via www.ashestore.com or http://www.fgiguideines.org . This publication is available in multiple formats and at different price points. The standard price of this publication is \$200.00. |
| He-P 826.14(h)(4)a. | Substance Abuse and Mental Health Services Administration's (SAMSHA) National Registry of Evidence-Based Programs and Practices | Available free of charge from the SAMSHA website at https://www.samhsa.gov/nrepp |

| Rule | Title | Obtain at: |
|--|--|--|
| | (NREPP), | |
| He-P 826.14(h)(6) | Substance Abuse and Mental Health Services Administration's (SAMSHA) Treatment Improvement Protocols and Technical Assistance Publications | Available free of charge from the SAMSHA website at https://www.samhsa.gov/nrepp |
| He-P 826.14(h)(6) | American Society of Addiction Medicine (ASAM) Criteria | Available free of charge from the American Society of Addiction Medicine (ASAM) website at http://www.asam.org/quality-practice/guidelines-and-consensus-documents/the-asam-criteria/about |
| He-P 826.14(h)(6) | National Alliance for Recovery Residences | Available free of charge from the National Alliance for Recovery Residences website at http://narronline.org/resources/ |
| He-P 826.16(f)(2)intro. & He-P 826.16(m) | TAP 21: Addiction Counseling Competencies, November 2015 edition. | Available free of charge from the SAMSHA website at http://store.samhsa.gov/product/TAP-21-Addiction-Counseling-Competencies/SMA15-4171 |
| He-P 826.16(f)(2)a. | Diagnostic and Statistical Manual of Mental Disorders, (Fifth Edition, Text Revision) (DSM-5) | Available from the publisher, American Psychiatric Publishing (http://www.appi.org/Home), a division of the American Psychiatric Association (APA) (www.psychiatry.org). Cost is \$155.00. |
| He-P 826.18(q)(3) | Centers for Disease Control and Prevention "Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in | Available free of charge from the CDC website at www.cdc.gov . |

| Rule | Title | Obtain at: |
|-------------------|---|---|
| | Health-Care Settings,” 2005 edition | |
| He-P 826.20(a)(1) | “2015-2020 Dietary Guidelines for Americans” | Publisher: US Department of Health and Human Services, & US Department of Agriculture Available free of charge from the HHS/USDA website at: https://health.gov/dietaryguidelines/2015/guidelines/ |
| He-P 826.20(h)(2) | US Department of Health and Human Services, Public Health Services, Food and Drug Administration, “Food Code” Chapter 3, 2013 edition | Available free of charge from the FDA website at: https://www.fda.gov/downloads/food/guidanceregulation/retailfoodprotection/foodcode/ucm374510.pdf |
| He-P 826.21(h) | United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings,” June 2007 | Available free of charge from the CDC website at www.cdc.gov . |

Appendix B

| Rule | Specific State or Federal Statutes the Rule Implements |
|---------------------------|---|
| He-P 826.01 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.02 | RSA 151:2, II(i); RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.03 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.04 – He-P 826.06 | RSA 151:9, I(c); RSA 151:9, VII(a)(1) |
| He-P 826.07 – He-P 826.08 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.09 | RSA 151:9, I(e); RSA 151:9, VII(a)(1) |
| He-P 826.10 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |
| He-P 826.11 | RSA 151:9, I(e); RSA 151:9, VII(a)(1) |
| He-P 826.12 | RSA 151:9, I(l); RSA 151:9, VII(a)(1) |
| He-P 826.13 | RSA 151:9, I(f); RSA 151:9, VII(a)(1) |
| He-P 826.14 – He-P 826.26 | RSA 151:9, I(a); RSA 151:9, VII(a)(1) |