

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

PART He-P 817 COLLECTION STATION RULES

He-P 817.01 Purpose. The purpose of this part is to set forth the licensing requirements for all collection stations pursuant to RSA 151:2, I(c).

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a collection station, except:

- (a) All facilities listed in RSA 151:2, II(a)-(g);
- (b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h);
- (c) All collection stations that collect specimens from humans solely for forensic purposes, pursuant to RSA 151:2, II(h);
- (d) All entities which are licensed in accordance with RSA 153-A by the New Hampshire department of safety as providers of transporting or non-transporting emergency medical care;
- (e) Entities which are currently licensed under He-P 808 Laboratories and Laboratory Services Rules; and
- (f) Entities which are currently licensed under He-P 806 Non-Emergency Walk-In Care Centers.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.03 Definitions.

- (a) "Abuse" means any one of the following:
  - (1) "Emotional abuse" means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of clients;
  - (2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to clients; and
  - (3) "Sexual abuse" means contact or interaction of a sexual nature involving clients with or without his or her informed consent.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(b) “Administrator” means the licensee or an individual appointed by the licensee who has responsibility for all aspects of the daily operations of the collection station.

(c) “Applicant” means an individual, agency, partnership, corporation, federal, state, county, or local government entity, association, or other legal entity seeking a license for the operation of a collection station pursuant to RSA 151:2, I(c).

(d) “Change of ownership” means a change in the controlling interest of an established collection station to a successor business entity.

(e) “Client” means any person admitted to or in any way receiving care, services, or both from a collection station licensed in accordance with RSA 151 and He-P 817.

(f) “Client record” means the documentation of all care and services, which includes all documentation required by RSA 151 and He-P 817 and any other applicable federal and state requirements.

(g) “Collection station” means any building, place, or mobile collection station van used for the purpose of receiving or obtaining specimens from the human body for laboratory examination.

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

(i) “Deficiency” 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 817, or other federal and state requirements.

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

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

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

(m) “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.

(n) “Inspection” means the process used by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 817 or to respond to allegations of non-compliance with RSA 151 and He-P 817.

(o) “Investigation” means the process used by the department to respond to allegations of non-compliance with RSA 151 and He- P 817.

(p) “Licensed premises” means the facility that comprises the physical location, including mobile collection station vans, that the department has approved for the licensee to conduct operations in accordance with its license. It does not include the private residence of a client receiving services from an agency licensed under the authority of RSA 151.

(q) “Licensee” means any person or other legal entity to which a license has been issued pursuant to RSA 151 and He-P 817.

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(s) “Mobile collection station van” means a vehicle capable of traveling under its own power or being towed from site to site and which is fully equipped to meet all the requirements specified in section He-P 817.21.

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

(u) “Owner” means a person or organization who has controlling interest in the collection station.

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

(w) “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.

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

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

(z) “Reportable incident” means an occurrence of an error, a negative outcome, or an accident, which occurs while the client is in the care of the licensee, and has resulted in injury that requires examination or treatment by a licensed practitioner.

(aa) “Specimen” means a portion of tissue, body fluid, or material from a human body.

(ab) “Statement of findings” means a document issued by the department following an inspection or investigation identifying areas in which the licensee is not in compliance with He-P 817 or RSA 151 and which sets forth the evidence that supports the findings of noncompliance.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.04 License Application Requirements.

(a) Each applicant for a license shall comply with the requirements of RSA 151:4, I–III-a, and submit the following to the department, except that subparagraphs (a)(1)-(3) and (5)-(7) shall not apply to mobile collection station vans:

(1) A completed application form entitled “Application for Residential or Health Care License (Laboratories and Collecting Stations)” (10/25/2011), signed by the applicant or 2 of the corporate officers, affirming the following:

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) A floor plan of the prospective collection station;
  - (3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in New Hampshire in the form of one of the following:
    - a. "Certificate of Authority," if a corporation;
    - b. "Certificate of Formation," if a limited liability company; or
    - c. "Certificate of Trade Name," where applicable;
  - (4) The applicable fee, in accordance with RSA 151:5, IX, payable in cash or, if paid by check or money order, in the exact amount of the fee, made payable to the "Treasurer of the State of New Hampshire";
  - (5) A resume identifying the qualifications and copies of applicable licenses for the collection station administrator;
  - (6) Written local approvals as follows:
    - a. For an existing building, the following written local approvals shall be obtained no more than 90 days prior to submission of the application from the following local officials, or if there is no such official(s), from the board of selectmen or mayor:
      1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
      2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
      3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
      4. The fire chief verifying that the applicant complies with the state fire code, including the business chapter of NFPA 101 as adopted by the department of safety, and local fire ordinances applicable for a collection station; and
    - b. For a building under construction, the written approvals required by a. above shall be submitted at the time of the application based on the local official's review of the building plans and again upon completion of the construction project;
  - (7) If the collection station uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Dw 313.01 and 314.01, or if a public water supply, a copy of a water bill; and
  - (8) The results of a criminal records check from the NH department of safety for the applicant, including the licensee and administrator, as applicable.
- (b) The applicant shall mail or hand deliver the documents in (a) above to:

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

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be deemed to be complete when the department determines that all items required by He-P 817.04(a), or He-P 817.21 for mobile collection station vans, have been received.

(b) If an application does not contain all of the items required by He-P 817.04(a) or He-P 817.21, the department shall notify the applicant in writing of the items required to be submitted before the application can be processed.

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

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

(e) The department shall deny a licensing request if, after reviewing the information in He-P 817.04(a)(8), it determines that the applicant, licensee, or administrator:

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

(f) Following an inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 817.

(g) All licenses issued in accordance with RSA 151 shall be non-transferable, including licenses issued for mobile collection station vans.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.06 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 in which it was issued.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 817.04(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 information required by He-P 817.04(a)(1) including current license number;
- (2) The licensing fee, prescribed by RSA 151:5, IX;
- (3) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 817.10(f), if applicable;
- (4) A list of any current employees who have a permanent waiver granted in accordance with He-P 817.17(c); and
- (5) A copy of any non-permanent or new variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03 - 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-Ws 313.01 for bacteria and Env-Ws 314.01 for nitrates.

(e) Following an inspection as described in He-P 817.09, a license renewal shall be issued if the department determines that the licensee:

- (1) Has submitted an application containing all the items required by (c) and (d) above, prior to the expiration of the current license;
- (2) Has submitted a POC that has been accepted by the department and implemented by the licensee if deficiencies were cited at the last licensing inspection or investigation; and
- (3) The licensee is found to be in compliance with RSA 151 and He-P 817 at the renewal inspection.

(f) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license shall be required to submit an application for initial license pursuant to He-P 817.04.

(g) If a licensee chooses to cease the operation of the collection station, the licensee shall submit written notification to the department at least 45 days in advance.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.07 Collection Station Construction, Modifications, or Structural Alterations.

(a) Architectural plans or drawings shall be submitted to the department at least 60 days prior to the start of construction or initiating any structural modifications to a building, for the following:

- (1) A new building;
- (2) Additions to a building;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(3) Alterations that require approval from local or state authorities; and

(4) Modifications that might affect compliance with the health and safety, fire, or building codes, including but not limited to, fire suppression, detection systems and means of egress.

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

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

(d) The department shall review plans for construction, modifications, or structural alterations for compliance with all applicable sections of RSA 151 and He-P 817 and notify the applicant or licensee as to whether the proposed plans comply with these requirements.

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

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

(1) The state fire code, Saf-C 6000, as adopted by the commissioner of the department of safety under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control;

(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

(3) Local rules, regulations, and ordinances.

(g) Waivers granted by the department for construction or renovation purposes shall not require annual renewal unless the underlying reason or circumstances for the waivers change.

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

(i) The completed building shall be subject to an inspection pursuant to He-P 817.09 prior to the use of the newly constructed or modified facility.

(j) He-P 817.07 shall not apply to mobile collection station vans.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.08 Collection Station Requirements for Organizational Changes.

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Ownership;
- (2) Physical location;
- (3) Address; or
- (4) Name.

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

(c) The collection station 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; or
- (2) A change in the physical location.

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

(e) 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 noncompliance was submitted and accepted by the department; or
- (2) The physical location.

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

(g) A revised license and license certificate shall be issued for changes in the collection station name.

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

- (1) A change of administrator; or
- (2) When a waiver has been granted.

(i) The collection station shall inform the department in writing as soon as practicable when there is a change in administrator and provide the department with the following:

- (1) The information specified in He-P 817.04(e); and
- (2) A resume identifying the name and qualifications of the new administrator.

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

- (1) Is disqualified by the information submitted in response to (i)(1) above; or
- (2) Meets the qualifications for the position as specified in He-P 817.17 (h).

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(l) A restructuring of an established collection station 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.

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

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. INTERIM, #10830, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 817, 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 collection station; and
- (3) Any records required by RSA 151 and He-P 817.

(b) The department shall conduct a clinical inspection and life safety inspection, as appropriate, to determine full compliance with RSA 151 and He-P 817 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed in He-P 817.08(a)(3);
- (3) A change in the licensee's physical location, except for mobile collection station vans;
- (4) The renewal of a license;
- (5) The issuance of a mobile collection station van license; or
- (6) Occupation of space after construction, modifications, or structural alterations.

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

(d) Following the inspections described in (b) and (c) above, the department shall provide the licensee with a written inspection report.

(e) 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 817.

(f) If deficiencies were cited in the inspection report described in (d) above, the licensee shall submit a written POC, in accordance with He-P 817.12(c), within 21 days of the date on the letter that transmits the inspection report.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853 eff 3-24-07,  
EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15;  
ss by #10979, eff 11-20-15

He-P 817.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 817 shall submit a written request for a waiver to the commissioner that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary; and
- (3) A full explanation of alternatives proposed by the applicant or licensee, which shall be equally as protective of public health and clients as the rule from which a waiver is sought.

(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 commissioner determines that the alternative proposed by the applicant or licensee:

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

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

(e) Waivers shall not be transferable.

(f) When a licensee wishes to renew the waiver beyond the approved period of time, the licensee shall apply for a new waiver at least 60 days prior to the expiration of the existing waiver by submitting the information required by (a) above.

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

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07,  
EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15;  
ss by #10979, eff 11-20-15

He-P 817.11 Complaints and Investigations.

(a) The department shall respond to any complaint that meets the following conditions:

- (1) The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(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); and

(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 817.

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

(1) The name and address, if known, of the collection station, 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 817.

(c) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, including, but not limited to:

(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) The following shall apply for a licensed collection station:

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

(2) The department shall 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) If the department determines that the complaint is unfounded or does not violate any statutes or rules, the department shall notify the licensee in writing and take no further action; and

(4) If the investigation results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 817.12(c).

(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;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) In accordance with RSA 151:7-a, II, the owner or person responsible shall be allowed 7 days from the date of the notice required by (1) above to submit a completed application for a license;
  - (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 817; and
  - (4) Any person or entity who fails to comply after receiving a warning as described in (i) above, shall be subject to an action by the department for injunctive relief under RSA 151:17.
- (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:
- (1) To the department of justice when relevant to a specific investigation;
  - (2) To law enforcement when relevant to a specific criminal investigation;
  - (3) When a court of competent jurisdiction orders the department to release such information; or
  - (4) In connection with an adjudicative proceeding relative to the licensee.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.12 Administrative Remedies.

- (a) The department shall impose administrative remedies for violations of RSA 151, He-P 817, 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; or
  - (4) Imposing fines upon an unlicensed individual, applicant, or licensee in accordance with (e) below.
- (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;
  - (2) Identifies the specific remedy(s) that has been proposed; and
  - (3) Provides the following information:
    - a. The right to a hearing in accordance with RSA 541-A and He-C 200 prior to the imposition of fines; and
    - b. The automatic reduction of a fine by 25% if the fine is paid within 10 days of the date on the written notice from the department and the deficiency has been corrected, or a POC has been accepted and approved by the department.

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

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

- a. How the licensee intends to correct each deficiency;
- b. What measures will be put in place, or what system changes will be made to ensure that the deficiency does not recur; and
- c. The date by which each deficiency shall be corrected;

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

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

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

- a. Achieves compliance with RSA 151 and He-P 817;
- b. Addresses all deficiencies and deficient practices as cited in the inspection or investigation report;
- c. Prevents a new violation of RSA 151 or He-P 817 as a result of the implementation of the POC; and
- d. Specifies the date upon which the deficiencies will be corrected;

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

d. If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with (f)(9) below;

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

- a. Reviewing materials submitted by the licensee;
- b. Conducting a follow-up inspection; or
- c. Reviewing compliance during the next annual inspection;

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

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

- a. Notified by the department in accordance with He-P 817.12(b) above; and
- b. Issue a directed POC in accordance with He-P 817.12(d) and a fine in accordance with He-P 817.12(f)(10).

(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 noncompliance 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
- (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 817.13; or
- (3) Revoke the license in accordance with He-P 817.13.

(f) The department shall impose fines as follows:

- (1) For 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 for an unlicensed individual or a licensee shall be \$2000.00;
- (2) For failure to cease operation after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant, unlicensed provider, or a licensee shall be \$2000.00;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) For advertising services or otherwise representing themselves as having a license to provide services that the licensee is not licensed to provide, in violation of RSA 151:2, III, the fine for an unlicensed individual or a licensee shall be \$500.00;
  - (4) For failure to comply with the directives of a warning issued by the department, in violation of RSA 151:7-a, the fine for an unlicensed provider or a licensee shall be \$500.00;
  - (5) For submitting a renewal application for a license less than 120 days prior to the expiration date, in violation of He-P 817.06(b), the fine for a licensee shall be \$100.00;
  - (6) For failure to notify the department prior to a change of ownership, in violation of He-P 817.08(a), the fine for a licensee shall be \$500.00;
  - (7) For failure to notify the department, prior to a change of physical location, in violation of He-P 817.08(c), the fine for a licensee shall be \$500.00;
  - (8) For a failure to allow access by the department to the collection station's premises, programs, services, or records, in violation of He-P 817.14(g)-(h), the fine for an applicant, unlicensed individual, or licensee shall be \$2000.00;
  - (9) For failure to submit a POC or a revised POC, within 21 days or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 817.12(c)(2) and (5) the fine for a licensee shall be \$100.00;
  - (10) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 817.12(c)(8), the fine for a licensee shall be \$1000.00;
  - (11) For falsification of information contained on the application or of any records required to be maintained for licensing in violation of He-P 817.14(d), the fine for an applicant or licensee shall be \$500.00 per offense;
  - (12) 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 817.07(a), the fine for a licensed facility shall be \$500.00;
  - (13) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He -P 817.17(b)(1), the fine for a licensee shall be \$500.00;
  - (14) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 817 shall constitute a separate violation warranting additional fines in accordance with He-P 817.12;
  - (15) When an inspection or investigation determines that a violation of RSA 151 or He-P 817 that is subject to a fine has occurred, repeat violations or failure to correct a previously cited violation, which occurs within 2 years of the date of the original violation, the fine for a licensee shall be \$2000.00; and
  - (16) If the applicant or licensee is making good faith efforts to comply with (4) or (13) above, the department shall not issue a daily fine.
- (g) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the "Treasurer, State of New Hampshire" or cash in the exact amount due; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853 eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.13 Enforcement Actions and Hearings.

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

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (3) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 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 for an initial license is in violation of RSA 151 or He-P 817;
- (2) A licensee is in violation of RSA 151 or He-P 817 which poses a risk of harm to a client's health, safety, or well-being;
- (3) An applicant or a licensee has failed to pay an administrative fine imposed by the department;
- (4) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order, or certified check;
- (5) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 817.04;
- (6) An applicant, licensee, or any representative or employee of the applicant or licensee:
  - a. Provides false information to the department;
  - b. Prevents or interferes with any inspection or investigation conducted by the department; or
  - c. Fails to provide requested files or documents to the department;
- (7) A licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 817.12(c) or (d);
- (8) A licensee has submitted a POC that has been rejected by the department in accordance with He-P 817.12(c)(5) and has not submitted a revised POC as required by He-P 817.12(c)(5);
- (9) The licensee is cited a third time under RSA 151 or He-P 817 for the same violation within the last 5 inspections;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (10) A licensee, including corporate officers or board members, has had a license revoked and submits an application during the 5 year prohibition period;
  - (11) An inspection of the applicant's premises does not find full compliance with RSA 151 or He-P 817; or
  - (12) The owner(s), licensee, or administrator has been found guilty of or plead guilty to a felony assault, 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.
- (c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.
- (d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.
- (e) The department shall order the immediate suspension of a license, and the cessation of operations, when it finds that the health, safety, or well-being of clients is in jeopardy and requires emergency action in accordance with RSA 541:A-30, III.
- (f) If the immediate suspension of a license is ordered:
- (1) The licensee shall immediately cease to operate; and
  - (2) The department shall hold a hearing within 10 working days of the date the order was issued.
- (g) If an immediate suspension is upheld at the hearing described in (f)(2) above, the licensee shall not operate until the department determines through inspection that compliance with RSA 151 and He-P 817 is achieved.
- (h) Hearings and appeals of department decisions under this section shall be conducted in accordance with RSA 541-A and He-C 200.
- (i) When a collection station's license has been denied or revoked, the applicant, licensee, or administrator shall not be eligible to reapply for a license or be employed as an administrator for 5 years if the denial or revocation pertained to their role in the collection station.
- (j) The 5 year period referenced in (i) above shall begin on:
- (1) The date of the department's decision to revoke or deny the license, if no appeal is filed; or
  - (2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.
- (k) Notwithstanding (i) above, the department shall consider an application submitted after the decision to revoke or deny becomes final if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 817.
- (l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 817.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

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

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

(p) The deadline to submit a POC in accordance with He-P 817.12(c)(2) shall not apply until the notice of the determination to not make a change to the statement of findings in (o) above has been provided to the applicant or licensee.

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

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853 eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

### He-P 817.14 Duties and Responsibilities of All Licensees.

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

(b) The licensee shall have a written policy and procedure setting forth the rights and responsibilities of clients receiving services at the facility in accordance with RSA 151:20.

(c) The licensee shall define, in writing, the scope and type of services to be provided at the collection station or mobile collection station van.

(d) The licensee shall not falsify or omit any information contained in:

(1) The "Application for Residential or Health Care License," or any other documents required for the licensing of a collection station; or

(2) The records maintained for the clients and personnel of the collection station.

(e) The licensee shall have responsibility and authority for:

(1) Managing, controlling and operating the collection station;

(2) Developing and implementing written policies and procedures governing all of the operations and services provided, and for reviewing said policies and procedures annually and revising them as needed;

(3) Initiating action to maintain the collection station 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;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) Establishing, in writing, a chain of command that sets forth the line of authority for the operational responsibilities of the collection station;
  - (5) Appointing an administrator who shall be responsible for the day-to day operations of the collection station;
  - (6) Providing sufficient numbers of personnel who are present in the collection station and are qualified to perform the services stated in the collection station's scope of services;
  - (7) Providing sufficient supplies, equipment, and lighting to ensure all services are provided in a safe and timely manner;
  - (8) Reporting all positive tuberculosis test (TB) results for personnel to the department's TB program in accordance with RSA 141-C:7, He-P 301.02 and 301.03; and
  - (9) Implementing any POC that has been accepted or issued by the department.
- (f) The licensee shall ensure that all specimen collection and storage requirements are met and only provide phlebotomy collection services:
- (1) At their licensed premises, including in a licensed mobile collection station van under the oversight of the collection station;
  - (2) At a client's place of residence; and
  - (3) At a senior center, adult day care center, or an outpatient mental health facility provided that collection occurs no more than one day per week at this location.
- (g) The licensee shall post the following documents in an area of the licensed premises that is conspicuous and open to clients and the general public:
- (1) The current license issued in accordance with RSA 151:2;
  - (2) All inspection and investigation reports issued in accordance with He-P 817.09(c) and He-P 817.11(d)(2)a. for the previous 12 months;
  - (3) Any notice of pending hearing or order as required by RSA 151:29, II, pertaining to the licensee issued by the department, or a court during the previous 24 months;
  - (4) A copy of the patients' bill of rights specified by RSA 151:21 or RSA 151:21-b;
  - (5) A notice as required by RSA 151:29 stating complaints may be submitted to:  

Department of Health and Human Services  
Health Facilities Administration  
129 Pleasant Street  
Concord, NH 03301
  - (6) The licensee's evacuation floor plan identifying the location of, and access to, all fire exits, except that mobile collection station vans shall be exempt from this requirement.
- (h) The licensee shall ensure that all personnel read and comply with the patients' bill of rights as set forth in RSA 151:21.
- (i) The licensee shall admit and allow any department representative to inspect the licensed premises and all programs and services of any licensee that is providing collection station services at any time for the

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

purpose of determining compliance with RSA 151 and He-P 817 as authorized by RSA 151:6 and RSA 151:6-a.

(j) All records required for licensing shall be:

(1) Available to the department during any inspection or investigation conducted in accordance with RSA 151:6 and RSA 151:6-a; and

(2) Legible, current, and accurate.

(k) For reportable incidents, the licensee shall:

(1) Convey by electronic or regular mail the following information to the department within 48 hours of a reportable incident as defined in He-P 817.03(z):

a. The collection station 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 the reportable incident;

e. The date and time of the reportable incident;

f. The action taken in direct response to the reportable incident; and

g. If medical intervention was required, by whom and the date and time; and

(2) Notify 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 these were not submitted in the initial report.

(l) Any licensee maintaining electronic records shall develop a system with written policies and procedures to protect the privacy of clients and staff that, at a minimum, include:

(1) Procedures for backing up files to prevent deletion;

(2) Safeguards to ensure the confidentiality of the information on clients and staff; and

(3) Systems to prevent the tampering of information on clients and staff.

(m) The licensee shall provide a client or their legal representative with a copy of his or her client record, pursuant to the provisions of RSA 151:21, X, upon request.

(n) The licensee shall develop written policies and procedures that will ensure that only the client and the ordering licensed practitioner are allowed to receive a copy of the laboratory tests results unless the collection station has written consent from the client to release the test results to others.

(o) Mobile collection station vans shall maintain a log on-site documenting that all on-board water used for drinking and washing was obtained from a verifiable potable source.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15;  
ss by #10979, eff 11-20-15

He-P 817.15 Collection Station Standards.

(a) Except as allowed by (b) below, the collection station shall collect or receive specimens only at the written or electronic request of a physician, dentist, chiropractor, court of law, or any other person authorized by state statute to order and receive laboratory tests.

(b) The collection station shall follow up with all telephone requests for the collection or receipt of specimens with a written confirmation within 30 days.

(c) At a minimum, the written or electronic test request required by (a) above, shall include:

- (1) The client's identifier;
- (2) The client's sex and age or date of birth;
- (3) The specific test(s) to be performed;
- (4) The name or unique identification such as an account number of the authorized person requesting the tests;
- (5) The date of specimen collection;
- (6) The name or other identifier such as test code number of the test requested;
- (7) The time of specimen collection when required by the collection procedure; and
- (8) The body source of the specimen when required by the collection procedure.

(d) At a minimum, written documentation for the collection or receipt of a specimen shall be maintained and include the following information:

- (1) The unique identifier assigned to the specimen;
- (2) The date of specimen receipt;
- (3) The time of specimen receipt when required by the collection procedure; and
- (4) Information contained on the test request as described in (c) above.

(e) At a minimum, the specimen label shall include the patient name and birth date, date and time of collection, and the initials of the person collecting the sample.

(f) The collection station shall have documentation of the specimen collection, handling, and processing requirements, from the laboratory performing the test, for all analytes collected, to include requirements pertaining to storage, temperature, transport, collection media, preservatives, centrifuge speed, light protection, and any other special collection or handling requirements of the laboratories test system.

(g) Recordings of refrigerator and freezer temperatures shall be done each day the collection station operates and shall fall within the following ranges:

- (1) Refrigerator temperatures shall be between 2 and 8 degrees centigrade; and
- (2) Freezer temperatures shall be colder than minus 10 degrees centigrade.

- (h) Centrifuge speed, for spinning blood samples, shall:
  - (1) Fall between 2800 and 3500 revolutions per minute or as specified by the manufacturer and be verified by tachometer on an annual basis; and
  - (2) For mobile collection station vans, be verified whenever the van is moved.
- (i) No expired specimen collection equipment and reagents, such as vacutainer tubes and glucola, shall be retained in the station or used for specimen collection.
- (j) Corrective measures such as repair or replacement shall be made in the event of an equipment failure and a written record of the corrective measures shall be kept at the collection station.
- (k) All clinical equipment shall be:
  - (1) In good working order; and
  - (2) Serviced in accordance with manufacturers' instructions and a written record of the service maintained by the collection station.
- (l) Sharps containers shall be secured so as to prevent unauthorized access, tampering, or both.
- (m) Collection stations performing waived glucose screening by glucometer tests shall:
  - (1) Acquire and maintain a Clinical Laboratory Improvement Amendments (CLIA) certificate of waiver, pursuant to 42 CFR 493.15;
  - (2) Perform quality controls each day of testing;
  - (3) Have a written procedure for the collection station response to a high patient glucometer reading that clearly identifies the response required, who to notify, and any other actions required by collection station personnel; and
  - (4) Clean the glucometer between patients with an appropriate cleaner.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.16 Client Records, Test Requisitions, and Test Reports.

- (a) All test requisitions and test reports shall be completed and maintained in accordance with 42 CFR § 493.
- (b) Each collection station shall keep a client record which shall contain, at a minimum, the information required by He-P 817.15(c).
- (c) All records, requisitions, and reports shall be safeguarded against loss, damage, tampering, and unauthorized access and retained for a minimum of 4 years.
- (d) Prior to ceasing operation, the licensee shall arrange for the storage of and access to records, requisitions and reports for a minimum of 4 years.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07,  
EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15;  
ss by #10979, eff 11-20-15

He-P 817.17 Personnel.

- (a) For all applicants for employment, the licensee shall:
- (1) Obtain and review a criminal records check from the New Hampshire department of safety; and
  - (2) Review the results of the criminal records check in accordance with (b) below and verify the qualifications of all applicants prior to employment.
- (b) Unless a waiver is granted in accordance with (c) below, the licensee shall not offer employment for any position if the individual:
- (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, abuse, theft, neglect, or exploitation;
  - (3) Has been found by the department or any administrative agency in this or any other state to have committed assault, fraud, abuse, neglect, or exploitation of any person; or
  - (4) Otherwise poses a threat to the health, safety, or well-being of clients.
- (c) The department shall grant a waiver of (b) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety, or well-being of clients.
- (d) No employee shall be permitted to maintain their employment if he or she has been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation of any person in this or any other state by a court of law or has had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department.
- (e) The licensee shall check, prior to hiring, the names of all prospective employees against the department's bureau of elderly and adult services (BEAS) state registry maintained pursuant to RSA 161-F:49 and He-W 720.
- (f) The licensee shall not make a final offer of employment to any prospective employee listed on the BEAS state registry unless a waiver is granted by the bureau of elderly and adult services.
- (g) The licensee shall develop a job description for each position in the collection station containing:
- (1) Duties of the position;
  - (2) Physical requirements of the position; and
  - (3) Education requirements of the position.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(h) The licensee shall hire an administrator who has a minimum of 2 years administrative experience in a health care facility, who has phlebotomy experience, and meets one of the following criteria:

(1) Is a licensed New Hampshire:

- a. Physician;
- b. Physician's assistant;
- c. Advanced practice registered nurse;
- d. Dentist;
- e. Optometrist;
- f. Naturopath;
- g. Respiratory therapist; or
- h. Registered nurse;

(2) Is a medical technologist certified by a nationally recognized certification board, such as the American Society of Clinical Pathology;

(3) Is an emergency medical technician (EMT) registered by the National Registry of Emergency Medical Technicians; or

(4) Has a minimum of an associate's degree in a life science.

(i) All personnel shall:

(1) Meet the requirements of the position as listed in the job description described in (g) above;

(2) Be licensed, registered, or certified if required by state statute;

(3) Receive an orientation within the first 7 days of work that includes:

- a. The collection station's policies on patient's rights and responsibilities and complaint procedures as required by RSA 151:20;
- b. The duties and responsibilities of the position;
- c. The collection station's policies, procedures, and guidelines;
- d. The collection station's infection control program;
- e. The collection station's fire and emergency plans; and
- f. The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29;

(4) Submit results of a physical examination or health screening conducted not more than 12 months prior to employment, including at a minimum the following:

- a. The name of the examinee;
- b. The date of the examination;

- c. Whether or not the examinee has a contagious illness or any other illness which would affect the examinee's ability to perform their job duties;
  - d. Results of a 2-step tuberculosis (TB) test, Mantoux method or other method approved by the Centers for Disease Control (CDC);
  - e. Medications currently prescribed for the examinee which might affect the examinee's ability to perform their job duties;
  - f. Evidence of current alcohol or drug abuse by the examinee, which might affect the examinee's ability to perform their job duties;
  - g. Impairment of vision or hearing which might affect the examinee's ability to perform their job duties;
  - h. Evidence of current mental illness or emotional disorder which affect the examinee's ability to perform their job duties; and
  - i. The dated signature of the licensed health practitioner; and
- (5) 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 had direct contact or potential for occupational exposure to *M. tuberculosis* through shared air space with persons with infectious TB or has a positive TB test.
- (j) All personnel shall complete annual in-service education in the collection station's:
    - (1) Policies and procedures on patient's rights and responsibilities;
    - (2) Infection control program;
    - (3) Fire and emergency procedures; and
    - (4) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
  - (k) The personnel of the collection station shall consist of phlebotomists or other personnel who are instructed in the collection of specimens from the human body.
    - (l) The instruction required in (k) above, shall be accomplished by:
      - (1) A formal education program; or
      - (2) On the job training.
  - (m) All licensees using the service of independent clinical contractors shall:
    - (1) Provide the clinical contractors with an orientation as specified in (i)(3) above;
    - (2) Maintain a copy of a physical examination or health screen and TB testing, mantoux method, that was conducted no more than 12 months prior to employment for each clinical contractor;
    - (3) Maintain a copy of the clinical contractors' licenses as required by (i)(2) above, if applicable; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) Have a written agreement with each clinical contractor that describes the services that will be provided and agreement to comply with (1) through (3) above.
- (n) Current and complete personnel files shall be maintained at the licensed premises for all personnel except as allowed by (r) below.
- (o) The personnel file required by (n) above, shall include:
- (1) A completed application for employment or a resume;
  - (2) Qualifications and work experience;
  - (3) A signed statement acknowledging the receipt of the licensee's policy setting forth the clients rights and responsibilities and acknowledging training and implementation of the policy as required by RSA 151:20;
  - (4) A copy of the results of the criminal record check as described in (a) above;
  - (5) A signed statement acknowledging compliance with (p) below;
  - (6) A job description signed by the individual that identifies the:
    - a. Position title;
    - b. Qualifications and experience; and
    - c. Duties required by the position;
  - (7) Record of satisfactory completion of the orientation program required by (i)(3) above;
  - (8) A copy of each current New Hampshire license, registration, or certification in health care field, if applicable;
  - (9) Documentation that the required physical examination or health screening, and TB test results or radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals;
  - (10) Documentation of annual in-service education as required by (j) above; and
  - (11) The statement(s) required by (p) below.
- (p) Unless a waiver has been granted in accordance with (c) above, 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; and
  - (3) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person.
- (q) Personnel records shall be:
- (1) Maintained on an individual basis, separate and distinct from other employees and contain only information relating to the specific personnel member; and

- (2) Stored in locked containers or cabinets or in a locked room on the premises.
- (r) Personnel records may be stored in a central location provided that:
  - (1) The personnel record is available to the department at the licensed premises within 30 minutes of being requested; and
  - (2) The records are maintained in accordance with (o) above.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.18 Quality Assessment. The collection station or mobile collection station van shall develop and implement a quality assessment program that reviews policies and services and maximizes quality by preventing or correcting identified problems.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.19 Infection Control.

- (a) The collection station shall develop and implement an infection control program.
- (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; and
  - (5) The reporting of infectious and communicable diseases as required by He-P 301.
- (c) The infection control program shall address at a minimum the:
  - (1) Causes of infection;
  - (2) Effects of infections;
  - (3) Transmission of infections; and
  - (4) Prevention and containment of infections.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) Personnel infected with a disease or illness transmissible through contact, fomites, or droplets shall not have contact with clients until they are no longer contagious.

(e) Only sterile equipment and containers such as needles, syringes, test tubes, and urine containers used for cultures shall be used when collecting specimens.

(f) The handling, storing, transporting, or disposing of those items specified as infectious waste in Env-Wm 2604.01 shall be done in accordance with Env-Wm 2604.

(g) There shall be no use of tobacco products, smoking, eating, drinking, or applying of cosmetics in the areas where specimen collection takes place or where specimens are processed in accordance with 29 CFR § 1910.1030.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.20 Physical Environment, Emergency and Fire Safety.

(a) The collection station shall comply with all federal, state, and local laws, rules, codes, and ordinances for:

- (1) Building or mobile collection station vans, as applicable;
- (2) Health;
- (3) Fire; and
- (4) Waste disposal.

(b) The collection station, including mobile collection station vans, shall have all entrances and exits to the licensed premises accessible at all times.

(c) The collection station shall be clean and maintained in a safe manner and good repair and kept free of hazards.

(d) All supplies shall be stored in an enclosed storage space.

(e) All corridors shall be free from obstruction.

(f) The collection station shall have:

- (1) If performing venipuncture, a blood collection chair with a device to prevent client falls or a reclining chair;
- (2) If performing venipuncture, a cot or an alternative method that allows a client to lie down in the event of dizziness or illness;
- (3) A specimen collection area that:
  - a. Is separate from the reception area, except for mobile collection station vans that admit only one client at a time;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- b. Contains a work counter and hand washing facilities;
  - c. Measures, at a minimum, 36 square feet (ft.); and
  - d. Maintains client confidentiality and privacy;
- (4) A processing area that, at a minimum, has 6 linear ft. of counter space;
- (5) A reception area that includes a desk or counter, chairs, and lighting; and
- (6) Access to bathrooms that contain at least one toilet and one hand-washing sink with:
- a. A supply of hot and cold running water;
  - b. Soap dispensers;
  - c. Paper towels or a hand drying device providing heated air; and
  - d. Non-porous floors.
- (g) Sterile supplies and equipment shall not be mixed with unsterile supplies and shall be stored in dust-proof, moisture-free storage areas.
- (h) All cleaning supplies shall be stored separately from client supplies.
- (i) Cleaning solutions, compounds, and substances which might be considered hazardous or toxic materials, as defined in RSA 147-A:2, VII, shall be:
- (1) Distinctly labeled and legibly marked so as to identify the contents;
  - (2) Stored in a place separate from food and supplies; and
  - (3) Kept in an enclosed section separated from other cleaning materials.
- (j) Toxic materials shall not be used in a way that contaminates equipment or in any way that constitutes a hazard to personnel or other persons, or in any way other than in full compliance with the manufacturer's labeling.
- (k) The collection station shall notify the department by phone, fax, or e-mail within 24 hours and in writing within 72 hours, of any fire or situation, excluding a false alarm, which requires the evacuation of the licensed premises.
- (l) The written notification under (k) above shall include:
- (1) The date and time of the incident;
  - (2) A description of the location and extent of the incident, including any damage;
  - (3) A description of events preceding and following the incident;
  - (4) The name of any person evacuated as a result of the incident, if applicable;
  - (5) The name of any personnel 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.

(m) A written emergency plan for fire safety and evacuation shall be adopted and posted in multiple locations throughout the collection station.

(n) The collection station shall have a fire extinguisher inspected annually by the local fire authority or a certified fire extinguisher maintenance company.

(o) If the collection station is located in a building where fire evacuation drills are required under Saf-C 6000 or any other state or local ordinance, then the collection station shall participate in those drills.

(p) If the collection station chooses to remain open during an emergency or disaster, it shall develop and institute a written emergency preparedness plan to respond to a disaster or an emergency which shall at a minimum:

- (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, but not be limited to a bomb threat;
- (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by 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 preparedness 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) 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, as applicable:
  - a. Electricity;
  - b. Water;
  - c. Ventilation;
  - d. Fire protection systems;
  - e. Fuel sources; and
  - g. Communications systems;
- (8) Include a plan for alerting and managing staff in a disaster, and accessing Critical Incident Stress Management (CISM), if necessary;
- (9) 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

(10) 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.

Source. #5775, eff 1-24-94, EXPIRED: 1-24-00

New. #8410 eff 8-19-05; ss by #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

He-P 817.21 Mobile Collection Station Vans.

- (a) Mobile collection station vans shall be eligible for licensure only if they are:
- (1) Operated by a collection station or laboratory that is located in a building or other permanent structure; and
  - (2) The collection station or laboratory has a valid license issued by the department.
- (b) Each applicant shall comply with He-P 817, except for He-P 817.07(a)-(e) and:
- (1) In lieu of He-P 817.04(a)(1)-(3) and (5)-(7), each applicant shall submit:
    - a. A copy of the applicant's current collection station or laboratory license;
    - b. A valid New Hampshire motor vehicle registration for the mobile collection station van;
    - c. The VIN of the mobile collection station van; and
    - d. A space utilization diagram for the mobile collection station van; and
  - (2) Personnel, client, and facility records that are stored off site shall be available for inspection at the licensed premises upon request of licensing staff within 30 minutes of being requested.
- (c) The collection station portions of the mobile collection station van shall have a non-porous floor.
- (d) Detailed written documentation of travel dates, times and locations, including periods of non-use, shall be maintained for the mobile collection station van.

Source. #8853, eff 3-24-07, EXPIRED: 3-24-15

New. #10830, INTERIM, eff 5-25-15, EXPIRES: 11-21-15; ss by #10979, eff 11-20-15

**Appendix A: Incorporation by Reference Information**

<b>Rule</b>	<b>Title</b>	<b>Obtain at:</b>
He-P 817.17(i)(5)	Centers for Disease Control and Prevention “Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings,” 2005 edition	Available free of charge from the CDC website at <a href="http://www.cdc.gov">www.cdc.gov</a> .

**Appendix B**

<b>Rule</b>	<b>Specific State or Federal Statutes the Rule Implements</b>
He-P 817.01 – 817.03	RSA 151:9, I
He-P 817.04	RSA 151:9, I(c)
He-P 817.05	RSA 151:9, I(c)
He-P 817.06	RSA 151:9, I(d)
He-P 817.07	RSA 151:3-a; RSA 151:9, I(a)
He-P 817.08	RSA 151:9, I(a)
He-P 817.09	RSA 151:6-a; RSA 151:9, I(e) and (f)
He-P 817.10	RSA 151:9, I(a)
He-P 817.11	RSA 151:6
He-P 817.12	RSA 541-A:30; RSA 151:7-a; RSA 151:9, I(f), (g) and (l); RSA 151:16-a
He-P 817.13	RSA 541-A:30; RSA 541-A:30-A; RSA 151:9, (l)(f) and (l); RSA 151:7
He-P 817.14	RSA 151:9, (l)(a); RSA 151:20; RSA 151:29
He-P 817.15	RSA 151:9, I(a); 42 CFR 493
He-P 817.16	RSA 151:9, I(a); 42 CFR 493
He-P 817.17	RSA 151:9, I(a); 42 CFR 493
He-P 817.18	RSA 151:9, I(a); 42 CFR 493
He-P 817.19	RSA 151:9, I(a); 29 CFR 1910.1030
He-P 817.20	RSA 151:9, I(a)
He-P 817.21	RSA 151:9, I(a), (c) and (d); 42 CFR 493