CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

PART He-P 818 ADULT DAY PROGRAMS

He-P 818.01 Purpose. The purpose of this part is to set forth the licensing requirements for all adult day programs (ADPs) pursuant to RSA 151:2, I(f).

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating an ADP, except:

(a) All facilities listed in RSA 151:2, II(a)-(g); and

(b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h).

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.03 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 a participant;

(2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to a participant; and

(3) "Sexual abuse" means contact or interaction of a sexual nature involving a participant with or without his or her informed consent.

(b) "Activities of daily living (ADL)" means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and self-management of medications.

(c) "Administer" means "administer" as defined by RSA 318:1.

(d) "Administrator" means the licensee or individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premises.

(e) "Admission" means accepted by a licensee for the provision of services to a participant.

(f) "Adult Day Program (ADP)" means a program that provides one or more of the following services, for fewer than 12 hours a day, to participants 18 years of age and older:

(1) Supervision;

(2) Assistance with ADL;

(3) Nursing care;

(4) Rehabilitation;

(5) Recreational, social, cognitive, and physical stimulation; and

(6) Nutrition.

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

(h) "Applicant" means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an ADP pursuant to RSA 151:2, I(f).

(i) "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 818, or other federal or state requirements.

(j) "Assessment" means an evaluation of the participant to determine the care and services that are needed.

(k) "Care plan" means a written guide developed by the licensee, in consultation with personnel, the participant, and the participant's guardian, agent, or personal representative, if any, as a result of the assessment process for the provision of care and services.

(l) "Change of ownership" means a change in the controlling interest in an ADP to a successor business entity.

(m) "Chemical restraint" means any medication prescribed to control a participant's behavior or emotional state without a supporting diagnosis or when used for the convenience of personnel.

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

(o) "Core services" means those minimal services to be provided by the licensee that are included in the basic rate.

(p) "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.

(q) "Days" means calendar days unless otherwise specified in the rule.

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

(s) "Direct care personnel" means any person providing hands-on care or services to a participant.

(t) "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.

(u) "Emergency plan" means a document outlining the responsibilities of personnel in an emergency.

(v) "Exploitation" means the illegal use of a participant'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 participant through the use of undue influence, harassment, duress, deception, or fraud.

(w) "Guardian" means a person appointed in accordance with RSA 464-A to make informed decisions relative to the participant's health care and other personal needs.

(x) "Household member" means the caregiver, all family members, and any other individuals age 17 or older, who is not a participant, who have resided at the licensed premises for more than 30 days.

(y) "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.

(z) "Infectious waste" means those items specified by Env-Sw 103.28.

(aa) "Inspection" means the process followed by the department to determine an applicant's or a licensee's compliance with RSA 151 and He-P 818, or to respond to allegations of non-compliance with RSA 151 or He-P 818.

(ab) "License" means the document issued by the department to an applicant at the start of operation as an ADP which authorizes operation in accordance with RSA 151 and He-P 818, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date, and the license number.

(ac) "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 ADP is licensed.

(ad) "Licensed practitioner" means a:

(1) Medical doctor;

(2) Physician's assistant;

(3) Licensed 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.

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

(af) "Licensee" means any person or legal entity to which a license has been issued pursuant to RSA 151 and He-P 818.

(ag) "Licensing classification" means the specific category of services authorized by a license.

(ah) "Mechanical restraint" means locked, secured, or alarmed ADPs or units within an ADP, or anklets, bracelets, or similar devices that cause a door to automatically lock when approached, thereby preventing a participant from freely exiting the ADP or unit within.

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

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

(ak) "Nursing care" means the provision or oversight of a physical, mental, or emotional condition or diagnosis by a nurse that, if not monitored on a routine basis by a nurse, would or could result in a physical or mental harm to a participant.

(al) "Orders" means written prescriptions, instructions for treatments, special diets, or therapies given by a licensed practitioner, or other professional with prescriptive powers.

(am) "Over-the-counter medications" means non-prescription medications.

(an) "Participant" means any person, over the age of 18, admitted to or in any way receiving care, services, or both, from an ADP licensed in accordance with RSA 151 and He-P 818.

(ao) "Participant record" means a separate file maintained for each person receiving care and services, which includes all documentation required by RSA 151 and He-P 818, and all documentation received relative to the participant as required by other federal and state requirements.

(ap) "Patient rights" means the privileges and responsibilities possessed by each participant provided by RSA 151:21. This term includes "participant rights."

(aq) "Personal assistance" means providing or assisting a participant in carrying out activities of daily living.

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

(as) "Personnel" means individual(s), either paid or volunteer, including independent contractors, who provide direct or indirect care or services or both to a participant.

(at) "Physical restraint" means the use of a hands-on or other physically applied technique to physically limit the participant's freedom of movement, which includes but is not limited to forced escorts, holding, prone restraints, or other containment techniques.

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

(av) "Pro re nata (PRN) medication" means medication taken as circumstances may require in accordance with licensed practitioner's orders.

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

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

(1) Knowledge of participant whereabouts; and

(2) Minimizing the likelihood of accident or injury.

(ay) "Reportable incident" means an occurrence of any of the following while the participant is either in the ADP or in the care of ADP personnel:

(1) The unanticipated death of the participant;

(2) An injury to a participant, 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 particpant; or

(3) The elopement or unexplained absence of a participant from the ADP.

(az) "Self administration of medication with assistance" means the participant takes his or her own medication(s) after being prompted by personnel but without requiring physical assistance from others.

(ba) "Self administration of medication without assistance" means the participant is able to take his or her own medication(s) without the assistance of personnel, including prompting.

(bb) "Self-directed medication administration" means a participant, who has a physical limitation that prohibits him or her from self administration of medication, with or without assistance, directs personnel to physically assist in the medication process which shall not include assisting with injections or filling insulin syringes.

(bc) "Senior center" means a community based entity that provides meals, recreational activities, wellness programs, transportation, or other services for seniors but provides no services that require licensure under RSA 151.

(bd) "Service" means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a participant.

(be) "Significant change" means a change in a participant's cognitive or physical capabilities that decreases his or her ability to care for himself or herself beyond an episodic event.

(bf) "Unexplained absence" means an incident involving a participant leaving the premises of the ADP without the knowledge of the ADP personnel.

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.04 Initial License Application Requirements.

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

(1) A completed application form entitled "Application for Residential or Health Care License" (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 a license, or imposition of a fine.";

b. For any ADP 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 ADP 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."

(2) A floor plan of the prospective ADP;

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

a. "Certificate of Authority," if a corporation;

b. "Certificate of Formation," if a limited liability corporation; or

c. "Certificate of Trade Name," where applicable;

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

(5) A resume identifying the name and qualifications of the ADP administrator;

(6) Copies of applicable licenses, certificates, or both, for the ADP administrator;

(7) Written local approvals as follows:

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

1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;

2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;

3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and

4. The fire chief verifying that the applicant complies with the state fire code, Saf-C 6000, including the day-care occupancies chapter of National Fire Protection Association (NFPA) 101, 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, and local fire ordinances applicable for a health care facility; and

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

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

(9) The results of a criminal records check from the NH department of safety for the applicant(s), licensee if different than the applicant, administrator, and household members.

(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

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.05 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 818.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 818.04(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 818.13(b) if, after reviewing the information in He-P 818.19(b)-(d), it determines that the applicant, administrator, or any household member:

(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, theft, abuse, neglect, or exploitation in this or any other state;

(3) Has had 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 participants.

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

(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 818.

(h) If an applicant is still found not to be in compliance with RSA 151 and He-P 818 after a second onsite inspection, the application shall be denied and a new application with the applicable fee shall be required.

(i) If the applicant does not provide the items required by the written notice in (b) above within 90 days of the notice, the application shall be closed and a new application with applicable fees shall be required.

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.06 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 818.04(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 818.04(a)(1) and (4);

(2) The current license number;

(3) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 818.10(f), as applicable;

(4) A list of any current employees who have a permanent waiver granted in accordance with He-P 818.19(e); and

(5) A statement identifying any variances applied for or granted by the state fire marshal.

(d) In addition to (c) above, 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 818.09, a license shall be renewed if the department determines that the licensee:

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

(2) Has submitted a POC that has been accepted by the department and implemented by the licensee if areas of non-compliance were cited at the last licensing inspection or investigation; and

(3) Is found to be in compliance with RSA 151 and He-P 818 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 818.04.

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08; ss by #9565, eff 10-16-09; ss by #12198, eff 6-2-17

He-P 818.07 ADP Construction, Modifications, or Structural Alterations.

(a) Notice and accurate architectural plans or drawings that show the room designation(s) and exact measurements of each area to be licensed, including windows and door sizes and each room's use, 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;

(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, V.

(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 of an ADP for compliance with all applicable sections of RSA 151 and He-P 818 and notify the applicant or licensee as to whether the proposed changes comply with these requirements.

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

(f) The ADP shall comply with all applicable licensing regulations when doing construction, modifications, or alterations.

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

(1) The state fire code, Saf-C 6000, including but not limited to the day care chapter of NFPA 101, 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.

(h) All ADPs newly constructed after the 2017 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," Adult Day Care chapter, 2014 edition, as available as noted in Appendix A.

(i) 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.

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

(k) The completed building shall be subject to an inspection pursuant to He-P 818.09 prior to its use.

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.08 ADP Requirements for Organizational Changes.

(a) The ADP 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; or

(5) Capacity.

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

(1) A change in ownership;

(2) A change in the physical location; or

(3) An increase in the number of participants beyond what was authorized under the initial license.

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

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

(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 non-compliance was submitted and accepted by the department;

(2) The physical location;

(3) An increase in the number of participants; or

(4) A change in licensing classification.

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

(g) A revised license and license certificate shall be issued for a change in name.

(h) A license certificate shall be issued at the time of initial licensure.

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

(1) A change in administrator;

(2) An increase or decrease in the number of participants;

(3) A change in the scope of services provided;

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

(5) When a waiver has been granted.

(j) The ADP shall notify the department in writing no later than 5 days prior to a change in administrator, or as soon as practicable in the event of a death or other extenuating circumstances, and provide the department with the following:

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

(2) Copies of applicable licenses, certificates, or both, for the new administrator.

(k) Upon review of the materials submitted in accordance with (l) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position, as specified in He-P 818.15(a)(1).

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

(m) A restructuring of an established ADP 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.

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

(o) The ADP 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.

(p) If a licensee chooses to cease the operation of the ADP, the licensee shall submit written notification to the department at least 30 days in advance.

Source. #5517, eff 11-25-92; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9106, eff 3-18-08; ss by #9565, eff 10-16-09; ss by #12198, eff 6-2-17

He-P 818.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 818, 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 ADP; and

(3) Any records required by RSA 151 and He-P 818.

(b) The department shall conduct a clinical and life safety code inspection as necessary to determine full compliance with RSA 151, He-P 818, and other federal or state requirements prior to:

(1) The issuance of an initial license;

(2) A change in ownership except as allowed by He-P 818.08(g)(1);

(3) A change in the licensee's physical location;

(4) An increase in the number of participants beyond what was authorized under the current license;

(5) Occupation of space after construction, modifications, or structural alterations; or

(6) The renewal of a license.

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

(d) A statement of findings for clinical inspections or notice to correct for life safety code inspections shall be issued when, as a result of any inspection, the department determines that the ADP is in violation of any of the provisions of He-P 818, RSA 151, or other federal or state requirements.

(e) If deficiencies were cited in either a notice to correct or a statement of findings, the licensee shall submit a POC, in accordance with He-P 818.12(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 in (b) above that the prospective premises is not in full compliance with RSA 151 and He-P 818.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 818 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 license holder, which shall be equally as protective of public health and participants as the rule from which a waiver is sought or provide a reasonable explanation why the applicable rule should be waived.

(b) Waivers 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 participants; and

(3) Does not affect the quality of participant 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 the 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 (c) through (e) above.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.11 Complaints.

(a) The department shall investigate 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);

(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 818.

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

(1) The name and address of the ADP, 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 818.

(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) For the licensed ADP, 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 818.12(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 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 818; 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.

(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 any adjudicative proceedings relative to the licensee.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 818, 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 licensee; or

(4) Monitoring of a licensee in accordance with (k) below.

(b) When administrative remedies are imposed, the department shall provide a 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 area of non-compliance does not recur;

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 participant 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 818;

b. Addresses all areas of non-compliance cited in the statement of findings or notice to correct;

c. Prevents a new violation of RSA 151 or He-P 818 as a result of the implementation of the POC;

d. Identifies the position of the employee responsible for the corrective action; and

e. 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 wellbeing of a resident 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 818.13(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 818.12(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 818.13(c)(13).

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

(1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the participants 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 or administrator has not been accepted.

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

(1) Impose a fine;

(2) Deny the application for a renewal of a license in accordance with He-P 818.13(b); or

(3) Revoke the license in accordance with He-P 818.13(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 or notice to correct 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) 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.

(k) The department shall impose state monitoring under the following conditions:

(1) The department determines that repeated poor compliance on the part of the facility in areas that may impact the health, safety, or well-being of participants; or

(2) Concern that the conditions in the ADP have the potential to worsen.

Source. #9106, eff 3-18-08; ss by #9565, eff 10-16-09; ss by #12198, eff 6-2-17

He-P 818.13 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 818 which poses a risk of harm to a participant's health, safety, or well-being;

(2) An applicant or a licensee has failed to pay an administrative fine imposed by the department;

(3) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order, or certified check;

(4) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 818.04;

(5) An applicant, licensee, or any representative or employee of the applicant or licensee:

a. Provides false or misleading information to the department;

b. Prevents, interferes, or fails to cooperate with any inspection or investigation conducted by the department; or

c. Fails to provide requested files or documents to the department;

(6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 818.12(c), (d), and (e);

(7) The licensee is cited a third time under RSA 151 or He-P 818 for the same violation(s) within the last 5 inspections;

(8) 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;

(9) Upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 818;

(10) The department makes a determination that the applicant, administrator, licensee, or a 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;

(11) The applicant or licensee employs an administrator who does not meet the qualifications for the position under circumstances in which the department has not granted a waiver; or

(12) The applicant has had a license revoked by any division or unit of the department within 5 years prior to 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;

(2) For a failure to cease operations after a denial of a license, after receipt of an order to cease and desist immediately, 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 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 818.14(h), the fine for an applicant, licensee or unlicensed provider shall be $500.00;

(4) For a failure to transfer a participant whose needs exceeds the services or programs provided by the ADP, in violation of RSA 151:5-a, the fine shall be $500.00;

(5) 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 818.11(f), the fine shall be $500.00;

(6) 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 818.06(b), the fine shall be $100.00;

(7) For a failure to notify the department prior to a change of ownership, in violation of He-P 818.08(a)(1), the fine shall be $500.00;

(8) For a failure to notify the department prior to a change in the physical location, in violation of He-P 818.08(a)(2), the fine shall be $1000.00;

(9) For a failure to notify the department of a change in e-mail address, in violation of He-P 818.08(q), the fine shall be $100.00;

(10) For a failure to allow access by the department to the ADP's premises, programs, services or records, in violation of He-P 818.09(a), the fine for an applicant, individual, or licensee shall be $2000.00;

(11) For a failure to provide to the department any records maintained by the licensee and required by He-P 818.14(u), the fine for a 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 statment of findings or notice to correct, or by the date of an extension as granted, in violation of He-P 818.12(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 818.12(c)(8), the fine for a licensee shall be $1000.00;

(14) For a failure to establish, implement or comply with licensee policies, in violation of He-P 818.14(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 818.14(c), the fine for a licensee shall be $500.00;

(16) For exceeding the maximum number of occupants, in violation of He-P 818.14(l), the fine for a licensee shall be $500.00;

(17) For providing false or misleading information or documentation in violation of He-P 818.14(g), the fine shall be $1000.00 per offense;

(18) For a failure to meet the needs of a participant or participants, in violation of He-P 818.14(j)(1), the fine for a licensee shall be $1000.00 per participant;

(19) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 818.15(a)(1), the fine for a licensee shall be $500.00;

(20) 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 818.07(a), the fine for a licensed facility shall be $500.00;

(21) 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 818.09(b)(5), 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;

(22) When an inspection determines that a violation of RSA 151 or He-P 818 has the potential to jeopardize the health, safety or well-being of a participant, 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 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 per area of non-compliance;

(23) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 818 shall constitute a separate violation and shall be fined in accordance with He-P 818.13(c); and

(24) If the applicant or licensee is making good faith efforts to comply with (4), (5) or (19) above 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) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(f) If a written request for a hearing is not made pursuant to (e) above, the action of the department shall become final.

(g) 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 participants is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(h) 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 818 is achieved.

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

(j) When an ADP'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 at least 5 years, if the enforcement action pertained to their role in the ADP.

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

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

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

(l) 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 818.

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

(n) RSA 541 shall goern further appeals of department decisions under this section.

(o) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A, or He-P 818.

(p) Any violations cited for the fire code may be appealed to the state fire marshal, pursuant to RSA 151:6-a, II.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.14 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, including RSA 161-F:49 and He-E 720.

(b) The licensee shall comply with the patients' bill of rights as set forth in RSA 151:20, II.

(c) The licensee shall define, in writing, the scope and type of services to be provided by the ADP, which shall include, at a minimum, the core services listed in He-P 818.15.

(d) The licensee shall develop and implement written polices and procedures governing the operation and all services provided by the ADP.

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

(f) The licensee shall assess and monitor the quality of care and service provided to participants on an ongoing basis.

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

(h) The licensee shall not:

(1) Advertise or otherwise represent the program as operating an ADP, unless it is licensed; and

(2) Advertise that it provides services that it is not authorized to provide.

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

(j) Licensees shall:

(1) Meet the needs of the participants during those hours that the participants are in the care of the ADP;

(2) Initiate action to maintain the ADP 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 ADP;

(4) Appoint an administrator;

(5) Verify the qualifications of all personnel;

(6) Provide sufficient numbers of personnel who are present in the ADP and are qualified to meet the needs of participants during all hours of operation;

(7) Provide the ADP with sufficient supplies, equipment, and lighting to meet the needs of the participants; and

(8) Implement any POC that has been accepted or issued by the department.

(k) The licensee shall consider all participants to be competent and capable of making health care decisions unless the participant:

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

(2) Has a durable power of attorney for health care that has been activated.

(l) The licensee shall not exceed the number of occupants authorized by NFPA 101 as adopted by the commissioner of the department of safety under 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, and identified on the licensing certificate.

(m) The licensee shall not admit a participant whose needs exceed the program and services offered by the ADP.

(n) If the licensee accepts a participant who is known to have a disease reportable under He-P 301 or an infectious disease, which is any disease caused by the growth of microorganisms in the body which might or might not be contagious, the licensee shall follow the required procedures and personnel training for the care of the participants, 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 edition), available as noted in Appendix A.

(o) The licensee shall report all positive tuberculosis test results for personnel to the office of disease control in accordance with RSA 141-C:7, He-P 301.02, and He-P 301.03.

(p) Any licensee who admits or who has a participant with a diagnosis of dementia, Alzheimer’s disease, or a primary or secondary diagnosis of mental illness shall:

(1) Require all direct care personnel caring for the participant to be trained in the special care needs of participants with dementia, Alzheimer's disease, or mental illness; and

(2) Provide a physical environment that has a safety and security system that prevents a participant from leaving the premises without the knowledge of staff, if the participant:

a. Has wandered from the ADP in the last 60 days;

b. Has had a change in their wandering behavior as determined by the nursing assessment completed in accordance with He-P 818.16(a)(4); or

c. Is a danger to self or to others.

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

(1) The current license certificate issued in accordance with RSA 151:2;

(2) All clinical inspection reports issued in accordance with He-P 818.09(d) and He-P 818.11(d)(1), for the previous 12 months;

(3) A copy of the patients' bill of rights specified by RSA 151:21;

(4) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted, in writing, to the Department of Health and Human Services, Health Facilities Administration, 129 Pleasant Street, Concord, NH 03301 or by calling 1-800-852-3345; and

(5) The licensee's evacuation floor plan identifying the location of and access to all fire exits.

(r) The licensee shall admit and allow any department representative to inspect the ADP and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 818 as authorized by RSA 151:6 and RSA 151:6-a.

(s) Licensees shall:

(1) Fax to 271-5574 or, if a fax machine is not available, convey by electronic or regular mail, the following information to the department within 48 hours of a reportable incident:

a. The ADP 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 participant(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. Whether the participant's guardian or agent, if any, or personal representative was notified; and

i. The signature of the person reporting the reportable incident;

(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 it was not submitted in the initial report;

(3) Contact the department immediately by telephone, fax, or e-mail to report the death of any participant or the death of any participant who dies within 10 days of a reportable incident;

(4) Provide the information required by (3) above in writing within 72 hours of the death of any participant if the initial contact was made by telephone or if additional information becomes available subsequent to the time the initial contact was made;

(5) Immediately notify the local police department, the department, guardian, agent, or personal representative if any, when a participant has an unexplained absence after the licensee has searched the building and the grounds of the ADP; and

(6) Submit additional information if required by the department.

(t) A licensee shall, upon request, provide a participant or the participant's guardian or agent, if any, with a copy of his or her participant record pursuant to the provisions of RSA 151:21, X.

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

(v) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of participants and personnel that, at a minimum, include:

(1) Procedures for backing up files to prevent loss of data;

(2) Safeguards for maintaining the confidentiality of information pertaining to participants and staff; and

(3) Systems to prevent tampering with information pertaining to participants and staff.

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

(x) The licensee shall provide cleaning and maintenance services, as needed to protect participants, personnel, and the public.

(y) The building housing the ADP shall comply with all state and local:

(1) Health requirements;

(2) Building ordinances;

(3) Fire ordinances; and

(4) Zoning ordinances.

(z) If the ADP is not on a public water supply, the water used in the ADP shall be suitable for human consumption, pursuant to Env-Dw 702.02 and Env-Dw 704.02.

(aa) The licensee shall determine whether smoking will be allowed at the ADP.

(ab) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:68 and RSA 155:69.

(ac) If the licensee holds or manages a participant's funds or possessions, it shall first receive 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 participants, or other household members.

(ad) At the time of admission the licensee shall give a participant and the participant's guardian, agent, or personal representative, if applicable, a listing of all ADP's charges and identify what care and services are included in the charge.

(ae) The charge for core services described in He-P 818.15 shall be included in the basic rate and shall not be charged separately.

(af) The licensee shall give a participant and the participant's guardian, agent, or personal representative, if applicable, a 30-day written notice before any increase is imposed in the cost or fees for any ADP services.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.15 Required Services. Each ADP shall provide, at a minimum, the following core services and programs:

(a) Administrative services that include the appointment of a full time administrator who:

(1) Is at least 21 years of age;

(2) Has one of the following combinations of education and experience:

a. A bachelor's degree from an accredited institution and at least 2 years of experience working in a health-related field;

b. A registered nurse (RN), licensed in New Hampshire, or a registered nurse with a multi-state compact license, with at least one year of experience working in a health related field;

c. A licensed practical nurse (LPN) with at least 2 years of experience working in a health related field; or

d. An associate's degree from an accredited institution plus 4 years of experience in a health related field;

(3) Is responsible, directly or through delegation, for notifying the department as specified in He-P 818.14(s) of any reportable incident involving a participant(s);

(4) Shall be permitted to also hold the position of:

a. Licensed nurse, as specified in (b) below, if the person is a licensed nurse; or

b. Activities coordinator, as specified in (c) below, if the ADP is limited by its license to 6 or fewer participants per day;

(5) Designates, in writing, an alternate staff person who shall assume the responsibilities of the administrator in his or her absence; and

(6) Hires support staff necessary to assist the administrator in maintaining regulatory compliance;

(b) Nursing services that:

(1) Include the employment or contracted services of a part-time or full-time licensed nurse who:

a. Is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact;

b. Has at least one year of experience working with geriatric individuals or persons with disabilities;

c. Gives direction to the staff members that provide personal care, such as assistance with and supervision of ADLs, to the participants; and

d. Shall be directly or indirectly supervised by an RN if the person is a licensed practical nurse (LPN);

(2) Include the provision of initial and ongoing assessments of the participant's pain level, vital signs, and physical, cognitive. and behavioral status, as well as assessments of how the participant is adapting psychologically to their social environment; and

(3) Provide the following:

a. Nursing care as authorized by RSA 326 that includes medication administration and wound care;

b. Nutritional monitoring;

c. Care management or referral to a case manager;

d. Referrals to community service agencies when necessary; and

e. Assistance with therapeutic monitoring of capillary blood glucose levels and capillary blood Prothrombin Time, International Normalized Ratio (PT-INR) testing using a Clinical Laboratory Improvement Amendments (CLIA) approved waived testing system, per 42 CFR Part 493.15. The ADP shall be exempt from licensing under He-P 808 and He-P 817 for performance of these 2 tests;

(c) Recreational activity services that include:

(1) The employment of an activities coordinator who has 2 years of experience working with geriatric individuals or persons with disabilities; and

(2) Purposeful activities designed to meet the needs and interests of participants, including but not limited to activities that are cultural, economic, emotional, intellectual, physical, social, and spiritual;

(d) Personal care services that include:

(1) Assistance with and supervision of ADLs when needed by participants; and

(2) Minimum staffing ratios, which may be met by both nursing and activities personnel, as follows:

a. When fewer than 8 participants are in attendance, at least one paid personnel member shall be present at all times;

b. When there are 8 to 16 participants in attendance, there shall be at least 2 personnel present at all times, at least one of which shall be a paid personnel member;

c. When there are more than 16 participants in attendance, there shall be a minimum of one personnel member for each additional 8 participants or part thereof; and

d. Notwithstanding a. through c. above, ratios shall be sufficient to meet the needs of all participants at all times;

(e) Health and safety services to minimize the likelihood of accident or injury, with protective care and oversight while the participant is at the ADP, that include:

(1) Monitoring the participants' functioning, safety, and whereabouts;

(2) Monitoring the participants' health status, and providing intervention, if required; and

(3) Emergency response and crisis intervention;

(f) Social services, which shall be provided by the administrator, licensed nurse, or a social worker and include:

(1) The compilation of a social history and conducting participant psychosocial assessments;

(2) The provision of emotional support to participants and families or caregivers as needed;

(3) Assistance with the participant's adaptation to the ADP and involvement in the plan of care;

(4) Advocacy for the participant by assisting the participant to assert his or her human and civil rights; and

(5) The provision of discharge planning and assisting in participant transition to other programs or facilities; and

(g) Dietary services that include:

(1) A minimum of one meal equaling 1/3 of an adult's recommended dietary allowances as set forth by the US Department of Agriculture's "2015-2020 Dietary Guidelines for Americans," available as noted in Appendix A;

(2) Diets that are in accordance with the orders of participants' licensed practitioners;

(3) Snacks and fluids that are offered and available to the participants throughout the day so that no more than 3 hours elapses between meals and offered snacks according to a participant's number of hours in attendance;

(4) Substitutions if a participant refuses the items offered; and

(5) Food and drink that is provided to the participants that is:

a. Safe for human consumption and free of spoilage or other contamination;

b. Stored, prepared, and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300; and

c. Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling, and all other sources of contamination.

Source. #9106, eff 3-18-08; ss by #9565, eff 10-16-09; ss by #12198, eff 6-2-17

He-P 818.16 Care Requirements.

(a) At the time of admission, personnel of the ADP shall:

(1) Provide, both verbally and in writing, to the participant, guardian, agent, and personal representative, as applicable:

a. The ADP's policies on participant rights and responsibilities;

b. The scope and type of services to be provided by the ADP;

c. The ADP's complaint procedure and rules; and

d. Obtain written confirmation acknowledging receipt of these policies and rules;

(2) Collect and record in the participant record the following information:

a. Participant's name, home address, home telephone number, and date of birth;

b. Name, address, and telephone number of an emergency contact;

c. Participant's primary licensed practitioner's name, address, and phone number;

d. Copies of any executed legal directives such as guardianship orders for health care issues under RSA 464-A, durable power of attorney, or a living will; and

e. The name of the participant's guardian, agent, or personal representative, if any;

(3) Require the participant to have a physical examination by a licensed practitioner that has been completed no more than one year prior to admission or within 72 hours after admission and includes:

a. Diagnoses, if any;

b. The medical history;

c. Medical findings, including the presence of communicable disease;

d. Vital signs;

e. Prescribed and over-the-counter medications;

f. Allergies, if any;

g. Dietary needs, if any; and

h. Functional abilities and limitations;

(4) Have the RN, or LPN who is directly or indirectly supervised by an RN, complete a nursing assessment within 7 days of attendance to determine the level of services required by the participant;

(5) Have the administrator, licensed nurse, or activities coordinator complete a recreational assessment;

(6) Have the administrator, licensed nurse, or social worker complete a social history;

(7) Complete an emergency data sheet that, at a minimum, lists the following information:

a. The participant's full name, address, telephone number, and date of birth;

b. The name, address, and telephone number of the participant's family or the person legally responsible for the participant;

c. The participant’s diagnosis;

d. Medications administered to or by the participant at the ADP, including the last dose taken and when;

e. Any known allergies;

f. The participant's functional level and needs requirements as assessed by the ADP staff;

g. Copies of any advanced directives, guardianship, or durable powers of attorney, if applicable;

h. The participant’s health insurance information; and

i. Any other pertinent information not specified in a.-h. above; and

(8) Obtain orders from a licensed practitioner for medications, prescriptions, and diets.

(b) A written daily medication record shall be utilized for all medication taken by participants at the ADP.

(c) A care plan shall be completed within the first 30 days of attendance based upon the results of all of the participant’s assessments listed above and shall include:

(1) The date any specific problem or need was identified;

(2) A description of services to let caregivers and personnel know what problem(s) or need(s) was identified as a result of the assessments;

(3) The goals for the participant;

(4) The action or approach to be taken by the ADP to meet needs identified by the assessment(s);

(5) The party responsible for implementing the action or approach to be taken;

(6) The date the next re-evaluation is to occur; and

(7) Written documentation to verify that the participant, family, or caregiver was offered the opportunity to be involved in the development of the care plan and any revisions made thereafter.

(d) The licensed nurse and other personnel as deemed necessary by the licensed nurse shall review the care plan at least every 6 months and revise it whenever necessary.

(e) The care plan referenced in (c) above shall be:

(1) Reviewed and updated within 5 business days following the completion of each future assessment; and

(2) Made available to personnel who assist participants in the implementation of the plan.

(f) If the nursing assessment, developed in accordance with (a)(4) above, or the care plan, developed in accordance with (c) above, is completed by an LPN, the assessment and care plan shall be reviewed and co-signed by an RN or physician that is supervising the LPN prior to the implementation of the participant's care plan.

(g) The direct care personnel of the ADP shall implement the care plan.

(h) The participant record shall contain written notes as follows:

(1) Notes on all medical, nursing, rehabilitative, or therapeutic care and services provided at the ADP shall include the:

a. Date and time that the care or services were provided;

b. Description of the care or services provided;

c. Participant's response to the care or services provided; and

d. Signature and title of the person providing the care or service;

(2) Progress notes shall include at a minimum:

a. Care plan outcomes;

b. Changes in the participant's physical, functional, and mental abilities;

c. Changes in behavior;

d. Summary of protective care that has been provided; and

e. Summary of assistance provided with ADLs; and

(3) Progress notes in (2) above shall be written at least every 30 days for the first 90 days and then quarterly thereafter.

(i) The use of chemical or physical restraints shall be prohibited except as allowed by RSA 151:21, IX.

(j) Immediately after the use of a physical or chemical restraint, the participant's guardian or agent, if any, and the department shall be notified of the use of such restraints.

(k) The ADP shall:

(1) Have policies and procedures on the use of restraints in an emergency:

a. What type of restraints may be used;

b. When restraints may be used; and

c. What personnel may authorize the use of restraints, which shall be limited to the administrator, medical director, director of nursing, and other licensed personnel; and

(2) Provide personnel with education and training on the limitations and the correct use of restraints.

(l) The use of mechanical restraints shall be allowed.

(m) The participant shall be discharged, as defined under RSA 151:19, I-a, in accordance with RSA 151:26 and RSA 151:21, V.

(n) The licensee shall develop a discharge plan for each participant with the input of the participant and the guardian or agent, if any.

(o) Transfers to a medical facility for emergency medical treatment may occur without prior notification to the guardian, agent pursuant to an activated POA, or the licensed practitioner, when the participant is in need of immediate emergency care.

(p) For each participant accepted for care and services at the ADP, a current and accurate record shall be maintained and include, at a minimum:

(1) The written confirmation required by He-P 818.16(a)(1);

(2) The identification data required by He-P 818.16(a)(2);

(3) Consent and medical release forms, as applicable;

(4) The record of a physical examination as required by He-P 818.16(a)(3);

(5) All orders from a licensed practitioner, including the date and signature of the licensed practitioner;

(6) All assessments;

(7) All care plans, including documentation that the participant or person legally responsible participated in the development of the care plan if they chose to;

(8) All written notes required by He-P 818.16(h);

(9) All daily medication records;

(10) A discharge plan as required by He-P 818.16(n);

(11) The emergency data sheet required by He-P 818.16(a)(7);

(12) Documentation of reportable incidents involving the participant, including the information required by He-P 818.14(s); and

(13) Documentation of the refusal of a participant to follow the prescribed orders of the licensed practitioner including the date and time the licensed practitioner was notified of the refusal.

(q) Participant records shall be safeguarded against loss, damage, or unauthorized use by being stored in locked containers, cabinets, rooms, or closets except when being used by the ADP's personnel.

(r) Participant records shall be retained for a minimum of 4 years after discharge.

(s) Prior to the ADP cessation of operations, it shall arrange for the storage of and access to participant records for 4 years after the date of closure, which shall be made available to the department and past participants, their designees, or both upon request.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.17 ADP Located in Senior Centers, Nursing Homes, Assisted Living Residence – Residential Care (ALR-RC), or Supported Residential Health Care Facilities (SRHCF).

(a) In addition to complying with all other rules in He-P 818, an ADP that is physically located in a senior center, nursing home, ALR-RC, or SRHCF shall meet the following physical environment requirements:

(1) At least one room in the senior center, nursing home, ALR-RC, or SRHCF physical environment shall be designated as the licensed ADP; and

(2) The room(s) in the senior center, nursing home, ALR-RC, or SRHCF that has been designated as the licensed ADP shall:

a. Be of a size no less than 200 square feet;

b. Be used exclusively by the participants and staff of the ADP;

c. Have a designated medication storage area;

d. Have a designated storage area for medical supplies and equipment; and

e. Have a bathroom that:

1. Is handicapped accessible;

2. Contains a toilet, hand-washing sink, paper towels or hand drying blower, soap dispenser, and a shower; and

3. Is located on the same floor as the ADP.

(b) In addition to the requirements in (a) above, all ADPs located in a senior center, nursing home, ALR-SRHC, or SRHCF shall provide a recliner or a regular or twin sized bed that is designated specifically for rest or sleep and available in an area that is used exclusively for ADP participants to accommodate each participant who requires rest or sleep during the time they are present throughout the day.

(c) All beds shall be changed with clean linens between uses when used by different participants or, if using recliners, sanitized and disinfected as needed if soiled.

(d) Required services provided by an ADP that is physically located in a senior center, nursing home, ALR-SRHC, or SRHCF shall be provided by ADP personnel in the room(s) designated as the licensed ADP.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.18 Medication Services.

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

(b) Medications, treatments, and diets ordered by the licensed practitioner or other professional with prescriptive powers shall be available to give to the participant within 24 hours or in accordance with the licensed practitioner's direction.

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

(1) Obtain any medication ordered for immediate use at the ADP;

(2) Reorder medications for use at the ADP;

(3) Receive and record new medication orders; and

(4) Report any observed adverse reactions to medication, or medication errors such as incorrect medications, within 24 hours of the adverse reaction or medication error to the paticipant's licensed provider and guardian, if applicable.

(d) For each prescription medication being taken by a participant, the licensee shall maintain one of the following:

(1) The original written order in the participant's record, signed by a licensed practitioner or other professional with prescriptive powers; or

(2) A copy of the original written order in the participant's record, signed by a licensed practitioner or other professional with prescriptive powers.

(e) Each medication order shall display the following information:

(1) The participant's name;

(2) The medication name, strength, the prescribed dose, and route of administration;

(3) The frequency of administration;

(4) The indications for usage of all PRN medications; and

(5) The dated signature of the ordering practitioner.

(f) The label of all medication containers maintained in the ADP shall match the current written orders of the licensed practitioner.

(g) Pharmaceutical samples shall be:

(1) Used in accordance with the licensed practitioner's written order;

(2) Labeled with the participant's name by the licensed practitioner, the licensee, or their designee; and

(3) Exempt from (e)(2)-(5) above.

(h) Only a pharmacist shall make changes to the labels on prescription medication container labels.

(i) Any change or discontinuation of medications taken at the ADP shall be pursuant to a written order from a licensed practitioner or other professional with prescriptive powers.

(j) When the licensed practitioner or other professional with prescriptive powers changes the dose of a medication and the personnel of the ADP 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 ADP'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)-(2) above shall be allowed:

a. For a maximum of 90 days from the date of the new medication order;

b. Until the medications in the marked container are exhausted; or

c. In the case of PRN medication, until the expiration date on the container, whichever occurs first.

(k) If the ADP has a medical director, either on staff or otherwise contracted, prescription medication that is not ordered, approved, or labeled for a specific participant, including but not limited to pharmaceutical samples, may be kept at the ADP.

(l) The medication in (k) above shall be the responsibility of the medical director.

(m) Only a licensed nurse or other licensed health care professional shall take telephone orders for medications, treatments, and diets, if such action is within the scope of their practice act.

(n) Telephone orders specified in (m) above shall be:

(1) Immediately transcribed and signed by the individual receiving the order; and

(2) Counter-signed by the authorized prescriber within 30 days.

(o) OTC medications shall be handled in the following manner:

(1) The licensee shall obtain written approval from the participant's licensed practitioner annually; and

(2) OTC medication containers shall be marked, with the name of the participant using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner.

(p) The medication storage area for medications shall be:

(1) Locked and accessible only to authorized personnel;

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

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

(q) All medication taken by participants at the ADP shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use.

(r) A licensed nurse may organize participant medications for use in the participant's home as allowed by RSA 318:42, XIV.

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

(t) If controlled drugs, as defined by RSA 318-B:1, VI, are stored in a central storage area in the ADP, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

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

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

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

(x) Destruction of controlled drugs under (w) above shall:

(1) Be accomplished in the presence of at least 2 people; and

(2) Be documented in the participant's medication record for whom the drug was prescribed.

(y) Upon discharge, a participant, or the participant's guardian or agent, may take the participant's current medication(s) with them.

(z) Neither the licensee nor any other personnel working for the ADP shall accept money, goods, or services for free or below cost as compensation or inducement for supplying the participant's medications.

(aa) A written order from a licensed practitioner shall be required annually for any participant who is authorized to carry and self-administer without assistance emergency medications such as nitroglycerine or inhalers.

(ab) Participants shall receive their medications in one of the following manners:

(1) Self administration of medication without assistance;

(2) Self-directed medication administration;

(3) Self administration of medication with assistance; or

(4) Administered by individuals authorized by law.

(ac) For participants who self administer medication without assistance, as defined in He-P 818.03(ba), the licensee shall:

(1) Obtain a written order from a licensed practitioner on an annual basis:

a. Authorizing the participant to self administer medications without assistance;

b. Authorizing the participant to store the medications in their possession; and

c. Identifying the medications that may be kept by the participant;

(2) Evaluate the participant every 6 months or sooner, based on a significant change in the participant, to ensure they maintain the physical and mental ability to self-administer medication without assistance;

(3) Have the participant store the medication(s) in a manner that prohibits other people from accessing the medications and in a manner that will maintain the medications at proper temperatures; and

(4) Allow the participant to fill and utilize a medication system that does not require medication to remain in the container as dispensed by the pharmacist.

(ad) The licensee shall allow the participant to self-direct medication administration, as defined in He-P 818.03(bb), if the participant:

(1) Has a physical limitation due to a diagnosis that prevents the participant from self administration of medication, with or without assistance;

(2) Receives evaluations every 6 months or sooner based on a significant change in the participant, to ensure the participant maintains the physical and mental ability to self-direct medication administration;

(3) Obtains an annual written verification of their physical limitation and self-directing capabilities from the participant's licensed practitioner and requests the ADP to file the verification in their participant record; and

(4) Verbally directs personnel to:

a. Assist the participant with preparing the correct dose of medication by pouring, applying, crushing, mixing, or cutting; and

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

(ae) Personnel assisting with self-directed medication administration, other than those permitted by their licensing board to administer medications, shall not be permitted to assist with injections or filling insulin syringes.

(af) If a participant self-administers medication with assistance, as defined by He-P 818.03(az), personnel shall be permitted to:

(1) Remind the participant to take the correct dose of his or her medication at the correct time;

(2) Open the medication container and place the medication container within reach of the participant;

(3) Remain with the participant to observe them taking the prescribed dose and type of medication as ordered by the licensed practitioner;

(4) Record on the participant's medication record that they have supervised the participant taking their medication; and

(5) Document in the participant record any observed or reported side effects or adverse reactions, any refusal to take medications, and any medications not taken.

(ag) If a participant self-administers medication with assistance, personnel shall not be permitted to physically handle the medication in any manner.

(ah) Medication administered by individuals authorized by law to administer medication shall be:

(1) Prepared immediately prior to administration; and

(2) Prepared, identified, and administered by the same person in compliance with RSA 318 and RSA 326-B.

(ai) Personnel shall remain with the participant until the participant has taken all of the medication.

(aj) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall:

(1) Only delegate medications that are administered by mouth;

(2) Document in the individual's personnel file the evaluation method and tools used to determine that the individual receiving the delegation of medication administration has the necessary skills to administer medication;

(3) Document in the individual's personnel file that the individual continues to be delegated the task of administering medication, based on the nurse's ongoing evaluation;

(4) Document in the individual's personnel file any notice that the delegation of medication administration has been rescinded, if applicable; and

(5) Document in the participant record the:

a. Specific medication to be administered;

b. Dosage, route, and specific time that the medication is to be administered;

c. The names of personnel to whom the nurse has delegated responsibility for the administration of medications; and

d. The results of the nurse's assessment, completed no more than 30 days prior to the delegation occurring, that determined that the participant's condition is stable and that the participant is appropriate for receipt of medication administration via nurse delegation.

(ak) A licensed nursing assistant (LNA) may administer the following when under the direction of the licensed nurse employed by the ADP:

(1) Medicinal shampoos and baths;

(2) Glycerin suppositories and enemas; and

(3) Medicated topical products to intact skin as ordered by the licensed practitioner.

(al) Except for those participants who self-administer medication without assistance, the licensee shall maintain a written record for each medication taken by the participant at the ADP 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 time the medication was taken;

(4) The signature, identifiable initials, and job title of the person who administers or assists the participant taking medication;

(5) For PRN medications, the reason the participant required the medication and the effect of the PRN medications; and

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

(am) Personnel who are not otherwise licensed practitioners, nurses, or medication nursing assistants and who assist a participant with self administration of medication with assistance, self-directed medication 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.

(an) The medication supervision education program shall be taught by a licensed nurse, licensed practitioner, or pharmacist, or other person who has undergone training by a licensed nurse, licensed practitioner, or pharmacist.

(ao) The medication supervision education program required by (am) above shall include:

(1) Infection control and proper hand washing techniques;

(2) The “5 rights” of medication administration which are:

a. The right participant;

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 anti-hypertensives or antibiotics;

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

(6) Medication precautions and interactions.

(ap) The administrator may accept documentation of training required by (am) above if it was previously obtained by the applicant for employment at another facility licensed under RSA 151.

(aq) Non-prescription stock medication may be kept at the ADP, but it shall be accessed and administered only by the licensed nurse or medication nurse assistant on duty.

(ar) An ADP shall use emergency drug kits only in accordance with NH pharmacy board rules, Ph 705.03, under circumstances where the ADP:

(1) Has a director of nursing who is a registered nurse licensed in accordance with RSA 326-B;

(2) Has a contractual agreement with a medical director who is licensed in accordance with RSA 329 and a consultant pharmacist who is licensed in accordance with RSA 318; and

(3) Has the contents approved in writing by the licensed medical director.

(as) The licensee shall conduct 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.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.19 Personnel.

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

(1) Duties of the position;

(2) Physical requirements of the position; and

(3) Education and experience requirements of the position.

(b) All applicants for a license shall obtain a criminal record check from the New Hampshire department of safety in accordance with RSA 151:2-d.

(c) For all applicants for employment, except, pursuant to RSA 151:2-d, VI, those licensed by the New Hampshire board of nursing, for all volunteers and independent contractors who will have direct contact with participants, and for all household members, the licensee shall:

(1) Obtain and review a criminal records check from the New Hampshire department of safety;

(2) Review the results of the criminal records check in accordance with (d) below; and

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

(d) Unless a waiver is granted in accordance with (e) below, the licensee shall not offer employment for any position or allow a household member to continue to reside in the ADP if the individual:

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

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

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

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

(f) If the information identified in (d) above is learned after the person is hired or after an individual becomes a household member, the licensee shall immediately notify the department.

(g) The department shall review the information in (d) above and notify the licensee that the individual can no longer be employed or, if a household member, can no longer reside at the premises if, after

investigation, it determines that the individual poses a threat to the health, safety, or well-being of a participant.

(h) The licensee shall check the names of the following people against the bureau of elderly and adult services (BEAS) state registry, maintained pursuant to RSA 161-F:49 and He-W 720, and against the NH board of nursing, nursing assistant registry, maintained pursuant RSA 326-B:26 and 42 CFR 483.156:

(1) All household members;

(2) All volunteers and independent contractors prior to having any direct contact with participants; and

(3) All prospective employees, prior to hiring.

(i) The licensee shall not permit any volunteer or independent contractor to have direct contact with participants or make a final offer of employment to any prospective employee 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) All personnel including volunteers and independent contractors shall:

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

(2) Not have been convicted of a felony, sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation of any person in this or any other state by a court of law or had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department;

(3) Be licensed, registered, or certified as required by state statute;

(4) Be at least 18 years of age if working as direct care personnel unless they are:

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

b. Involved in an established educational program working under the supervision of a nurse; and

(5) Receive an orientation within the first 3 days of work including:

a. The ADP's policies on participant rights and responsibilities and complaint procedures as required by RSA 151:20;

b. The duties and responsibilities of the position they were hired for;

c. The ADP's policies, procedures, and guidelines;

d. The ADP's infection control program;

e. The ADP's fire and emergency plans; and

f. Mandatory reporting requirements such as those found in RSA 161-F:42-57 and RSA 169-C:29.

(k) All personnel shall complete annual continuing education, including a review of the ADP's:

(1) Policies and procedures relative to participant rights and complaint procedures as required by RSA 151:20;

(2) Infection control program;

(3) Education program on fire and emergency procedures; and

(4) Mandatory reporting requirements such as those found in RSA 161-F:42-57 and RSA 169-C:29.

(l) There shall be at least one personnel member on duty who has current certification in adult cardio pulmonary resuscitation (CPR) equivalent to basic life support from either the American Red Cross or the American Heart Association whenever the ADP is in operation.

(m) Prior to having contact with participants or food, personnel, including volunteers and independent contractors, shall:

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

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

(3) Comply with the requirements of the Centers for Disease Control 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.

(n) In lieu of (m)(1) above, independent contractors hired by the ADP may provide the ADP with a signed statement that they have complied with (m)(1) and (3) above for their employees working at the ADP.

(o) All licensees using the services of independent clinical contractors, such as a podiatrist, shall:

(1) Have a written agreement with each clinical contractor that describes the services that will be provided; and

(2) Maintain a copy of the clinical contractors' licenses as required by (j)(3) above if applicable.

(p) All personnel shall follow the orders of the licensed practitioner for each participant and encourage participants to follow the practitioner's orders.

(q) Current, separate, and complete personnel files shall be maintained and stored in a secure and confidential manner at the licensed ADP premises for all personnel of the ADP.

(r) The personnel file required by (q) above shall include the following:

(1) A completed application for employment or a resume, including:

a. Identification data, including date of birth; and

b. The education and work experience of the employee;

(2) A signed statement acknowledging the receipt of the ADP's policy setting forth the participant rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;

(3) A job description signed by the individual that identifies the:

a. Position title;

b. Qualifications and experience; and

c. Duties required by the position;

(4) Record of satisfactory completion of the orientation program required by (j)(5) above;

(5) A copy of each current New Hampshire license, registration, or certification in health care field, if applicable;

(6) 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;

(7) Copies of current CPR certifications;

(8) Information as to the general content and length of all continuing education or educational programs attended;

(9) Documentation of annual continuing education as required by (k) above;

(10) A statement that shall be signed at the time the initial offer of employment is made and then annually thereafter by all personnel stating that they:

a. Do not have a felony conviction in this or any other state;

b. Have not been convicted of a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect or exploitation;

c. Have not 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; and

d. Do not otherwise pose a threat to the health, safety or well-being of participants; and

(11) Documentation of the criminal records check.

(s) An individual need not re-disclose any of the matters in (r)(10) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment.

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

Source. #9106, eff 3-18-08; ss by #9565, eff 10-16-09; ss by #12198, eff 6-2-17

He-P 818.20 Quality Improvement.

(a) The ADP 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 licensee shall determine the size and composition of the quality improvement committee based on the size of the ADP and the care and services offered.

(d) The quality improvement committee shall:

(1) Determine the information to be monitored, which at a minimum shall include;

a. Reportable incidents;

b. Complaints, to include resident, family, guardian, and staff concerns;

c. Falls;

d. Participant and staff conflicts; and

e. Medication delivery;

(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 ADP; and

(7) Evaluate the effectiveness of the corrective actions and determine additional corrective actions as applicable.

(e) If the ADP utilizes nurse delegation for the task of medication administration to an individual not licensed to administer medications, a quarterly written report containing the following information shall be completed and submitted to the quality improvement committee for review, including:

(1) The participant average daily census;

(2) The number of unlicensed personnel administering medications via nurse delegation;

(3) Categories of medications administered;

(4) Route of administration; and

(5) Any incidents or medication errors and actions taken.

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

(g) The quality improvement committee shall generate dated, written minutes after each meeting.

(h) Documentation of all quality improvement activities, including minutes of meetings, shall be maintained on-site for at least 2 years.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.21 Infection Control.

(a) The licensee 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 participants with infectious or contagious diseases or illnesses who can safely participate in the program;

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

(5) Reporting of infectious and communicable diseases as required by He-P 301.

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

(1) Cause of infection;

(2) Effect of infections;

(3) Transmission of infections; and

(4) Prevention and containment of infections.

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

(e) Personnel infected with scabies or lice shall not provide direct care to participants 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 Mantoux tuberculosis skin test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the workplace until a diagnosis of tuberculosis is excluded or until the individual 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) In accordance with RSA 151:9-b, the licensee shall:

(1) Arrange for or provide all consenting participants an immunization for influenza and pneumococcal disease;

(2) Arrange for or provide all consenting personnel an immunization for influenza; and

(3) Report immunization data to the department's division of public health services, bureau of infectious disease control as required by RSA 151:9-b, III.

(i) If the ADP has an incident of an infectious diseases reported in (b)(5) above, the facility shall contact the public health nurse in the county in which the facility is located and follow the instructions and guidance of the nurse.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.22 Sanitation.

(a) The licensee shall maintain a clean, safe, and sanitary environment throughout the licensed ADP premises.

(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 participants.

(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 participant 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 separate from food, medications, and program 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, for rodent or cockroach control 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.

(l) Trash receptacles in food service area shall be covered at all time.

(m) If the ADP provides laundry services, the following requirements shall be met:

(1) The laundry room shall be kept separate from kitchen and dining areas;

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

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

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

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

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

(p) Any ADP 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 NH department of environmental services, shall notify the department upon receipt of notice of a failed water test.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.23 Physical Environment.

(a) The licensed premises shall be maintained so as to provide for the health, safety, well-being, and comfort of participants and personnel, including reasonable accommodations for participants and personnel with mobility limitations.

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

(1) Maintain a temperature of at least 70 degrees Fahrenheit during the day if participant(s) are present; and

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

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

(d) Portable space heating devices shall be prohibited, unless the following are met:

(1) Such devices are used only in employee areas where personnel are present and awake at all times; and

(2) The heating elements of such devices do not exceed 212 degrees Fahrenheit.

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

(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 by means of a mechanical ventilation system or one or more screened windows that can be opened.

(h) Screens shall be provided for doors, windows, or other openings to the outside.

(i) Doors that are self-closing and remain closed when not in use are exempt from the requirement in (h) above.

(j) Lighting shall be available to allow participants to partake in activities such as reading, needlework, or handicrafts.

(k) The ADP shall have dining facilities to accommodate each participant.

(l) The ADP shall have a telephone to which the participants have access.

(m) All ADPs shall have at least one toilet and one hand sink and as many additional toilets and sinks as are necessary to meet the needs of the participants in the program.

(n) Each bathroom shall be equipped with:

(1) Soap dispensers;

(2) Paper towels or a hand-drying device providing heated air;

(3) Hot and cold running water; and

(4) Grab bars next to toilets.

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

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

(q) All ADPs newly licensed after 3/18/2008 shall have at least one shower or bathing facility and as many additional showers or bathing facilities as are necessary to meet the needs of the participants in the program.

(r) There shall be sufficient space and equipment for the services provided at the ADP, as follows:

(1) Furniture to allow for each participant to sit comfortably as necessary throughout the day;

(2) Tables and chairs to assure that each participant has a seat at a table for each meal or snack and for doing activities such as crafts or puzzles; and

(3) Supplies such as plates, cups, glasses, silverware, liquid soap for hand washing, toilet tissue, and paper towels in a supply to accommodate the number of participants authorized by the license.

(s) In addition to the requirements in (r) above, all ADPs shall provide a recliner, cot, or bed available in an area designated specifically for rest or sleep to accommodate each participant who requires rest or sleep during the time they are present throughout the day.

(t) All cots or beds shall be changed with clean linens between uses when used by different participants or, if using recliners, sanitized and disinfected as needed if soiled.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.24 Fire Safety.

(a) All ADPs shall meet the requirements of the day care chapter of 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.

(b) All ADPs shall have:

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

(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, and which meets the following requirements:

a. Maximum travel distance to each extinguisher shall not exceed 50 feet;

b. 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;

c. Records for manual inspection or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed for the most recent 12-month period;

d. Annual maintenance shall be performed on each extinguisher by trained personnel, and each extinguisher shall have a tag or label securely attached that indicates that maintenance was performed; and

e. The components of the electronic monitoring device or system shall be tested and maintained annually in accordance with the manufacturer's listed maintenance manual; and

(3) A carbon monoxide monitor on every level.

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

(d) Immediately following any fire or emergency situation, licensees shall notify the department by phone and follow-up with written notification within 72 hours, with the exception of:

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

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

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

(1) The date and time of the incident;

(2) A description of the location and extent of the incident, including any injuries to participants or personnel or damage sustained by the ADP;

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

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

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

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

(f) All freestanding tanks of compressed gases shall be firmly secured to the adjacent wall or secured in a stand or rack.

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

(h) Pursuant to RSA 155:68 and 69, if the licensee has chosen to allow smoking, a designated smoking area shall be provided which, at a minimum:

(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.

(i) Evacuation drills shall include the transmission of a fire alarm signal and simulation of emergency fire condition.

(j) Evacuation drills shall be conducted monthly and vary in time to include all personnel.

(k) All personnel shall participate in at least one drill quarterly.

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

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

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

(1) Participated in at least 2 actual fire drills in the facility in the past year; and

(2) Participated in the facility's orientation program pursuant to He-P 818.19(j)(4).

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

(1) The names of the personnel and participants involved in the evacuation;

(2) The time, date, month, and year the drill was conducted;

(3) The exits utilized if the ADP does not comply with the health care chapter of the state fire code;

(4) The total time necessary to evacuate the ADP, if required;

(5) The time needed to complete the drill; and

(6) Any problems encountered and corrective actions taken to rectify problems.

Source. #9106, eff 3-18-08, EXPIRED: 3-18-16

New. #12006, INTERIM, eff 10-15-16, EXPIRED: 4-13-17

New. #12198, eff 6-2-17

He-P 818.25 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 an emergency management program.

(b) The emergency management 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.

(c) An emergency management program shall include, at a minimum, the following elements:

(1) The emergency management plan, as described in (d) and (e) below;

(2) The roles and responsibilities of the committee members;

(3) How the plan is implemented, exercised, and maintained; and

(4) Accommodation for emergency food and water supplies.

(d) The emergency management committee shall develop and institute a written emergency preparedness plan (plan) to respond to a disaster or an emergency.

(e) The plan in (d) above shall:

(1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, severe weather, and human-caused emergencies to include, but not be limited to, missing participants and bomb threats;

(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) 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;

f. Medical gas and vacuum systems, if applicable; and

g. Communications systems;

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

(8) Include the management of particpants, particularly with respect to physical and clinical issues to include relocation of participants with their participant record including the medication administration records, if time permits, as detailed in the emergency plan;

(9) Include an educational program for the staff, which provides an overview of the components of the emergency management program, 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 Radiological Emergency Response Plan (RERP), include the required elements of the RERP.

(f) The facility shall contact the local emergency management director annually to determine if any revisions are needed based upon current trends in emergency management, local policy changes, and hazard changes.

(g) Annually, the facility shall participate in a community-based disaster drill which may be a table top discussion drill with outside agencies.

(h) The facility shall review and update its emergency plan, as needed, as a result of drills and exercises, real event(s), and annual plan review.

(i) Notwithstanding (a)-(f) above, when an ADP is a part of a larger institution which has a comprehensive emergency preparedness plan, the ADP may use the institution's plan, and if so, it shall:

(1) Identify the portions of the plan that pertain to the ADP in a separate document for use by ADP personnel;

(2) Provide annual training to prepare personnel in its application as required by (g) above; and

(3) Review and update the plan as required by (h) above.

Source. #12198, eff 6-2-17

Appendix A: Incorporation by Reference Information

Rule	Title	Obtain at:
He-P 818.07(h)	Facility Guidelines Institute (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities," Adult Day Care 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. This publication is available in multiple formats and at different price points. The standard price of this publication is $200.00. There is a no-cost, read-only version available here: http://www.fgiguidelines.org.
He-P 818.14(n)	United States Centers for Disease Control and Prevention "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" (June 2007 edition)	Available free of charge from the CDC website at www.cdc.gov.
He-P 818.15(g)(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/

Appendix B

Rule	Specific State or Federal Statutes the Rule Implements
He-P 818.01	RSA 151:9, I(a)
He-P 818.02	RSA 151:9, I(b) and (f)
He-P 818.03	RSA 151:9, I
He-P 818.04 – 818.06	RSA 151:9, I(c) and (d)
He-P 818.04(a)(1)b.	RSA 151:4, III(a)(5)
He-P 818.04(a)(1)c.	RSA 151:4, III(a)(6) & (7)
He-P 818.07	RSA 151:9, I(a), RSA 151:9, III; RSA 153; RSA 155-a:I, IV
He-P 818.08	RSA 151:9, I(a)
He-P 818.09	RSA 151:9, I(e)
He-P 818.10	RSA 151:9, I(b)
He-P 818.11	RSA 151:9, I(e); RSA 151:6
He-P 818.12	RSA 151:6; RSA 151:6-a; RSA 151:7; RSA 151:7-a; RSA 151:8; RSA 151:8-a; RSA 159:9, I(a), (e)–(i), (l) and (m); RSA 151:16(a)
He-P 818.13	RSA 151:7; RSA 151:8; RSA 151:9, I(f) and (h)
He-P 818.14 – 818.15	RSA 151:9, I(a)
He-P 818.16	RSA 151:9, I(a); RSA 151:21; RSA 151:26
He-P 818.17	RSA 151:9, I(a)
He-P 818.18	RSA 151:9, I(a); RSA 318; RSA 318-B; RSA 326-B
He-P 818.19	RSA 151:9, I(a)
He-P 818.20	RSA 151:9, I(a)
He-P 818.21	RSA 151:9, I(a); RSA 141-C; RSA 151:9-b
He-P 818.22	RSA 151:9, I(a)
He-P 818.23	RSA 151:9, I(a); RSA 155-A
He-P 818.24 – 818.25	RSA 151:9, I(a); RSA 155:68; RSA 155:69; RSA 153:4 and 5