

# CHILD CARE LICENSING

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## PUBLIC HEALTH ISSUE

The purpose of a child care facility inspection by health officers is to ensure basic sanitary conditions and support a license to care for children. Examples of health issues may include housing sanitary conditions, indoor air quality, environmental hazards, communicable disease, or other infectious hazards. To ensure that children attending a child day care agency or placed in a residential child care facilities are in a safe and healthy learning environment, State law requires child day care and residential child care facilities to pass a health inspection by a Health Officer prior to issuance of an initial license and every 3 years after that for license renewal. Additionally, facilities may require a health inspection if they request a revision that involves the physical space, such as renovations.

## ROLE OF THE HEALTH OFFICER

- May conduct inspections of facilities applying for, and renewing, child day care or residential child care agency (hereinafter “agency”) license and complete the required *Health Officer Inspection Report for Child Care Programs* for the type of program;
- May aid the agency in operating in a healthy, safe and efficient manner by providing education and consultation; and
- May conduct additional inspections to evaluate a specific, alleged health risk or violation of local health codes, or violation of environmental health rules for state agencies, often at the request of the Child Care Licensing Unit.
- Shall inquire into all nuisances and other sanitary dangers to the public health.

## ROLE OF OTHERS

- The DHHS’ Child Care Licensing Unit (CCLU) shall approve and issue licenses, and initiate appropriate disciplinary action when necessary for compliance and the protection of children;
  - Licensing Coordinators: There are up to nine (9) regional child care licensing coordinators covering the state. Licensing Coordinators may provide consultation and technical assistance to help understand licensing regulations and may accompany health officers during on-site to ensure compliance with applicable NH Statutes and Administrative Rules; and
  - The Child Care Agency shall submit the completed *Health Inspection Form* to the CCLU.
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There are over 1,000 licensed child care facilities in New Hampshire. Licenses are issued for a period of three years. No fees are charged by the state for licensing. Health officers will be asked to do an inspection each time a license is to be issued, hence each three (3) years. Health inspections may be conducted more frequently if the town has a local ordinance to that effect.

## **LAWS AND REGULATIONS:**

A local Health Officer has the authority to perform a child care inspections based on current state health laws and related rules.

- **RSA 170 Child Day Care Licensing**

Each facility must be inspected and approved by the local health officer, in accordance with [RSA 170-E:6](#) and [He-C 4002.02\(d\)\(2\)](#). RSA 170-E is the New Hampshire law requiring licensing for child care programs. The applicant shall also obtain approvals in accordance with state and local requirements pertaining to health, safety and zoning, so may need to be provided copies of local health codes. The rules to implement this law are called He-C 4002. Rules may be accessed at <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents2/he-c4002.pdf>

- **RSA 147 Nuisances and Waste**

A health officer has the authority under this statute to make local regulation, make investigations in response to complaints, and pursue the removal of nuisances.

## **THE LICENSING PROCESS FOR CHILD CARE FACILITIES**

1. The applicant contacts the Child Care Licensing Unit (CCLU).
2. The CCLU refers the applicant to the [NH Connections website](#) to apply electronically, or sends out an application packet with instructions. The application includes the *Health Inspection Form* to be completed by the local health officer.
3. The applicant contacts the health officer to schedule an inspection.
4. The health officer completes his/her inspection, and signs the *Health Officer Inspection Report Form*. IF the health officer does not approve the applicant, the process stops here; the state will not issue a license.
5. *After* the health officer has completed his/her inspection and has approved the applicant, the applicant submits the complete application and a state licensing coordinator conducts his/her new licensing or renewal inspection. This includes an evaluation of the rules specific to the environment and learning materials and equipment, both inside and outside.
6. Background checks are required for all applicants, yet the health officer is not authorized to ask for these records. If you know of a person on site who has a recent or prior criminal history, you can report your concerns to CCLU staff.

7. If all the forms are in place, the new child care agency receives a ‘permit’ to operate for six (6) months. During this six month period the CCLU conducts a monitoring visit. If the agency is found to be in compliance with licensing rules and laws, the agency receives a three (3) year “license’, effective the date of the permit.

## **RENEWALS**

Renewals are issued for a three (3) year period. Health officers are asked to do an inspection every three years for the licensing process. If a local ordinance requires that inspections be done more often, this requirement supersedes child care program licensing rules. Additionally, the CCLU may request an inspection from a health officer at any time if they identify a potential issue related to the environmental health of the licensed premises.

### **INSPECTION FORM:**

A current *Health Officer Inspection Report Form* should be used for all inspections. You should print a copy of the form and review it before arriving on site. A [current version of the form](#) can be found within the Health Officer Manual. It is recommended that the health officer keep a file on each facility inspected and keep copies of inspections. This file can then be passed on to subsequent health officers.

### **THE CHILD CARE HEALTH INSPECTION**

The *Health Officer Inspection Report Form* is used to indicate that a child care facility complies with the childcare licensing regulations. The report is always completed by the local health officer. The CCLU seeks the health officer’s insight on health-related matters. Any discussion with the applicant or program staff regarding health issues or other areas is appreciated. Please note any specific areas of concern on the form, even if it is not part of the questions in the comment section. The questions on the form have been formatted for easy yes/no/not applicable answers.

Maximum capacity is based on child care program licensing rules, life safety codes and health officer approval. The applicant indicates on the form the “desired maximum license capacity number.” If the health officer feels number is not realistic to maintain sanitary conditions, he/she may approve the facility for a fewer amount of children. For example, if the applicant puts down 20 children, but the health officer feels there is not adequate space, bathroom facilities, or the septic system would not handle that amount, the health officer could approve the agency for 10 children. In such a case, the State would not issue a license for any more children than the health officer has stated.

**Inspection Tools:** In order to complete the inspection, you will need to have the following tools:

- A printed copy of this *Health Officer Inspection Report Form*, and a pen.

- A food-grade thermometer that can test hot water from 85 to 130 degrees.
- A strong flashlight to inspect in dark places.
- A camera or smartphone to record any conditions, certificates or licenses.
- (optional) Request a copy of the last completed *Health Officer Inspection Report Form*, in order to see if conditions have changed or improved.
- (optional) Request a floorplan of the building with bathroom locations and current occupancy numbers.

**Inspection Date:** If possible, choose a day when you expect to see normal operating conditions with children present. If it's the first inspection, the building won't be operating yet.

## COMPLETING THE HEALTH INSPECTION FORM

Below is information to help you investigate and respond to questions listed on the *Health Officer Inspection Report Form*. A sample form is here:

<https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents/2021-11/holu-child-care-inspection-form.pdf>

### **Does the indoor environment contain or pose any health conditions that may be hazardous to children, other than those listed below?**

Inspect the facility for any hazards that may harm children. If you identify any hazards that are not otherwise listed on this form, check “no” to this question and explain the hazard in the comments section. Childcare programs shall maintain a healthy and safe learning environment that is free of conditions hazardous to children.

### **Are there adequate protections against insects (e.g. screens on windows)?**

Inspect the facility for open doors and windows. Note any areas that lack screens or have screens with significant damage, as they may allow the entrance of insects into the child care environment. Additionally, inspect the outdoor environment for areas which may attract insects such as standing pools of water (i.e. bird baths, tires, buckets, etc.). These may become breeding grounds for mosquitos. Ticks in the outdoor play area may also be a concern to be addressed with landscaping, effective repellants, or avoiding edge habitats along the forest or field.

### **Is the environment free of unclean conditions or disrepair?**

Inspect for unsanitary conditions. Inspect the facility for conditions or disrepair which demonstrate a lack of regular cleaning or maintenance. Examples include odors of garbage, flies or cockroaches, improperly stored trash and diapers, or visibly dirty/soiled surfaces (floors, bathrooms, etc.).

**Is the indoor environment free of damp conditions, visible mold/mildew and musty odor?**

Inspect for dampness and mold. Use your eyes and nose to identify damp conditions which result in visible mold or mildew or a musty odor. You can consult the Health Officer’s Manual Chapter on [Mold and Moisture](#) for more information on inspecting for damp conditions and mold.

**Was the building built prior to 1978? If yes, is there chipping/flaking/peeling paint?**

Inspect for any lead paint hazards. If the child care facility was built prior to 1978, there is a risk that lead paint is present in the paint used for the structure. As a result, interview the program manager on the age of the building or check with the local tax office. If the building was built prior to 1978, inspect the facility for evidence of deteriorating paint conditions such as loose and flaking paint which is accessible to children. Ensure to look around doorframes and windowsills in particular. Exterior surfaces should be investigated as well as flaking paint can fall into the soil, providing the possibility of exposure to children. If you identify evidence of these types of hazards, check “no” to this question and document the conditions by taking pictures. Consult the Health Officer Manual’s [Lead Poisoning chapter](#) for more information.

**Is there information or evidence indicating the building may contain asbestos hazards?**

Inspect for evidence that the building may contain asbestos hazards. Asbestos may look like a thick insulation around pipes or furnaces. If asbestos is present? Programs shall submit evidence that the building has been inspected by a licensed asbestos inspector and is free of asbestos hazards, or submit a plan of action to reduce or eliminate any existing contamination to be approved by the department

**Are all toxic materials stored separately from food items?**

Inspect for evidence of correct storage. All containers of toxic and flammable materials shall be clearly labeled with the name of the product (i.e. cleaners; household chemicals; paint, not intended for use by children; hand sanitizers; pesticides and lawn care products). Additionally, all toxic and flammable materials shall be stored separate from food items in a manner to prevent contamination of food items in case of leakage and in cabinets which are locked or secured with child proof latches or otherwise out of reach of children.

Verify during your inspection that toxic materials are used in accordance with the manufacturer’s instructions and for their intended purpose and only in a manner that will not contaminate play surfaces, food or food preparations areas and will not constitute a hazard to children.

**Any pets? (If yes, list type in comments).**

Inspect for evidence of pets and any unsanitary conditions. Note on the inspection form if the child care facility has any pets residing in the building (dogs, cats, hamsters, etc.). It is required that any dog or cat in the facility have current rabies documentation on file. Ask to see a certificate of rabies vaccination from a veterinary provider. A town pet license will not suffice.

Pets that have been determined by the department to pose a health or safety risk to children include bats, turtles, tortoises, snakes, other reptiles, hedgehogs, parakeets, and parrots –

primarily due to pathogens, such as salmonella in their feces. These shall not be permitted in childcare rooms. The only exceptions shall be for visiting animals.

During your inspection, verify that any pets, their living quarters, or litter boxes are not on food preparation or service surfaces or in areas where children play.

**Is the child care space well ventilated, heated and lighted (including bathrooms)?**

Inspect for fresh air, heat and lighting. In regards to ventilation and heating, for all enclosed areas used by children, verify spaces are:

1. Ventilated by means of an unobstructed mechanical ventilation system or an open, screened window, which does not pose a hazard to children;
2. Have a safe, functioning heating system;
3. Are heated to maintain a temperature of not less than 65° degrees Fahrenheit, whenever children are present; and
4. Include protection for children from exposed heat sources, which present a hazard, including but not limited to baseboard heaters, radiators, fireplaces and woodstoves.

In regards to lighting, during the hours of operation, programs shall light sufficiently all child care spaces to allow the following:

1. Supervision of the children in care;
2. Individuals to move about safely;
3. Children to complete projects and play safely; and
4. Be installed and operated in accordance with the manufacturer's specifications.

**Is the swimming pool or wading pool maintained in a clean and sanitary manner?**

Inspect for pool sanitary conditions. Verify that any swimming pools or wading pools on the premises or used as part of the child care operations shall be clean, maintained and supervised in accordance with the manufacturer or installer's printed instructions regarding cleaning, filtration and chemical treatment. Additionally, review pool policies to ensure that child care personnel do not allow children inside a swimming or wading pool area without adult supervision. There shall be at least one staff person who is currently certified in CPR present with the children at all times during any water activity.

Check for the following pool safety requirements

1. In-ground pools shall be enclosed by a fence with a gate, which has a child proof, self-latching device and a lock;
2. Above ground pools shall be enclosed by a fence with a gate which has a child proof, self-latching device and a lock, or equipped with a lockable gate, lockable swing up stairway or other lockable barrier to prevent access to the stairs or ladders, or otherwise make the pool inaccessible to children;

3. A pool that is directly accessible from inside the building shall have a secure, lockable barrier to make the pool inaccessible to children;
4. Pool gates, fences or other barriers shall be locked during all operating hours, except when the children are involved in a supervised water activity in the pool;
5. The keys, combinations or other means to open the locks shall not be accessible to children; and
6. Each swimming pool shall be provided with a ring buoy and attached rope of sufficient length to reach the center of the pool from the edge of the pool.

If there is a wading pool onsite, ensure the following. Wading pools shall:

1. Be emptied and cleaned after each use; and
2. Be stored so that water does not collect in them.

**Are trash containers where food or waste is disposed of covered and emptied regularly?**

Inspect all trash containers. Look covers on all containers in which food waste, or soiled disposable cups, dishes or plastic ware are disposed. Programs shall empty trash containers and remove the contents when the containers are filled, or sooner, if contents create an odor or a health risk.

**Is there running water under pressure available, and is the hot water between 60 - 120 degrees Fahrenheit?**

Inspect for safe and hot water. Verify that the facility has a safe supply of water under pressure available for drinking and use at all sinks used by children during operating hours. Avoid use of hoses to supply water to sinks and drinking fountains. This includes bathrooms, kitchen sinks, and other sinks children may use. Hot water at taps, which are accessible to children, shall have an automatic control to maintain a temperature at the tap of not higher than 120 degrees Fahrenheit.

When turning on a faucet, let it run for about 20 seconds before you assess whether it has pressure. When testing the hot water, turn on the hot water faucet and let it run for about 20 seconds. In older plumbing systems, the hot water can take more time to get into the faucet and reach maximum temperature. Using your digital thermometer, place the stem under the running water and wait for the reading to equalize before you record the temperature. (Note: Do not use a dial stem thermometer for a water reading as these are meant to test temperatures of meat.)

**Is the program on a city or town public water system? If 'Yes', then no further action.**

**If 'No': Does the program have its own water supply with a US EPA ID number issued by NH Department of Environmental Services on file?**

Interview the applicant to learn if the facility is on a public or private water supply. In accordance with Env-C 300, a program which cares for more than 24 children, and which has its own independent water supply that is considered to be a non-transient non-community water system, subject to regulation by the Department of Environmental Services (DES), shall have on file, available for review by the health officer and the department, a written document which lists the United States Environmental Protection Agency (EPA) identification number of the system, assigned by the DES.

**Has the water been tested and are the lab results on file for review?**

Interview the applicant to learn if they have well water results. Programs which have their own independent water supply (usually a private home well) and are caring for 24 or fewer children shall maintain on file (available for review), evidence that their water supply has been tested in accordance with Env-C 300. During your inspection, if the facility meets this criteria, ask to see the most recent water test results. Water testing shall be performed by the Division of Public Health Services' laboratory or by an independent water-testing lab certified by DPHS and shall be repeated at least annually.

For new applicants, documentation of water test results should be current. Water lab results should be no more than 90 days prior to the date the application is received by the department should indicate that the water has been tested for bacteria, nitrates, nitrites and lead and determined to be at acceptable levels in accordance with Env-Ws 315.07 for bacteria; and Env-Ws 316.01 for nitrates, nitrites and lead.

If you need assistance interpreting the results of a water test, the DES has an online tool where you can input the test results and it will interpret the results for you. This is available here: <https://www4.des.state.nh.us/DWITool/#openlapreport>

**Is there functional sewage disposal facilities?**

Inspect for a safe sewage system. During all hours of operation, there shall be functional sewage disposal facilities designed to accommodate the license capacity of the program. During your inspection, verify the following:

1. There is no visible sewage on the grounds; and
2. Flush toilets are in working order connected to a sewage disposal system.

If the septic system is showing signs of failure, the child care program shall:

1. Immediately make arrangements with a contractor licensed to evaluate and repair or replace the septic system;
2. Immediately contact the local health officer to inform him or her of the problem; and



3. Immediately contact the department to verbally report the problem, and provide a plan for how it will immediately provide functioning bathroom units and ensure children will not be exposed to any risks from the failed septic system.

Within 10 days of the date that child care personnel first noticed signs indicating that the septic system is in failure, the child care program must submit to the department a written plan, which includes:

1. What action has been taken to correct the failed septic system;
2. The date by which that action will be completed;
3. An explanation of how the program will ensure that the above requirements will continue to be met until repair or replacements are completed; or
4. Request an extension, which the department shall grant if additional time is necessary to develop a written plan and the safety and well being of the children is maintained.

For more information on how to evaluate a septic system to determine if it is in failure, consult the Health Officer Manual's Chapter on [Septic Systems](#).

### **Are flush toilets and sinks in working order, clean and sanitary?**

Inspect for safe and sanitary toilets. Programs shall provide at least one toilet and one wash basin for every 20 children of their licensed capacity. Additionally, verify the following:

1. Sinks, toilets, foot stools, potty chairs and adapters are cleaned and sanitized at least once a day and whenever visibly soiled;
2. Toilet paper, individual cloth or paper towels and liquid soap from a dispenser are available and accessible to children and staff; and
3. Bathrooms have a means of outside ventilation.

The administrative childcare program rules provide more information on the use of privies or chemical toilets in certain situations.

### **Are potty chairs and diaper changing areas away from food preparation/service areas and located adjacent to a hand washing sink?**

Inspect for sanitary potty and diaper areas. Programs serving diapered children and children who are not toilet trained shall have a designated diaper changing area which shall not be located in kitchens or in food preparation or food service areas or on surfaces where food is prepared or served. In addition to the requirements for toilets discussed in the previous section, programs which serve children younger than 3 years of age shall provide additional child size toilets, adult toilets with adapters, or potty chairs to meet a ratio of one unit for every 10 children ages 18 months through 35 months.

During your inspection, verify that diaper changing stations are located adjacent to or in close proximity to a hand washing sink to allow access for hand washing without having to open doors or gates or have physical contact with other children. Make sure that changing areas have a non-porous, washable surface, which shall be sanitized after each use and used exclusively for diaper changing. Areas should have a covered, hand-free receptacle, lined with a plastic bag and located within reach of the diaper changing area for disposal of soiled diapers and cleansing articles.

**Are first aid supplies available, non-expired, and stored in a portable container?**

Inspect for a first aid kit and supplies. Programs shall have on the premises a selection of non-expired first aid supplies adequate to meet the needs of the children enrolled in the program, as determined by the center director, site director or family child care provider. Programs shall store the first aid supplies in a portable container, in a location that is easily accessible by staff and out of the reach of children.

**Is information for managing injuries/emergencies posted in a prominent location?**

During your inspection, verify that programs have posted a written plan near the telephone, detailing procedures for managing injuries and emergencies. The center director, site director or family child care provider shall instruct all child care personnel about the existence and location of the plans. Ensure that emergency plans include the following information:

1. The location of first aid supplies;
2. The location of child care registration and emergency information forms;
3. The name, address and telephone number of the hospital to which children will be taken in case of acute emergency when the parents cannot be contacted;
4. Instructions to dial 911 to access emergency police, fire department, ambulance, or rescue squad services and the New Hampshire poison center; and
5. The names and telephone numbers of emergency substitute staff.

**Is refrigerator and freezer at the correct temperature?**

Inspect refrigerators for correct temperatures. Child care personnel shall store all perishable foods which are to be served to children at temperatures of 41° degrees Fahrenheit or below in a refrigerator and at 0° degrees Fahrenheit or below in a freezer. Ensure that refrigerators and freezers used to store foods which shall be served to children are equipped with non-mercury, food service approved thermometer and refrigeration equipment is maintained in clean conditions.

When testing the refrigeration temperature, do not rely on a thermometer that is currently in the fridge or any digital reading that may be on the outside of the fridge as these may be inaccurate. Instead, using your digital thermometer, leave the thermometer in the fridge, preferably in the middle of the fridge for at least 30 seconds to get an accurate reading. Shut the door and wait.

## **RECOMMENDATIONS/HEALTH OFFICER APPROVAL**

During an inspection, the health officer should note ANY health or safety concerns on the form. The health officer may decide if this concern is a serious enough health hazard to: 1) Deny approval; or 2) Give conditional approval (specifying the conditions) and a time frame for meeting these conditions.

Use conditional approval if the problems are not severe enough to fail the applicant, yet attention should be given to the areas. The Child Care licensing Unit will follow up on such situations to see if they have been corrected by the time the licensing coordinator does his/her inspection. Normally the health officer is not further involved. If you would like to be informed of the status of an applicant, please note that on the form, or contact your local licensing coordinator.

## **RESCINDING HEALTH OFFICER APPROVAL**

If the health officer is alerted to a situation at a child care agency which he/she feels is a problem which poses a health risk, the health officer always has the authority to rescind his/her approval. An approval should be rescinded in writing, with any related evidence or applicable state health laws references. In the event that such a situation occurs, the health officer should be in close contact with the regional child care licensing coordinator. The health officer would next contact the Child Care Licensing Unit stating the reasons for rescinding his/her approval. The Unit would then be in a position to begin the suspension or revocation process of the agency's license.

Additionally, if there was a situation posing an *imminent health hazard*, the local health officer has the authority to issue a 'Cease and Desist' order to clean up or remove the health risk, or close the agency immediately (per RSA 128, RSA 147:16-a, and RSA 676:17). Health officers should be in close communication with the local licensing coordinator if such a situation arises.

## **EXEMPTIONS**

Licenses from the state of New Hampshire are not required for:

- Religious Sunday schools.
- Any program operated by a public or private school or institution of higher learning. (If a program is located in a school, but operated by another group, it must be licensed.)
- Homes where a person may have up to three (3) children who are not their own (biological or adopted).
- Ski areas, health clubs, bowling alleys, or shopping centers (only if parents on the premises).

*For more information, contact*

Child Care Licensing Unit  
Department of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301  
1-800-852-3345, extension 9025  
603-271-9025  
[CCLUoffice@dhhs.nh.gov](mailto:CCLUoffice@dhhs.nh.gov)

<https://www.dhhs.nh.gov/programs-services/childcare-parenting-childbirth/child-care-licensing>