

## He-C 4001 NH RESIDENTIAL CHILD CARE LICENSING RULES

### Table of Contents

He-C 4001.01 Definitions .....	4
He-C 4001.02 Application Form and Attachments .....	9
He-C 4001.03 Procedures for License Renewal and Revisions .....	14
He-C 4001.04 Time Frames for Departmental Response to Applications .....	15
He-C 4001.05 Board of Directors .....	16
He-C 4001.06 Statements of Findings and Corrective Action Plans .....	17
He-C 4001.07 Complaints and Investigations .....	19
He-C 4001.08 Informal Dispute Resolution .....	20
He-C 4001.09 Enforcement Action and Administrative Appeals.....	21
He-C 4001.10 Duties and Responsibilities of the Licensee.....	24
He-C 4001.11 Health Requirements for Program Staff and Adult Household Members.....	27
He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children...	29
He-C 4001.13 Personal Hygiene .....	32
He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control .....	33
He-C 4001.15 Medication Services .....	38
He-C 4001.16 Residential Child Care Space .....	44
He-C 4001.17 Health and Safety in the Residential Child Care Environment .....	45
He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities.....	51
He-C 4001.19 Requirements for Program Staff .....	54
He-C 4001.20 Staffing .....	57
He-C 4001.21 Programming Requirements for Residents.....	58
He-C 4001.22 Discipline .....	60
He-C 4001.23 Incident Reports .....	63
He-C 4001.24 Nutrition .....	65
He-C 4001.25 Transportation and Trips.....	66
He-C 4001.26 Independent Living Homes .....	67
He-C 4001.27 Short Term Placements.....	68
He-C 4001.28 Homeless Youth Program .....	69
He-C 4001.29 Specialized Care Programs (SCPs) .....	71
He-C 4001.30 Treatment Planning Process for Specialized Care Programs .....	77

He-C 4001.31 Background Checks and Determination of Eligibility for Employment .....	82
APPENDIX A.....	85
CHAPTER 170-E CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES .....	86
<b>170-E:24 Purpose</b> .....	86
<b>170-E:25 Definitions</b> .....	86
<b>170-E:26 Exemptions; Child Endangerment Prohibited</b> .....	88
<b>170-E:27 License Required; Prohibition Against Child Endangerment</b> .....	88
<b>170-E:27-a Homeless Youth Programs; Special Provisions</b> .....	89
<b>170-E:28 Applications; Compliance With State and Local Codes Required</b> .....	90
<b>170-E:29 State Registry and Criminal Records Check for Foster Family Homes, Institutions, and Child-Placing Agencies</b> .....	91
<b>170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child Care Agencies</b> .....	92
<b>170-E:30 Child Care Institution; Child-Placing Agency; Information Required</b> .....	95
<b>170-E:31 Issuance</b> .....	96
<b>170-E:32 License Renewal</b> .....	97
<b>170-E:33 Record of Licenses</b> .....	97
<b>170-E:34 Rulemaking; Consultation</b> .....	97
<b>170-E:35 License or Permit Suspension, Revocation, or Denial</b> .....	99
<b>170-E:36 Notice and Hearing</b> .....	100
<b>170-E:37 Appeal</b> .....	100
<b>170-E:38 Operation Without a License</b> .....	101
<b>170-E:39 Advertising</b> .....	101
<b>170-E:40 Investigation</b> .....	101
<b>170-E:41 Oaths; Subpoenas</b> .....	102
<b>170-E:42 Records</b> .....	102
<b>170-E:43 Notice of Death</b> .....	102
<b>170-E:44 Reports to the Department of Health and Human Services</b> .....	102
<b>170-E:45 Penalty</b> .....	103
<b>170-E:46 Injunctive Relief</b> .....	103
<b>170-E:47 License Remains in Effect</b> .....	104
<b>170-E:48 Retaliation Prohibited</b> .....	104
<b>170-E:49 Confidentiality and Investigations</b> .....	104
Index .....	105



**He-C 4001.01 Definitions**

(a) “Administer” means an act whereby a single dose of a drug is instilled into the body of, applied to the body of, or otherwise given to a resident for immediate consumption or use.

(b) “Applicant” means a person, corporation, partnership, voluntary association, or other organization, either established for profit or otherwise, who intends to operate one or more residential child care programs, and who indicates that intent to the department by submitting an application and the application attachments required by [He-C 4001.02](#).

(c) “Authorized staff” means program staff that have completed training in medication safety and administration who are responsible for administration of medications to residents.

(d) “Child” means “child” as defined in [RSA 170-E:25, I](#).

(e) “Child abuse” means the infliction on a child of any of the behaviors set forth in [RSA 169-C:3, II](#) (a) - (d).

(f) “Child care institution” means “child care institution” as defined in [RSA 170-E:25, III](#).

(g) “Child endangerment” means the negligent violation of a duty of care or protection owed to a child or negligently inducing a child to engage in conduct that endangers his or her health or safety.

(h) “Child neglect” means any of the behaviors or circumstances set forth in [RSA 169-C:3, XIX](#) (a) or (b).

(i) “Clinical coordinator” means a staff member employed by the residential treatment program responsible for administrative oversight of the clinical services provided at the program. This term includes “treatment coordinator.”

(j) “Clinical staff” means individuals who have a master’s degree in a clinical field such as social work, marriage and family therapy, psychology, guidance counseling, or a degree that would make one eligible for a license from the NH board of mental health practice or NH board of psychologists.

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

(l) “Corporal punishment” means use of aggressive physical contact or other action designed to cause the resident discomfort, used as a penalty for behavior disapproved of by the punisher.

(m) “Corrective action plan” means “corrective action plan” as defined in [RSA 170-E:25, VI](#).

(n) “Department” means “department” as defined in [RSA 170-E:25, VII](#).

(o) “Direct care staff” means program staff who are responsible for providing direct care to residents.

(p) “Directed corrective action plan” means a corrective action plan that is developed and issued by the department.

(q) “Evaluation” means a multi-disciplinary assessment of the resident’s level of function by professionals licensed or certified in their respective fields of practice or study, which enables facility staff to plan care that allows the resident to reach his or her highest practicable level of physical, mental, and psychosocial functioning.

(r) “Field trip” means any excursion off the premises of the residential child care program with residential child care staff, other than routine or unplanned local travel such as walks in the neighborhood, travel

## He-C 4001.01 Definitions

to the local library, or other routine travel such as travel to and from school, employment, local appointments or travel to do local errands.

(s) "Full medical withdrawal management" means a protocol for a resident receiving 24-hour nursing supervision overseen by a licensed practitioner, who may be incapable of evacuating a facility on his or her own or may have medical conditions that require immediate medical intervention, such as seizures, tremors, delirium, cardiac, or are a danger to themselves or others.

(t) "Group home" means "group home" as defined in [RSA 170-E:25, II\(b\)](#).

(u) "Guardian" means "guardian" as defined in [RSA 170-E:25, IX](#).

(v) "Homeless youth" means a person 16 through 20 years of age who is unaccompanied by a parent or guardian and is without shelter where appropriate care and supervision are available, whose parent or legal guardian is unable or unwilling to provide shelter and care, or who lacks a fixed, regular, and adequate residence.

(w) "Homeless youth program" means "homeless youth program" as defined in [RSA 170-E:25, II\(d\)](#).

(x) "Household member" means any person who resides in a child care program other than child care personnel or children admitted to the child care program.

(y) "Incident" means:

- (1) Resident behavior that is extreme, including, but not limited to, behavior that is assaultive, destructive, self-injurious, or self-destructive;
- (2) Any behavior leading to physical intervention or seclusion of a resident; or
- (3) An occurrence involving an accident or injury, or requiring outside agency involvement.

(z) "Independent living" means transition to adulthood whereby the resident negotiates living on his or her own with a set of skills and goals based on the resident's needs and interests.

(aa) "Independent living home" means "independent living home" as defined in [RSA 170-E:25, X](#).

(ab) "License" means "license" as defined in [RSA 170-E:25, XI](#).

(ac) "License capacity" means the maximum number of residents that can be admitted to and present in the residential child care program, as authorized by the license issued.

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

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

(af) "Licensed health care practitioner" means a:

- (1) Medical doctor;
- (2) Physician's assistant;

(3) Advanced practice registered nurse (APRN);

(4) Doctor of osteopathy;

(5) Doctor of naturopathic medicine; or

(6) Any other practitioner with diagnostic and prescriptive powers licensed by the appropriate state licensing board.

(ag) "Limited medical withdrawal management" means a resident is capable of evacuating the facility without assistance, is medically cleared to participate in limited medical withdrawal management by a licensed practitioner prior to or at the time of admission, and is not a danger to themselves or others.

(ah) "Mechanical restraint" means "mechanical restraint" as defined in [RSA 126-U:1, IV](#).

(ai) Medical director" means a practitioner licensed in accordance with [RSA 329](#) or [RSA 326-B](#), who is responsible for overseeing the quality of medical care and services in a specialized care program.

(aj) "Medical technology dependent" means a resident with limitations so severe as to require both an assistive medical technology device to compensate for the loss of a vital body function and significant and sustained care to avert death or further disability. Assistive medical technology devices include, but are not limited to tracheostomy tube, feeding tube, c-pap or bi-pap machines, and wheelchairs.

(ak) "Medication" means a drug prescribed for a resident by a licensed health care practitioner and over-the-counter medications.

(al) "Medication log" means a written record of medications administered to a resident.

(am) "Medication occurrence" means any error in the administration of a medication as prescribed or in the documentation of such administration, with the exception of a resident's refusal.

(an) "Medication restraint" means "medication restraint" as defined in [RSA 126-U:1, IV\(a\)](#).

(ao) "Mental illness" means a substantial impairment of emotional processes, or of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment primarily caused by:

(1) Epilepsy;

(2) Intellectual disability;

(3) Continuous or non-continuous periods of intoxication caused by substances such as alcohol or drugs; or

(4) Dependence upon or addiction to any substance such as alcohol or drugs.

(ap) "Monitoring visit" means an announced or unannounced visit made to a residential child care program by department personnel for the purpose of assessing compliance with the standards set by rule adopted by the commissioner pursuant to [RSA 541-A](#).

(aq) "Nursing care" means the provision or oversight of a resident's physical, mental, or emotional condition by diagnosis as confirmed by a licensed practitioner.

(ar) "Orders" means instructions by a licensed practitioner, produced verbally, electronically, or in writing for medication, treatments, recommendations, and referrals, and signed by the licensed practitioner

## He-C 4001.01 Definitions

using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denotes approval by the licensed practitioner.

(as) “Parent” means a father, mother, legal guardian, or other person or agency responsible for the placement of a resident.

(at) “Permanency” means a permanent connection with at least one adult committed to helping the homeless youth meet his or her needs throughout his or her life.

(au) “Physical intervention” means a behavior management technique in which staff use the minimum amount of physical contact on a resident, which is necessary for the circumstances, in accordance with [RSA 627:6, II\(b\)](#) and [RSA 126-U](#), to protect the resident, other residents present, the staff, and the general public.

(av) “Pre-service training” means training or education required to meet the minimum qualifications for the position of program director, as specified in [He-C 4001.19 \(e\)](#), or direct care staff, as specified in [He-C 4001.19 \(f\)](#).

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

(ax) “Program director” means the individual who has responsibility for the daily operation of the residential child care program.

(ay) “Program staff” means all staff, both professional and non-professional, including direct care staff, who are responsible for the supervision, care, or treatment of residents.

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

(ba) “Rehabilitative and restorative services” means interventions provided including any medical or remedial services recommended by a physician or other prescribing practitioner within the scope of the residential treatment program’s practice to reduce a physical or mental disability and restore a recipient to his or her best functional level.

(bb) “Repeat violation” means a violation of a specific licensing rule or law for which the program has been previously cited during the past 5 years, which has not been removed as a result of an informal dispute resolution or overturned as a result of an adjudicatory procedure and that posed a health or safety risk to residents.

(bc) “Reportable incident” means an occurrence of any of the following while the resident is either in the program or in the care of program personnel:

- (1) The death of the resident;
- (2) Suspected abuse or neglect of the resident; or
- (3) The unexplained absence of a resident from the program.

(bd) “Resident” means a child who has been admitted to a residential child care program.

(be) “Residential child care program (program)” means “child care agency” as defined in [RSA 170-E:25, II](#). The term also means “child-care institution” as defined in [42 CFR § 672\(c\)\(2\)\(a\)](#).

(bf) “Restraint” means “restraint” as defined by [RSA 126-U:1, IV](#).

## He-C 4001.01 Definitions

(bg) “Runaway” means a child who is absent without leave or permission from the program that is responsible for the supervision of that child.

(bh) “Sanitize” means to clean by removing all organic material then wiping down or washing with a disinfecting or germicidal solution consisting of one tablespoon of regular strength chlorine bleach to one gallon of water which is mixed fresh daily, or a commercial product which is designed to kill germs and which, when used in accordance with manufacturer’s directions, does not pose a health or safety risk to residents.

(bi) “Seclusion” means “seclusion” as defined in [RSA 126-U:1, V-a](#).

(bj) “Short term” means a placement which is intended to last for 60 days or less, unless the residential child care program has written documentation on file that the 60 day period has been extended by the department’s division for children, youth and families (DCYF), juvenile justice services (JJS), or by the referring agency.

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

(bl) "Specialized care" means "specialized care” as defined in [RSA 170-E:25, II\(c\)](#). Such care includes substance use disorder and behavioral health. The term also includes “specialized care program (SCP)”.

(bm) “Substance use disorder (SUD)” means a disease that affects a person’s brain and behavior and may lead to an inability to control the use of a legal or illegal substance. Substances can include alcohol and other drugs.

(bn) “SUD program” means a residential program, excluding hospitals as defined in [RSA 151:2,I\(a\)](#), which provides residential SUD treatment relating to the youth’s medical, physical, psychosocial, vocational, and educational needs.

(bo) “Time out” means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident the opportunity to regain self-control or as a consequence to a specific behavior.

(bp) “Treatment plan” means the program’s written, time-limited, goal-oriented therapeutic plan for the child and family, which includes strategies to address the issues that brought the child into placement, and which is developed by the family, program staff, and the agency responsible for the placement of the child. This includes, but is not limited to, a child specific planning document prepared in cooperation with DCYF, JJS, a school district, or other placing or sending organization. A treatment planning document that complies with certification requirements satisfies licensing requirements.

(bq) “Unit” means the department’s child care licensing unit.

(br) “Volunteer” means an unpaid person who assists with the provision of food services or activities, and who does not provide direct care or assist with direct care.

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



**He-C 4001.02 Application Form and Attachments**

(a) All applicants for licensure shall complete and submit an application form to the department, which includes:

- (1) Whether the application is for a new, renewed, or revised license;
- (2) Whether the program will operate a group home, child care institution, independent living home, homeless youth shelter, or specialized care program;
- (3) Whether the applicant, owner, or business organization intends to provide short-term placements;
- (4) The name, physical address, mailing address, and telephone number of the program;
- (5) The name, telephone number, and mailing address of the applicant, owner, or business organization;
- (6) An e-mail address for the program and the applicant, owner, or business organization, if available;
- (7) Federal tax identification number if one has been assigned;
- (8) A list of all buildings in which residents will be cared for which identifies:
  - a. The building identifier;
  - b. The building's purpose or function;
  - c. The type(s) of residential child care services that the applicant, owner or business organization intends to offer in the building as specified in He-C 4001.02 (a)(2) above; and
  - d. The proposed number of residents and age range to be cared for in each residential building;
- (9) The total requested resident capacity of the program;
- (10) How the program is owned and organized, whether private, partnership, or other organization type, including name of business organization, business identification number, and the names, title/position, and telephone numbers of the officers of the business or board members, if applicable;
- (11) Whether the program will be operating as for-profit or non-profit;
- (12) The name, birth name(s), and date of birth of the program director;
- (13) The qualifications of the program director, including education and experience;
- (14) For persons who have contact with residents in the residential child care program, more than 5 hours per week, excluding residents who are admitted to the program, and including any applicant, owner, officer of the business organization, program director, executive director, board member, household member, program staff, intern, volunteer or any other individual in the state of New Hampshire or the United States, information and details disclosed by the individual on their application for employment, or otherwise known by the program, regarding the following:
  - a. Criminal convictions in a state other than New Hampshire;

## He-C 4001.02 Application Form and Attachments

- b. Current criminal investigations in any state;
  - c. Current investigations of child abuse or neglect in any state;
  - d. Previous findings of child abuse or neglect in a state other than New Hampshire;
  - e. Current investigation of juvenile delinquency for juvenile household members; and
  - f. Previous adjudications of juvenile delinquency for juvenile household members;
- (15) The information required by (14) above shall include:
- a. The name and position or affiliation of the individual;
  - b. Whether this information is a charge, allegation, conviction, finding, or current investigation;
  - c. The name and city of the court of DCFY office in which the case was handled, as applicable; and
  - d. The date of any conviction or finding;
- (16) A statement dated and signed by the program director and the applicant, or an individual legally authorized to sign for the applicant attesting to the following:

“I HAVE READ AND AM IN COMPLIANCE WITH ALL APPLICABLE RULES IN He-C 4001”;

“I UNDERSTAND THAT THE DEPARTMENT MAY INVESTIGATE ANY CRIMINAL CONVICTION RECORD, FINDING OF CHILD ABUSE OR NEGLECT, OR INVESTIGATION OF OR FINAL DETERMINATION REGARDING ANY JUVENILE DELINQUENCY AND WILL MAKE A DETERMINATION REGARDING WHETHER THE INDIVIDUAL POSES A CURRENT RISK TO THE HEALTH, SAFETY OR WELL BEING OF CHILDREN”;

“I UNDERSTAND THAT THE DEPARTMENT MAY DELAY ITS DECISION TO APPROVE OR DENY THIS APPLICATION PENDING THE OUTCOME OF ANY INVESTIGATION, WHEN THE APPLICANT, OWNER, OR PROGRAM DIRECTOR, ARE NAMED AS THE PERPETRATOR IN ANY CURRENT INVESTIGATION OF ANY CRIME, OR IN AN ALLEGATION OF ABUSE OR NEGLECT”;

“I UNDERSTAND THAT PROVIDING FALSE INFORMATION ON THIS APPLICATION OR ANY OF THE ATTACHMENTS, OR FAILING TO DISCLOSE ANY INFORMATION REQUIRED ON THE APPLICATION, OR REQUIRED TO BE SUBMITTED WITH THIS APPLICATION, SHALL BE CONSIDERED GROUNDS FOR LICENSE DENIAL OR REVOCATION”;

“I HAVE READ THE NH RESIDENTIAL CHILD CARE PROGRAM LICENSING RULES, AND UNDERSTAND THAT FAILURE TO MAINTAIN MY PROGRAM IN COMPLIANCE WITH THE APPLICABLE RULES, MAY JEOPARDIZE MY LICENSE/PERMIT”;

“I AUTHORIZE ANY POLICE DEPARTMENT, COURT SYSTEM OR HUMAN SERVICE AGENCY IN THIS OR ANY OTHER STATE TO RELEASE COPIES OF ANY

## He-C 4001.02 Application Form and Attachments

CRIMINAL RECORDS OR CHILD ABUSE OR NEGLECT RECORDS TO THE DEPARTMENT”; and

“ALL INFORMATION PROVIDED AS PART OF THIS APPLICATION AND IN THE REQUIRED ATTACHMENTS IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE”;

- (17) The position of the individual who signed pursuant to (16) above, such as applicant, board president, board secretary, executive director, or program director;
- (18) For each building, a floor plan diagram of indoor residential childcare space which shall specify:
- a. Room dimensions;
  - b. Location of exits;
  - c. How each room will be used;
  - d. The location of bathrooms and bathroom fixtures, including toilets, sinks, bathtubs, and showers;
  - e. The location of other hand-washing sinks; and
  - f. The length, width, and ceiling height of each bedroom;
- (19) For each building, a diagram of outdoor play and recreation space which shall specify:
- a. The overall dimensions of the outdoor play space including the length and width of the space;
  - b. The locations of exits, gates, and stationary outdoor play or recreation equipment, including the location of and type of fencing, if any, including gates;
  - c. The location of the outdoor play space in relation to the indoor space; and
  - d. The location and description of any outdoor water and street hazards including the presence of and location of any pools, ponds, streams, rivers, streets, roads, or other hazards that are in close proximity;
- (20) For renewal or revisions applications, diagrams as specified in (18) and (19) above if changes have been made in the residential child care space since the last application submitted to the department; and
- (21) For renewal or revision applications, a check mark in the box on the form, indicating when no changes have been made to residential child care space since the last application submitted to the department.
- (b) Residential child care programs that have multiple buildings on the same or adjoining property may apply for a single license for those multiple buildings provided that:
- (1) In accordance with residential child care space requirements specified in He-C 4001.16, each residence has adequate square footage, common living space, and complete bathroom units for the number of residents who will reside in each building;

## He-C 4001.02 Application Form and Attachments

(2) An individual who meets at least the minimum qualifications of a direct care staff is designated in charge in each building; and

(3) All program staff and residents are aware of the identity of the direct care staff who is designated in charge in each building.

(c) With the application, the applicant shall submit to the department a completed “[Health Officer Inspection Report for Residential Child Care Agencies](#)” form (10/2014 edition) completed by the local health officer or duly appointed designee, for each building inspected, documenting that within the 12 months of the date the department receives the application, the premises have been inspected and approved by a local health officer or duly appointed designee for operation as a residential child care program.

(d) With the application, the applicant shall submit to the department a completed “[NH State Fire Code compliance report](#)” documenting that, within the 12 months of the date the department receives the application, the premises have been inspected by the local fire department or the state fire marshal’s office, for compliance with the applicable parts and sections of the State Fire Code, under [RSA 153:1, VI-a](#), and [Saf-FMO 300](#), including but not limited to [NFPA 1](#) and [NFPA 101](#), and as amended by the state board of fire control and ratified by the general court pursuant to [RSA 153:5](#), and approved to operate as a residential child care program.

(e) The “NH State Fire Code compliance report” required under (d) above shall include the following:

(1) Completed by either program personnel or the fire inspector:

- a. The name, address, telephone number, and license number of the residential child care program;
- b. The name of the applicant;
- c. The type of residential child care to be provided; and
- d. The number and age range of residents for whom the applicant intends to provide care; and

(2) Completed by the fire inspector:

- a. The date the premises were inspected by the fire inspector;
- b. For each building which will be used by residents:
  1. An indication regarding whether the fire inspector approves or does not approve the premises to operate as a residential child care program;
  2. Any areas of non-compliance with the State Fire Code, under [RSA 153:1, VI-a](#), [Saf-C 6000](#), and [Saf-FMO 300](#), including but not limited to [NFPA 1](#) and [NFPA 101](#), and as amended by the state board of fire control and ratified by the general court pursuant to [RSA 153:5](#); and
  3. Any conditions or restrictions placed by the fire inspector, including but not limited to, any limits relative to the number and age range of residents to be cared for in the program or any rooms, levels, or other areas of the premises not approved for use by residents;
- c. An indication whether or not the fire inspector approves, does not approve, or grants a conditional approval for the residential agency type(s) to operate.
- d. If a conditional approval is granted, it shall include:

## He-C 4001.02 Application Form and Attachments

1. The details regarding what action must be taken; and
  2. The date the conditional approval will expire;
- e. The printed name, address, telephone number, and title of the fire inspector;
  - f. The dated signature of the fire inspector; and
  - g. The city or town in which the fire inspector has authority.
- (f) With the application, the applicant shall submit to the department documentation from the applicable town or city that the program has been granted zoning approval or a statement that no zoning approval is required.
- (g) The zoning documentation required in (f) above shall include the following:
- (1) The name and address of the program;
  - (2) The name of the applicant;
  - (3) Any zoning requirements or restrictions imposed by the town or city regarding the existence of the program, including any limits regarding ages or number of residents to be cared for in the program, and any buildings on the property that do not have zoning approval; and
  - (4) The signature of an individual authorized to sign on behalf of zoning, and date signed.
- (h) With the application, the applicant shall submit to the department background check forms as specified in [He-C 4001.31](#) for each of the following:
- (1) The applicant;
  - (2) All household members; and
  - (3) All program directors.
- (i) With the application, the applicant shall submit to the department documentation of education and experience that shows that the program director meets the requirements for his or her position, as specified in [He-C 4001.19\(e\)](#).
- (j) The documentation of education and experience required under (i) above shall include the following:
- (1) Copies of transcripts, certificates, diplomas, or degrees as applicable; and
  - (2) A resume or other documentation of previous experience.
- (k) With the application, applicants that are incorporated shall submit to the department a list of the names, addresses, and telephone numbers of the current board members.

## He-C 4001.03 Procedures for License Renewal and Revisions

### He-C 4001.03 Procedures for License Renewal and Revisions

(a) No less than 3 months prior to the expiration date of the current license, each licensee shall submit to the department:

- (1) An application form for license renewal, completed in accordance with [He-C 4001.02](#) (a);
- (2) The application attachments specified in [He-C 4001.02](#) (c) through (e), (h) through (j) and (n); and
- (3) The application attachments specified in [He-C 4001.02](#) (l) and (m), if there has been a new program director since the previous application was filed.

(b) Licensees shall be subject to a lapse in license if they submit their application materials after the date their current license expires.

(c) Prior to adding additional program types, as specified in [He-C 4001.02](#) (a)(2), changing the type(s) of program for which a program is licensed, increasing the number of residents in one or more buildings, unless the increased number has been previously approved in writing by the department and does not result in the program exceeding its license capacity, or re-locating the program, the residential child care program shall:

- (1) Submit an application for license revision, completed in accordance with [He-C 4001.02](#); and
- (2) When there is a relocation or revision that will exceed any limits or condition on the current [health officer inspection report](#), [NH State Fire Code compliance report](#) or [zoning approval](#), submit the application attachments, identified in [He-C 4001.02](#) (c) through (g) for each building for which it is seeking a license revision.

(d) A licensee shall notify the department in writing when he or she wishes to change the name of the program, so that a revised license that reflects the name change can be issued.

## **He-C 4001.04 Time Frames for Departmental Response to Applications**

### **He-C 4001.04 Time Frames for Departmental Response to Applications**

(a) Pursuant to [RSA 541-A:29](#), the department shall approve or deny an application no later than 60 days from receipt of the application and any additional information requested by the department.

(b) The 60 days specified in (a) above shall begin on the date on which all requested information is received by the department.

(c) Any outstanding corrective action plan for violations of rule or statute shall be considered additional information under (a) above.

**He-C 4001.05 Board of Directors**

- (a) Each program that is incorporated shall have a duly appointed board of directors.
- (b) The applicant or licensee shall:
  - (1) If incorporated, provide a list of the names, addresses and telephone numbers of current members of the board of directors and a copy of current rules of the board of directors are on file and made promptly available on the premises of the program for review by the department upon request during all visits; and
  - (2) If governed by any other governing body, provide a list of the names, addresses and telephone numbers of current members of the governing body, and a copy of any rules by which the governing body will operate are on file and made promptly available on the premises of the program for review by the department upon request during all visits.
- (c) The board of directors for programs that are incorporated and the owner or governing body for programs that are not incorporated shall maintain a sufficient degree of oversight of the program's operations to ensure that the program is complying with the provisions of [RSA 170-E](#), this part, and any policies and procedures adopted by the program.



## He-C 4001.06 Statements of Findings and Corrective Action Plans

### He-C 4001.06 Statements of Findings and Corrective Action Plans

(a) The department shall issue a statement of findings to the program when it determines that the program has one or more violations of any of the provisions of [RSA 170-E](#) or He-C 4001.

(b) The program director or designee shall complete a written corrective action plan for each violation included on the statement of findings.

(c) The corrective action plan required in (b) above shall describe:

(1) How the licensee intends to correct each violation including any interim measures the program director or designee has implemented to protect the health and safety of residents until the violation can be corrected;

(2) What measures will be put in place, or what systemic changes will be made to ensure that the violation does not recur; and

(3) The date by which each violation was corrected or will be corrected.

(d) The program director or designee shall complete corrective action plans and return them to the department in accordance with the following:

(1) The corrective action plan shall not include the names of individuals; and

(2) The statement of findings and corrective action plan shall be:

a. Signed and dated by the program director or designee; and

b. Returned to the department no later than 3 weeks from the date the statement of findings is sent out by the department.

(e) The program director or designee shall not alter the statement of findings or corrective action plan once it has been submitted to the department.

(f) The only exceptions to (d)(2)b. above shall be as follows:

(1) When a program director or designee requests an informal dispute resolution in accordance with He-C 4001.08, the corrective action plan due date shall be 3 weeks from:

a. The date the program receives notice of the department's decision regarding the informal dispute resolution if the department is not issuing a revised statement of findings; or

b. The date the department issues the revised statement of findings as a result of the informal dispute resolution; and

(2) A program director or designee who cannot complete and return a corrective action plan by the due date may request and receive an extension from the department.

(g) The criteria for acceptability shall be whether the corrective action plan, when implemented, will achieve compliance with [RSA 170-E](#) and He-C 4001.

(h) The department shall reject a corrective action plan when the plan fails to:

(1) Achieve compliance with [RSA 170-E](#), He-C 4001, or any other applicable licensing rules;

(2) Address the violation as written;

## He-C 4001.06 Statements of Findings and Corrective Action Plans

- (3) Address all violations cited on the statement of findings;
- (4) Prevent a new violation of [RSA 170-E](#), He-C 4001, or any other applicable law; or
- (5) State a completion date.

(i) When the corrective action plan submitted to the department by the program in accordance with (d) and (f) above is not acceptable, the department shall notify the licensee in writing of the reason for rejecting the proposed corrective action plan and:

- (1) Attempt to resolve the problem through a telephone consultation with the executive director or program director, when the unacceptable corrective action plan needs only simple, minor modifications or additions to make it acceptable; or
- (2) Issue a revised corrective action plan to the program with a notice advising the program why the original corrective action plan submitted by the program is not acceptable.

(j) When a program is issued a revised corrective action plan, it shall:

- (1) Make any revisions to the corrective action plan as approved by the department; and
- (2) Return and implement the revised corrective action plan in accordance with (d) above.

(k) The department shall verify that a corrective action plan, as submitted and accepted, has been implemented by any of the following:

- (1) Reviewing materials submitted by the licensee;
- (2) Conducting a follow-up inspection; or
- (3) Reviewing compliance during any subsequent visit conducted in accordance with [RSA 170-E:31, IV](#), [RSA 170-E:32, II](#) or [RSA 170-E:40, II](#).

(l) When the findings of any inspection or investigation indicate that immediate corrective action is required to protect the health and safety of the residents or personnel, the department shall order the immediate implementation of a directed corrective action plan developed by the department.

(m) The existence of a corrective action plan shall not prohibit the department from taking other enforcement action available to it under He-C 4001, [RSA 170-E](#), [RSA 541-A](#) or other law.

(n) All statements of findings issued for violations of any of the provisions of [RSA 170-E](#) or He-C 4001, and the corrective action plans submitted in response to those violations, shall be considered public information on or after the corrective action plan due date as specified in (d)(2)b. and (f)(1) and (2) above.

(o) An applicant or licensee may appeal a violation cited on a statement of findings only as part of an adjudicatory process regarding enforcement action taken against a license.

**He-C 4001.07 Complaints and Investigations**

(a) In accordance with [RSA 170-E:40](#), I and II, the department shall conduct an investigation of any complaint that meets the following conditions:

- (1) The alleged violations 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 resident who has first-hand knowledge regarding the allegation(s);
- (3) The complaint contains 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 He-C 4001 or [RSA 170-E](#); or
- (4) The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:
  - a. Physical injury;
  - b. Verbal or emotional abuse so severe as to create a risk of psychological trauma; or
  - c. One or more residents were placed in danger of physical injury.

(b) After the investigation of a complaint has been completed, the department shall:

- (1) When it determines that the complaint is unfounded or does not violate any statutes or rules, notify the program and take no further action;
- (2) When it determines that the complaint is founded, prepare a statement of findings listing the violations found as a result of the investigation and any other violations found during the visit; and
- (3) Notify the licensee in writing of the findings.

(c) The records compiled during an investigation shall be confidential as required by [RSA 170-E:40](#), [III](#).

**He-C 4001.08 Informal Dispute Resolution**

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

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

(c) The department shall review the evidence presented and provide a written notice to the applicant or licensee of its decision.

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

## **He-C 4001.09 Enforcement Action and Administrative Appeals**

### **He-C 4001.09 Enforcement Action and Administrative Appeals**

(a) The department shall revoke or suspend a license or deny an application for a new license, license renewal or license revision, in accordance with the provisions of [RSA 170-E:27, II](#), [RSA 170-E:29, III and IV](#), [RSA 170-E:29-a](#), and [RSA 170-E:35](#) if:

(1) After being notified of and given an opportunity to supply missing information, the application does not meet the requirements of [He-C 4001.02](#);

(2) After being notified by the department that an adult or a juvenile who is not a resident admitted to the program may pose a risk to residents, the applicant or licensee refuses to submit a corrective action plan which ensures that the individual is removed from employment or from the household and will not have access to the residents in care;

(3) An applicant or licensee has endangered or continues to endanger one or more residents by a negligent violation of a duty of care or protection owed to the child or negligently inducing such child to engage in conduct that endangers his health or safety;

(4) The applicant or licensee has been found guilty of abuse, neglect, exploitation of any person or has been convicted of child endangerment, fraud or a felony against a person in this or any other state by a court of law, or has been convicted of any crimes as referenced in [RSA 170-E:29, III or IV](#), or [RSA 170-E:29-a](#), or had a complaint investigation for abuse, neglect, or exploitation substantiated by the department or in any other state;

(5) The applicant, licensee or designee of the applicant knowingly provides materially false or misleading information to the department, including information on the application or in the application attachments;

(6) The applicant, licensee or any representative or employee of the applicant fails to cooperate with any inspection, investigation or visit by the department;

(7) The applicant or licensee violates any of the provisions of [RSA 170-E:24](#)–49 or He-C 4001;

(8) The applicant or licensee has demonstrated a history or pattern of multiple or repeat violations of [RSA 170-E](#), or He-C 4001, that pose or have posed a health or safety risk to residents; or

(9) The applicant or licensee fails to submit an acceptable corrective action plan or fully implement and continue to comply with a corrective action plan that has been accepted by the department in accordance with [He-C 4001.06](#).

(b) If a license has been revoked, or has expired without timely application for renewal having been made in accordance with He-C 4001, operation shall be discontinued immediately.

(c) The department shall notify applicants or licensees affected by a decision of the department to deny, revoke or suspend a license of their right to an administrative appeal in accordance with [RSA 170-E:36](#).

(d) If an applicant or licensee fails to request an administrative appeal in writing within 10 days of the receipt of the notice required by [RSA 170-E:36, I](#), the action of the department shall become final.

(e) Administrative appeals under this section shall be conducted in accordance with [RSA 170-E:36, II, III](#), and [IV](#), [RSA 170-E:37](#), [RSA 541-A](#) and [He-C 200](#).

(f) Further appeals of department decisions under this section shall be governed by [RSA 541-A](#) and [RSA 170-E:37](#).

## He-C 4001.09 Enforcement Action and Administrative Appeals

(g) Any licensee who has been notified of the department's intent to revoke or suspend a license or deny an application for a license renewal may be allowed to continue to operate during the appeal process except as specified in (h) below.

(h) When the department includes in its notice of revocation or suspension an order of immediate closure, pursuant to [RSA 170-E:36, III](#) or [RSA 541-A:30, III](#), the program shall immediately terminate its operation and not operate during the appeal process except under court order, or as provided by [RSA 541-A:30, III](#).

(i) The department shall initiate a suspension of a license rather than revocation when it determines that the action is being initiated against a program that does not have a history of repeat violations of licensing rules or statute and the action is based on a violation or situation which is:

- (1) Related to a correctable environmental health or safety issue, including but not limited to, a problem with a program's water supply, septic system, heating system, or structure; and
- (2) Documented by the program as being temporary in nature.

(j) Except for (h) above, any suspension of a license that has not been appealed, or any suspension of a license that has been upheld on appeal shall remain in effect until the department notifies the program whose license was suspended that the suspension has been removed because:

- (1) The violation which resulted in the suspension has been corrected; or
- (2) The suspension was based on loss of fire or health officer approval and the local fire inspector or inspector from the state fire marshal's office, or health officer has reinstated the previously rescinded approval.

(k) Upon receipt of notice of the department's intent to revoke, suspend, deny or refuse to issue or renew a license, the applicant or licensee receiving the notice shall immediately provide the department with a list of the names, addresses and phone numbers of the person or agency responsible for the placement of each current resident.

(l) Based upon information provided under (k) above, the department shall notify the person or agency responsible for the placement of each current resident that the department has initiated action to revoke or suspend the license or deny an application for a license renewal.

(m) The department shall send a copy of the notice required in (l) above to the following entities:

- (1) The health officer and fire inspector in the town in which the program is located;
- (2) The state office of the United States Department of Agriculture, Child and Adult Food Program, if the residential child care program participates in that program;
- (3) The New Hampshire department of education if the program has a school on the premises; and
- (4) The director of DCYF.

(n) When a program's license has been revoked or denied, the department has refused to renew a license, or an application has been denied by the department, if the enforcement action specifically pertained to their role in the program, the applicant, licensee, program director or executive director, shall not be eligible to reapply for a license, or be employed as an executive director or program director for at least 5 years from:

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

## He-C 4001.09 Enforcement Action and Administrative Appeals

(2) The date an order is issued upholding the action of the department, if that action has been appealed.

(o) Notwithstanding (n) above, the department shall accept an application submitted after the decision to revoke or deny becomes final, provided there has been no violation of [RSA 170-E:27, II](#), [RSA 170-E:35, I](#), or [RSA 170-E:35, XIII](#), only under the following circumstances:

(1) The applicant or licensee, when licensed, did not demonstrate a pattern of repeat violation of licensing rules or statute;

(2) The denial was based on the applicant or licensee's inability or failure to correct a violation caused by a temporary condition which has been corrected; or

(3) The licensee or applicant who was denied an initial application shows that circumstances have substantially changed such 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 170-E](#) and He-C 4001.

(p) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under [RSA 170-E](#), [RSA 541-A](#), He-C 4001 or other law.

(q) Requests for reconsideration or appeal of any decision by a hearings officer shall be filed within 30 days of the date of the decision.

## **He-C 4001.10 Duties and Responsibilities of the Licensee**

### **He-C 4001.10 Duties and Responsibilities of the Licensee**

- (a) The program shall abide by the provisions specified on the license.
- (b) Program staff shall:
  - (1) Display a copy of the current license issued by the department in a prominent location in each building in which residents are housed; and
  - (2) Not alter the license issued by the department.
- (c) A license shall not be transferable to a new owner or new location.
- (d) Any licensee, program staff or other person involved with a program who has reason to suspect that a resident is being abused or neglected shall report the suspected abuse to DCYF at 1-800-894-5533.
- (e) When direct care staff who are witness or party to any event that meets the mandated reporting requirement in [RSA 169-C:29](#), the program shall provide opportunity and support to such staff to make the required report. Whenever possible, the staff directly involved or witness to the event shall make reports to the department, with assistance from administrative staff as needed to assure all necessary information is available to make a complete report.
- (f) Program staff shall safeguard the confidentiality of all records and personal information regarding any resident.
- (g) Applicants, licensees, and all program staff shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of residents under their care and all facts learned about residents and their families with the following exceptions:
  - (1) Program staff shall, upon request, make available to the department all records that programs are required by [RSA 170-E](#) or He-C 4001 to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and
  - (2) Other than as specified in (g)(1) above, program staff shall release information regarding a specific resident only as directed by a parent of that resident, or upon receipt of written authorization to release such information, signed by that resident's parent, unless otherwise restricted by applicable state or federal law.
- (h) Information collected by the department during the application process may be released:
  - (1) To the applicant, licensee or his or her designated representative;
  - (2) Upon receipt of written authorization by the applicant or licensee to release information; or
  - (3) To federal, state and local officials or the entities that provided reports.
- (i) Except for law enforcement agencies or in an administrative proceeding against the applicant or licensee, the department shall keep confidential any information collected during an investigation, unless it receives an order from a court of competent jurisdiction ordering the release of specific information.
- (j) Applicants, licensees, members of the board of directors or other governing body, program staff, child care interns, child care assistants, and volunteers shall cooperate with the department during all departmental visits authorized under [RSA 170-E](#) and He-C 4001.
- (k) For the purposes of (j) above, cooperation shall include, but not be limited to not interfering with efforts by representatives of the department to:



## **He-C 4001.10 Duties and Responsibilities of the Licensee**

- (1) Enter the premises and complete an inspection;
  - (2) Document evidence or findings by taking written statements, and by photographing toys, equipment, and learning materials or conditions inside or outside residential child care space and other areas of the premises accessible to residents;
  - (3) Make an audio recording of conversations with individuals who have consented to the audio recording;
  - (4) Interview program staff, members of the board of directors, or other governing body, child care interns, child care assistants, volunteers, residents enrolled in the program, and any other individual whom the department determines might have information relevant to the issues being evaluated; and
  - (5) Review and reproduce any forms or reports which the applicant or licensee is required to maintain or make available to the department under He-C 4001.
- (l) Administrators, other program staff, or other individuals shall not:
- (1) Require or request that the individual being interviewed ask that another person be present for the interview;
  - (2) Attempt to influence the response of any individual being interviewed by signaling them during the interview, telling them what to say, or threatening them with retaliation for providing information to the department; or
  - (3) Require staff or residents who have been interviewed to provide statements to program administration regarding their interview.
- (m) Any violation of (l) above or any attempt by or on behalf of program staff, administrators, or other individuals to prevent program staff, residents, or other individuals from responding to questions by the department, or from making a good faith report to the department regarding any concerns they have about the operation of the program relating to statutory or regulatory requirements shall be considered failure to cooperate with the department as specified in (j) and (k) above.
- (n) Except for [He-C 4001.12\(a\)](#), all records and written policies required by He-C 4001 shall be maintained on file and shall be made promptly available on the premises of the program for review or be submitted to the department upon request as follows:
- (1) For 2 years from the date the resident is discharged;
  - (2) For 2 years from the date of termination for records related to employees; and
  - (3) For all other records 2 years from the date the record was created.
- (o) The exception to (n) above shall be when program staff shows good cause as to why the requested reports or records are not immediately available. In such case, the provider shall make the records available within 2 business days, or otherwise obtain an extension from the unit. Good cause shall include circumstances beyond the licensee's control or other extenuating circumstances.
- (p) When the individual who has been identified and approved by the department as program director leaves the position, the licensee or designee shall:
- (1) Notify the department of the departure of the program director within 10 days;

## **He-C 4001.10 Duties and Responsibilities of the Licensee**

- (2) Within 10 days of the departure of the director, notify the department of the name of the individual who is temporarily serving as the program director and who meets at least the minimum requirements of a direct care staff; and
- (3) Within 120 days of the date of departure of the program director, notify the department and submit information and documentation required under [He-C 4001.02](#)(i) and (j) for the new, qualified program director.

## **He-C 4001.11 Health Requirements for Program Staff and Adult Household Members**

### **He-C 4001.11 Health Requirements for Program Staff and Adult Household Members**

(a) A written record of physical examination shall be on file for all program employees and household members who will have regular contact with residents.

(b) The written record of physical examination required in (a) above shall contain or identify:

(1) The name of the examinee;

(2) The date of the examination;

(3) Any contagious or other illness that would affect the examinee's ability to care for residents or pose a risk to the health or safety of residents;

(4) A record of a negative Mantoux Tuberculin (TB) test for individuals who are determined by a licensed health care practitioner to be at high risk for exposure to Tuberculosis or the results of a chest x-ray and medical assessment when the individual has a positive TB test due to prior exposure;

(5) Any known limitations or restriction that would affect the examinee's performance of his or her residential child care responsibilities or pose a risk to the health or safety of residents;

(6) The signature of the licensed health care practitioner and date signed; and

(7) The typed or printed name and telephone number of the licensed health care practitioner.

(c) The initial record of physical examination for newly hired program staff shall have been completed not more than 12 months preceding the date of hire or the date the individual began having regular contact with residents.

(d) When a newly hired program staff has not had a physical exam in accordance with (b) above, an appointment for a future physical exam shall be scheduled within 10 business days of the date the individual begins having regular contact with residents.

(e) Physical examinations required under (a) above shall be repeated at least every 3 years.

(f) A written record of the repeat physical examination required in (e) above shall be on file at the program within 60 days of the expiration date of the previous physical exam record on file at the program.

(g) When the program director or designee is aware that any program direct care staff, intern, child care assistant or volunteer have symptoms of illness that prevent them from being able to perform their duties or pose a health or safety risk to children, he or she shall prohibit that individual from caring for residents until the individual has received treatment which ensures that he or she does not have a communicable disease or is no longer symptomatic.

(h) When the program director or designee is aware that any program staff, intern, child care assistant, volunteer, resident, or household member has symptoms of a reportable communicable disease or is known to have a reportable communicable disease, the program director or designee shall contact the department's bureau of communicable disease control for instructions regarding:

(1) Whether the ill staff person is required to be excluded from the program;

(2) How to control the spread of contagious illness; and

(3) Reporting requirements in accordance with [RSA 141-C:7](#) and [He-P 301](#).

## **He-C 4001.11 Health Requirements for Program Staff and Adult Household Members**

(i) The only exception to (h) above shall be for human immunodeficiency virus (HIV) infection, specifically the identity of any individual with HIV infection shall be held confidential in accordance with [RSA 141-F:8](#).

**He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children**

**He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children**

(a) Parental authorization for medical treatment shall be on the premises for each resident upon his or her first day of residence in the program, except for residents in short term placement, and available in accordance with [He-C 4001.10\(n\)](#).

(b) Physical examinations shall be completed for children admitted to the program as residents and children who reside on the premises of the program.

(c) A child health form or an equivalent record of physical examination documenting that a physical examination was completed within the past 12 months shall be on file for each child, as specified in (b) above, within 30 days of the date any child begins residing on the premises of the program.

(d) When a child has not had a physical examination as required in (c) above, the program shall schedule an appointment for a future physical exam within 10 business days of the date the child begins residing at the program.

(e) The child health form or equivalent record of physical examination required under (c) above shall include at least the following:

- (1) The name and date of birth of the child or resident;
  - (2) The date of the exam;
  - (3) Diagnoses, if any, and a description of any health condition that might affect the child or resident's participation in the program;
  - (4) Documentation of immunizations, including dates immunized;
  - (5) A history of illness and hospitalizations;
  - (6) Reports of any screening or assessment;
  - (7) Notations about the child or resident's physical, mental, and social development;
  - (8) A list of current medications, both prescribed and over the counter;
  - (9) Any known allergies;
  - (10) Dietary needs, including special diets; and
  - (11) The signature of a licensed health care practitioner and the date signed.
- (f) Physical examinations as required under (b) above shall be completed:
- (1) At least every 12 months for each child younger than 6 years of age, with a 60-day grace period to allow the program to obtain the updated physical examination record; and
  - (2) At least every 24 months for each child 6 years of age or older, with a 60-day grace period to allow the program to obtain the updated physical examination record.
- (g) Each resident shall have a dental examination based upon a schedule, which shall:
- (1) Take into account the needs of the resident as determined by a licensed dentist; and

**He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children**

(2) Provide for each resident to have a dental examination at intervals of 6 to 12 months.

(h) If the program is unsuccessful in obtaining dental examinations in accordance with (g)(2) above, it shall document good faith efforts to schedule an exam.

(i) A written record documenting the date of the dental exam and treatment needed or provided, shall be maintained on the premises of the program in each resident's permanent record.

(j) Other medical exams and evaluations shall be completed for each resident as necessary to meet his or her medical needs.

(k) When a resident is believed to have a reportable communicable disease which was not diagnosed by a physician or other health care provider, the program director or designee shall report the known or suspected communicable disease to the department's bureau of communicable disease control in accordance with RSA 141-C:7 and He-P 301.

(l) The only exception to (k) above shall be for HIV infection, specifically, the identity of any individual with HIV infection shall be held confidential in accordance with [RSA 141-F:8](#).

(m) SCPs shall provide services in a residential setting, including access to nursing or medical care, for all children placed in the program diagnosed as having functional limitations and are dependent upon or require medical technology to maintain or improve independence and health.

(n) SCPs shall provide for the complex health needs of residents whom are medical technology dependent:

(1) In a manner that affords the least intrusive intervention available to ensure his or her safety, the safety of others, and that promotes healthy growth and development;

(2) By providing services and an environment that meets each resident's needs; and

(3) By training direct care staff in the use and care of the specific medical technology device or devices that residents in their care are dependent upon.

(o) Training shall include:

(1) How to recognize symptoms that may indicate a decline in the resident's health;

(2) Seizures and seizure disorders;

(3) G/J tube use and care;

(4) Tracheostomy care;

(5) C-pap and Bi-pap care; and

(6) Any intervention or procedure that will heighten direct care staff's attention to the health and well-being of residents, such as topics on medical changes that require immediate notification for nursing assessment.

(p) All training and education required in (n) and (o) above shall be performed by the appropriate medical professional with the requisite education and licensure to perform such training or utilize outside resources if an appropriate medical professional is not available.

**He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children**

(q) At the time of admission of a resident with special health care needs or who is medical technology dependent, the licensee shall obtain written and signed orders from a licensed practitioner for medications, treatment, and special diet as applicable.

(r) No resident shall be admitted until the appropriate training in (n) and (o) above has been completed.

**He-C 4001.13 Personal Hygiene**

- (a) Program staff and residents shall wash their hands as needed.
- (b) Individuals who are participating in food preparation or food service shall:
  - (1) Wash their hands as often as necessary to remove soil and contamination and prevent cross contamination;
  - (2) Cover any cuts or abrasions with a secure bandage; and
  - (3) Not participate in food preparation or food service activities when they have:
    - a. An infection;
    - b. A cut or wound which is running or weeping; or
    - c. A communicable disease that could be spread via food preparation or food service.
- (c) Program staff shall not wash their hands after diapering or toileting in sinks that are used for food preparation or clean up.
- (d) Program staff shall encourage each resident to brush their teeth each morning and before going to bed, and to shower daily.
- (e) Each resident shall have an opportunity to have a shower or bath, with adequate hot water, once each day.
- (f) Program staff shall assist residents who are medical technology dependent, or whose functional needs require direct assistance with daily personal hygiene. Such assistance shall be care planned and provided based on resident need.



## **He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

### **He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

(a) The program shall develop policies for how direct care staff shall respond to incidents, including but not limited to:

- (1) Addressing threats of self-harm and suicidal behaviors by residents;
- (2) Medical emergencies;
- (3) Addressing threatening behaviors such as physical and sexual assaults on other residents or staff;
- (4) The reporting requirements in [He-C 4001.23\(g\)](#);
- (5) Screening any child who runs away for indications that the child may be a victim of human trafficking and notifying necessary personnel;
- (6) Managing the behavior of children, including how and under what circumstances seclusion or restraint is used, pursuant to [RSA 126-U:2](#);
- (7) Accessibility to respite or temporary care arrangements; and
- (8) How staff will be orientated and trained in accordance with [He-C 4001.19\(k\)](#) and (l) to prepare to work with the population served by the program.

(b) All program staff responsible for the care and supervision of residents shall be familiar with the program's policies and procedures for managing injuries and emergencies and have access to information necessary to handle emergencies.

(c) Each building that residents will spend time in shall be equipped with a telephone that is operable and accessible to residents and staff for incoming and outgoing calls.

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

(e) The information data sheet referenced in (d) above shall include:

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

## **He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

(f) At least one residential child care program staff person, who is trained and currently certified in cardiopulmonary resuscitation (CPR) and first aid by the American Red Cross, American Heart Association, Emergency Care and Safety Institute, National Safety Council or other nationally recognized organization or an individual certified by such organization to train, shall be present:

(1) In each building that is used as a residence, at all times when residents are present; and

(2) When residents are participating in any field trips off the premises of the residential child care program.

(g) The residential child care program director or designee shall obtain and maintain on file, available for review by the department, copies of current CPR and first aid certifications documenting coverage as required in (f) above.

(h) Each building and program vehicle that is used by residents shall be equipped with first aid supplies adequate to meet the needs of the residents.

(i) The first aid supplies shall be stored in a container that is accessible by residential child care program staff but not accessible to residents.

(j) First aid supplies adequate to meet the needs of the residents shall be available during all field trips.

(k) When the first aid treatment provided for minor scrapes or bruises is not effective or when a resident's injury is more than a minor scrape or bruise, residential child care program staff shall:

(1) If the injuries appear to be life threatening or appear to be severe, call emergency medical services for transport to a medical facility by ambulance;

(2) For all other injuries, take the injured resident to a licensed health care practitioner for medical evaluation and treatment;

(3) As soon as possible after the injury occurs, notify the person or agency responsible for the resident's placement and the parents of the injured resident whenever possible; and

(4) Complete a written incident report as specified in [He-C 4001.23](#) (a) and (b) within 24 hours of the incident.

(l) The program director or designee shall notify the unit, the parent, and the person or agency responsible for the resident's placement within 24 hours of the death of any resident.

(m) The program director or designee shall provide a written report, detailing the circumstances of the death, to the unit and the person or agency responsible for the resident's placement, within 72 hours of the death of any resident.

(n) In (l) or (m) above, in cases involving serious injury or death to a resident subject to restraint or seclusion in a program, the program shall, in accordance with and addition to the provisions of [RSA 126-U:10](#), notify the commissioner, the attorney general, and the disability rights center (DRC). Such notice shall include the notification required in [RSA 126-U:7, II](#).

(o) The program director or designee shall conduct fire drills once each month in each building that is used as residential child care space.

(p) Monthly fire drills required in (o) above shall be held at varying times, including night time hours.

**He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

(q) Programs shall activate the actual fire alarm system for the building for at least 2 of the monthly fire drills required each year.

(r) Programs shall ensure that all residents and program staff evacuate the building during each fire drill including, if applicable, descent using the route designated on the posted fire evacuation plan.

(s) The staff person conducting the fire drill shall complete a written record of each fire drill that shall:

- (1) Be maintained on file at the program for one year; and
- (2) Be available for review by the fire inspector and the department.

(t) The written record of fire drills required under (s) above shall include at least the following:

- (1) The date and time the drill was conducted, and whether the actual fire alarm system was activated;
- (2) Exits used;
- (3) Number of residents evacuated and total number of people in the building at the time of the drill;
- (4) Name of the person conducting drill;
- (5) Time taken to evacuate the building;
- (6) Any problems encountered; and
- (7) A plan for correcting those problems.

(u) The program director or designee shall conduct a fire drill in the presence of a representative of the department or the local fire department upon request by either of those entities.

(v) If providing withdrawal management, any new SCPs shall comply with the appropriate chapter of [NFPA 101](#) as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to [RSA 153:5](#), consistent with the level of needs of residents being served.

(w) All programs shall have:

(1) Smoke detectors as approved in accordance with the State Fire Code, under [RSA 153:1, VI-a](#), [Saf-C 6000](#), and [Saf-FMO 300](#), including but not limited to [NFPA 1](#) and [NFPA 101](#), as amended by the state board of fire control and ratified by the general court pursuant to [RSA 153:5](#), consistent with the appropriate level of care being provided by the program;

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

- a. Fire extinguishers shall be inspected either manually or by means of an electronic monitoring device or system at least once per calendar month, at intervals not exceeding 31 days;
- b. Records for manual inspection, or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed;

**He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

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

d. The components of the electronic monitoring device or system in a. above, if used, shall be tested and maintained annually in accordance with the manufacturers listed maintenance manual; and

(3) A carbon monoxide monitor on every level of the program, in accordance with [Saf-C 6015.04](#).

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

(y) In addition to the policies required in (a) above, the program shall develop and implement an emergency operations plan (EOP), which shall:

(1) Be based on the incident command system and coordinated with the emergency response agencies in the community in which the residential program is located;

(2) Contain guidelines for personnel responsible for critical tasks, including, but not limited to the role of center incident commander, child care, medical treatment, and parental notification; and

(3) Include response actions for natural, human-caused, or technological incidences including, but not limited to:

a. Evacuation, both within building and off-site, relocation;

b. Secure campus;

c. Drop, cover, and hold;

d. Lockdown;

e. Reverse evacuation;

f. Shelter-in-place; and

g. Bomb threat and scan.

(z) Programs shall develop a continuity of operations plan (COOP) to ensure that essential functions continue to be performed during, or resumed rapidly after, a disruption of normal activities.

(aa) All response actions in (y)(3) above shall include accommodations for children with chronic medical conditions, and children with disabilities or with access and functional needs.

(ab) Programs shall practice no less than 2 components of their EOP as described in (y) above with all staff and children at least twice per year.

(ac) All staff shall review the program's EOP in accordance with the following:

(1) For currently employed staff, within the first 30 days of the development of the EOP pursuant to (y) above; or

(2) For newly hired staff, within the first 30 days of employment.

(ad) In each building of the residential program, the written policies and procedures in (a) above and the EOP in (y) above shall be in an area easily accessible and known to residential staff.

**He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control**

(ae) Programs operating an SCP shall appoint an individual who will oversee the development and implementation of an infection control program that educates and provides procedures for staff for the prevention, control, and investigation of infectious and communicable diseases.

(af) The infection control program shall include written procedures for:

- (1) Proper hand washing techniques;
- (2) The utilization of universal precautions;
- (3) The management of residents with infectious or contagious diseases or illnesses;
- (4) The handling, storage, transportation, and disposal of those items identified as infectious waste in [Env-Sw 904](#); and
- (5) The reporting of infectious and communicable diseases as required by [He-P 301](#).

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

- (1) Causes of infection;
- (2) Effects of infections;
- (3) Transmission of infections; and
- (4) Prevention and containment of infections.

**He-C 4001.15 Medication Services**

(a) The licensee shall develop and implement written policies and procedures regarding administration, documentation, including a system for maintaining counts of controlled drugs, protocols for medication occurrences, and control and safety of medication that are consistent with the requirements of this section.

(b) Administration of medications to residents shall be performed by authorized staff, registered nurse (RN), licensed practical nurse (LPN) or licensed health care practitioners, accurately and in accordance with the resident's treatment plan and the licensee's policies.

(c) Authorized staff shall know and understand the program's written policies and procedures regarding the administration, control, and safety of medication.

(d) All residents shall be initially assessed to determine the level of support needed specific to medication administration.

(e) The assessment pursuant to (d) above shall include the resident's:

- (1) Medication order(s) and medications prescribed;
- (2) Health status and health history; and
- (3) Ability to manage his or her medication, consistent with the resident's treatment plan.

(f) Program staff shall obtain, or document their efforts to obtain, oral or written consent from the parent prior to administering any new or changed prescription medications.

(g) When the resident's parent(s) is responsible for supplying the program with the resident's medication, program staff shall contact the parent 2 weeks prior to the end of the supply of medication.

(h) When the responsibility of providing care to a resident is transferred to persons outside the program, for example for a home visit, and the resident is taking prescription medication:

- (1) The pharmacy container(s) shall be given to the person responsible for the resident;
- (2) The program shall document the medication name, strength, prescribed dose, route of administration, and quantity of each medication provided to the persons outside the program, upon the resident's transfer of care; and
- (3) Upon the resident's return to the program, the program shall document the return of any medications including medication name, strength, prescribed dose, route of administration, and quantity of each medication with a description of why the medication was not given as the medication order stated.

(i) Authorized staff shall administer only those prescription medications for which there is a medication order.

(j) Authorized staff shall administer medications only to the residents about whom they have current knowledge relative to their medication regimes.

(k) Authorized staff shall maintain a copy of each resident's medication orders in the resident's record.

(l) Medication orders shall be valid for no more than one year unless otherwise specified by the licensed health care practitioner.

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

- (1) The resident'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 medications to be used PRN; and
- (5) The dated signature of the licensed health care practitioner.

(n) Written orders from a licensed health care practitioner regarding any prescription medication that is to be administered PRN shall include:

- (1) The indications and any special precautions or limitations regarding administration of the medication;
- (2) The maximum dosage allowed in a 24-hour period; and
- (3) The dated signature of the licensed health care practitioner.

(o) In addition to (n) above, authorized staff shall administer PRN medication in accordance with:

- (1) A medication order; and
- (2) A PRN protocol approved by the licensed health care practitioner that includes the specific condition(s) for which the medication is given.

(p) Prior to the administration of medication, authorized staff shall obtain information specific to each medication, including, at a minimum:

- (1) The purpose and effect(s) of the medication;
- (2) Response time of the medication;
- (3) Possible side effects, adverse reactions, and symptoms of overdose;
- (4) Possible medication interactions; and
- (5) Special storage or administration procedures.

(q) In the event of a medication occurrence, the authorized staff responsible for the administration of the medication shall forward written notification to the program director by the close of the next business day.

(r) When any medication that is administered by program staff results in serious adverse reactions including, but not limited to, impaired speech, mobility or breathing, semi-consciousness, or unconsciousness, program staff shall:

- (1) Immediately call 911 or notify a licensed health care practitioner for instructions regarding the need for emergency or other medical treatment;
- (2) Immediately comply with the instructions provided by the licensed health care practitioner;
- (3) Remain with the resident until he or she is fully alert and oriented and has recovered all physical capabilities that had been impaired by the medication, or until responsibility for the resident's care is transferred to a licensed health care practitioner in a medical facility; and

(4) Notify or document efforts to notify the parents within 24 hours.

(s) Prior to administering medication to any resident, program staff shall complete and document training on medication safety and administration, as specified in (t) below.

(t) Training in medication safety and administration, as required in (s) above, shall:

(1) Be delivered by a physician, APRN, RN, or LPN practicing under the direction of an APRN, RN, or physician, or by another qualified individual;

(2) Be provided in person, via distance learning, a video presentation, or web-based; and

(3) Address the following:

a. The safe storage and administration of medication, including but not limited to:

1. Administration of the correct medication;

2. Administration of the correct dosage of the medication;

3. Administration of the medication to the correct resident;

4. Administration of the medication to the resident at the correct times and frequency;

5. Administration of the medication to the resident by the correct method of administration;

6. Infection control and aseptic procedures related to administration of medication; and

7. Resident's rights regarding refusing medications;

b. Possible side effects and adverse reactions to the medications to be administered and required reporting regarding those issues;

c. Proper storage, disposal, security, error control, and documentation as related to the medications to be administered;

d. Any other unusual occurrence related to the safe storage or administration of medication and reporting requirements regarding those issues;

e. Conditions or situations requiring emergency medical intervention; and

f. Methods of administration including, but not limited to oral, injection, topical application or inhalation.

(u) In addition to (t) above, authorized staff shall complete 2 hours of training annually on medication safety and administration.

(v) Documentation of training in medication safety and administration shall be maintained on file at the child care program available for review by the department.

(w) For each resident, program staff shall maintain medication information on file and available for review by the department, which includes, at a minimum:

(1) A written medication order, as specified in (m) above, including special considerations for administration for each prescription medication being taken by a resident;



## He-C 4001.15 Medication Services

- (2) Written parental authorization to administer medication, if applicable;
- (3) The name and contact information of the parent, if applicable; and
- (4) Allergies, if applicable.

(x) In addition to (w) above, program staff shall maintain a daily medication log for each dose of medication administered to each resident.

(y) The medication log required in (x) above shall:

- (1) Be maintained on file in the program, available for review by the department;
- (2) Be completed by the authorized staff who administered the medication immediately after the medication is administered; and
- (3) For each medication prescribed, include at a minimum:
  - a. The name of the resident;
  - b. The date and time the medication was taken;
  - c. A notation of any medication occurrence or the reason why any medication was not taken as ordered or approved;
  - d. The dated signature of the authorized staff who administered the medication to the resident; and
  - e. For administration of a PRN, documentation including the reason for administration.

(z) The licensee shall require that all telephone orders from a licensed health care practitioner or their agent, for medications, treatments, and diets are documented in writing, including facsimiles, by the licensed health care practitioner within 24 hours.

(aa) In addition to (z) above, authorized staff shall record any changes regarding prescription medications in the resident's medication log.

(ab) All physician medication samples shall legibly display the information described in (m)(1)–(5) above.

(ac) No person other than a licensed health care practitioner shall make changes to the written order of a licensed health care practitioner regarding prescribed medication.

(ad) All medication maintained by the program shall be stored as follows:

- (1) Kept in a storage area that is:
  - a. Locked and accessible only to authorized personnel;
  - b. Organized to allow correct identification of each resident's medication(s);
  - c. Illuminated in a manner sufficient to allow reading of all medication labels; and
  - d. Equipped to maintain medication at the proper temperature;

## He-C 4001.15 Medication Services

- (2) Schedule II controlled substances, as defined by [RSA 318-B:1-b](#), shall be kept in a separately locked compartment within the locked medication storage area and accessible only to authorized personnel; and
- (3) Topical liquids, ointments, patches, creams, and powder forms of products shall be stored in a manner such that cross-contamination with oral, optic, ophthalmic, and parenteral products shall not occur.
- (ae) All medication shall be accompanied by:
- (1) The physician's written order, which may be the prescription label; and
  - (2) The manufacturer's written instructions for dosage.
- (af) Medications such as insulin, inhalers, and epi pens shall be permitted to be in the possession of a resident in accordance with the resident's ability, as specified in the resident's treatment plan.
- (ag) All medications belonging to staff shall be stored in a locked area, separate from residents' medications or otherwise inaccessible to residents.
- (ah) The program director or designee may elect to have a supply of non-prescription medication available, including but not limited to acetaminophen, ibuprofen, aspirin, cold medicines, or antacids that may be administered to residents for minor illnesses, provided those medications are stored and administered in accordance with the requirements in this section.
- (ai) All medication shall be kept in the original containers or pharmacy packaging and properly closed after each use unless otherwise allowed by law.
- (aj) Any contaminated, expired, or discontinued medication, whether prescription or over the counter, shall be destroyed within 7 days of identification as contaminated, expired, or discontinued.
- (ak) Destruction of prescription drugs under (aj) above shall:
- (1) Be accomplished by an authorized staff and witnessed by one staff; and
  - (2) Be documented in the resident's medication record, including the legible, dated signature of the staff person who disposed of the drugs and the staff person who witnessed the disposal.
- (al) All medication shall be destroyed in accordance with the United States Environmental Protection Agency's, "[How to Dispose of Medicines Properly](#)" guidance, (April 2011), available as noted in [Appendix A](#).
- (am) Programs providing SUD services shall have a clearly identified policy for storage and administration of naloxone that includes the following:
- (1) The process for regularly reviewing and updating the standing order for the naloxone kits on the premises;
  - (2) The process for ensuring regular review of naloxone kits for expiration;
  - (3) If naloxone is administered, the policy shall include a statement that 911 shall be called immediately; and
  - (4) If naloxone is not administered but an overdose is suspected, the policy shall include a statement that 911 shall be called immediately.
- (an) Medication administered by individuals authorized by law to administer medications shall be:

- (1) Prepared immediately prior to administration; and
  - (2) Prepared, identified, and administered by the same person in compliance with [RSA 318-B](#) and [RSA 326-B](#).
- (ao) Personnel shall remain with the resident until the youth has taken the medication.
- (ap) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall follow the requirements of [RSA 326-B](#).
- (aq) Programs providing SUD services shall have a written policy establishing procedures for the prevention, detection, and resolution of controlled substance misuse, and diversion, which shall apply to all personnel, and which shall be the responsibility of a designated employee or interdisciplinary team.
- (ar) The policy in (aq) above shall include:
- (1) Education;
  - (2) Procedures for monitoring the distribution and storage of controlled substances;
  - (3) Voluntary self-referral by employees who are misusing substances;
  - (4) Co-worker reporting procedures;
  - (5) Drug testing procedures to include at a minimum, testing where reasonable suspicion exists;
  - (6) Employee assistance procedures;
  - (7) Confidentiality;
  - (8) Investigation, reporting, and resolution of controlled drug misuse or diversion; and
  - (9) The consequences for violation of the controlled substance misuse, and diversion prevention policy.

**He-C 4001.16 Residential Child Care Space**

(a) In all programs, space that is designated, inspected, and approved as residential child care space shall not be used for any purposes or activities that could jeopardize the health or safety of residents or otherwise negatively impact the residential child care program.

(b) Residential child care programs shall provide:

(1) A living room or community space with comfortable furnishings, available, and accessible to residents for regular and informal use for general relaxation and entertainment;

(2) Bedrooms that are separated by gender and that have:

a. A minimum of 50 square feet of floor space per occupant;

b. Ceilings that are at least 7 feet high at the highest peak;

c. An outside window; and

d. An operable door;

(3) An area that is suitable and available for private discussions and counseling sessions;

(4) Sturdy, comfortable furniture and furnishings, that are clean and in good repair;

(5) Bathroom facilities that provide residents with age appropriate privacy while changing clothes, showering, attending to personal hygiene, and using the toilet;

(6) When available on site, outdoor space that is maintained in a neat, safe, clean condition and is available to residents for active recreation; and

(7) Screens for all operable windows in the facility.

(c) If seclusion is used, then rooms used for seclusion shall be in compliance with the provisions of [RSA 126-U:5-b](#).

(d) Programs shall have a communication system in place so that residents and staff can effectively contact personnel when they need assistance with care or in an emergency.

(e) Programs shall assure that:

(1) Damage to the residence, such as holes in walls and doors, is repaired within 7 days, or as soon as possible after the damage has occurred; and

(2) Any hazardous condition in the licensed premises, including but not limited to those identified in [He-C 4001.17\(a\)](#), is immediately addressed, and that residents do not have access to any hazardous conditions or materials pending repair or replacement.

## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

### **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

(a) Program staff shall maintain the residential child care environment free of conditions hazardous to residents, including but not limited to, the following:

- (1) Electrical hazards;
- (2) Guns, or live or spent ammunition;
- (3) Holes in flooring, loose floor tiles or loose throw rugs, which present a slipping or tripping hazard;
- (4) Loose and flaking paint which is accessible to residents;
- (5) Unclean conditions, which demonstrate a lack of regular cleaning;
- (6) Inadequate protections against insects and rodents; and
- (7) Garbage and rubbish stored in an unsanitary manner.

(b) When interior or exterior surfaces of a building built prior to 1978 are in deteriorating condition, including flaking, chipping and peeling paint, or are subject to renovations or construction, a U.S. Environmental Protection Agency certified Renovation, Repair, and Painting (RRP) contractor shall be utilized to make the deteriorated surfaces intact, in accordance with [40 CFR1.745.90\(a\)](#) and [\(b\)](#) and [He-P 1600](#).

(c) When there is information or evidence indicating that the building might contain asbestos hazards, the applicant, licensee, or designee shall submit evidence that the building has been inspected by a licensed asbestos inspector and is free of asbestos hazards or otherwise treated or contained in a manner approved by a licensed asbestos inspector.

(d) Program staff shall clearly label and store all toxic materials, including, but not limited to, cleaners, household chemicals and paint, separate from food items, in cabinets which are locked or otherwise inaccessible to residents.

(e) Notwithstanding (d) above, at the discretion of the program director, residents may be allowed to use household cleaning products to complete a specific task, provided the resident completing the task shall be under the supervision of program staff while the cleaning chemicals are accessible, and the cleaning products shall not be accessible to other residents not involved in the cleaning task.

(f) Program staff shall maintain on file at the residence documentation of current vaccinations as required by law for all pets and animals that are present on the premises of the program.

(g) Pets and animals that have been determined by the department to pose a health or safety risk to children shall not be permitted on the premises of the program, including, but not limited to, the following:

- (1) Bats;
- (2) Turtles;
- (3) Tortoises;
- (4) Snakes;
- (5) Iguanas;
- (6) Other lizards or reptiles;

## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

- (7) Hedgehogs;
  - (8) Parakeets; and
  - (9) Parrots and parrot-like birds.
- (h) All enclosed living areas used by residents shall:
- (1) Be ventilated by means of a mechanical ventilation system or one or more screened windows that can be opened, and will not pose a hazard to residents; and
  - (2) From September 1 through May 31, have a safe, functioning heating system, which is cleaned, serviced, and maintained at least once annually and which ensures that whenever residents are present, or expected to arrive within one hour, the temperature is maintained at:
    - a. Not less than 65 degrees Fahrenheit during waking hours, except for areas being used for active physical exercise or recreation; and
    - b. Not less than 55 degrees Fahrenheit during sleeping hours.
  - (i) Program staff, child care interns, and volunteers shall not smoke or use tobacco products while they are responsible for the care of residents or within sight of residents, nor allow residents to smoke or use tobacco, have access to tobacco products, or be exposed to second hand smoke.
  - (j) All living space and recreation areas used by residents shall be equipped with operable lighting sufficient to allow individuals to enter, exit and move about the premises of the program safely.
  - (k) All toys, equipment and learning materials shall be:
    - (1) In good repair;
    - (2) Safe;
    - (3) Free of lead paint or other poisonous material; and
    - (4) Cleaned as often as needed to keep them free of a buildup of dirt.
  - (l) Licensees shall provide sufficient sturdy tables and chairs to ensure each resident's comfort for meals, snacks, and for work or play at tables.
  - (m) Licensees shall provide each resident with a bed equipped with:
    - (1) A pillow and a firm mattress that is:
      - a. Clean;
      - b. In good repair;
      - c. Free from rips or holes in the fabric covering that would allow residents access to the interior components of the mattress;
      - d. Cleaned and sprayed with a disinfecting spray before being used for a new resident; and
      - e. Replaced or sanitized promptly if soiled by urine, feces, blood, or vomit; and
    - (2) Adequate bedding to insure his or her comfort that is cleaned and maintained as follows:

## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

- a. Sheets and pillow cases shall be cleaned at least once each week and more frequently if soiled; and
- b. Blankets, comforters, bedspreads, and mattress covers shall be cleaned at least once each month and more frequently if soiled.

(n) Programs shall provide separate sleeping and bathroom facilities for staff and family members of staff who reside in the program.

(o) Program staff shall maintain the outside play areas free of hazards.

(p) During activities conducted in the water, including wading, swimming and boating, the following shall apply:

(1) All activities shall be supervised in accordance with the following:

- a. Program staff shall provide close supervision to residents at all times, to include a ratio of one staff to no more than 4 residents when no lifeguard is present;
- b. At least one staff person who is currently certified in CPR and first aid shall be present with the residents at all times;
- c. At least one staff person who has completed training in water safety shall be present with the residents at all times;
- d. A rescue buoy, ring buoy, or water rescue throw bag shall be brought to or present at all swimming and boating activities where there is no lifeguard present; and
- e. Notwithstanding a. through d. above, a program may allow a resident to be at a water activity independently, if the program director provides a written and dated authorization, after assessing the following:
  - 1. A resident's swimming ability, such as whether he or she has completed a Red Cross or other recognized swimming program;
  - 2. A resident's ability to be independent;
  - 3. Under what circumstances the resident may be at a water activity independently; and
  - 4. Whether or not a lifeguard must be on duty or a parent or other adult must be present at the water activity; and

(2) All pools used as part of the residential child care operation shall be maintained in accordance with the printed instructions of the manufacturer or installer regarding cleaning, filtration, and chemical treatment, and the following:

- a. Swimming pools shall be secured in a manner that is childproof and lockable; and
- b. Pool gates, fences, or other barriers as required in a. above shall be locked at all times, except when the residents are involved in an allowable water activity in the pool.

(q) Program staff shall comply with the following food service requirements:

(1) All foods that will be served to residents shall be:

- a. Free from spoilage, filth, or other contamination;

## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

- b. Stored in a clean dry location;
  - c. Protected from sources of contamination;
  - d. Stored in containers at least 6 inches above the floor;
  - e. Stored separate from non-food items that could contaminate food or be mistaken for food;
  - f. Stored in the original containers or in labeled containers designed for food storage; and
  - g. Stored, handled, and prepared in a manner that protects against cross contamination between uncooked meat, poultry or fish, and other food items;
- (2) Canned goods that are dented, bulging, or rusted shall not be served to residents;
- (3) All perishable foods which are to be served to residents shall be stored at temperatures of 41 degrees Fahrenheit or below in a refrigerator and at 0 degrees Fahrenheit or below in a freezer;
- (4) Refrigerators and freezers used to store foods that will be served to residents shall be clean;
- (5) Refrigerators and freezers used to store foods that will be served to residents shall be equipped with non-mercury, food-grade thermometers; and
- (6) Food contact surfaces shall be easily cleanable, smooth, free of cracks, breaks, and open seams or similar difficult to clean imperfections and kept clean.
- (r) Toys or other items which are routinely mouthed by residents shall be cleaned and sanitized after each use by a resident, and at the end of each day.
- (s) Residents who have developmental delays and are likely to put objects in their mouths, shall be closely supervised when they have access to the items noted in (t)(1)c. and (11) below.
- (t) Program staff shall comply with the following child age related environmental health and safety requirements:
- (1) Residents younger than 6 years of age shall not have access to the following:
- a. Cords or strings long enough to encircle a resident's neck, including but not limited to pull toys, telephone cords, and window blind cords;
  - b. Balusters which are spaced more than 3 1/2 inches apart on handrails and guardrails on play structures, lofts, stairs, steps, decks, porches, balconies, or other barriers;
  - c. Sharp knives and sharp objects or objects with sharp edges, except that, at the discretion of program staff and under close supervision, program staff may allow use of scissors or knives for specific cooking projects, craft projects, or meal times;
  - d. Unstable or easily tipped heavy furnishings or other heavy items which, if not secured to the wall or floor or both, could easily fall on residents and would be likely to cause injury; and
  - e. Toy boxes and any other chest type storage facilities that have a lid that does not have a safety lid support;



## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

(2) Play areas accessible to residents younger than 6 years of age shall be enclosed by a fence when the department determines that the play area is unsafe because it is located on a roof, or adjacent to any of the following:

- a. A street or road; or
- b. Any dangerous areas, any swimming pool, or any body of water;

(3) All fencing required under (2) above shall:

- a. Be designed to restrain residents from climbing out of, over, under, or through the fence;
- b. Have a child proof self-latching device on any gates; and
- c. Be maintained in good repair, free of damage or wear that could expose residents to hazards;

(4) When accessible to residents younger than 6 years of age, ground area under and extending at least 39 inches beyond the external limits of outdoor play equipment which would allow a resident to fall from a height of more than 29 inches shall be constructed and maintained at all times with an energy absorptive surface, including but not limited to sand, bark mulch, pea stone, soft wood chips, or rubber mats manufactured for use as gym mats;

(5) The energy absorptive material required in (4) above shall be:

- a. Maintained at a depth of at least 8 inches; and
- b. Checked and raked regularly to remove any foreign matter, correct compaction, and increase absorption;

(6) Adult toilets and hand washing sinks used by residents younger than 6 years of age shall be equipped with footstools or platforms;

(7) Foot stools or platforms required in (6) above shall:

- a. Have a non-porous finish that is easily cleanable; and
- b. Be designed to prevent tipping;

(8) The fall zone under and around all indoor swings, slides, and climbing equipment from which a child could fall from a height of more than 29 inches shall be covered with mats designed for gymnastics, if they are accessible to or will be used by residents younger than 6 years of age;

(9) Children younger than 3 years of age shall not have access to stairs or steps that are not equipped with safety gates;

(10) Baby walkers with wheels shall be prohibited in all programs;

(11) Residents younger than 4 years of age shall not have access to toys, toy parts, and other materials which pose a choking risk or are small enough to be swallowed, such as coins and balloons;

(12) There shall be an individual crib or playpen for each resident 12 months of age and younger; and

(13) Cribs and playpens required under (12) above shall:

## **He-C 4001.17 Health and Safety in the Residential Child Care Environment**

- a. Not be stacked;
- b. Be free of cracked or peeling paint, splinters, and rough edges;
- c. Have no more than 2 3/8 inches between slats;
- d. Have no missing, loose, broken, or improperly installed parts, screws, brackets, baseboards or other loose hardware or damaged parts on the crib or mattress supports;
- e. Not have corner posts that extend more than one sixteenth of an inch above the end panels;
- f. Not have cutouts in the headboard or footboard;
- g. Not have holes or tears in the mesh walls or in the material that connects the walls to the bottom of the crib or play pen; and
- h. Have mattresses which:
  1. Are in good repair, free of rips or tears; and
  2. Fit the crib or playpen so that space between the mattress and the crib or playpen does not create a suffocation hazard.

## **He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities**

### **He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities**

(a) The licensee shall supply a safe supply of water under pressure, which is available for drinking and household use in accordance with the following:

(1) Hot water under pressure, which measures at least 100 degrees Fahrenheit, shall be available at all sinks, showers, and bathtubs located in living space that is used by residents during operating hours;

(2) Hot water at taps that are accessible to residents shall be regulated to maintain a temperature at the tap of not higher than 120 degrees Fahrenheit;

(3) In accordance with [Env-Dw 501.04\(c\)](#), a program that has a public water system as defined in [RSA 485:1-a, XV](#) and subject to regulation by the department of environmental services, shall have on file a written document which lists the United States Environmental Protection Agency identification number of the system, assigned by the department of environmental services;

(4) The written documentation required in (3) above shall be available for review by the health officer and the department;

(5) Programs that have their own independent water supply and are not considered to be public water systems as defined in [RSA 485:1-a, XV](#), shall test their water supply in accordance with the following:

a. Water testing shall be performed by a laboratory accredited under the environmental laboratory accreditation program in accordance with [Env-C 300](#);

b. For new applicants, not more than 90 days prior to the date the application is submitted to the department, water testing shall be conducted for arsenic, bacteria, nitrate, nitrite, lead, both stagnant and flushed, copper, both stagnant and flushed, fluoride, and uranium and results provided to the department with the application; and

c. Ongoing water testing shall be conducted as follows and results maintained on file at the program, available for review by the health officer and the department:

1. Once every 3 months for bacteria;

2. Annually for arsenic, nitrate, and nitrite; and

3. At least once every 3 years for stagnant lead, stagnant copper, fluoride, and uranium;

(6) The results of water tests required by (a)(5)b. and c. above, and results of any other water tests shall be in compliance with the maximum contaminant levels established in [Env-Dw 700](#) for bacteria, nitrates, nitrites, arsenic, and fluoride, and shall not exceed the action levels established in [Env-Dw 714](#) for lead and copper;

(7) Any program whose water test result has exceeded maximum contaminant levels or action levels shall:

a. Immediately contact the department to report that finding, and provide the department with a plan for how it will ensure that children will not be at risk from exposure to the unsafe water; and

b. Within 30 days of the date the program learns that they have failed a water test submit to the department an acceptable corrective action plan which details what action will be taken to

## **He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities**

correct the unsafe condition of the water and a date by which that action will be complete, unless the program requests, either verbally or in writing, and the department agrees to extend that deadline based on the following criteria:

1. The program demonstrates that it has made a good faith effort to develop and submit the corrective action plan within the 30-day period but has been unable to do so; and
2. The department determines that the health, safety or well-being of children will not be jeopardized as a result of granting the extension; and

(8) When a program fails to submit a written proposed corrective action plan within 30 days of receiving the unacceptable test result under (a)(7)b. above, the department shall initiate action to suspend the license or permit in accordance with [He-C 4001.09\(i\)](#), until such time as laboratory results meeting those requirements are received by the department.

(b) Programs shall ensure that there are functional sewage disposal facilities designed to accommodate the license capacity of the program, in accordance with the following:

- (1) There shall be no visible sewage on the grounds;
- (2) There shall be flush toilets in working order connected to a sewage disposal system; and
- (3) Any program whose septic system is showing signs of failure, shall:
  - a. Immediately make arrangements with a contractor licensed to evaluate and repair or replace septic systems to:
    1. Make temporary repairs to the septic system to correct the problem so that the program may continue to operate; or
    2. Make permanent repairs to the septic system or replace the septic system;
  - b. Immediately contact the local health officer to inform him or her of the problem;
  - c. Immediately contact the department to verbally report the problem, and give the department a plan for how it will immediately provide that:
    1. All required bathroom units function properly; and
    2. Residents will not be exposed to any risks from the failed septic system;
  - d. Within 10 days of the date that program staff first notice signs indicating that the septic system is in failure, 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; and
    3. An explanation of how the program will ensure that the requirements in (b) (3) c. 1. and 2. above will continue to be met until repair or replacements are completed; and
  - e. Request an extension to d. above which the department shall grant if additional time is necessary to develop a written plan and the safety and well-being of the residents is maintained.

## **He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities**

(c) Programs shall ensure that in each building in which residents reside, for every 4 residents there shall be one bathroom unit that is accessible to residents and equipped with:

- (1) An operable door; and
- (2) A properly functioning sink, toilet, and shower or tub.

(d) Programs shall maintain bathroom facilities in accordance with the following:

- (1) At least once each day and whenever visibly soiled, sinks, toilets, commodes, foot stools, potty chairs, and adapters shall be cleaned to remove visible dirt and sanitized;
- (2) Toilet paper, individual cloth or paper towels, and individual bar or liquid soap shall be available and accessible to residents and staff;
- (3) Bathrooms shall have a means of outside ventilation; and
- (4) Bathroom floors and other surfaces shall be cleaned at least weekly, and more often when obviously soiled.

(e) In addition to the requirements for toilets set forth in (c) above, programs that serve residents younger than 3 years of age shall:

- (1) Provide additional child size toilets, adult toilets with adapters, or potty chairs to meet the needs of such residents;
- (2) Place potty chairs within easy access to a toilet and sink to allow program staff to proceed to the toilet to empty the potty chair and proceed to the hand washing sink after toileting without having to open doors or gates, or have physical contact with other residents;
- (3) Not place potty chairs or commodes in food preparation areas or food service areas; and
- (4) Empty and sanitize each potty-chair and commode receptacle after each use.

(f) Programs serving diapered residents and residents who are not toilet trained shall have a designated diaper changing area that:

- (1) Is not located in kitchens, food preparation or food service areas, or on surfaces where food is prepared or served;
- (2) Is located adjacent to or in close proximity to a hand washing sink to allow access for hand washing without having to open doors or have physical contact with other residents;
- (3) Has a non-porous, washable surface, which shall be sanitized after each diaper change and used exclusively for diaper changing;
- (4) Contains a foot-activated receptacle for disposal of soiled disposable diapers and cleansing articles; and
- (5) Is equipped with a sink used for adult and resident hand washing before or after diaper changing or toileting.

**He-C 4001.19 Requirements for Program Staff**

- (a) Program staff shall:
- (1) Relate with residents in a professional, respectful manner; and
  - (2) Have the ability to identify the needs and problems of the children and possess skill in planning and implementing services of the program.
- (b) The program director or designee shall, for each staff person who is responsible for the care, supervision, or treatment of residents, have on file available for review by the department documentation of job qualifications such as:
- (1) All required education, such as a diploma, transcripts, certificates, or degrees; and
  - (2) All required training and experience, as set forth on an application form or resume.
- (c) For the purposes of this section, the field of human services shall include residential care, education, social work, mental health, law enforcement, psychology, sociology, pastoral counseling, theology, juvenile justice, medical services, corrections, substance abuse, social services, recreation, or a related field.
- (d) The department shall accept the following education and training for program staff:
- (1) Credit courses in human services, offered by a regionally accredited college or university, toward meeting pre-service and in-service training requirements;
  - (2) Non-credit courses in human services, which are offered by a regionally accredited college or university, toward meeting pre-service and in-service training requirements at a ratio of 12 contact hours equal one credit; and
  - (3) Conference sessions, workshops, non-credit correspondence courses or other non-credit distance learning courses related to human services, that are open to individuals working in the residential child care field or to the public or both, and are presented by an instructor who has at least a bachelor's degree in human services or the subject area in which he or she is teaching, at a ratio of 12 contact hours equals one credit.
- (e) The program director shall meet at least one of the following pre-service training and education options:
- (1) A master's degree in the field of human services, business administration, or public administration, awarded by a regionally accredited college or university, plus 2 years of experiences as a professional in human services, which included administrative responsibilities; or
  - (2) A bachelor's degree with a minimum of 12 credits in the field of human services, business administration, or public administration, awarded by a regionally accredited college or university, plus 3 years of experience as a professional in human services, which included administrative responsibilities.
- (f) Direct care staff shall be at least 21 years of age, have a high school diploma, high school equivalency certificate, or general equivalency diploma, and meet one of the following pre-service training and education requirements:
- (1) An associate's or higher degree with a minimum of 12 credits in the field of human services, or other field related to residential care, awarded by a regionally accredited college or university;

## He-C 4001.19 Requirements for Program Staff

- (2) The equivalent of 2 years of full-time experience working with children, either as a paid employee or volunteer;
  - (3) Any combination of college credits in human services and experience with children that total 2 years, as follows:
    - a. Two years of full-time college shall equal 60 credits;
    - b. Two years of full-time employment shall equal 3000 hours; and
    - c. One credit shall equal 50 hours of experience; or
  - (4) Documentation of 7 years of parenting experience.
- (g) When an applicant for a direct care staff member does not meet one of the provisions in (f) above:
- (1) An agreement shall be on file, signed, and dated by the individual and the program director or designee, which includes a written plan for:
    - a. Attaining 12 credits in human services within 2 years from the date that the individual begins working as a direct care staff, with documentation on file of the completion of 3 credits every 6 months, beginning on the date of hire;
    - b. How the program will supervise the individual while they are working on acquiring the required 12 credits; and
    - c. Maintaining current documentation of earned credits on file in the individual's personnel file; and
  - (2) No more than 30% of staff shall be hired under the provisions of (g)(1)a. above.
- (h) A child care assistant, intern, or volunteer shall:
- (1) Be at least 18 years of age;
  - (2) Work at all times under the supervision of an on-duty staff person who meets at least the minimum qualifications for the position of direct care staff;
  - (3) Not be responsible for the care or supervision of residents including treatment, discipline, physical intervention, counseling, or administration of medication; and
  - (4) Not be included in the staff to child ratio.
- (i) Supervision as referenced in (h) above shall require that a staff person who meets at least the minimum qualifications of direct care staff shall at all times have:
- (1) Knowledge of and accountability for the activity and whereabouts of the child care interns, child care assistants, or volunteers and the residents with whom he or she is working; or
  - (2) The ability to either see or hear the child care intern, child care assistant, or volunteer and the residents with whom he or she is working.
- (j) The exception to (i) above shall be that the program director or designee may at his or her discretion, authorize a specific child care assistant, intern, or volunteer to be responsible for one or more residents during time limited, specific activities, either indoors or outdoors, including off premises.

## He-C 4001.19 Requirements for Program Staff

(k) Prior to having contact with residents or food, personnel shall receive a tour of and orientation to the program that includes the following:

- (1) The program's complaint procedures;
- (2) The duties and responsibilities of the position;
- (3) The medical emergency procedures;
- (4) The emergency and evacuation procedures;
- (5) The infection control procedures;
- (6) The program confidentiality requirements;
- (7) Grievance procedures for both staff and residents;
- (8) The procedures for food safety for personnel involved in preparation, serving, and storing of food, as applicable;
- (9) The policies required in [He-C 4001.14\(a\)](#); and
- (10) The mandatory reporting requirements including [RSA 161-F:46](#) and [RSA 169-C:29](#).

(l) No new direct care staff shall be solely responsible for residents in care until he or she has completed the orientation required above.

(m) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:

- (1) The licensee's infection control program;
- (2) The licensee's written emergency plan;
- (3) The licensee's policies and procedures; and
- (4) The mandatory reporting requirements including [RSA 161-F:46](#) and [RSA 169-C:29](#).

(n) The licensee shall:

- (1) Educate personnel about the needs and services required by the residents under their care and document such education to include demonstrated competencies; and
- (2) Ensure that all personnel have received the training necessary to be qualified personnel to include demonstrated competency in the training given with documentation maintained in the employee personnel file.

(o) Personnel and staff shall not:

- (1) Be impaired while on the job by any substances including, but not limited to, legally prescribed medication, therapeutic cannabis, alcohol, or illegal drugs; or
- (2) Expose residents to tobacco, alcohol, or illegal drugs or controlled substances.



**He-C 4001.20 Staffing**

(a) Program staff shall provide care and supervision at all times to ensure that residents are safe and that their needs are met according to their developmental level, age, emotional or behavioral needs, and in accordance with their treatment plan.

(b) In all programs there shall be a program director that assumes responsibility for the daily operation of the program.

(c) Programs shall, at a minimum, maintain the following staff to resident ratios and retain documentation of it for a 6-month period:

(1) Independent living homes shall maintain a minimum staff to resident ratio of one staff person to 8 residents during awake hours and one staff person to 12 residents during sleeping hours; and

(2) All other programs shall maintain a minimum staff to resident ratio of one staff person to 6 residents during awake hours and one staff person to 12 residents during sleeping hours.

(d) Notwithstanding the required minimum staff to resident ratios specified in (c) above, when a staff person takes one or more residents off the premises for a routine trip, such as a medical or dental appointment, recreation or social activity, the program may have one fewer staff person with the residents who will remain on the premises of the program, provided that:

(1) The program director or designee has authorized the reduced staff to resident ratio, based upon his or her determination that the staff remaining on the premises of the program can meet the individual needs of each resident; and

(2) In no case shall the staff to resident ratio go below one to 12.

(e) Notwithstanding the staff to resident ratios set forth in (c) and (d) above, when a resident's treatment plan requires that a resident needs a staff to resident ratio that is more stringent than the required staff to resident ratios, the program shall comply with the resident's treatment plan.

(f) The licensee shall assign at least one staff to help orient a newly admitted resident to the program and to the services available to the resident.

(g) Programs operating an SCP shall have sufficient hired and contracted staff to meet the needs of residents.

**He-C 4001.21 Programming Requirements for Residents**

(a) Program staff shall, with input from the person or program placing the resident, have referral information on each resident, including:

- (1) The reason for the placement;
- (2) The anticipated length of stay;
- (3) The contact information for the parent or guardian; and
- (4) The contact information for the person or program placing the resident.

(b) Except for residents in short term placement, a written treatment plan shall be in place for each resident no later than 30 days from the date of admission.

(c) The written treatment plan required in (b) above shall identify:

- (1) The resident's physical, social, behavioral, medical, and educational needs; and
- (2) How the program will meet those needs.

(d) Program staff shall review and modify the written treatment plan required in (b) above as the resident's needs change.

(e) Once the written treatment plan required in (b) above is developed, program staff shall familiarize themselves with the identified needs of each resident and implement the plan.

(f) The program director or designee shall:

- (1) Not rely upon residents to maintain the facility; and
- (2) Only allow residents to perform work inside or outside the program, which is:
  - a. Compliant with child labor laws and regulations; and
  - b. Consistent with the resident's age and abilities.

(g) Program staff shall:

- (1) Plan daily activities that promote healthy development and provide for social relationships, creative activities, hobbies, and participation in neighborhood, school, and other community groups appropriate to the age, developmental level, and needs of each resident;
- (2) Provide that work assignments for the resident do not interfere with the regular school programs, study periods, recreation, or sleep;
- (3) Provide each resident with clothing that is individually fitted and appropriate to the season;
- (4) Instruct each resident regarding good health practices, including proper habits in eating, bathing and personal hygiene;
- (5) Provide each resident with a clean towel and washcloth weekly, or more often if towels or washcloths become soiled or odorous; and
- (6) Provide each resident with necessary individual toilet articles and supplies for personal grooming and hygiene suitable to their age and needs.

## He-C 4001.21 Programming Requirements for Residents

(h) Each child shall have education and training, including:

- (1) Regular school attendance as required by law; and
- (2) The opportunity to complete high school or the opportunity for vocational guidance.

(i) Academic programs within the facility shall meet the requirements of the New Hampshire department of education.

(j) Each child shall be given the opportunity to practice his or her religious beliefs.

(k) The program staff shall assess the resident's needs and prepare a discharge plan at least 30 working days prior to the resident's discharge, except in the case of an unplanned or emergency discharge.

(l) In the case of an unplanned or emergency discharge, the program staff shall prepare a discharge summary, which explains the circumstances of the discharge as soon as practicable.

(m) The program shall not exceed the maximum number of residents licensed by the department, unless authorized by the department, such as during an emergency.

(n) The licensee shall:

- (1) Establish procedures to prepare the staff and residents for the arrival of new resident; and
- (2) Provide staff with appropriate information to receive the new resident and assist in his or her adjustment, which shall include at a minimum:
  - a. Reason for placement, medical condition(s) and behavior problems, as applicable; and
  - b. Specific instructions related to the individual needs of the resident, including the need for an individualized restraint method consistent with [RSA 126-U](#), if appropriate.

(o) Licensees shall:

- (1) Meet the needs of the residents;
- (2) Initiate action to maintain the program 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 program;
- (4) Verify the qualifications of all personnel; and
- (5) Provide sufficient numbers of personnel who are present in the program and are qualified to meet the needs of residents during all hours of operation.

**He-C 4001.22 Discipline**

(a) Program staff shall:

- (1) Establish and make residents aware of rules or limits for acceptable behavior which are consistently applied, realistic, designed to promote cooperation and respect, and are appropriate and understandable to the development level of the resident; and
- (2) Make residents aware of the consequences of not complying with the established limits or rules for acceptable behavior.

(b) Program staff shall not:

- (1) Abuse or neglect residents;
- (2) Use corporal punishment;
- (3) Attempt to control any resident's behavior by actions which are humiliating, threatening, shaming, frightening, or otherwise damaging to residents;
- (4) Withhold food from residents;
- (5) Shame, humiliate, or discipline any resident for toileting accidents;
- (6) Prevent a resident from using bathroom facilities, except as necessary to protect a resident's safety, as documented in the resident's case plan or treatment plan;
- (7) As a means of discipline or punishment:
  - a. Require or deny residents sleep or rest;
  - b. Require residents younger than 6 years of age to go to their crib, bed, or playpen;
  - c. Withhold a resident's shoes or clothing, except as necessary to protect the resident's health or safety or to prevent the resident from running away;
  - d. Require a resident to perform physical exercise or perform tasks, which are humiliating, unusual, or physically exhausting; or
  - e. Use group punishment for misbehaviors of individuals except when documented as part of the treatment plan;
- (8) Use sensory deprivation;
- (9) Use mechanical restraints, and specifically any equipment, material, or device that is applied to a resident for the purpose of restricting his or her movement or activity; or
- (10) Allow residents to discipline other residents.

(c) Each use of time out shall:

- (1) Not be in a locked room;
- (2) Be appropriate to the resident's developmental level and circumstances; and
- (3) Be limited to the minimum amount of time necessary to:

- a. Allow the resident to regain self-control;
- b. Be effective as a consequence; or
- c. Protect the safety of the resident in time out or other residents.

(d) The applicant, licensee, program director and program staff shall take prompt action to protect residents from abuse, neglect, corporal punishment, or other mistreatment by any individual.

(e) Program staff shall use restraint in accordance with [RSA 126-U](#).

(f) Program staff shall use seclusion in accordance with [RSA 126-U](#).

(g) The staff person in charge shall evaluate each use of seclusion at least every 60 minutes to determine if further use of this intervention is necessary.

(h) Each use of seclusion or restraint shall be documented on an incident report in accordance with [He-C 4001.23](#), [He-C 4001.14\(t\)\(5\)](#), and [RSA 126-U:7](#).

(i) The program director, treatment coordinator, or designee shall review the documentation regarding each use of seclusion no later than one working day after its use, and sign and date the documentation.

(j) Before any program staff participates in a physical intervention or the use of seclusion he or she shall have completed a curriculum in physical intervention techniques that is designed to protect the child from risk of harm to self, others, property, or the public.

(k) Physical intervention methods used shall be consistent with the curriculum required in (j) above and be reviewed annually with program staff to maintain competency.

(l) Physical intervention shall be used only:

(1) After less restrictive behavior management techniques have been tried and found to be ineffective in helping the resident gain control; and

(2) When necessary to:

- a. Ensure the physical safety and security of the out of control resident, or other residents;
- b. Prevent harm to program staff or other persons; or
- c. Prevent serious damage to property.

(m) To reduce the risk of injury to a resident as a result of physical intervention, program staff shall use the minimum amount of force necessary to control the resident.

(n) During any physical intervention process, program staff shall evaluate the resident throughout the process, to ensure that the resident is not being injured, and to determine whether continued physical intervention is necessary. If the physical intervention exceeds 15 minutes, approval from the program director or a supervisory employee designated by the program director shall be required, per [RSA 126-U:11, III](#).

(o) In the event that a physical intervention continues for longer than 30 minutes:

(1) Program staff trained to conduct such assessments shall conduct a face-to-face assessment of the resident's mental, emotional, and physical well-being;

## He-C 4001.22 Discipline

- (2) Program staff shall contact the program director or designee so that he or she can evaluate the need for continued physical intervention and the need for services from law enforcement, or a licensed health care practitioner;
- (3) Such assessments shall be completed at least every 30 minutes throughout the physical intervention; and
- (4) Program staff shall document all assessments as required in [He-C 4001.23\(b\)\(2\)](#).

**He-C 4001.23 Incident Reports**

(a) Program staff directly involved in or witness to any incident shall complete a legible, written incident report whenever there is an incident, as defined in [He-C 4001.01\(y\)](#).

(b) For reportable incidents, as defined in [He-C 4001.01\(bc\)](#), licensees shall have responsibility for:

(1) Completing a preliminary review of an incident to determine if abuse or neglect could have been a contributing factor to the incident;

(2) Providing the following information to the department within 48 hours of a reportable incident:

- a. The program name;
- b. A description of the incident, including what led to the incident, where it occurred and 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 resident(s) involved in or witnessing the reportable incident;
- e. The date and the beginning and ending time of the reportable incident;
- f. The action taken in direct response to the reportable incident, including any follow-up;
- g. If medical intervention was required, by whom, and the date and time;
- h. When the resident's guardian, agent, surrogate decision-maker, or personal representative, if any, was notified;
- i. The signature of the person reporting the reportable incident;
- j. The date and time the resident's licensed practitioner was notified, if applicable; and
- k. The date the licensee performed the preliminary review required by (1) above; and

(3) For uses of seclusion, restraint, or other intentional physical contact with a child which is in response to a resident's aggression, misconduct, or disruptive behavior, in addition to (2) above, the following:

- a. Authorization by the staff in charge; and
- b. Documentation as required by He-C 4001.23(b)(2) and either [RSA 126-U:7](#) or [RSA 126-U:10](#).

(c) Incident reports shall be maintained as part of the involved resident's records and be made available on the premises of the program for review by the department.

(d) Program staff shall provide the resident's parents with information regarding incident reports on the next business day, which shall include all of the information included on the incident report.

(e) If the parent(s) do not have a telephone or cannot be reached, program staff shall document their efforts to notify the parent(s) and send a written copy of the incident report to the parent(s).

## He-C 4001.23 Incident Reports

(f) For uses of seclusion, restraint, or other intentional physical contact with a child which is response to a child's aggression, misconduct, or disruptive behavior, program staff shall notify the resident's parents or guardians in accordance with [RSA 126-U:7](#) including verbal and written documentation.

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

(h) The written notification required by (g) above shall include:

- (1) The date and time of the incident;
- (2) A description of the location and extent of the incident, including any injury or damage;
- (3) A description of events preceding and following the incident;
- (4) The name of any personnel or residents who were evacuated as a result of the incident, if applicable;
- (5) The name of any personnel or residents 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.

(i) As soon as is practicable but no longer than 24 hours after the use of a medication restraint, the resident's licensed practitioner shall be notified of the use of such restraint.

(j) When a resident has an unexplained absence, after searching the building and grounds without finding the resident, and it has been determined that the resident is a danger to themselves or others, the licensee shall immediately notify the local police department, the department and the resident's guardian, agent, surrogate decision-maker, or personal representative, if any.



**He-C 4001.24 Nutrition**

- (a) Programs shall offer residents 3 meals and 2 snacks each day that meet US Department of Agriculture dietary allowances.
- (b) Residents shall not be denied meals or snacks for any reason except according to a physician's order.
- (c) No resident shall be secluded at mealtime unless he or she poses a risk of harm to himself, herself, or others.
- (d) Residents shall not be coerced to eat against their will, except by written order of the resident's licensed health care practitioner.
- (e) Programs shall meet the nutritional needs of each resident on a therapeutic or medically prescribed special diet.

**He-C 4001.25 Transportation and Trips**

(a) Program staff shall bring on all field trips, a copy of the authorization for medical treatment required under [He-C 4001.12 \(a\)](#), for each resident participating in the field trip.

(b) Residents who are transported by the program and during any program sponsored activity shall be transported in vehicles that are:

- (1) Driven by individuals who are at least 21 years of age and hold a valid driver's license;
- (2) Inspected in accordance with [Saf-C 3200](#);
- (3) Maintained in a safe operating condition;
- (4) Registered in accordance with [Saf-C 500](#);
- (5) Insured for personal liability, and medical payments; and
- (6) Free of obstructions on the floors and seats.

(c) Program staff shall be prohibited from using cell phones while operating a vehicle to transport residents.

(d) Program staff shall not permit any resident to remain in any vehicle unattended by program staff unless the resident is at a level of supervision that allows the resident to be unaccompanied by program staff for specific activities, and if driving, the resident has a valid driver's license.

(e) Keys to vehicles, including vehicles belonging to program staff, shall not be accessible to residents, except for a resident who is driving a vehicle pursuant (d) above.

(f) The number of individuals who are transported by the program, or transported in any vehicle during any program-sponsored activity, shall be limited to the number of persons the vehicle is designed to carry.

(g) Residents younger than 5 years of age who are transported by the program or transported in any vehicle during any program sponsored activity shall not be transported in any vehicle exempted from seat belt requirements under [RSA 265:107-a, II](#).

(h) In all programs individual, age appropriate child restraints or seat belts shall be provided for and used by each resident in accordance with [RSA 265:107-a](#).

(i) Programs shall comply with RSA [126-U:12](#) regarding restrictions in the use of mechanical restraints during the transport of residents.

**He-C 4001.26 Independent Living Homes**

(a) Independent living homes shall comply with He-C 4001.01 through He-C 4001.25, and this section, except as provided in (b) below.

(b) Independent living homes shall be exempt from:

- (1) [He-C 4001.21\(f\)\(1\)](#), regarding responsibility for the operation and maintenance of the facility;
- (2) [He-C 4001.17\(d\)](#), specifically regarding resident's access to cleaning products;
- (3) [He-C 4001.21\(g\)\(3\)](#), regarding clothing requirements; and
- (4) [He-C 4001.14\(c\)\(1\)](#), regarding program staff certified in cardiopulmonary resuscitation (CPR) and first aid being present in each building when residents are present, provided that certified staff are on the premises.

(c) Program staff shall be on the premises when one or more residents are on the premises.

(d) Independent living homes shall not be required to have staff in the residence when residents are not on the premises of the program.

(e) Program staff shall provide an effective communication system between the residents of an independent living home and staff to ensure that program staff are available to address the needs of the residents at all times.

(f) Kitchen facilities shall be available and accessible for use by all residents and program staff.

**He-C 4001.27 Short Term Placements**

- (a) The requirements in this section shall apply only to residents who are in short term placement.
- (b) Programs that admit residents for short term placements shall comply with He-C 4001.01 through 4001.25, and this section.
- (c) Within 5 calendar days of the date the resident is admitted to the program, the program shall obtain or document efforts to obtain the following for each resident:
  - (1) Written authorization for emergency medical treatment, signed by the resident's parents, as required under [He-C 4001.12 \(a\)](#);
  - (2) Any history of childhood diseases;
  - (3) Any current medications prescribed for the resident;
  - (4) The date of the resident's last visit to a licensed health care practitioner;
  - (5) The date and reason for any previous hospitalizations and surgeries;
  - (6) Current medical problems;
  - (7) Any allergies to food or medications;
  - (8) Any special dietary needs or restrictions; and
  - (9) Any functional limitations.
- (d) Within 3 weeks of the date the resident is admitted to the program, a record of physical examination completed in accordance with [He-C 4001.12 \(c\)](#) and (d) shall be completed or scheduled to be completed and available for review by the department.

**He-C 4001.28 Homeless Youth Program**

(a) The requirements in this section shall apply only to programs which serve residents who are in homeless youth placement.

(b) Programs receiving homeless youth in accordance with [RSA 170-E:25, II\(d\)](#), shall do so for the purpose of providing shelter, basic needs, and services, which shall include an individual assessment, referral, housing, and case management to facilitate safety, permanency, well being, and independent living.

(c) The program shall submit to the department with the license application a written policy consistent with the mandated reporting statute [RSA 169-C:29](#) through [RSA 169-C:39](#), with a particular focus on neglect and abandonment.

(d) The homeless youth program shall provide training to all staff on the mandated reporting statute [RSA 169-C:29](#) through [RSA 169-C:39](#) and on the policy in (c) above.

(e) Homeless youth programs shall comply with [RSA 170-E:27-a](#), except that the notification in [RSA 170-E:27-a, I\(c\)](#), shall be to the department's division for children, youth and families.

(f) Homeless youth programs shall document attempts to contact a parent or legal guardian of a resident 16 or 17 years of age in accordance with [RSA 170-E:27-a](#).

(g) Agencies licensed as homeless youth programs which have a license for one or more additional types of residential child care programs shall submit to the department with the license application a policy consistent with [RSA 169-C:16, II](#), and [RSA 169-D:9-c, I](#), to address supervision, commingling, and safety for multiple populations.

(h) Homeless youth programs shall develop written protocols with local police department(s) regarding notification to the local police department for residents who are 16 or 17 years of age. In cases where local police departments refuse to participate in the development of such protocols, the homeless youth program shall document the efforts taken to engage them.

(i) Homeless youth programs shall comply with He-C 4001.01 through 4001.25, and this section with the exception of:

- (1) [He-C 4001.12 \(b\)–\(i\)](#); and
- (2) [He-C 4001.21\(b\)–\(e\)](#).

(j) Homeless youth programs shall maintain written documentation for each resident including the following information:

- (1) Name, sex and age of the resident;
- (2) Name, address and telephone number of an adult next of kin or guardian, if available;
- (3) Date of admission;
- (4) Referral source, if any;
- (5) Medical or health information, if available;
- (6) Any diseases or injuries diagnosed while in care; and
- (7) Educational status.

## **He-C 4001.28 Homeless Youth Program**

(k) Homeless youth programs shall obtain urgent medical or dental care for each resident, as needed.

(l) If parental authorization for medical treatment, in accordance with [He-C 4001.12\(a\)](#), is not obtainable for residents who are 16 or 17 years of age, the homeless youth program shall document efforts to obtain such authorization.

(m) If urgent medical or dental treatment is not available due to lack of parental authorization, the program shall contact the division for children youth and families for assistance.

(n) Homeless youth programs shall provide residents with information about educational rights in accordance with the McKinney Vinto Act ([42 USC 11431 et. seq.](#)).

(o) Homeless youth programs shall make appropriate referrals for the resident based on the health, education, housing, and permanency needs of each resident including available community-based services and resources.

(p) Homeless youth programs shall develop a transition and discharge plan for each resident that addresses the resident's needs at the time of discharge.

## **He-C 4001.29 Specialized Care Programs (SCPs)**

### **He-C 4001.29 Specialized Care Programs (SCPs)**

Residents who have medical or behavioral health needs, or both, requiring specialized care necessitates programming that incorporates an increased awareness of the unique needs, as well as attention, adaptation, and accommodative measures beyond what are considered routine. For the purposes of this section, such medical or behavioral health needs are those defined in He-C 4001.01(b), and which may be congenital, developmental, or acquired through disease, trauma or environmental causes, and which impose limitations in performing daily self-maintenance activities or substantial limitations in a major life activity.

(a) SCPs shall comply with:

- (1) He-C 4001.01 through He-C 4001.25 and this section; and
- (2) Any other federal, state, and professional standards related to the treatment of any medical diagnosis of any resident.

(b) SCPs shall develop and implement written policies and procedures governing the operation of the program relative to the provision of services, available for review by the department, that include the following:

- (1) Intake and admissions procedures that clearly state the criteria for the SCP population to be served;
- (2) A description of the services provided within the program to meet the special medical needs of the residents;
- (3) A description of the professional services provided on site and in the local community that will be contracted or accessed to ensure the special medical needs of the residents are met;
- (4) The organizational chart, job descriptions of staff, and contracts with medical staff, clinical staff, and consultants used to meet the special medical needs of the population being served; and
- (5) How direct care staff will be orientated and trained to prepare to work with the population being served.

(c) The program director, together with relevant members of the administration, clinical and direct-care staff, shall annually review all policies and procedures and revise them as needed to ensure consistency with current practice and professional standards.

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

- (1) Focus on the residents strengths;
- (2) Be sensitive and relevant to the diversity of the residents;
- (3) Be child and family-centered;
- (4) Be designed to acknowledge the impact of violence and trauma on resident's lives, which shall be addressed in the services provided;
- (5) For programs providing SUD services, the services shall be evidence-based by meeting one of the following:

a. The services shall be included as an evidence-based mental health and substance abuse intervention on the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's (SAMHSA) "Evidence-Based Practices Resource

## He-C 4001.29 Specialized Care Programs (SCPs)

Center” available at <https://www.samhsa.gov/ebp-resource-center>, or as noted in [Appendix A](#);

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

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

(6) For programs providing SUD services, the services shall be delivered in accordance with the following:

a. The American Society of Addiction Medicine’s (ASAM), “The ASAM Criteria”, (Third edition), available as noted in [Appendix A](#); or

b. The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s (SAMHSA) “Knowledge Application Program (KAP) Resource Documents and Manuals” (July 2020 edition), available at <https://www.samhsa.gov/kap/resources>, or as noted in [Appendix A](#).

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

(f) SPCs providing behavioral health services shall employ or with contract with:

(1) A clinical coordinator who shall:

a. Be a full-time employee;

b. Meet the definition of clinical staff in [He-C 4002.01\(i\)](#); and

c. Have 2 years post-graduate experience in human services; and

(2) Clinical staff to meet the needs of the residents who shall:

a. Be a full-time employee or a part-time employee with a minimum of 22 hours a week; and

b. Meet the criteria specified in [He-C 4002.01\(j\)](#).

(g) All programs providing SUD services shall employ or contract with:

(1) A medical director who is:

a. A licensed practitioner who is licensed in the state of New Hampshire; and

b. Has experience providing medical services to residents with behavioral health or substance use disorder needs;

(2) A nurse who is currently licensed in the state of New Hampshire pursuant to [RSA 326-B](#), or licensed pursuant to the multi-state compact, and who is an RN or LPN with at least 2 year’s relevant experience in substance use disorder treatment or behavioral health services; and

(3) A clinical services director who is a LADC or MLADC licensed by the NH board of licensing for alcohol and other drug use professionals or an individual licensed by the board of mental health



## He-C 4001.29 Specialized Care Programs (SCPs)

practice and who has at least 2 year's relevant experience in substance use disorder treatment or behavioral health services.

(h) In addition to (g) above, SCPs shall:

(1) Provide administrative services that include the appointment of a full-time, on-site program director who is responsible for the day-to-day operations of the SPC, who meets the following qualifications:

a. For programs providing SUD services, the program director shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:

1. A bachelor's degree from an accredited institution and one year of relevant experience working in a health related field;
2. A New Hampshire license as an RN, with at least one year relevant experience working in a health related field;
3. An associate's degree from an accredited institution plus 3 years relevant experience in a health related field;
4. A MLADC or LADC license issued by the State of New Hampshire; or
5. Licensed by the board of mental health practice with at least one year of relevant experience working in SUD treatment; or

b. For SCPs not providing SUD services, the program director shall comply with the requirements specified in [He-C 4001.19\(e\)](#);

(2) Contract with or employ professional staff to meet the needs of residents, including but not limited to clinical, medical, and social needs; and

(3) Employ direct care staff to implement service plans on a daily basis.

(i) The licensee shall:

(1) Assign all direct care staff and clinical staff to a staff person who has supervisory or administrative responsibility and experience suitable to the goals of the program and the responsibilities of the staff supervised; and

(2) Require direct care and clinical staff to have scheduled supervision with the assigned supervisor regarding children's needs and methods of meeting those needs, which shall occur a minimum of weekly or more frequently as needed.

(j) The licensee shall provide orientation for all new employees to acquaint them with the program's philosophy, organization, policies, and services. No new direct care staff shall be solely responsible for children in care until he or she has completed the orientation.

(k) Programs providing SUD services shall:

(1) Ensure that all staff who perform direct care to residents or who are providing treatment, education, and recovery support services shall be under the direct supervision of a licensed clinical supervisor pursuant to the supervision requirements in [Alc 400](#);

(2) Provide the SPC with sufficient supplies, equipment, and lighting to ensure that the needs of residents are met;

## He-C 4001.29 Specialized Care Programs (SCPs)

- (3) Implement any POC that has been accepted or issued by the department;
  - (4) Require that all personnel follow the orders of the licensed practitioner for each resident and encourage the residents to follow the licensed practitioner's orders;
  - (5) Employ or contract with a nurse who is currently licensed in the state of New Hampshire pursuant to [RSA 326-B](#), or licensed pursuant to the multi-state compact, and who is an RN or LPN with at least 2 years relevant experience in SUD treatment or behavioral health services;
  - (6) Employ or contract with a clinical services director who is a LADC or MLADC licensed by the NH board of licensing for alcohol and other drug use professionals or an individual licensed by the board of mental health practice and who has at least 2 years relevant experience in treatment of SUD or behavior services; and
  - (7) Require staff to obtain continuing requirements, in accordance with [Alc 400](#), and maintain documentation of the training in the employee's individual personnel file for review by the department.
- (l) In programs providing SUD services, all direct care personnel shall be at least 21 years of age unless they are:
- (1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
  - (2) Involved in an established educational program working under the supervision of licensed staff.
- (m) An SCP that is not able to meet the needs of any resident whom requires specialized care, as described in this section, shall notify the department and expeditiously seek an alternative placement, which can provide for the resident's needs on a long-term basis and ensure that all needs are met until such time discharge can safely occur.
- (n) SCPs shall assess each resident within 24 hours of admission to determine each resident's needs and abilities on the following:
- (1) Walking and ambulation;
  - (2) Transfers;
  - (3) Ability to self-evacuate;
  - (4) Fall risk;
  - (5) Mood and behavior;
  - (6) Communication;
  - (7) Nutrition and oral health;
  - (8) Medications and treatments including nebulizers and oxygen;
  - (9) Personal hygiene and assistance with activities of daily living;
  - (10) Whether or not safety devices, such as helmet, mittens, or safety belt, are needed; and
  - (11) Nursing care and services.

## **He-C 4001.29 Specialized Care Programs (SCPs)**

(o) The assessment conducted in accordance with (n) above shall be:

- (1) Incorporated into the resident's service plan/treatment plan; and
- (2) Documented in the resident's file and available for review by department staff.

(p) In addition to the treatment plan required in He-C 4001.21(b), SCPs shall develop a service plan, meaning a written guide, in consultation with the resident or guardian, agent or personal representative, if applicable, as a result of the assessment conducted in accordance with (n) above for the provision of care and services which shall:

- (1) Be completed within 24 hours of the completion of the assessment and within 24 hours of the completion of subsequent assessments;
- (2) Identify the resident's needs;
- (3) Identify the services that the SCP will provide and the staff person responsible for providing or arranging for the services while the child is in care;
- (4) Include the following areas:
  - a. Educational;
  - b. Vocational;
  - c. Health, including medical, dental, and ancillary services;
  - d. Behavior management, including specific individual modifications of the restraint plan, if necessary;
  - e. Life skills; and
  - f. Social services, including family work, psychological and psychiatric services, and counseling; and
- (5) Be made available to all personnel for residents whom they assist;
- (6) Be completed in consultation with the resident and guardian or agent, if any, unless the resident and guardian or agent are unable or unwilling to participate, it shall be documented in the resident record; and
- (7) Be available on site for review by the department.

(q) The service plan identified in (p) above shall include on an ongoing basis:

- (1) The date a problem or need was identified as a result of the assessment conducted in (n) above;
- (2) A description of the problem or need;
- (3) The goal or objective of the plan;
- (4) The action or approach to be taken;
- (5) The responsible person(s) or position; and
- (6) The date of reevaluation, review, or resolution.

## He-C 4001.29 Specialized Care Programs (SCPs)

(r) The licensee shall explain all service plans to all child care personnel responsible for implementing the service plan on a daily basis, to the child's family or guardian, as appropriate, and to the resident in a manner consistent with her or his maturity and capacity to understand.

(s) All service plans shall be reviewed and updated as often as necessary, but no less frequently than every 6 months to re-assess the resident's needs and determine if:

- (1) The service plan will be continued for another 6 months;
- (2) The service plan will be revised to meet the needs of the resident; or
- (3) The service plan will be discontinued because the plan is no longer needed; and
- (4) Shall be available for review by the department.

(t) Progress notes shall be written at least every 90 days and include, at a minimum:

- (1) Service plan outcomes;
- (2) The resident's physical, functional, and mental abilities; and
- (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships.

(u) If a resident refuses care or services that could result in a threat to their health, safety, or well-being, or that of others, the licensee or their designee shall:

- (1) Inform the resident of the potential results of their refusal;
- (2) Notify the licensed practitioner and guardian, if any, of the resident's refusal of care; and
- (3) Document in the resident's record the refusal of care and the resident's reason for the refusal.

(v) If a resident is non-verbal or incapable of understanding the need for care or services as identified in (u) above but exhibits behaviors that represent refusal of any care or services:

- (1) Such behaviors shall be documented in the resident's record; and
- (2) Staff shall consult with appropriate personnel of the SCP to determine if the care plan requires modifications or if the needs of the resident exceed the services that the SCP is able to provide.

(w) The licensee shall insure that medically necessary glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or any equipment necessary or treatments prescribed by the examining physician are provided to the resident if the resident's parent or guardian does not provide them.

(x) The licensee shall not require any resident to receive medical treatment or screening when the parents of such resident object based on sincerely held religious beliefs. However, the SPC may seek a court order for medical treatment of a resident if it believes such medical treatment is in the resident's best interest.

## **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

### **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

- (a) SCPs shall conduct a psycho-social assessment with recommendations for treatment for the resident.
- (b) Based on the assessment and recommendations, the SCP shall conduct a treatment team meeting and develop a treatment plan within 30 calendar days of placement of the child.
- (c) The treatment plan shall include:
  - (1) The summary of the psycho-social assessment;
  - (2) A transitional section for the child and family that includes:
    - a. An estimate by the treatment team members of the child's length of stay, based upon referral information and the SCP's assessment; and
    - b. The child's permanency plan identifying the following alternatives for the child in care, including the identified resource if known at the time of the treatment plan:
      - 1. Reunification with the family;
      - 2. Adoption;
      - 3. Guardianship by a relative or other person;
      - 4. Permanent placement with a fit and willing relative; or
      - 5. Another Planned Permanent Living Arrangement (APPLA) in accordance with [RSA 169-C:24-b, II\(c\)](#); and
  - (3) Community reintegration and transition tasks that identify the following:
    - a. Specific needed supports or services that would provide for the child to successfully transition out of the SCP and into the community;
    - b. The treatment team member who is responsible for completing each task necessary; and
    - c. The projected time frame for completion of each task.
- (d) The treatment plan shall at a minimum, contain the following domains relating to rehabilitative and restorative services provided by the SCP:
  - (1) Safety and behavior of the child;
  - (2) Family;
  - (3) Medical;
  - (4) Education, if clinically necessary; and
  - (5) Adult living preparation if determined clinically necessary.
- (e) Each domain identified in (d) above shall address:
  - (1) The goals and measurable objectives to be achieved by the child and family;
  - (2) The time frames for completion of objectives; and

### **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

- (3) The individualized interventions that will be used to address the objectives, including:
- a. Identification of the staff or individual providing or implementing the stated intervention;
  - b. The frequency of the intervention; and
  - c. How that intervention is documented.

(f) The treatment plan shall include the date and signatures of the following team members, indicating that they participated in the process:

- (1) The child;
- (2) The child's parents or guardian(s);
- (3) The prescribing practitioner; and
- (4) The clinical coordinator or the SCP's program director. If the prescribing practitioner is also the clinical coordinator, he or she shall indicate dual functions.

(g) When any of the individuals in (f) above do not participate, the SCP shall document its efforts to involve them.

(h) Revisions to the treatment plan outside the scheduled treatment plan reviews shall include the signatures of the prescribing practitioner, clinical coordinators, and other team members identified in (f) above, as available, and shall be explained in writing to any individuals of the team who are unable to participate.

(i) The treatment team and the staff of the SCP shall implement the treatment plan, which shall be reflected in the child's daily routine, logs, progress notes, and discharge summary.

(j) The treatment team shall consist of the individuals identified in (f) above in addition to the following invited participants:

- (1) Clinical staff of the SCP;
- (2) Attorney or guardian ad litem (GAL) for the child;
- (3) A representative of the local educational agency when clinically appropriate;
- (4) Other persons significant in the child's life if clinically appropriate, including but not limited to:
  - a. Teachers;
  - b. Staff members from the SCP;
  - c. Counselors;
  - d. Friends;
  - e. Relatives; and
  - f. Educational surrogate.

(k) The treatment plan shall be filed in the child's record and copies provided to the individuals identified in (f) above.

## **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

(l) During each treatment team meeting, the treatment team shall review and update the treatment plan as necessary, in accordance with the following:

- (1) Three months from the initial treatment plan; and
- (2) Every 3 months thereafter until discharge, at no point exceeding 3 months.

(m) Changes and updates to the treatment plan shall be made based on progress identified by the treatment team, areas of continued treatment needs, achievement of goals or objectives, and effectiveness of interventions, in accordance with the requirements of (f) through (l) above.

(n) SCPs shall acquire signatures on the treatment plans of individuals identified in (f) above within 7 calendar days of the treatment team meeting, such that:

- (1) Reasonable efforts to obtain the signature of the parent(s)/guardian(s) and DCYF shall be documented as meeting the requirements of (n); and
- (2) Any team members participating through electronic means, other than the prescribing practitioner or clinical coordinator, may provide verbal assent in lieu of signature on the treatment plan but this shall not preclude efforts identified in (1) above.

(o) Once the treatment plan is complete, all clinical and direct care staff shall receive supervision and instruction to ensure that they consistently implement each child's treatment plan.

(p) All residential treatment programs shall provide and coordinate services and treatment interventions to meet the goals identified in the treatment plan, as follows:

- (1) Treatment interventions shall meet the individual needs of the children and families in therapeutic and group-living experiences;
- (2) Treatment programs shall include individual/group problem solving and decision-making;
- (3) The clinical coordinator shall ensure therapeutic interventions and other services are implemented and integrated into the treatment programming for the individual child and family;
- (4) Services required by the treatment plan including individual, group, and family counseling to children shall be available within the SCP or shall be referred to community agencies depending on the need of the child and family; and
- (5) Direct care staff that provides group counseling shall receive supervision from clinical staff.

(q) Services required by the treatment plan, including counseling of children and families, shall be available within the SCP or shall be provided through the local community, as follows:

- (1) Treatment plans shall provide and allow for increased community-based integration and involvement, based on progress and individualized needs; and
- (2) The clinical coordinator or another staff member who meets the requirements of clinical staff may provide individual or family counseling;

(r) The program shall maintain a multi-disciplinary, self-contained means of service delivery to meet the needs identified within the treatment plan, as follows:

- (1) There shall be a clinical staff to child ratio of one clinical staff to 10 children;

### **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

- (2) There shall be clinical services provided through the residential treatment program's on-site program unless a special circumstance is identified through the treatment plan to support utilizing a community provider;
- (3) Clinical staff shall provide treatment interventions to meet the individual needs of the children and families served and shall provide a therapeutic group-living experience;
- (4) Unless otherwise specified in the child's treatment plan, any combination of individual, group, or family counseling services shall be provided to each child or the family a minimum of 3 times a week;
- (5) There shall be a family-centered services component designed to promote and provide opportunities for families to be involved in all aspects of their child's care, including, but not limited to:
  - a. Activities designed to promote permanency and support continued family involvement throughout placement;
  - b. Services that promote family involvement and partnership in a therapeutic process from intake to discharge, which supports the identified permanency plan;
  - c. Implementation of the reasonable and prudent parent standard by staff including a description of how the program will identify and support normal age and developmental experiences including social, extracurricular, enrichment, and cultural activities in the community;
  - d. Whenever possible, activities in the family's home at the family's convenience, and other services to support the identified permanency plan;
  - e. Parental education, as needed to support the child and family's permanency, safety, and well-being;
  - f. Communication that includes the family in the program's initial orientation process and ongoing activities; and
  - g. The program's grievance procedures, which shall ensure that children may constructively address their concerns without fear of retaliation; and
- (6) The residential treatment program shall organize its clinical staff and family workers in a flexible manner so long as families are seen face-to-face no less than one time per week, unless otherwise specified in the child's treatment plan, as follows:
  - a. Technology may be used to supplement clinical services as a part of the child's treatment; and
  - b. The utilization of a video-conferencing technology shall not replace face-to-face contact unless documented in the child's treatment plan with the agreement of the treatment team;
- (s) The program shall be staff-secure and be able to serve those children whose needs require a high level of treatment and supervision, as follows:
  - (1) There shall be a minimum staff to child ratio of one staff to 4 children during hours when children are awake; and



## **He-C 4001.30 Treatment Planning Process for Specialized Care Programs**

(2) Except for residential treatment programs that have an independent living component housed in a separate area and have the capability of moving children that need more supervision back to the intensive care level, there shall be an awake staff member in each building housing children.

## **He-C 4001.31 Background Checks and Determination of Eligibility for Employment**

### **He-C 4001.31 Background Checks and Determination of Eligibility for Employment**

(a) The applicant, program director, or his or her designee shall complete and submit to the child care licensing unit (CCLU) the “[Staff and Household Member Form](#)” (December 2020) certifying that:

“All information provided above is accurate.

I have not been convicted of a felony consisting of murder, child abuse or neglect, crimes against children (including pornography and trafficking), spousal abuse, rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug related offense (in the last 5 years) or convicted of a violent misdemeanor committed as an adult against a child including child abuse, child endangerment, sexual assault or child pornography, or a crime which shows that I might be reasonably expected to pose a threat to a child, such as violent crime or sexually related crime against an adult.”

(b) The “[Staff and Household Member Form](#)” (December 2020) shall be submitted to the CCLU:

(1) Prior to the start date of any employee, volunteer, or other individual who will be working in the residential program licensed by CCLU;

(2) Within 5 days from when an individual who is a household member turns 18 years of age, other than residents admitted to the program;

(3) Prior to the day any individual age 10 and older becomes a household member, other than residents admitted to the program; or

(4) Three months before the 5- year anniversary date on which the current individual’s state and federal criminal records checks were last completed.

(c) In accordance with [RSA 170-E:29-a](#), for every individual 18 years of age or older submitted on “[Staff and Household Member Form](#)” (December 2020), the program shall ensure that the individual completes:

(1) A criminal history record check through the NH department of safety, criminal records unit, to include an electronic submission of fingerprints for a check Federal Bureau of Investigations file, with authorization for the release of the criminal history record check to the child care licensing unit, in accordance with the department of safety’s policy and procedure;

(2) A completed and notarized Form CCLU 2 “[NH Child Abuse and Neglect Central Registry Name Search Authorization](#)” (eff 2020); and

(3) All forms and any required fees to complete registry checks in states or territories other than NH when the individual lives or has lived in any state other than NH, or a United States territory, within the previous 5 years.

(d) The only exception to (c) above shall be for individuals who have been determined eligible by the unit during the previous 5 year period and who have been employed or a household member in any New Hampshire licensed child care program within the 6 months prior to submission of the “[Staff and Household Member Form](#)” (December 2020).

(e) For every individual age 10 years through 17 years submitted on “[Staff and Household Member Form](#)” (December 2020), the program shall submit to CCLU:

## **He-C 4001.31 Background Checks and Determination of Eligibility for Employment**

(1) A completed and notarized Form CCLU 2 “[NH Child Abuse and Neglect Central Registry Name Search Authorization](#)” (eff 2020); and

(2) All forms and any required fees to complete registry checks when the individual has lived in any state other than NH, or a United States territory, within the previous 5 years.

(f) The only exception to (e) above shall be for individuals who completed the registry checks through the unit during the previous 5 year period and who have been employed or a household member in any New Hampshire licensed child care program within the 6 months prior to submission of the “[Staff and Household Member Form](#)” (December 2020).

(g) The program director and any direct care staff listed on the “[Staff and Household Member Form](#)” (December 2020), who do not have a current employment eligibility card shall submit to the department:

(1) A completed application Form CCLU 1-C “[DHHS/Office of Legal Services, Child Care Licensing Unit Employment Eligibility Card Application](#)” (11/2017); and

(2) A non-refundable \$50.00 fee payable in cash, or if paid by check or money order, the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”.

(h) Upon receipt of the information requested in (g) above, the department shall assess the individual’s eligibility for employment in accordance with [RSA170-E:29-a, V or VI](#), and if eligible, issue an employment eligibility card, which shall be valid for 5 years from the date of issuance.

(i) Once the employment eligibility card is issued, the individual shall reapply for the employment eligibility card as necessary to keep the card current while the individual works in the residential program.

(j) The following individuals shall be exempt from the requirement to obtain an eligibility card in (g) above:

(1) Applicants;

(2) Volunteers;

(3) A student participating in a work study program, internship, practicum, or attending college full time; and

(4) Employees determined eligible to work prior to the 2020 effective date of this rule, who remain employed by the same licensee at the time of submission of the “[Household and Personnel Form](#)” (2017) as required in (a) above.

(k) A copy of each individual's “[Staff and Household Member Form](#)” (December 2020) returned to the program by the unit, along with a copy of his or her non-expired child care employment eligibility card, as applicable, shall be on file at the program.

(l) If the department determines that an individual is ineligible, in accordance with [RSA170-E:29-a, V or VI](#), it shall provide notice to the individual that:

(1) The individual has been determined by the department to be ineligible;

(2) The basis for the determination that the individual is ineligible; and

(3) The individual’s right to challenge his or her criminal record pursuant to [Saf-C 5703](#).

(m) The department shall include in its notice under (e) above:

## **He-C 4001.31 Background Checks and Determination of Eligibility for Employment**

- (1) The basis for the determination that the individual poses a risk; and
  - (2) The need for the residential child care program to inform the department in writing of the specific action it has taken as required under (e)(2) above.
- (o) If the department determines that an individual is ineligible to work in child care, in accordance with [RSA 170-E:29-a, V or VI](#), it shall provide notice to the residential child care program that:
- (1) The individual has been determined by the department to be ineligible;
  - (2) The program shall take immediate action to prohibit the individual from being on the premises of the residential child care program and from having access to the residents admitted to the program; and
  - (3) The residential child care program shall inform the department in writing of the specific action it has taken as required under (2) above.

## APPENDIX A

Location of Incorporated by Reference Document	Title of Document to be Incorporated by Reference	Cost and How to Obtain the Document
He-C 4001.15(a)	U.S Environmental Protection Agency's, "How to Dispose of Medicines Properly" (April 2011)	<p>Publisher: U.S. Environmental Protection Agency</p> <p>Cost: Free of Charge</p> <p>The incorporated document is available at:</p> <p><a href="https://nepis.epa.gov/Exe/ZyPDF.cgi/P100ZW8A.PDF?Dockey=P100ZW8A.PDF">https://nepis.epa.gov/Exe/ZyPDF.cgi/P100ZW8A.PDF?Dockey=P100ZW8A.PDF</a></p>
He-C 4001.29(d)(5)a.	U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's (SAMHSA) "Evidence-Based Practices Resource Center"	<p>Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration</p> <p>Cost: Free of Charge</p> <p>The incorporated document is available at:</p> <p><a href="https://www.samhsa.gov/ebp-resource-center">https://www.samhsa.gov/ebp-resource-center</a></p>
He-C 4001.29(d)(6)a.	The American Society of Addiction Medicine's "The ASAM Criteria" (Third Edition)	<p>Publisher: The American Society of Addiction Medicine</p> <p>Cost: Member: \$85.00/ Non-Member \$95.00</p> <p>The incorporated document is available for purchase at:</p> <p><a href="https://www.asam.org/resources/the-asam-criteria">https://www.asam.org/resources/the-asam-criteria</a></p>
He-C 4001.29(d)(6)b.	U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's "Knowledge Application Program (KAP) Resource Documents and Manuals" (July 2020)	<p>Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration</p> <p>Cost: Free to the Public</p> <p>The incorporated document is available at:</p> <p><a href="https://www.samhsa.gov/kap/resources">https://www.samhsa.gov/kap/resources</a></p>

**CHAPTER 170-E**

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES

**TITLE XII**  
**PUBLIC SAFETY AND WELFARE**

**CHAPTER 170-E**  
**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES**

**Residential Care and Child-Placing Agency Licensing**

**Section 170-E:24**

**170-E:24 Purpose**

The purpose of this subdivision is to provide for the licensing of residential care and child-placing agencies.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:25**

**170-E:25 Definitions**

In this subdivision:

I. "Child" means any person under 21 years of age.

II. "Child care agency" means any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly receives for care one or more children, unrelated to the operator of the agency, apart from the parents, in any facility as defined in this subdivision and maintained for the care of children. The types of child care agencies are defined as follows:

(a)(1) "Foster family home" means child care in a residence in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage. The maximum of 6 children includes the children living in the home and children received for child care who are related to the residents.

(2) If the limit of 6 children under subparagraph (a)(1) is reached, the foster family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the foster family is able to provide for the safety, permanency, and well-being of the child or children, the department may, notwithstanding the limitations of subparagraph (a)(1), place the sibling or group of siblings in the foster family home.

(b) "Group home" means a child care agency which regularly provides specialized care for at least 5 but no more than 12 children who can benefit from residential living either on a short-term or long-term basis.

(c) "Specialized care" means a child care agency which regularly provides general care for children

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

who are diagnosed as mentally ill, intellectually disabled, or physically disabled and who are determined to be in need of special mental treatment or nursing care, or both.

(d) "Homeless youth program" means a program, including any housing facilities utilized by such program, which receives any child for the purpose of providing services to facilitate independent living including all of the following program components: individual assessment, referral, housing, and case management. Such services may be provided directly by the agency or through one or more contracts for services.

III. "Child care institution" means a residential child care agency where more than 12 children are received and maintained for 24-hour care for the purpose of providing them with care or training, or both. The term "child care institution" shall not include:

(a) Any state operated institution for child care or juvenile detention established by law.

(b) Any institution, home, place or facility operating under a license pursuant to RSA 151:2.

(c) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public elementary schools or high schools, or both, and which operates on a regular academic school year basis, and which is approved by the department of education.

(d) Any bona fide summer camp.

IV. "Child-placing agency" means any firm, corporation or association which:

(a) Receives any child for the purpose of providing services related to arranging for the placement of children in a foster family home, group home, or child care institution; or

(b) Receives any child for the purpose of providing services related to arranging for the placement of children in adoption.

V. "Commissioner" means the commissioner of the department of health and human services.

VI. "Corrective action plan" means a written proposal setting forth the procedures by which a child care agency, child care institution, or child-placing agency will come into compliance with the standards set by rule adopted by the commissioner under RSA 541-A and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.

VII. "Department" means the department of health and human services.

VIII. "Experiential/wilderness facility" means a child care institution which regularly provides specialized care and training in daily living for more than 12 children but fewer than 57 children, and meets the standards established by the commissioner by rule under RSA 170-E:34, I(a).

IX. "Guardian" means the guardian of the person of a minor, as defined in RSA 463.

X. "Independent living home" means a child care agency which regularly provides specialized services in adult living preparation in an experiential residential setting for persons 16 years of age or older who have a legal relationship with the department of health and human services and who can benefit from independent living training.

XI. "License" means a complete license issued to an operator of a child care agency, child care institution or child-placing agency, authorizing the licensee to operate in accordance with the term and conditions of the license, this subdivision, and the rules of the department.

XII. "Permit" means an issuance to an operator of a child care agency or child-placing agency which

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

shall not be renewable except for good cause shown and which may be granted for a period not exceeding 6 months to agencies whose services the department finds are needed, but which are temporarily unable to conform to the qualification for a license.

XIII. "Regularly" or "on a regular basis" means supervision and care up to and including 7 days a week service, whether continuous or not, for all types of child care subject to the provisions of this subdivision.

XIV. "Related" means any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepgrandparent, stepbrother, stepsister, uncle, aunt, niece, nephew, first cousin or second cousin.

XV. "Respite care" means substitute care provided by a person or agency which is licensed as a child care or child-placing agency.

**Source.** 1990, 257:8. 1992, 11:3. 1994, 212:2. 1995, 310:181. 2001, 188:1. 2006, 92:1. 2008, 52:12, eff. July 11, 2008.

**Section 170-E:26****170-E:26 Exemptions; Child Endangerment Prohibited**

I. The definitions in RSA 170-E:25, II and III shall not apply to the following:

- (a) Families housing exchange students or up to 4 children in summer exchange programs.
- (b) Nonresident families visiting the state for purposes of a vacation who have in their care foster children from their home state and have written approval of the out-of-state agency which supervises the foster children.

II. Families exempted from licensing pursuant to this section shall be subject to the provisions of RSA 170-E:27, II.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:27****170-E:27 License Required; Prohibition Against Child Endangerment**

I. No person may establish, maintain, operate or conduct any agency for child care or for child-placing without a license or permit issued by the department under this subdivision.

II. No person, whether licensed as a child care agency or institution or child-placing agency, or exempted from licensing pursuant to RSA 170-E:26, I, shall care for a child in a manner which endangers the health, safety or welfare of the child. For purposes of this paragraph, endangerment shall mean the negligent violation of a duty of care or protection owed to such child or negligently inducing such child to engage in conduct which endangers his health or safety. Licensees in violation of this paragraph shall be subject to the provisions of RSA 170-E:35. Persons exempted from licensing who are in violation of this paragraph shall be enjoined by a court of competent jurisdiction in accordance with the provisions of RSA 170-E:46 from caring for such child and may be enjoined, as the court may determine, from caring for other children. The court in its order for injunctive relief



**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

shall provide for removal and placement of the child who is the subject of the order with an organization licensed pursuant to this subdivision.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:27-a**

**170-E:27-a Homeless Youth Programs; Special Provisions**

Any child care agency which receives children for the purpose of providing a homeless youth program, as defined in RSA 170-E:25, II(d), shall be subject to the following provisions:

I. When a child 16 or 17 years of age contacts a homeless youth program requesting emergency shelter or homeless services, the program shall:

(a) Assess the child's essential needs, physical and mental health condition, and the circumstances that led the child to seek services.

(b) Upon completion of the assessment, but in no case later than 72 hours from the child's initial request for services, attempt to notify the child's parent or legal guardian that such child is present at the agency's facility. If compelling circumstances become evident during assessment which justify not notifying the parent or legal guardian, the program shall instead notify the department according to RSA 169-C:29. In this paragraph, the term "compelling circumstances" means circumstances which indicate that notifying the parent or legal guardian would subject the child to risk of abuse or neglect as defined in RSA 169-C:3.

(c) Notify the department no later than 30 days after the child's initial request for services if the program is unable to make contact with either of the child's parents or the legal guardian after reasonable attempts to do so.

II. Nothing in this section shall alter the legal relationship between parent or legal guardian and child, and in the absence of a court order directing otherwise, the program shall release the child to the custody of his or her parent or legal guardian upon request by the parent or guardian.

III. If the child is discharged from the program or voluntarily terminates participation in the program, the program shall immediately notify the parents or legal guardian; or the department if the parent or legal guardian has never consented to the child's placement in the program.

IV. A parent or legal guardian who consents in writing to the child's participation in a licensed homeless youth program shall not be deemed neglectful under RSA 169-C:3, XIX.

V. The agency may charge the child a reasonable fee for the services provided the child is working and/or has other regular income and such fee is within his or her ability to pay.

**Source.** 2001, 188:2, eff. Sept. 3, 2001.

**Section 170-E:28**

See Emergency Order #29 (NH LEGIS E.O. 2020-29-Emerg. (2020, 2029:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES

Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

**170-E:28 Applications; Compliance With State and Local Codes Required**

I. Any entity which intends to receive children, or arranges for child care or child placement of one or more children unrelated to the operator, shall apply for a license to operate one or more of the types of facilities for child care. Application for a license to operate a child care agency or institution or a child-placing agency shall be made to the department in the manner and on forms prescribed by rules adopted by the commissioner under RSA 541-A. Such forms shall provide for the birth names, birth dates and addresses of all persons having responsibility for care or placement of children or regular contact with children at the institution or agency. The agency or institution shall obtain approvals in accordance with state and local requirements pertaining to health, safety and zoning as applicable; and, if the department is satisfied that the person, institution, agency, or program conforms to standards prescribed for the type of child care or child placement for which application is made, the department shall issue a license in proper form designating on that license the type of child care or child placement, the name and address of the person or institution, the duration of the license and, except for child-placing agencies, the age range, the gender, and the number of children to be served.

II. Either the state fire marshal or the local fire department shall review compliance of the foster family home with the state fire code. In conducting the review, the state fire marshal or local fire department shall apply the appropriate single family or multi-unit dwelling provisions of the state fire code. A foster family home shall be exempt from local fire regulations and ordinances, provided that the home complies with the requirements of the state fire code.

**Source.** 1990, 257:8. 2001, 77:1, eff. Aug. 18, 2001. 2019, 70:1, eff. Aug. 6, 2019.

**Section 170-E:29**

See Emergency Order #18 (NH LEGIS E.O. 2020-18-Emerg. (2020, 2018:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES

LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

**170-E:29 State Registry and Criminal Records Check for Foster Family Homes, Institutions, and Child-Placing Agencies**

I. Foster family homes, institutions, and child-placing agencies shall, within 30 days of adding new staff members responsible for care of or in regular contact with children, submit the names, birth dates, and addresses of such staff members to the department.

II. Except in the case of an initial application for a foster family home, the department shall, for every name submitted on the application and for each new staff member, or at each renewal, review the names, birth names, birth dates, and current and previous addresses of such persons against the state registry of founded abuse and neglect reports. The department shall submit the names, birth names, birth dates, and addresses to the state police files to obtain information about criminal convictions.

II-a. In the case of an initial application for a foster family home, the department shall conduct a background check of the prospective foster parents and any other adult living in the home. The background check shall consist of a fingerprint-based criminal record check of national crime information databases for the prospective foster parents and any other adults living in the home, as well as a central registry check for the prospective foster parents and any other adult living in the home.

(a) For the criminal record check required under this paragraph, the department shall submit the prospective foster parents' fingerprints and the fingerprints of any other adults living in the home to the department of safety, division of state police, for forwarding to the Federal Bureau of Investigation. Upon completion of the criminal record check, the division of state police shall forward the results to the department.

(b) The central registry check shall include a check of the department's central registry of founded reports of child abuse and neglect under RSA 169-C:35 and shall include a check of the child abuse and neglect registries in any other state in which the prospective foster parents or other adult living in the home has resided in the preceding 5 years. Information obtained from another state pursuant to this subparagraph shall be used only for the purposes of conducting the background checks.

III. If any individual whose name has been submitted for a check under this section has been convicted of a violent or sexually-related crime against a child, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall deny the license, pending the development and implementation of a corrective action plan approved by the department.

IV. If any individual whose name has been submitted for this check has been convicted of crimes

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES

against minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint of child abuse or neglect, the department may deny the license or permit, revoke a license, or suspend a license pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the individual poses a present threat to the safety of children. The investigation shall include an opportunity for the individual to present evidence on his behalf to show that he does not pose a threat to the safety of children.

V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

**Source.** 1990, 257:8. 1994, 212:2. 1995, 310:136. 2007, 325:4, 5. 2013, 216:1, eff. Sept. 8, 2013. 2017, 136:2, eff. June 16, 2017.

**Section 170-E:29-a**

See Emergency Order #18 (NH LEGIS E.O. 2020-18-Emerg. (2020, 2018:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

**170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child Care Agencies**

I. Child care institutions and child care agencies, with the exception of foster family homes, that are required to be licensed according to the provisions of this chapter shall submit to the department the names, birth names, aliases, birth dates, and resident addresses during the previous 5 years of all owners, household members, and program directors prior to the issuance of a permit or license and prior to making a final offer of employment, for all individuals as required by the department in rules adopted under RSA 541-A.

I-a. The persons described in paragraph I shall complete a Federal Bureau of Investigation fingerprint check using the biometric identification system through a qualified law enforcement agency or an authorized employee of the division of state police, department of safety and authorize the release of the person's criminal records, if any, to the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES**

insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

II. (a) For every name submitted on an application and for each person for whom information is required to be submitted pursuant to paragraph I, the department shall search for such persons against the New Hampshire sex offender and abuse and neglect registries, and the sex offender and abuse and neglect registries of each state where the individual resided in the past 5 years. The individual shall submit all forms and any required payments to the department to request from each state a check of the abuse and neglect registry records where the individual resided in the past 5 years.

(b) Under the authority of the Child Care and Development Block Grant Act of 2014, the division of state police shall conduct the criminal history records check pursuant to paragraph I-a, through its records and through the Federal Bureau of Investigation, to include a check of the National Sex Offender Registry file in the National Crime Information Center records. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department and shall indicate whether the individual is registered on the National Sex Offender Registry file in the National Crime Information Center records. The department shall maintain the confidentiality of all criminal history records information received.

(c) The costs of criminal history record and abuse and neglect registry checks shall be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of the criminal history check and abuse and neglect registry checks of the employee.

(d) Any individual who refuses to consent to the criminal background check or knowingly makes a materially false statement in connection with such criminal background checks shall be ineligible for employment.

III. Notwithstanding paragraph I, a licensee may make a final offer of employment and allow a person to begin working in the program while the results of the state and national criminal background check is pending provided that, prior to beginning employment, the applicant completes a statement stating that he or she:

(a) Does not have any felony conviction in this or any other state.

(b) Has not been convicted of a sexual assault, assault including simple assault, any other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to well-being of children, such as a violent crime or a sexually-related crime against an adult.

(c) Has not had a finding by the department or any administrative agency in this or any other state for abuse, neglect, or exploitation of children.

IV. The results of the criminal background check shall be valid for 5 years. Prior to the expiration of that 5-year period, the individuals described in paragraph I shall undergo a background check pursuant to this section.

IV-a. If a person who is or has been employed or volunteered at a child care institution or child care agency is offered employment or volunteers at another child care institution or child care agency or a child day care agency, the person shall not be required to undergo the criminal records check described in paragraph I-a if the previous criminal records check was completed within the last 5 years as provided in paragraph IV, and the person was determined by the department to be eligible

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

for employment. Before entering employment or volunteering with the new agency, the person shall complete a statement as set forth in paragraph III.

V. The department shall make a determination regarding the individual's eligibility for employment no later than 45 days from submission of all required information as described in paragraphs I and I-a. If any person whose name has been submitted for a check under this section is registered or required to be registered on a state sex offender registry or repository, or the National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed during the previous 5 years, or any other violent or sexually related misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall:

(a) If the person is the applicant or owner, revoke or deny the license.

(b) If the person is a board member, household member, or child care institution or child care agency personnel, or any other person having regular contact with the enrolled children inform the child care institution or child care agency that the person is ineligible for employment and give the program an opportunity to take immediate corrective action to remove the person from the program, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the person will not be on the premises of the child care institution or child care agency and shall have no contact with children enrolled in the child care institution or child care agency.

(c) Suspend, deny, or revoke the license or permit if the child care institution or child care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails to comply with the corrective action plan approved by the department.

VI. If any person whose name has been submitted for this check has been convicted of a felony offense or violent crime deemed directly or indirectly harmful to children in child residential care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a license or permit pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the person is ineligible for employment. The investigation shall include an opportunity for the person to present evidence on his or her behalf to show that the person does not pose a threat to the safety of children.

VII. (a) Once the department has made a determination that the individual required to complete a criminal record check under paragraph I-a is eligible for employment, the department shall issue a residential child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in paragraph V. The department may require additional background checks to be completed based upon reliable information that the individual received one or more additional



CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES

convictions subsequent to the previous criminal record submission. If the department receives confirmation from a law enforcement agency that an individual has been charged with a crime as described in paragraph III or V, the department shall suspend the individual's residential child care eligibility card and inform the agency that the individual is ineligible for employment and give the agency an opportunity to take immediate corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the individual will not be on the premises of the program and shall have no contact with children enrolled in the program while charges are pending.

(b) The fee for a residential child care employment eligibility card shall be \$50, and the card shall be valid for 5 years from the date of issuance, or a prorated amount of \$10 per year from the most recently completed criminal background check. The fee for a replacement card shall be \$15.

VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

**Source.** 2013, 216:2, eff. Sept. 8, 2013. 2016, 158:6, eff. Oct. 1, 2016. 2017, 91:4, eff. Aug. 6, 2017. 2018, 318:11, eff. Aug. 24, 2018. 2019, 313:2, eff. July 1, 2019.

### Section 170-E:30

See Emergency Order #29 (NH LEGIS E.O. 2020-29-Emerg. (2020, 2029:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

### 170-E:30 Child Care Institution; Child-Placing Agency; Information Required

In addition to the steps required in RSA 170-E:29, the department, upon receiving an application and authorization filed by a child care institution or child-placing agency in proper order, shall, in cooperation with the operator, examine the facility or agency, and investigate the program and person or persons responsible for the care of children. When the facility or agency is administered through an executive board, board of trustees, board of directors, or other governing body, the names, addresses, and any connection of individuals on such bodies with the facility or agency shall be included. The institution or child-placing agency shall obtain and provide receipts of approval of state and local requirements pertaining to health, safety and zoning, as applicable. If the department is satisfied that the institution or child-placing agency conforms to the standards prescribed for the

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

type of facility or agency to be operated, a license shall be issued. The commissioner or his designee may inspect the facility or agency at any time.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:31**

See Emergency Order #29 (NH LEGIS E.O. 2020-29-Emerg. (2020, 2029:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

**170-E:31 Issuance**

I. Licenses shall be issued in such form and manner as prescribed by rules adopted by the commissioner under RSA 541-A and, for foster family homes and specialized care, shall be valid for 2 years from the date issued, unless revoked by the department, or voluntarily surrendered by the licensee, or subject to conditions attached to the license which provide for a shorter license period than 2 years.

II. The department may provide dual licensure to a facility or child-placing agency. Such licensure shall be granted only upon application and shall be contingent upon a determination, by the appropriate licensing units consulting with each other, that the standards of both programs have been met without compromising any licensing requirements. If the licensing units are unable to agree, the final decision shall be made by the commissioner.

III. Licensure for child care institutions and child-placing agencies shall be valid as follows:

(a) Group homes and child care institutions: 3 years from the effective date of the license.

(b) Child-placing agencies: 4 years from the effective date of the license.

IV. The department shall make monitoring visits a minimum of once yearly each licensing period. At least one such visit during the licensing period shall not be announced in advance; however, such unannounced visit is optional for foster family homes. Clear and comprehensive records shall be maintained by the department on each licensed facility showing the dates and findings of each such visit. Such records shall be made available to the facility. If the facility is found not to be in compliance either with the statute or the rules adopted by the commissioner, a corrective action plan shall be submitted to the department. Failure to submit an acceptable plan shall result in license suspension or revocation.



**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

V. The department may issue a 6-month permit to a newly established facility for child care, or to an established facility which has changed its physical location, to allow that facility reasonable time to become eligible for full licensure. The 6-month permit may be issued immediately upon completion of the necessary licensing inspections. If the language on such permit allows it, the facility may begin operation immediately without waiting for the state office to complete the processing of the application.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:32**

See Emergency Order #29 (NH LEGIS E.O. 2020-29-Emerg. (2020, 2029:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

**170-E:32 License Renewal**

I. A licensed child care agency, child care institution, or child-placing agency shall file for renewal of its license 3 months prior to the expiration date of the license on forms prescribed by rules adopted by the commissioner under RSA 541-A.

II. The department, a duly licensed child-placing agency, or a person designated by the department as its agent, shall reexamine every child care facility for renewal of its license, including examination of the premises, program, and such records of the facility as the department considers necessary to determine that minimum standards for licensing continue to be met. If the department is satisfied that the person, institution, or child-placing agency continues to maintain the minimum standards established by rule for that category of child care or child-placing, it shall renew the license to operate.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:33****170-E:33 Record of Licenses**

I. The department shall keep in a central depository records of licenses issued under this subdivision and all monitoring reports that have been made relative to licensees. When a license is issued to a

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

person or institution, the department shall give notice to the health officer and the fire department of the city or town in which the licensee is located stating the granting of such license and its terms. A like notice shall be given of any suspension or revocation of such license.

II. The license itself shall be considered public information and available for review by members of the public; information submitted in the application process, however, shall be private, confidential and not available for review.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:34****170-E:34 Rulemaking; Consultation**

I. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) Minimum standards for licensing which apply to the various types of facilities for child care and child placement. The department shall seek the advice and assistance of persons representative of the various types of child care and child-placing agencies in establishing such standards. The standards prescribed shall include:

- (1) The operation and conduct of the person, institution, or child-placing agency and the responsibility it assumes for child care or child placement, or both.
- (2) The character, qualifications, mental and physical ability and competence of the applicant as well as all persons directly responsible for the care and welfare of children served, or of persons who will be providing necessary care for children and maintaining prescribed standards, or of persons who will do both.
- (3) The number of individuals or staff required to insure adequate supervision and care of the children provided the particular type of care.
- (4) The appropriateness, safety, environmental health and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to state laws and municipal codes, to provide for the physical comfort, health and care of children received.
- (5) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the health and the physical and mental development of children served.
- (6) Provisions to safeguard the legal rights of children served.
- (7) Maintenance of records pertaining to the admission, progress, health and discharge of children.
- (7-a) Provisions for the permanent retention of records pertaining to the placement of children for adoption, including maintenance of such records in the event that a licensed agency ceases to operate as a licensed child-placing agency.
- (8) Filing of reports with the department, including format, frequency and content of such reports.
- (9) Discipline of children.
- (10) Protection and fostering of the particular religious faith of the children served, where applicable.
- (11) Provisions to provide for a report of any new staff, paid or unpaid, or resident of the facility which shall include the name, birth name, date of birth and previous addresses of the person, or other information as required by rules of the department.
- (12) Duties and responsibilities of the board of directors or other governing body of the facility or

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

child-placing agency with respect to compliance with this subdivision and the standards relating to this subdivision as established by the department.

(13) Retention of records and, in the event the facility or child-placing agency is no longer functioning, transfer of records.

(b) Minimum standards for facilities for specialized care, where there are children diagnosed as mentally ill, intellectually disabled, or physically disabled, who are determined to be in need of special mental treatment or nursing care, or both, when the facility is not subject to licensure under RSA 151. The department shall seek the advice and recommendation of the department of education, as appropriate, regarding the residential treatment, education, and nursing care provided by the facility.

(c) The confidentiality of information gathered pursuant to RSA 170-E:28, 170-E:29, 170-E:33 and RSA 170-E:42.

(d) The procedures for the appeals processes provided by RSA 170-E:36, II and IV.

(e) Policy and procedures concerning the investigation of licensees and all disciplinary proceedings, including corrective action plans, against licensees.

(f) Compensation to foster family homes for the costs of caring for each child placed in their home.

(g) The release of information to persons receiving the child which pertains to the life and safety of the child either about to be placed or already in placement, and which may pertain to the life and safety of the persons who are receiving or who have received the child for placement, including any physical and mental health issues, history of abuse or neglect, behaviors that may be expected, and recommended ways of handling the child's problems. For purposes of this subparagraph, placement shall mean out-of-home placements, including placements for adoption.

(h) Establishing, maintaining, and directing a system of child care resource and referral pursuant to RSA 170-E:5-a.

II. The department, in applying the standards adopted by rule under paragraph I, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a licensee.

**Source.** 1990, 257:8. 1991, 327:3. 1995, 310:138. 1996, 234:4. 2004, 98:1. 2008, 52:13, eff. July 11, 2008.

**Section 170-E:35****170-E:35 License or Permit Suspension, Revocation, or Denial**

The department may suspend, revoke, deny, or refuse to renew any license, or revoke or refuse to issue a full license to any permit holder, whether or not the person, institution or agency is approved by a child-placing agency, if the licensee or permit holder:

I. Neglects or abuses children in his care;

II. Does not comply with this subdivision or the rules adopted under this subdivision relative to the supervision of children in his care;

III. Violates any provision of this subdivision, or is unable to meet and maintain standards adopted by the commissioner;

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

- IV. Substantially or repeatedly violates any provisions of the license or permit issued;
- V. Furnishes or makes any misleading or any false statement or report to the department or to the child-placing agency;
- VI. Refuses or fails to submit any reports or to make available to the department any records required by it in making an investigation of the facility for licensing purposes;
- VII. Refuses or fails to submit to an investigation or to the required visits by the department;
- VIII. Refuses or fails to admit authorized representatives of the department at any reasonable time for the purpose of investigation or visit;
- IX. Fails to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by rules adopted by the commissioner under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility;
- X. Refuses to display its license or permit or to make it readily available to view, if requested;
- XI. Fails to exhibit, meet or maintain financial or other resources, or both, adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, education and other essentials in the proper care, rearing, training and placement of children, so long as such lack of financial resources is not due primarily to delays in state payments for care;
- XII. Retaliates against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it;
- XIII. Continues to employ a person without taking corrective action, after receipt of written notification from the department that the person poses a risk to children, such notification including the basis for the department's determination that the risk exists; or
- XIV. Fails to comply with the corrective action plan jointly developed between the department and the person, institution or agency.
- XV. Demonstrates a repeated failure to cooperate with the department, other service providers, or the parents of a child who is placed with the child care agency, as necessary to implement the child's case plan or the department's treatment decisions.
- XVI. Fails to comply with applicable public health laws and regulations concerning lead.

**Source.** 1990, 257:8. 2010, 70:1, eff. July 18, 2010. 2018, 4:10, eff. Apr. 9, 2018.

**Section 170-E:36**

**170-E:36 Notice and Hearing**

- I. Should the department determine to suspend, revoke or deny, or refuse to renew a license or permit, it shall send to the applicant, licensee or permittee, by registered mail, a notice which sets forth the particular reasons for the determination. The suspension, revocation, or denial shall become final 10 days after receipt of such notice unless the applicant, licensee or permittee requests a hearing under paragraph II of this section.
- II. Any applicant, licensee or permittee aggrieved by a decision of the department to suspend, revoke, deny, or refuse to renew a license or permit may appeal to the commissioner through an

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

administrative hearings process. For purposes of carrying out the provisions of this section, the commissioner may, in accordance with the rules adopted by the department of personnel pursuant to RSA 541-A, appoint a hearings officer or officers, as necessary, to preside over such hearings. A hearings officer may affirm, deny or modify the decision of the department. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to procedures for the appeals process provided under this paragraph.

III. When the department decides to suspend, revoke, deny, or refuse to renew a license or permit, and it expressly finds that the continued operation of a child care facility or child-placing agency violates any minimum standard prescribed by law or rule, or otherwise jeopardizes the health, safety, morals, well-being or welfare of children served by the facility or child-placing agency, the department shall include in its notice an order of closure directing that the operation of the facility or child-placing agency terminate immediately. In this event, the facility or child-placing agency shall not operate during the pendency of any proceeding for the review of the decision of the department, except under court order.

IV. Rehearings and appeals from a decision of the hearings officer shall be in accordance with rules adopted under RSA 541-A.

V. On or before December 31, 2010, and each year thereafter, the department shall submit a report to the chair of the house standing committee on children and family law relative to the number of license or permit suspensions, revocations, denials, and appeals for that year.

**Source.** 1990, 257:8. 2010, 70:2, eff. July 18, 2010.

**Section 170-E:37****170-E:37 Appeal**

Any person aggrieved by any decision rendered after a rehearing held or an appeal brought under RSA 170-E:36, IV may appeal the decision to the superior court.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:38****170-E:38 Operation Without a License**

Whenever the department is advised, or has reason to believe, that any entity is operating a child care facility or child-placing agency without a license or permit, it may make an investigation to ascertain the facts. If it finds that the child care facility or child-placing agency is operating or has operated without a license or permit, the department may report the results of its investigation to the attorney general or to the appropriate county attorney for prosecution.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:39**

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES**

**170-E:39 Advertising**

A child care agency, child care institution, or child-placing agency licensed or operating under a permit issued by the department may publish advertisements of the services for which it is specifically licensed or issued a permit under this subdivision. No person who is required to obtain a license or permit under this subdivision may advertise or cause to be published an advertisement soliciting or offering care for a child for care or placement unless the person has obtained the requisite license or permit.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:40**

**170-E:40 Investigation**

I. If the department has reason to believe that state or federal funds solicited and received by a corporation for conduct of a child care facility or child-placing agency are not being used for the purpose for which the funds were awarded, or are being fraudulently used by the corporation or its members, or purportedly are being used for a facility or child-placing agency which is actually defunct, or are being used for a facility or child-placing agency which no longer carries a valid license or permit, the department shall report these facts to the attorney general and request an investigation of the corporation to determine if the corporation should be dissolved or whether other action should be taken against the corporation or its members.

II. The department shall conduct an investigation of any complaint of violations of any licensing or operating standards against permitted or licensed child care or child-placing agencies. All investigations shall be conducted at reasonable times, with the cooperation of other state or municipal authorities, if required, and may include unannounced visits. The commissioner shall request an annual narrative summary of complaints received by the department.

III. Records compiled during an investigation shall be confidential and shall not be made public by the department.

**Source.** 1990, 257:8. 1995, 310:137, eff. Nov. 1, 1995.

**Section 170-E:41**

**170-E:41 Oaths; Subpoenas**

I. The department shall have the power to administer oaths in any disciplinary proceedings.

II. Upon request of the commissioner, the attorney general shall be authorized, for good cause shown, to subpoena witnesses and to compel, by subpoena duces tecum, the production of papers and records in any disciplinary proceedings under this subdivision.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:42**



**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES****170-E:42 Records**

Every child care facility and child-placing agency shall keep and maintain such records as the department prescribes pertaining to the admission, progress, health, and discharge or placement, or both, of children under the care of the facility or child-placing agency, and shall report relative to such matters to the department whenever called for, upon forms prescribed by rule. All records regarding children and all facts learned about children and their relatives shall be kept confidential by the child care facility, the child-placing agency, and the department.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:43****170-E:43 Notice of Death**

If any child under the control of any licensed child care agency or institution dies, the licensee shall give notice of such event to the department within 24 hours thereafter stating the date and cause of death, to the extent known, duration of the most recent illness, and the names and addresses of the attending physician and undertaker.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:44****170-E:44 Reports to the Department of Health and Human Services**

- I. Any child care facility or child-placing agency receiving a child for care or supervision from a foreign state or country shall report that child to the department of health and human services in the same manner as it is required for reporting other children pursuant to RSA 170-A:1.
- II. A person other than a licensed child care institution or child-placing agency shall not receive a child from a foreign state or country without prior notice to and approval of the department of health and human services. Any placement of children shall conform to RSA 170-A and RSA 170-B:28.
- III. The department of health and human services may require a guarantee that a child accepted for care or supervision from a foreign state or country will not become a public charge upon this state.
- IV. The department of health and human services may enter into agreements with public or voluntary social agencies headquartered in states adjacent to this state regarding the placement of children in licensed foster family homes within the boundaries of this state if the agencies meet the standards and criteria required for license as a child-placing agency in this state. The agreements may allow foreign agencies to place and supervise children for whom they have responsibility with this state without regard to paragraph I. These agreements shall, however, include a requirement that the agencies cooperate fully with the department in its inquiry or investigation into the activities and standards of those agencies, and provide that the department of health and human services may, at any time upon 15 days' written notice to an agency by registered mail, void the agreement and require the observance of paragraph I.

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES**

V. The department of health and human services shall perform its duties under this section with the approval of the commissioner.

**Source.** 1990, 257:8. 1994, 212:2. 1995, 310:175, 181. 2004, 255:5, eff. Jan. 2, 2005.

**Section 170-E:45**

**170-E:45 Penalty**

I. Any person shall be guilty of a misdemeanor who:

- (a) Conducts, operates or acts as a child care facility or child-placing agency without a license or permit to do so in violation of RSA 170-E:27, I;
- (b) Makes materially false statements in order to obtain or retain a license or permit;
- (c) Fails to keep the records and make the reports required under this subdivision;
- (d) Is required to obtain a license or permit under this subdivision and who advertises or causes to be published an advertisement for a service which is not authorized by any license or permit held;
- (e) Violates any other provision of this subdivision or any rule adopted under RSA 541-A by the commissioner for the enforcement of this subdivision;
- (f) Fails to comply with the requirements for notifying parents, legal guardians, or the department under RSA 170-E:27-a, I.

II. Foster family homes which have not been licensed but which have been asked to receive children by the department or another child-placing agency on an emergency basis shall not be subject to the penalty provided in subparagraph I(a). The exemption provided in this paragraph is valid for a period of 30 days from the date of placement of the child in the home.

III. Each day a violation continues to exist shall constitute a separate offense.

**Source.** 1990, 257:8. 1995, 310:175. 2001, 188:3, eff. Sept. 3, 2001.

**Section 170-E:46**

**170-E:46 Injunctive Relief**

Any person may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this subdivision or of the rules adopted under RSA 170-E:34; and the court shall adjudge relief, by way of injunction, which may be mandatory or otherwise as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purpose of this subdivision and the rules adopted under it. In a prosecution under this subdivision, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:47**



**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES**

**170-E:47 License Remains in Effect**

Any license issued under this subdivision remains valid until its expiration date, unless revoked by the department, or until the date established by conditions placed on the license.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:48**

**170-E:48 Retaliation Prohibited**

A child care agency or child-placing agency license holder shall not retaliate, through discharge, harassment, or other discrimination, against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it. Such retaliation shall constitute grounds for license revocation.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**Section 170-E:49**

**170-E:49 Confidentiality and Investigations**

The department may request and shall receive cooperation from other state agencies in connection with investigations and licensure. Because certain information kept by other state agencies and requested by the department may be confidential, the department shall strictly observe the confidentiality requirements of the agency from which it receives information.

**Source.** 1990, 257:8, eff. Jan. 1, 1991.

**CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES**

**Index**

*This index is offered as a tool to help you find topics in these rules. It is not intended to be all-inclusive.*

Academic requirements for residents .....	60	discharge ....	25, 60, 71, 75, 79, 80, 81, 99, 103, 105
Administer .....	3	<u>Discipline</u> .....	61, 99
appeals .....	22, 99, 101	eligibility card .....	84, 95
application... 3, 9, 11, 12, 13, 14, 15, 22, 23, 24, 25,		eligibility for employment .....	84, 94
41, 52, 55, 70, 84, 91, 92, 93, 96, 97, 98		emergency .....	34, 35, 37, 40, 41, 45, 57, 60, 65, 69,
asbestos .....	46	90, 104	
Background Checks.....	83	energy absorptive material.....	50
bathroom .....	11, 48, 53, 54, 61	fence.....	50
bedding .....	48	field trips .....	35, 67
Bedrooms.....	45	fire drill .....	36
board of directors.....	16, 25, 26, 96, 99	first aid .....	35, 48, 68
Child endangerment.....	3	food service requirements.....	49
cleaning.....	46, 48, 68	hazards .....	11, 46, 48, 50
communicable disease .....	28, 31, 33	household member.....	9, 28, 83, 84, 95
conditional approval .....	12, 13	Pool .....	48
Confidentiality .....	44, 105	Screens .....	45
cooperation .....	7, 26, 61, 96, 102, 105	sleeping .....	47, 48, 58, 77
corporal punishment .....	61, 62	swimming.....	48, 50
corrective action plan.. 3, 15, 17, 18, 22, 52, 53, 92,		time out .....	61, 62
95, 97, 100		tobacco.....	47, 57
CPR.....	35, 48, 68	toilets.....	11, 50, 53, 54
Cribs and playpens.....	51	treatment plan 39, 43, 58, 59, 61, 76, 78, 79, 80, 81	
death.....	5, 6, 35, 103	ventilation .....	47, 54
denial.....	24, 101	water activity.....	48
dental examination.....	30, 31	window.....	45, 49
Direct care staff.....	3, 55, 80		

**CHAPTER 170-E**  
CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-  
PLACING AGENCIES