

PART He-M 1001 CERTIFICATION STANDARDS FOR DEVELOPMENTAL SERVICES
COMMUNITY RESIDENCES

Statutory Authority: New Hampshire RSA 126-A:19-20; 171-A:3; 18, IV

REVISION NOTE:

Document #5867, effective 9-1-94, made extensive changes to the wording, structure, and numbering of rules in Part He-M 1001. Document #5867 supersedes all prior filings for the sections in this part. The prior filings for former Part He-M 1001 include the following documents:

#1775, eff 7-7-81
#2188, eff 11-25-82
#2907, eff 11-16-84
#4481, eff 9-1-88

He-M 1001.01 Purpose. The purpose of these rules is to:

- (a) Define the standards and procedures for the certification of community residences funded by the state of New Hampshire for persons with a developmental disability or acquired brain disorder; and
- (b) Establish minimum standards governing the operation and continued certification of such residences.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.02 Definitions. The words and phrases used in this chapter shall have the following meanings:

- (a) “Acquired brain disorder” means a disruption in brain functioning that:
 - (1) Is not congenital or caused by birth trauma;
 - (2) Presents a severe and life-long disabling condition which significantly impairs a person's ability to function in society;
 - (3) Occurs prior to age 60;
 - (4) Is attributable to one or more of the following reasons:
 - a. External trauma to the brain as a result of:
 - 1. A motor vehicle incident;
 - 2. A fall;

3. An assault; or
 4. Another related traumatic incident or occurrence;
- b. Anoxic or hypoxic injury to the brain such as from:
1. Cardiopulmonary arrest;
 2. Carbon monoxide poisoning;
 3. Airway obstruction;
 4. Hemorrhage; or
 5. Near drowning;
- c. Infectious diseases such as encephalitis and meningitis;
- d. Brain tumor;
- e. Intracranial surgery;
- f. Cerebrovascular disruption such as a stroke;
- g. Toxic exposure; or
- h. Other neurological disorders, such as Huntington's disease or multiple sclerosis, which predominantly affect the central nervous system; and
- (5) Is manifested by:
- a. Significant decline in cognitive functioning and ability;
 - b. Deterioration in:
 1. Personality;
 2. Impulse control;
 3. Judgment;
 4. Modulation of mood; or
 5. Awareness of deficits; or
 - c. Both a. and b. above.

(b) "Agency residence" means a residence operated by staff of an area agency or a provider agency.

(c) "Area" means "area" as defined in RSA 171-A:2, I-a, namely "a geographic region established by rules adopted by the commissioner for the purpose of providing services to developmentally disabled persons."

(d) "Area agency" means an entity established as a non-profit corporation in the state of New Hampshire which is designated by the department to provide services to persons with developmental disabilities in the area in accordance with RSA 171-A:18 and He-M 505.

(e) “Behavioral change program” means a written plan, protocol, or procedure that outlines strategies including, but not limited to:

- (1) Physical environment modifications;
- (2) Restrictive strategies;
- (3) Use of monitoring devices;
- (4) Use of chemical restraints; or
- (5) Other strategies for altering behavior.

(f) “Bureau” means the bureau of developmental services of the department of health and human services.

(g) “Bureau administrator” means the chief administrator of the bureau of developmental services.

(h) “Certificate holder” means the person or agency in whose name a community residence’s certification is issued.

(i) “Certification” means the written approval by the director for the office of operations support for the operation of a community residence in accordance with He-M 1001.

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

(k) “Community residence” means either an agency residence or family residence, exclusive of any independent living arrangement, that:

- (1) Provides residential services for at least one individual with a developmental disability in accordance with He-M 503, or an acquired brain disorder in accordance with He-M 522;
- (2) Provides services and supervision for an individual on a daily and ongoing basis, both in the home and in the community, unless the individual’s service agreement states that the individual may be without supervision for specified periods of time;
- (3) Serves individuals whose services are funded by the department; and
- (4) Is certified pursuant to He-M 1001.

(l) “Day service” means the educational, vocational, or leisure activity for an individual that corresponds to the activities of school, work, or retirement.

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

(n) “Developmental disability” means "developmental disability" as defined in RSA 171-A:2, V, namely, "a disability:

- a. Which is attributable to an intellectual disability, cerebral palsy, epilepsy, autism, or a specific learning disability, or any other condition of an individual found to be closely related to an intellectual disability as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for persons with an intellectual disability; and

b. Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe disability to such individual's ability to function normally in society."

(o) "Emergency" means an unexpected occurrence or set of circumstances in an individual's life which consists of, culminates in, or has resulted from serious physical or psychological injury, or both, and requires immediate remedial attention.

(p) "Family residence" means a community residence operated:

- (1) Exclusively by a person or family residing therein; and
- (2) Under contract with an area agency or provider agency.

(q) "Independent living arrangement" means a situation where an individual does not receive daily and ongoing services and supervision but receives assistance, as needed, to maintain or develop skills to live independently and prevent circumstances that could necessitate more intrusive and costly services.

(r) "Individual" means a person with a developmental disability or acquired brain disorder who receives services from an area agency.

(s) "License" means the written approval from the department of health and human services issued in accordance with either RSA 151 or RSA 170-E.

(t) "Licensed practitioner" means a medical doctor, dentist, physician's assistant, advanced practice registered nurse, doctor of osteopathy, or doctor of naturopathic medicine.

(u) "Nurse trainer" means a registered nurse who has been designated as a trainer pursuant to He-M 1201.10.

(v) "Provider" means a person who is employed by, has a contract with, or receives any form of remuneration from an area agency, provider agency, individual, or family to deliver residential services to an individual.

(w) "Provider agency" means an area agency or an entity under contract with an area agency that is responsible for the operation or supervision of an agency residence or family residence.

(x) "Residence administrator" means a person designated by a provider agency who has the authority to oversee the operation of a community residence.

(y) "Service agreement" means a written document prepared pursuant to He-M 503.10.

(z) "Service coordinator" means a person who meets the criteria in He-M 503.08 (e)-(f) and is chosen or approved by an individual and his or her guardian or representative to organize, facilitate, and document service planning, and to negotiate and monitor the provision of the individual's services, and who is:

- (1) An area agency service coordinator, family support coordinator, or any other area agency or provider agency employee;
- (2) A member of the individual's family;
- (3) A friend of the individual; or
- (4) Another person chosen to represent the individual.

(aa) “Staff” means an employee of an area agency, provider agency, or family who provides direct services to an individual.

(ab) “Supervision” means that a provider or his or her designee, who has been approved in writing by the service coordinator and legal guardian, if applicable, is physically present and able to assist an individual in the home and community.

(ac) “Team” means a service coordinator, individual, guardian, if applicable, and others invited by the individual to participate in the service planning and review meetings.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00; amd by #6582, eff 9-19-97

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.03 Administrative Requirements.

(a) A community residence shall have no more than 3 persons receiving paid services in the residence without regard to payment source.

(b) Any community residence serving 4 or more individuals shall be licensed as required by RSA 151:2.

(c) A community residence intending to provide or providing services to 2 or more persons not receiving services through an area agency or community mental health center shall be licensed as required by RSA 151:2, I(e) and certified as required by RSA 126-A:20.

(d) If a community residence serving persons who are 18 years of age or older intends to serve, or is serving, a person(s) who is under 18 years of age, it shall obtain written approval for such an arrangement from the guardian(s) of the person(s) under age 18 and the area agency.

(e) A community residence that serves a person(s) who is under 18 years of age shall be licensed as a foster family home pursuant to RSA 170-E:31-32.

(f) Prior to hiring or contracting with a person to work in a community residence, the provider agency, with the consent of the person and all household members, as appropriate, shall:

(1) Obtain at least 2 references for the person;

(2) Submit the person’s name for review against the registry of founded reports of abuse, neglect, and exploitation to ensure that the person is not on the registry pursuant to RSA 169-C:35 or RSA 161-F:49, and submit the person’s name against such registry every 5 years after hire;

(3) Complete a criminal records check, no more than 30 days prior to the home opening, to ensure that the person and all adult household members, excluding individuals, have no history of fraud, felony, or misdemeanor conviction;

(4) If a person's primary residence is out of state, complete a criminal records check for his or her state of residence;

(5) If a person has resided in New Hampshire for less than one year, complete a criminal records check for his or her previous state of residence; and

(6) Complete a motor vehicles record check to ensure that the potential provider has a valid driver's license.

(g) A provider agency may hire a person with a criminal record listed in (f)(3) above for a single offense that occurred 10 or more years ago in accordance with (g) and (h) below. In such instances, the individual, his or her guardian if applicable, and the area agency shall review the person's history prior to approving the person's employment.

(h) Unless a waiver is granted pursuant to (i) below, a provider agency may not hire a person with a criminal record, other than as specified in (g) above.

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

(j) Employment of a person pursuant to (g) above shall only occur if such employment:

(1) Is approved in writing by the individual, his or her guardian if applicable;

(2) Is approved in writing by the area agency executive director or designee;

(3) The signature and phone number of the person being hired are obtained;

(4) Does not negatively impact the health or safety of the individual(s); and

(5) Does not affect the quality of services to individuals.

(k) Upon hiring a person pursuant to (g) above, the provider agency shall document and retain the following information in the individual's record:

(1) Identification of the region, according to He-M 505.04, in which the provider agency is located;

(2) The date(s) of the approvals in (g) above;

(3) The name of the individual or individuals for whom the person will provide services;

(4) The name of the person hired;

(5) Description of the person's criminal offense;

(6) The type of service the person is hired to provide;

(7) The provider agency's name and address;

(8) The certification number and expiration date of the certified program, if applicable; and

(9) A full explanation of why the provider agency is hiring the person despite the person's criminal record;

(l) All personnel shall sign a statement annually, which is maintained in the personnel file, stating that since the time of hire they:

(1) Have not been convicted of a felony or misdemeanor in this or any other state, and

(2) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person.

(m) A family residence shall have a written agreement with the provider agency that requires, at a minimum, that a list of the names of all persons living in the residence who are not receiving area agency services be disclosed to the provider agency.

(n) No provider or other person living or working in a community residence shall serve as the legal guardian of an individual living in that community residence.

(o) Community residences shall have personal injury liability insurance for the residence and for vehicles used to transport individuals. Certificates of insurance shall be on file at the premises.

(p) Living space shall be arranged and maintained to support the health and safety of all household members, as follows:

(1) Each community residence shall be maintained in good repair and free of hazard to household members;

(2) Each community residence shall be free from environmental nuisances, including loud noise and foul odors;

(3) All smoke alarm batteries shall be replaced twice per year;

(4) All doors, hallways, and stairs shall be clear, unobstructed, and uncluttered;

(5) All flammable or combustible materials shall be stored at least 3 feet from electric heaters, wood/coal/pellet/kerosene stoves, furnaces, boilers, or water heaters;

(6) All flammable liquids shall be stored away from ignition sources;

(7) Oil furnaces must be serviced annually. All other furnaces shall be serviced annually or as required/recommended by service provider or manufacturer; and

(8) If oxygen is used in the residence, all doors entering the home shall be labeled accordingly. Any oxygen in the home shall be firmly secured to the adjacent wall or secured in a stand or rack.

(q) A community residence shall provide the following:

(1) A specific sleeping area designated for each individual;

(2) A separate bed for each individual with each bedroom containing no more than 2 beds; and

(3) Storage space for each individual's clothing and other personal possessions.

(r) An individual's right to privacy shall be protected.

(s) Each bedroom shall be situated such that:

(1) No individual shall reside in a bedroom that is the access way to another bedroom or to a common area of the house; and

(2) Common areas shall not be used as bedrooms by anyone living in the home.

(t) An individual's rights in accordance with He-M 310.09 shall be protected.

(u) The community residence shall have:

(1) At least one indoor bathroom which includes a sink, toilet, and a bathtub or shower for every 6 persons in the household;

(2) At least one telephone at all times when an individual is in the home;

(3) An integrated, hard wired fire alarm system with a detector in each bedroom and on each level of the home including basement and attic, if the attic is used as living or storage space. All detectors shall be replaced at least once every 10 years;

(4) A functioning septic or other sewage disposal system; and

(5) A source of potable water for drinking and food preparation, as follows:

a. If drinking water is supplied by a non-public water system, the water shall be tested and found to be in accordance with Env-Dw 702.02 and Env-Dw 704.02 initially and every 6 years thereafter; and

b. If the water is not approved for drinking, an alternative method for providing safe drinking water shall be implemented.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, eff 9-1-94, EXPIRED: 9-1-00; and by #6582, eff 9-19-97

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.04 Qualifications for Service Provision.

(a) All persons who provide residential services shall be at least 18 years of age.

(b) Prior to providing services to individuals, a prospective provider shall have evidence of a negative mantoux tuberculin test or, if positive, evidence of follow-up conducted in accordance with the Centers for Disease Control and Prevention "Guidelines for Preventing the Transmission of *M. tuberculosis* in Health-Care Settings" (2005 edition), available as noted in Appendix A. Such test shall have been completed within the previous 6 months.

(c) Prior to delivering services to an individual, a prospective provider shall have received orientation in the following areas:

- (1) Rights as set forth in He-M 202 and He-M 310;
- (2) The specific health-related requirements of each individual, including:
 - a. All current medical conditions, medical history, and routine and emergency protocols; and
 - b. Any special nutrition, dietary, hydration, elimination, or ambulation needs;
- (3) Any specific communication needs;
- (4) An overview of developmental disabilities or acquired brain disorders, or both, as appropriate, including the local and state service delivery system;
- (5) Any behavioral supports required of individuals served; and
- (6) Any assistance individuals need to evacuate the residence in the case of emergency.

(d) Staff and providers with no prior experience providing services directly to individuals shall not provide these services without direct oversight and support during the first 16 hours of providing services.

(e) Within the first 6 months of employment or contracting, each provider agency shall ensure that staff and providers working or living in a community residence are trained in the following:

- (1) Everyday health including personal hygiene, oral health, and mental health;
- (2) The elements that contribute to quality of life for individuals, including support to:
 - a. Create and maintain valued social roles;
 - b. Build relationships; and
 - c. Participate in their local communities;
- (3) Strategies to help individuals to learn useful skills;
- (4) Behavioral support; and
- (5) Consumer choice, empowerment, and self-advocacy.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00; amd by #6582, eff 9-19-97

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.05 Individual Services.

(a) A community residence shall tailor all services to the competencies, interests, preferences, needs, and lifestyles of the individuals served and provide such services in accordance with each individual's service agreement.

(b) A community residence shall offer services that include assistance and instruction to improve and maintain an individual's skills in basic daily living, personal development, and community activities such as:

- (1) Personal decision making;
 - (2) Personal care, household management, budgeting, shopping, and other functional skills;
 - (3) Household chores and responsibilities;
 - (4) Improving and maintaining social skills;
 - (5) Developing and maintaining personal relationships;
 - (6) Achieving and maintaining physical well-being;
 - (7) Improving and/or maintaining mobility and physical functioning;
 - (8) Accessing a wide range of integrated community activities including recreational, cultural, and other opportunities;
 - (9) Pursuing avocations in areas of personal interest;
 - (10) Participating in religious services and practices of the individual's choosing;
 - (11) Attending to personal hygiene and appearance;
 - (12) Accessing and using transportation;
 - (13) Accessing and using assistive technology; and
 - (14) Other similar activities as indicated in the individual's service agreement.
- (c) The number of providers working in a community residence shall be sufficient to:
- (1) Meet the needs of the individuals living therein, as identified in each individual's service agreement; and
 - (2) Provide the services required by He-M 1001.05.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00; ss by #6582, eff 9-19-97

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.06 Health and Safety.

(a) The residence administrator shall arrange for an annual physical of each individual by a physician or other licensed practitioner for the purpose of evaluating health status and making recommendations regarding strategies for promoting and/or maintaining optimal health.

(b) The residence administrator shall, in conjunction with the service coordinator, have arrangements to access medical services at all times, including emergency services. The residence shall have a written plan that specifies the procedures to be followed in medical emergencies.

(c) In the event of emergency concerning an individual including hospitalization, serious illness, serious injury, imminent death, or death, the residence administrator or service coordinator shall:

(1) Promptly notify the individual's next of kin, , guardian, and spouse or significant other, as applicable; and

(2) Respect and follow the wishes of the individual or guardian with regard to religious matters, if applicable.

(d) Providers having personal knowledge of an emergency as described in (c) above shall notify the individual's service coordinator immediately, and in writing within 24 hours.

(e) The written notification shall be kept on file at the area agency and a copy of the notice retained in the individual's residential record.

(f) In the event of the death of an individual:

(1) The provider agency shall immediately notify the area agency; and

(2) The area agency shall:

a. Notify the bureau within 12 hours and submit written mortality notification of the following to the bureau within 24 hours:

1. The individual's name, address, date of birth, gender, race, and ethnicity;

2. The date and place of death and whether or not hospice was involved;

3. The individual's medical diagnoses;

4. The names and phone numbers of any family members and guardians notified, and the date of notification;

5. A description of the individual's living situation and whether it had changed within the previous 6 months;

6. The apparent cause of death as recorded by the attending licensed practitioner; and

7. A detailed description of the events surrounding the individual's death, including what happened, what care was provided, and who was involved; and

b. Perform a mortality review as required in (g) and (h) below.

(g) Each area agency shall assess the relationship of any individual's unanticipated death to service provision and the natural course of any illness or underlying condition.

(h) Such a mortality review shall evaluate and, where applicable, document the following:

- (1) The individual's medical plan of care;
- (2) Medical interventions required within the past year;
- (3) Medical records, including physical exams and hospitalizations within the past year;
- (4) The individual's health status over the previous 3 months; and
- (5) The type and amount of residential care provided.

(i) In any case of known or suspected neglect, abuse, or exploitation, the provider aware of the situation shall:

- (1) Follow procedures as outlined in He-M 310, rights of persons receiving developmental services in the community, and any other applicable rules relative to rights protection procedures; and
- (2) Report the situation to the division of children, youth, and families in accordance with RSA 169-C:29 and/or the bureau of elderly and adult services as required by RSA 161-F:42-57, as applicable.

(j) All agency staff and providers who administer medications to any individual receiving services in an He-M 1001 certified setting shall be authorized in accordance with He-M 1201.

(k) A provider shall have the following responsibilities with respect to an individual's food and fluids:

- (1) The individual's preferences shall be taken into account when preparing meals;
- (2) Varied and nutritionally balanced meals, including adequate fluids, shall be provided in the morning, at midday, and in the evening, unless other arrangements for meals have been made;
- (3) Information regarding the signs and symptoms of dehydration specific to the individual shall be requested and retained;
- (4) Access to food shall not be restricted unless a licensed practitioner deems it necessary for the health of the individual and the legal guardian consents to the restriction;
- (5) Special diets, dietary supplements, and dietary restrictions or modifications shall be according to a licensed practitioner's orders or the individual's religious practices;
- (6) If an individual requires specific methods or techniques for maintaining adequate nutrition and/or hydration, as determined by a licensed practitioner, such methods or techniques shall be implemented and documented in the individual's clinical record; and
- (7) No attempt to feed or hydrate an individual against his or her will shall be made unless medically prescribed by a licensed practitioner and approved by the individual or legal guardian.

(l) Providers shall label toxic substances as to contents and antidote and safely store such substances away from food preparation and food storage areas.

(m) Prior to providing services, a community residence shall develop an emergency evacuation plan that indicates the location of all evacuation routes and exits and provides for the safe evacuation of all persons within 3 minutes.

(n) An individual and his or her guardian shall be notified in writing if any current or prospective household member smokes within the home.

(o) Upon moving to a new community residence, each individual shall be oriented to evacuation procedures by the provider.

(p) Within 5 business days of an individual's moving into a community residence or a change in residential provider, a service coordinator and licensed nurse shall visit the individual in the home to determine if the transition has resulted in adverse changes in the health or behavioral status of the individual.

(q) A service coordinator shall document the visit described in (p) above in the individual's record.

(r) If negative changes are noted, a service coordinator shall develop a remediation plan and include it within the individual's record.

(s) Within 5 days of an individual's moving into a community residence, the provider shall:

(1) Conduct a fire evacuation drill to assess the individual's ability to evacuate the residence in less than 3 minutes; and

(2) Based on the drill, complete and document a fire safety assessment that includes the following individual risk factors:

- a. Response to alarm;
- b. Response to instruction;
- c. Vision and hearing difficulties;
- d. Impaired judgement;
- e. Mobility problems; and
- f. Resistance to evacuation.

(t) The fire safety assessment shall indicate:

(1) The staff or provider to individual ratio during both sleep and non-sleep hours;

(2) The name and phone number of agency back-up in the event of an emergency; and

(3) The date completed and signature of the person documenting the individual's risk factors.

(u) For each individual unable to evacuate his or her residence within 3 minutes, a fire safety plan shall be developed and approved by the individual or guardian, provider, service coordinator, and residential administrator that identifies:

(1) The cause(s) for such inability;

(2) The specific assistance needed by the individual and to be furnished by the provider; and

(3) A training approach to reduce the evacuation time to 3 minutes or less.

(v) Evacuation drills shall:

- (1) Be held at varied times of the day;
- (2) Involve all persons in the home at the time of the drill;
- (3) For community residences of 4 or more individuals, comply with He-P 814.23(m); and
- (4) For community residences of 3 or fewer individuals, include transmission of the alarm signal unless doing so would register as a false alarm to the fire department or alarm company.

(w) A written record of each evacuation drill shall:

- (1) Be kept on file at each community residence; and
- (2) Indicate:
 - a. The names of all the individuals involved;
 - b. The date of the drill;
 - c. The time of day;
 - d. The time taken to evacuate; and
 - e. The exits utilized.

(x) If a community residence for 3 or fewer individuals has been evacuated in 3 minutes or less during each of 6 consecutive monthly drills, one of which has been a sleep-time drill, the residence shall thereafter conduct a drill at least once quarterly, with one drill per year to be during sleep hours.

(y) If a community residence serves 4 or more individuals, the residence shall conduct monthly drills, with at least 3 drills per year to be held during sleep hours.

(z) A community residence that has a complete sprinkler system and fire alarm system that immediately notifies the local fire department shall be exempt from the requirement to complete a fire drill in less than 3 minutes if documentation is provided that such systems are in compliance with local fire codes. However, a fire safety plan in accordance with He-M 1001.06(u) above shall be developed and maintained for each individual that demonstrates the approach to be taken to reduce the evacuation time.

(aa) If a new individual moves into a community residence for 3 or fewer individuals, the community residence shall:

- (1) Conduct monthly drills until all individuals have evacuated the residence in 3 minutes or less for 3 consecutive monthly drills; and
- (2) Thereafter conduct a drill at least once quarterly, with one drill per year to be during sleep hours.

(ab) For any individual receiving less than 24-hour supervision, a personal safety assessment pursuant to (ac) below shall be completed.

(ac) The personal safety assessment shall identify an individual's ability to demonstrate the following safety skills to include:

- (1) Respond to a fire including exiting safely and seeking assistance;

- (2) Care for personal health, including understanding health issues, taking medication, seeking assistance for health needs and applying basic first aid;
- (3) Seek safety if victimized or sexually exploited;
- (4) Negotiate one's community, including finding one's way, riding in vehicles safely, handling money safely, and interacting with strangers appropriately;
- (5) Respond appropriately in severe weather and other natural disasters, including storms, extreme temperature; and
- (6) Maintain a safe home, including:
 - a. Operating heating, cooking, and other appliances; and
 - b. Responding to common household problems such as a blocked toilet, power failure and gas odors.

(ad) The personal safety assessment required in (ab) above shall include approval of the individual or legal guardian, provider, residential coordinator, and service coordinator. This assessment shall be reviewed annually, and whenever there is a change in the individual's residence or his or her ability to respond to the contingencies listed in the assessment.

(ae) The individual's team, including the individual, shall develop a personal safety plan if the personal safety assessment determines that the individual needs assistance to respond appropriately to the situations outlined in (ac) above.

(af) A personal safety plan shall:

- (1) Identify the supports necessary for an individual to respond to each of the contingencies listed in (z) above;
- (2) Indicate who will provide the needed supports;
- (3) Describe how the supports will be activated in an emergency;
- (4) Indicate annual approval of the individual or legal guardian, provider, residential coordinator, and service coordinator;
- (5) Be reviewed by the individual's team at the time of the individual's service agreement; and
- (6) Be revised whenever there is a change in the individual's residence or ability to respond to the contingencies listed in the plan.

(ag) The individual or his or her guardian shall approve the personal safety assessment and plan prior to the individual being without supervision for specified periods of time. Any revisions to the plan shall require prior approval by the individual's team.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; amd by #8209, eff 11-23-04; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED: 4-22-19

New. #12775, eff 5-7-19

He-M 1001.07 Behavioral Support.

(a) If an individual is demonstrating behaviors that are harmful to self or others, the residence administrator shall notify the service coordinator. In collaboration with others supporting the individual, the service coordinator shall facilitate the planning, implementation, and monitoring of any behavioral change program determined necessary.

(b) A behavioral change program or any form of restrictive strategy shall only be implemented by a community residence when such has been approved in writing by the individual, his or her guardian, the individual's team, and the area agency's human rights committee, established pursuant RSA 171-A:17. All behavioral change programs or forms of restrictive strategy shall be reviewed annually.

(c) A provider agency shall have written policies and procedures which address behavioral supports. These policies and procedures shall be directed toward maximizing the growth and development of the individual by incorporating a hierarchy of methods that emphasize positive approaches to behavioral support.

(d) Behavioral support policies and procedures shall:

(1) Address the following concepts:

- a. Behavior is a form of communication and efforts should be made to understand its purpose;
- b. There are different learning styles, skills, and motivations of individuals;
- c. Relationships, environments, and personal histories have an impact on effecting behavioral change; and
- d. Intentional and unintentional responses to behavior, such as ignoring, redirecting, and reinforcing, affect behavior;

(2) Include the following behavior change strategies:

- a. Preventing behavioral difficulties by adjusting the environment, responses to the individual's behavior, or both;
- b. Creating opportunities for meaningful participation in daily life, such as employment;
- c. Teaching mutual respect within relationships; and
- d. Redirecting and de-escalating behaviors that are harmful to self or others;

(3) Outline training requirements for providers using the program; and

(4) Indicate the mechanism to be used to monitor the implementation of any behavior change program and gauge its effectiveness.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00; amd by

#6582, eff
9-19-97

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.08 Individual Records.

(a) Separate records for each individual shall be maintained by the residence administrator at the residence.

(b) Each individual living in a community residence shall have specified in his or her service agreement the number of hours of daily supervision required.

(c) Each individual's record shall include:

- (1) The names, addresses, and telephone numbers of persons to be notified in an emergency;
- (2) The individual's current individual service agreement;
- (3) The individual's fire safety assessment and, if applicable, fire safety plan;
- (4) The individual's personal safety assessment and personal safety plan, if determined necessary according to He-M 1001.06 (ab) and (ae);
- (5) Progress notes, in accordance with the service agreement, that document residential services provided;
- (6) Medical information including:
 - a. The names, addresses, and telephone numbers of the individual's physician, dentist, therapists, and any other licensed practitioners;
 - b. Medical orders;
 - c. Medical history;
 - d. The dates of medical testing, to include, but not be limited to, colonoscopies, mammograms, pap smears, PSA tests, bone density tests, dental work, and eye exams;
 - e. A copy of the nurse-trainer assessment and approval for medication self-administration as required by He-M 1201.05, if applicable;
 - f. A copy of the annual physical of the individual pursuant to He-M 1001.06 (a);
 - g. Known allergies, if any;
 - h. A copy of the individual's DNR order, if applicable;
 - i. Health Risk Screening Tool (HRST) monthly data tracker information;

j. Other pertinent medical information; and

k. A medication log completed at the residence pursuant to He-M 1201.08 for all current medications; and

(7) If applicable, documentation that the individual or guardian refused to provide the medical information required in (6) above.

(d) Attendance records shall be completed by the residence administrator or other provider such that:

(1) The date and whether or not residential services were provided to the individual shall be recorded;

(2) When a leave of absence occurs, the record shall indicate the date and time of the individual's departure and return and the reason for the absence; and

(3) Attendance records shall be on file at the community residence.

(e) Outdated information may be removed from the community residence record but shall be maintained in the individual's record and accessible by the area agency for 6 years.

(f) When service provision is to be transferred from one provider or area agency to another, the transferring agency shall provide the following information regarding the individual:

(1) Medical history, including diagnosis and annual health assessments for the past 3-year period, if available;

(2) Any known allergies;

(3) Assessment for self-administration of medication pursuant to He-M 1201.05, if applicable,

(4) Current medications and a medication list with the times medications are administered;

(5) Current medication orders and medication administration consent forms;

(6) Current medication administration authorizations of any staff transferring with the individual;

(7) For informational purposes, copies of the past 2 months of records of medication administration performed pursuant to He-M 1201;

(8) Dental health information;

(9) Pertinent personal information, such as:

a. Use of adaptive equipment;

b. Sleep patterns; and

c. Preferences and dislikes;

(10) Any applicable protocols, such as those for:

a. Feeding;

b. Swallowing;

- c. Medication administration;
 - d. Behavioral support; and
 - e. Seizures;
- (11) Most recent service agreement; and
- (12) List of contacts and emergency information.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.09 Quality Assurance.

(a) An area agency shall monitor its community residences and conduct periodic quality assurance visits to each community residence to ensure that services are provided pursuant to He-M 1001.

(b) Quality assurance visits shall be conducted at least annually, but may be at a greater frequency as determined by the area agency. Such visits shall be announced or unannounced to the residential provider.

(c) The department shall conduct quality assurance visits to community residences. Such visits may be announced or unannounced.

(d) Each area agency shall review certification deficiencies pursuant to He-M 1001.14 to identify necessary corrective action and maintain compliance.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94; ss by #6582, eff 9-19-97; ss by #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES:

10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.10 Certification.

(a) To be eligible for reimbursement by the department, a community residence shall be certified in accordance with He-M 1001.

(b) A certificate issued to an applicant shall indicate:

- (1) The effective date of the certificate;

- (2) The expiration date of the certificate;
 - (3) The certificate number;
 - (4) The type of certificate, which shall be listed as:
 - a. Emergency;
 - b. Temporary; or
 - c. Annual, which shall encompass both initial and renewal certifications.
 - (5) The maximum number of certified beds allowed, including respite beds, as determined by the applicable sections of He-M 1001.03 (a)-(c);
 - (6) The name of the provider agency;
 - (7) The name of the area agency; and
 - (8) Information regarding any waivers issued in accordance with He-M 1001.19.
- (c) A community residence shall obtain approval from the provider agency identified on its certification prior to serving individuals from a different provider agency.
- (d) All certificates shall be non-transferable from one physical location to another.
- (e) A provider agency shall make application to the health facilities administration (BHFA) to assume a current certification that is being relinquished by another provider agency for the same physical location.
- (f) Certifications shall be valid as indicated by the type:
- (1) Emergency certificates shall be valid for 45 days;
 - (2) Temporary certificates shall be valid for 90 days;
 - (3) Annual certificates shall be valid from the effective date of the temporary certificate until the last day of the twelfth month following temporary certification, and
 - (4) Future annual certificates shall be valid for one year from the expiration date of the previous certificate.
- (g) Any community residence that no longer intends to provide services to individuals shall notify the department in writing of the following information:
- (1) The name of the provider;
 - (2) The certificate number of the community residence;
 - (3) The address of the community residence;
 - (4) The date the community residence closed or will close; and
 - (5) The location that the individual(s) has moved to, including the name and address of the provider and certificate number of the community residence, if available.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.11 Initial Certification Process.

(a) An applicant for initial certification as a community residence shall apply via an application form obtained from the health facilities administration entitled "Request for Certification of Community Residence and/or Individual Day Provider," incorporated by reference in He-M 1001.20 (a), and a new, signed approval from the local fire official, completed within the past 90 days.

(b) Information entered on the form described in (a) above shall be typewritten or otherwise legibly written.

(c) An applicant shall request initial certification for any of the following reasons:

(1) Certification of a new community residence; or

(2) For an existing community residence:

a. A change in physical location; or

b. An increase in the number of certified beds.

(d) If the signer of the application knew or should have known that the residential program was not in compliance with applicable statutes and rules at the time of signing, the department shall deny or revoke certification pursuant to He-M 1001.15 (a)(6) or He-M 1001.16 (a)(6).

(e) A temporary certification shall be granted for 90 days from the date that the office of legal and regulatory services receives all information required on the application form incorporated by reference in He-M 1001.20 (a).

(f) A certification review shall be conducted by the office of legal and regulatory services within 90 days of the date of receipt of all application information required in the application form incorporated by reference in He-M 1001.20 (a) for the purposes of determining whether or not the community residence is in compliance with He-M 1001.

(g) If the community residence is not in compliance with He-M 1001 at the certification review required by (f) above, the community residence shall submit a plan of correction in accordance with He-M 1001.14 (c) and (g), and the application form incorporated by reference in He-M 1001.20 (a).

(h) If, as a result of a certification review in accordance with (f) above, the community residence is found to be in compliance with He-M 1001, certification shall be granted as specified in He-M 1001.10 (f)(3).

(i) An application for certification shall be denied based upon criteria listed in He-M 1001.15 (a).

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94; ss by #6582, eff 9-19-97; ss by #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10,

EXPIRES:

10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.12 Renewal Certification Process.

(a) A community residence seeking to renew certification shall apply via the application form obtained from the office of legal and regulatory services entitled "Request for Certification of Community Residence and/or Individual Day Provider" incorporated by reference in He-M 1001.20 (a)

(b) Information entered on the form described in (a) above shall be typewritten or otherwise legibly written.

(c) The community residence shall submit with the application:

(1) A copy of any current waivers pertaining to the community residence;

(2) A statement identifying any exception or variance applied for or granted by the state fire marshal in accordance with Saf-C 6005; and

(3) A new, signed approval from the local fire official if renovations were completed since the last submission of a life safety code inspection that:

a. Required a building permit pursuant to local building codes; or

b. Have altered any means of egress.

(d) Community residences applying for renewal certification shall submit the completed application in (a) above 60 days prior to the expiration of the certificate.

(e) The office of legal and regulatory services shall conduct an inspection in accordance with He-M 1001.14 (a) prior to recertification of:

(1) A community residence that holds a license pursuant to RSA 151;

(2) A community residence that has increased the number of people receiving residential or community participation services since its last inspection;

(3) A community residence that had one or more deficiencies cited at its last renewal; and

(4) A community residence that does not have an annual certificate.

(f) If at its previous annual inspection, a community residence had no deficiencies cited, the provider agency shall submit, 60 days prior to the expiration of the current certificate, the following in lieu of an onsite inspection:

(1) A completed form "Request for Certification of Community Residence and/or Individual Day Provider" incorporated by reference in He-M 1001.20 (a); and

(2) Written indication, signed by the provider agency's executive director, that the provider agency has monitored and will continue to monitor the residence and that the residence remains in full compliance with all applicable rules.

(g) A certification issued pursuant to (f) above shall only be granted once in any 2-year period.

(h) If, at the time an inspection is due, a community residence does not have any individuals living in the residence, it may:

(1) Submit a letter notifying the office of legal and regulatory services of its intent to close; or

(2) Submit a "Request for Certification of Community Residence and/or Individual Day Provider" incorporated by reference in He-M 1001.20 (a) to the office of legal and regulatory services for certification renewal without inspection.

(i) If a community residence has been approved in accordance with (f) above, the certificate shall indicate: "renewed without inspection."

(j) A provider agency shall notify the office of legal and regulatory services, in writing, within 7 days of an individual moving into the residence.

(k) Pursuant to He-M 1001.14, an on-site inspection shall be conducted, and a plan of correction submitted, if required, within 90 days of receipt of any notification in (h) above.

(l) The current certification shall be effective until recertification has been granted, or until the current certification has been denied or revoked.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; amd by #8209, eff 11-23-04; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.13 Emergency Certification Process.

(a) Emergency certification shall be granted to a community residence in accordance with (b) through (h) below.

(b) Within 7 days of an individual's moving into a community residence, the provider agency shall apply for an emergency certificate via the application form entitled "Emergency Certification for Community Residence- 3 for Fewer Beds," incorporated by reference in He-M 1001.20 (b). A current floor plan shall be submitted with that application.

(c) Information entered on the form described in (b) above shall be typewritten or otherwise be legibly written.

(d) The start date of the emergency certification shall be the date that the individual moves into the community residence and not more than 7 days from the receipt of the emergency application by the department.

(e) Emergency certification shall be issued for 45 days from the start date upon receipt by the office of legal and regulatory services application completed in accordance with He-M 1001.20 and pursuant to (b) above.

(f) An emergency certification issued pursuant to (e) above shall be extended for an additional 45 days for a community residence that:

- (1) Submits to the office of legal and regulatory services evidence that the provider agency has made written request to the local fire inspector for a life safety inspection and report; and
- (2) Files a written request for the extension with the office of legal and regulatory services legal and regulatory services prior to the expiration of the emergency certificate.

(g) Only one request for an extension to an emergency certificate shall be granted.

(h) A community residence operating under an emergency certification that seeks to continue operation shall apply for certification in accordance with He-M 1001.11.

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94, EXPIRED: 9-1-00

New. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.14 Inspections and Plans of Correction.

(a) The department shall conduct inspections to determine compliance with all applicable rules prior to:

- (1) Issuing an initial certification; and
- (2) Renewing a certificate except as allowed by He-M 1001.12 (f) or (g).

(b) Following an inspection and determination pursuant to (a) above, the department shall issue a written inspection report that includes:

- (1) The name and address of the physical location of the community residence;
- (2) The name of the responsible area agency(ies);
- (3) The date of the inspection;
- (4) A listing of all rules with which the community residence failed to comply;
- (5) Evidence supporting the finding of non-compliance with each identified rule; and
- (6) The name of the person(s) conducting the inspection.

(c) If deficiencies were cited in the inspection report, within 21 days of the date of issuance of the report the community residence shall submit a written plan of correction or submit information as to why the deficiency(ies) did not exist. The department shall evaluate any submitted information on its merits and render a written decision on whether a written plan of correction is necessary.

(d) If one or more deficiencies cited pertain to He-M 1201, the residence administrator shall ensure that a copy of the deficiency report is provided to the nurse-trainer.

(e) The plan of correction submitted in accordance with (c) above shall specify:

- (1) How the community residence corrected or intends to correct and prevent occurrence of each deficiency; and
- (2) The date by which each deficiency will be corrected.

(f) The department shall issue a certificate if it determines that the plan of correction:

- (1) Addresses each identified deficiency in a manner which achieves full compliance with rules cited in the inspection report;
- (2) Does not create a new violation of statute or rule as a result of its implementation; and
- (3) States a completion date.

(g) The department shall reject a plan of correction that fails to comply with (f) above.

(h) If the proposed plan of correction is rejected, the department shall notify the community residence in writing of the reason(s) for rejection.

(i) Within 21 days of the date of the written notice under (h) above, the community residence shall submit a revised plan of correction that

- (1) Includes proposed alternatives that address the reason(s) for rejection; and
- (2) Is reviewed in accordance with (f) and (g) above.

(j) If the revised plan of correction is rejected, the department shall deny the certification request.

(k) The department shall verify that a plan of correction, as submitted and accepted, has been implemented by:

- (1) Reviewing materials submitted by the community residence;
- (2) Conducting a follow-up inspection; or
- (3) Reviewing compliance during the next certification inspection required by He-M 1001.14(a).

Source. (See Revision Note at part heading for He-M 1001) #5867, eff 9-1-94; ss by #6582, eff 9-19-97; ss by #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.15 Denial of Certification.

(a) The department shall deny an application for certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

(1) Any reported abuse, neglect, or exploitation of an individual by an applicant, residence administrator, provider, staff member, or person living in a community residence, if:

- a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161:F-49;
- b. Such person(s) continues to have contact with the individual; and
- c. Such finding has not been overturned on appeal, been annulled, or received a waiver pursuant to He-M 1001.19;

(2) Any applicant, provider, staff member, or person living in the community residence has been found guilty of fraud, a felony, or a misdemeanor against a person in this or any other state by a court of law, unless a waiver has been obtained pursuant to He-M 1001.19;

(3) A provider agency or area agency fails to perform criminal background checks on all persons who:

- a. Are paid to provide services under He-M 1001; and
- b. Begin to provide such services on or after the effective date of He-M 1001;

(4) An applicant, provider, staff member, or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules;

(5) An applicant or provider, or any representative or employee of the applicant or provider, knowingly provides materially false or misleading information to the department;

(6) An applicant or provider, or any representative or employee of the applicant or provider, fails to permit or interferes with any inspection or investigation by the department;

(7) An applicant or provider, or any representative or employee of the applicant or provider, fails to provide required documents to the department;

(8) At an inspection the applicant or certificate holder is not in compliance with RSA 171-A or He-M 1001 or other applicable certification rules;

(9) An applicant or provider has a history of multiple or repeat violations of RSA 171-A or its implementing administrative rules that pose, or have posed, a health or safety risk to individuals;

(10) An applicant or provider has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 1001.14 (g);

(11) An applicant or provider has failed to fully implement or continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 1001.14 (f); or

(12) For community residences for 4 or more individuals, denial or revocation of licensure or denial of application for licensure has taken place.

(b) Certification shall be denied upon the written notice by the department to the community residence stating the specific rule(s) with which the residence does not comply.

(c) Any applicant or provider aggrieved by the denial of certification may request an adjudicative proceeding in accordance with He-M 1001.18. The denial shall not become final until the period for requesting an adjudicative proceeding has expired or, if the applicant or provider requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.

(d) A community residence shall not accept additional individuals if a notice of denial of certification has been issued.

Source. #7681, eff 4-23-02; amd by #8209, eff 11-23-04; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M-1001.16 Revocation of Certification.

(a) The department shall revoke a certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

(1) Any reported abuse, neglect, or exploitation of an individual by a certificate holder, residence administrator, provider, staff member, or person living in a community residence, if:

- a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161:F-49;
- b. Such person(s) continues to have contact with the individual; and
- c. Such finding has not been overturned on appeal, been annulled, or received a waiver pursuant to He-M 1001.19;

(2) Any provider, staff member, or person living in the community residence has been found guilty of fraud, a felony, or a misdemeanor against a person in this or any other state by a court of law, unless a waiver has been obtained pursuant to He-M 1001.19;

(5) A provider agency or area agency fails to perform criminal background checks on all persons who:

- a. Are paid to provide services under He-M 1001; and
- b. Begin to provide such services on or after the effective date of He-M 1001;

(6) The certificate holder or a staff member or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules;

(7) The certificate holder or any representative or employee of the certificate holder knowingly provides materially false or misleading information to the department;

- (8) The certificate holder or any representative or employee of the certificate holder fails to permit or interferes with any inspection or investigation conducted by the department;
- (9) The certificate holder or any representative or employee of the certificate holder fails to provide required documents to the department;
- (10) At an inspection, the certificate holder is not in compliance with RSA 171-A or He-M 1001 or other applicable certification rules;
- (11) The certificate holder has a history of multiple or repeat violations of RSA 171-A or its implementing administrative rules that pose, or have posed, a health or safety risk to individuals;
- (12) The certificate holder has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 1001.14 (g);
- (13) The certificate holder has failed to fully implement or continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 1001.14 (f); or
- (14) For community residences for 4 or more individuals, denial or revocation of licensure or denial of application for licensure has taken place.

(b) Certification shall be revoked upon the written notice by the department to the community residence stating the specific rule(s) with which the residence does not comply.

(c) Any certificate holder aggrieved by the revocation of the community residence's certificate may request an adjudicative proceeding in accordance with He-M 1001.18. The revocation shall not become final until the period for requesting an adjudicative proceeding has expired or, if the certificate holder requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.

(d) A community residence shall not accept additional individuals if a notice of revocation of certification has been issued.

(e) If certification has been revoked, the certificate holder, in conjunction with the provider agency, shall transfer all individuals to another appropriately certified residence.

Source. #7681, eff 4-23-02; amd by #8209, eff 11-23-04; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.17 Immediate Suspension of Certification.

(a) Notwithstanding the provision of He-M 1001.16 (c), in the event that a violation poses an immediate and serious threat to the health or safety of an individual, the bureau administrator shall, in accordance with RSA 541-A:30, III, suspend a community residence's certification immediately upon issuance of written notice specifying the reasons for the action.

(b) The bureau administrator, or his or her designee, shall schedule and hold a hearing within 10 working days of the suspension for the purpose of determining whether to revoke or reinstate the certification. The hearing shall provide opportunity for the provider, residence administrator, provider agency, or area agency whose certification has been suspended to demonstrate that it has been, or is, in compliance with the specified requirements.

Source. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.18 Appeals.

(a) An applicant for certification, provider, residence administrator, provider agency, or area agency may request a hearing regarding a denial or revocation of certification, except as provided in He-M 1001.17 above.

(b) Appeals shall be submitted, in writing, to the bureau administrator in care of the department's office of client and legal services within 10 days following the date of the notification of denial or revocation of certification.

(c) The bureau administrator or his or her designee shall immediately forward the appeal to the department's administrative appeals unit which shall assign a presiding officer to conduct a hearing or independent review, as provided in He-C 200. The burden shall be as provided by He-C 203.14.

Source. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.19 Waivers.

(a) An applicant for certification, provider, residence administrator, provider agency, area agency, or individual may request a waiver of specific procedures outlined in He-M 1001 by applying via the form entitled "NH Bureau of Developmental Services Waiver Request," incorporated by reference in He-M 1001.20 (d).

(b) No provision or procedure prescribed by statute shall be waived.

(c) The request for a waiver shall be granted by the commissioner or his or her designee within 30 days if the alternative proposed by the requesting entity meets the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the individual(s); and
- (2) Does not affect the quality of services to individuals.

(d) The determination on the request for a waiver shall be made within 30 days of the receipt of the request.

(e) Upon receipt of approval of a waiver request, the requesting entity's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(f) With the exception of waivers granted pursuant to (g) below, and unless otherwise specified, waivers granted by the department shall have no expiration date.

(g) Those waivers which relate to the following shall be effective for the current certification period only:

(1) Fire safety; or

(2) Other issues relative to the health, safety or welfare of individuals that require periodic reassessment.

(h) Any waiver shall end with the closure of the related program or service.

(i) A provider, residence administrator, subcontract agency, area agency, or individual may request a renewal of a waiver from the bureau. Such request shall be made at least 90 days prior to the expiration of a current waiver.

Source. #7681, eff 4-23-02; ss by #9696, INTERIM, eff 4-23-10, EXPIRES: 10-20-10; ss by #9776-A, eff 10-1-10, EXPIRED: 10-1-18

New. #12650, INTERIM, eff 10-24-18, EXPIRED 4-22-19

New. #12775, eff 5-7-19

He-M 1001.20 Required Forms.

(a) Applicants or community residences applying for an initial or renewal certification shall complete and submit the form entitled "Request for Certification of Community Residence and/or Individual Day Provider" (August 2019).

(b) Applicants applying for emergency certification shall:

(1) Complete and submit the form entitled "Emergency Certification for Community Residences- 3 or Fewer Beds" (April 2019) certifying the following:

"I Certify that:

A. (Individual's name), born on (date of birth) needed immediate placement on (date) to protect his/her health and safety because _____.

B. There is no condition within the above residence that would pose a health or safety threat to the client.

C. This residence is in full compliance with the statutes and regulations governing Community Residences."; and

(2) Include a signature from the provider agency representative and the executive director of the responsible area agency that verifies that the appropriate staff determined that the home meets the requirements of He-M 503, He-M 522, He-M 1001, He-M 1201, and He-M 507, as applicable.

(c) Forms completed in accordance with (a) or (b) above shall be submitted to:

Department of Health and Human Services
Office of Operations Support
Health Facilities Administration
129 Pleasant Street
Concord NH 03301

(d) Applicants or community residences applying for a waiver shall:

(1) Complete and submit the form entitled “NH bureau of Developmental Services Waiver Request” (January 2018); and

(2) Include a signature from the individual(s) or legal guardian(s) indicating agreement with the request and the area agency’s executive director or designee recommending approval of the waiver, and be submitted to:

Office of Client and Legal Services
Hugh J. Gallen State Office Park
105 Pleasant Street, Main Building
Concord, NH 03301

Source. #9776-B, *eff 10-1-10*; ss by #12650, INTERIM, *eff 10-24-19*, EXPIRED: 4-22-19

New. #12775, *eff 5-7-19*