

Adopt He-P 824, previously effective 4-29-17 (Document #12169, Interim), and expired 10-26-17, to read as follows:

PART He-P 824 HOSPICE HOUSE

He-P 824.01 Purpose. The purpose of this part is to set forth the licensing requirements for all hospice houses (HH), pursuant to RSA 151.

He-P 824.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a HH, except:

- (a) All facilities listed in RSA 151:2, II(a)-(i); and
- (b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h).

He-P 824.03 Definitions.

- (a) “Abuse” means any one of the following:
 - (1) “Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of patients;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to patients; and
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving patients with or without his or her informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing and self-management, monitoring, or supervision of medications.
- (c) “Addition” means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.
- (d) “Administer” means an act whereby one or more doses of a medication is instilled into the body, applied to the body of, or otherwise given to a person for immediate consumption or use by an individual authorized by law, including RSA 318-B and RSA 326-B.
- (e) “Administrative remedy” means a corrective action imposed upon a licensee in response to non-compliance with RSA 151 or He-P 824.
- (f) “Administrator” means the person responsible for the management of the licensed premises who reports to and is accountable to the governing body.
- (g) “Admission” means acceptance by a licensee for the provision of care and services to a patient and when the patient physically moves into the HH.

(h) “Advance directive” means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term “advance directive” includes living wills and durable powers of attorney for health care, in accordance with RSA 137-J.

(i) “Affiliated or related parties” means companies or individuals that serve as operators, landlords, management companies or advisors, real estate or consulting companies, members of limited liability companies, administrative services companies, lenders and companies providing financial guarantees, captive or affiliated insurance companies.

(j) “Agent” means an adult to whom authority to make health care decisions is delegated under an activated durable power of attorney for health care executed in accordance with RSA 137-J, or a surrogate identified under RSA 137-J:34-37.

(k) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an HH pursuant to RSA 151.

(l) “Area of non-compliance” means any action, failure to act, or other set of circumstances that cause a licensee to be out of compliance with RSA 151, He-P 806, or other federal or state requirements.

(m) “Assessment” means a systematic data collection which enables facility personnel to plan care that allows the patient to reach his or her highest practicable level of physical, mental, and psychosocial functioning.

(n) “Care plan” means a written guide developed by the licensee or their personnel, in consultation with the patient, guardian, agent, or personal representative, if any, as a result of the assessment process for the provision of care and services.

(o) “Change of ownership” means the transfer of the controlling interest of an established HH to any individual, agency, partnership, corporation, government entity, association, or other legal entity.

(p) “Chemical restraints” means a drug or medication that is used as a restriction to manage the patient’s behavior or restrict the patient’s freedom of movement and is not a standard treatment or dosage for the patient’s condition.

(q) “Clinical laboratory improvement amendments (CLIA)” means the requirements outlined at 42 CFR Part 493 which set forth the conditions that all laboratories must meet to be certified to perform testing on human specimens.

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

(s) “Contracted employee” means a temporary employee working under the direct supervision of the HH but employed by an outside agency.

(t) “Coordinator” means a person from the HH who coordinates the care and services necessary to provide optimum health care management for the patient.

(u) “Core services” means those services provided by the licensee that are included in the facility’s basic rate.

(v) “Critical incident stress management (CISM)” means an adaptive, short-term psychological helping process that focuses solely on an immediate and identifiable problem. Individuals undergoing CISM are able to discuss the situation that occurred and how it affects them and those around them allowing individuals to use this forum to acquire the tools necessary to hopefully limit post-traumatic stress related issues in their own lives and recognize it in others.

(w) “Days” means calendar days unless otherwise specified in the rule.

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

(y) “Direct care” means hands on care or services to a patient, including but not limited to medical, nursing, psychological, or rehabilitative treatments.

(z) “Direct care personnel” means any person providing hands-on clinical care or hands-on services to a patient including but not limited to medical, psychological, or rehabilitative treatments, bathing, transfer assistance, feeding, dressing, toileting, and grooming.

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

(ab) “Discharge” means moving a patient from a licensed facility or entity to a non-licensed facility or entity.

(ac) “Do not resuscitate order (DNR order)”, means an order, signed by a licensed provider, that in the event of an actual or imminent cardiac or respiratory arrest, chest compression, and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs. This term also includes “do not attempt resuscitation order (DNAR order)”.

(ad) “Elopement” means when a patient who is cognitively, physically, mentally, emotionally, or chemically impaired or cognitively intact, wanders away, walks away, runs away, escapes, or otherwise leaves a facility unsupervised or unnoticed without knowledge of the licensee’s personnel.

(ae) “Emergency” means an unexpected occurrence or set of circumstances, which require immediate, remedial attention.

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

(ag) “Employee” means anyone employed by the HH and for whom the HH has direct supervisory authority.

(ah) “Enforcement action” means the imposition of an administrative fine, the denial of an application, or the revocation or suspension of a license in response to non-compliance RSA 151 or He-P 824.

(ai) “Equipment” means any plumbing, heating, electrical, ventilating, air-conditioning, refrigerating, and fire protection equipment, and any elevators, dumbwaiters, escalators, boilers, pressure vessels, or other mechanical facilities or installations related to building services, not to include portable refrigerators. This term includes “fixtures”.

(aj) “Exploitation” means the illegal use of a patient’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from a patient through the use of undue influence, harassment, duress, deception, or fraud.

(ak) “Facility” means “facility” as defined in RSA 151:19, II.

(al) “Governing body” means a group of designated person(s) functioning as a governing body that appoints the administrator and is legally responsible for establishing and implementing policies regarding management and operation of the facility.

(am) “Guardian” means a person appointed in accordance with RSA 464-A to make informed decisions relative to the patient’s health care and other personal needs.

(an) “Health care occupancy” means facilities that provide sleeping accommodations for individuals who are incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupant’s control.

(ao) “Hospice” means a specialized program of care and supportive services, which provide a combination of medical, social, and spiritual services to terminally ill patients and their families.

(ap) “Hospice house (HH)” means a residential setting providing a specialized program of care and supportive services, which provide a combination of medical, social, and spiritual services to terminally ill patients and their families.

(aq) “Incident command system (ICS)” means a standardized on-scene emergency management system specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents.

(ar) “Infectious waste” means those items specified by Env-Sw 103.28.

(as) “In-service” means an educational program, which is designed to increase the knowledge, skills, and overall effectiveness of personnel.

(at) “Informed consent” means the decision by a patient, his or her guardian, agent, or surrogate decision-maker to agree to a proposed course of treatment, after the patient, guardian, agent, or surrogate decision-maker has received full disclosure of the facts, including information about risks and benefits of the treatment and available alternatives, needed to make the decision intelligently.

(au) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 824 or to respond to allegations of non-compliance with RSA 151 and He-P 824.

(av) “Laboratory” means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease,

(aw) “License” means the document issued to an applicant or licensee of an HH which authorizes operation in accordance with RSA 151 and He-P 824, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date, and license number.

(ax) “License certificate” means the document issued by the department to an applicant or licensee that, in addition to the information contained on a license, includes the name of the administrator, the type(s) of services authorized, and the number of beds that the HH is licensed for.

(ay) “Licensed practitioner” means a:

- (1) Medical doctor;
- (2) Physician’s assistant;
- (3) Advanced practice registered nurse;
- (4) Doctor of osteopathy; or
- (5) Doctor of naturopathic medicine.

(az) “Licensed premises” means the building(s) that comprises the physical location that the department has approved for the licensee to conduct operations in accordance with its license.

(ba) “Licensee” means any person or legal entity to which a license has been issued pursuant to RSA 151.

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

(bc) “Life safety code” means the adoption by reference of the life safety code, 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.

(bd) “Mechanical restraint” means locked, secured, or alarmed HH or units within an HH, or anklets, bracelets, or similar devices that cause a door to automatically lock when approached, thereby preventing a patient from freely exiting the HH or unit within.

(be) “Medical director” means a physician licensed in New Hampshire in accordance with RSA 329, who is responsible for overseeing the quality of medical care and services within the HH.

(bf) “Medication” means a substance available with or without a prescription, used as a curative or remedial substance.

(bg) “Modification” means the reconfiguration of any space, the addition, relocation, elimination of any door or window, the addition or elimination of load-bearing elements, the reconfiguration or extension of any system, or the installation of any additional equipment. The term does not include repair or replacement of interior finishes

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

(bi) “Notice to correct” means a report issued pursuant to RSA 151:6-a, II, following a life safety code inspection when a facility is found to be out of compliance with applicable life safety rules or codes.

(bj) “Orders” means a document, produced verbally, electronically, or in writing, by a licensed practitioner for medications, treatments, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denotes approval by the licensed practitioner.

(bk) “Over-the-counter medications” means non-prescription medications.

(bl) “Owner” means any person, corporation, association, or any other legal entity, whether organized for profit or not, holding or claiming ownership of, or title to, a license.

(bm) “Patient” means any person admitted to or in any way receiving care, services, or both from a HH licensed in accordance with RSA 151 and He-P 824.

(bn) “Patient record” means documents maintained for each patient receiving care and services, which includes all documentation required by RSA 151 and He-P 824 and all documentation compiled relative to the patient as required by other federal and state requirements.

(bo) “Patient rights” means the privileges and responsibilities possessed by each patient provided by RSA 151:21.

(bp) “Personal assistance” means providing or assisting a patient in obtaining one or more services as determined by their patient assessment.

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

(br) “Personnel” means an individual, who is employed by, a volunteer of, or an independent contractor of the HH who provides services to patient(s).

(bs) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the patient’s freedom of movement, which includes but are not limited to forced escorts, holding, prone restraints, or other containment techniques.

(bt) “Physician” means medical doctor or doctor of osteopathy licensed in the state of New Hampshire pursuant to RSA 329 or a doctor of naturopathic medicine licensed in accordance with RSA 328-E.

(bu) “Plan of correction (POC)” means a plan developed and written by the licensee, which specifies the actions that will be taken to correct identified areas of non-compliance with applicable rules or codes identified at the time of a clinical or life safety inspection conducted pursuant to RSA 151:6-a or during the course of a complaint investigation conducted pursuant to RSA 151:6.

(bv) “Point of care devices” means a system of devices used to obtain medical, diagnostic results including but not limited to:

- (1) A lancing or finger stick device to obtain blood specimen;

(2) A test strip or reagents to apply a specimen to for testing; or

(3) A meter or monitor to calculate and show the results, including:

a. Blood glucose meters, also called “glucometers”;

b. Prothrombin Time (PT) and International Normalized Ratio (INR) anticoagulation meters; or

c. A Cholesterol meter.

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

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

(by) “Professional management responsibility” means that the professional staff of the HH provider continues to provide guidance and services to the patient regardless of the location of the patient.

(bz) “Professional staff” means:

(1) Physicians;

(2) Physician assistants;

(3) Advanced registered nurse practitioners;

(4) Registered nurses;

(5) Registered physical therapists;

(6) Speech therapists;

(7) Licensed practical nurses;

(8) Licensed respiratory therapists;

(9) Occupational therapists;

(10) Medical social workers;

(11) Dietitians;

(12) Spiritual care coordinators;

(13) Bereavement counselors; and

(14) Volunteer coordinators.

(ca) “Protective care” means the provision of patient monitoring services, including but not limited to:

- (1) Knowledge of patient whereabouts; and
- (2) Minimizing the likelihood of accident or injury.

(cb) “Qualified personnel” means personnel that have been trained and have demonstrated competency to adequately perform tasks which they are assigned such as, nursing staff, clinical staff, housekeeping staff trained in infection control, and kitchen staff trained in food safety protocols.

(cc) “Reconstruction” means the reconfiguration of a space that affects an exit or a corridor shared by more than one occupant space, or the reconfiguration of a space such that the rehabilitation work area is not permitted to be occupied because existing means of egress and fire protection systems, or their equivalent, are not in place or continuously maintained.

(cd) “Renovation” means the replacement in kind or strengthening of building elements, or upgrading of building elements, material, equipment, or fixtures, without involving the reconfiguration of spaces.

(ce) “Repair” means the patching, restoration, or painting of materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition.

(cf) “Reportable incident” means an occurrence of any of the following while the patient is either in the HH or in the care of HH personnel:

- (1) The unanticipated death of a patient which is not related to their diagnosis or underlying condition;
- (2) An unexplained accident or other circumstance that is of a suspicious nature of potential abuse or neglect where the injury was not observed or the cause of the injury could not be explained and has resulted in an injury that requires treatment in an emergency room by a licensed practitioner; or
- (3) An elopement from the HH or other circumstances that resulted in the notification or involvement of law enforcement or safety officials.

(cg) “Self-administration of medication” means an act whereby the patient takes his or her own medication(s) without the assistance of another person.

(ch) “Service” means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a patient.

(ci) “Significant change” means a decline or improvement in a patient’s status that:

- (1) Will not normally resolve itself without further intervention by personnel or by implementing standard disease-related clinical interventions;
- (2) Impacts more than one area of the patient’s health status; and

(3) Requires interdisciplinary review or revision of the care plan.

(cj) “State Fire Code” means the edition of the Life Safety Code 101 and Fire Code NFPA 1 adopted and amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5.

(cj) “State Building Code” means the edition of the International Building Code, the International Existing Building Code, the International Plumbing Code, the International Mechanical Code, the International Energy Conservation Code, the International Swimming Pool and Spa Code, and the International Residential Code, as published by the International Code Council, and the National Electrical Code adopted and amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.

(ck) “State monitoring” means the placement of individuals by the department at an HH to monitor the operation and conditions of the facility.

(cl) “Temporary manager” means a person appointed by the department to assume responsibility for the day-to-day operation and administration of an HH.

(cm) “Transfer” means moving a patient from one licensed facility or entity to another licensed facility or entity.

(cn) “Underwriters Laboratories (UL) Listed” means that the global safety certification company UL has confirmed that the product is safe for use.

(co) “Volunteer” means an unpaid person who assists with the provision of care services, or activities, and who does not provide direct care or assist with direct care. This term does not include visitors or those persons or organized groups who provide religious services or entertainment.

He-P 824.04 Initial License Application Requirements.

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

(1) A completed application form entitled “Application for Residential, Health Care License or Special Health Care Service” (February 2023) signed by the owner if a private facility, 2 officers if a corporation, 2 authorized individuals if an association or partnership, or the head of the government agency if a government unit, affirming to the following:

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

(2) A floor plan of the prospective HH;

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

a. “Certificate of Authority,” if a corporation;

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

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

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

(5) Written local approvals as follows:

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

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

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

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

4. The fire chief verifying that the applicant complies with the state fire code, and local fire ordinances applicable for a health care facility; and

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

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

(7) A resume identifying the qualifications of the HH administrator and medical director;

(8) Copies of applicable licenses for the HH administrator and medical director;

(9) The results of a criminal records check, for the applicant, licensee if different than the applicant, administrator and medical director which includes criminal history from the state of New Hampshire;

(10) A copy of the criminal attestation as described in He-P 824.19(k)(7) for the administrator and medical director; and

(11) The results of a BEAS registry check from the bureau of elderly and adult services for the administrator and medical director.

(b) The applicant shall mail or hand-deliver the documents to:

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

He-P 824.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 824.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 824.04(a) the department shall notify the applicant in writing of the items required before the application can be processed.

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

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

(e) Unless a waiver has been granted, the department shall deny a licensing request in accordance with He-P 824.13(b), when it determines that the applicant, licensee, administrator, or medical director:

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

(2) Has been convicted of a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation in this or any other state;

(3) Has had a finding by the department or any other administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person; or

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

(f) Following both a clinical and life safety inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 824.

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

(h) A written notification of denial, shall be sent to an applicant applying for an initial license if it has been determined by the inspection in He-P 824.05(g) and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 824.

(i) A written notification of denial, shall be sent to an applicant applying for an initial license if the department has received no communication from the applicant within 3 months of sending written notification to the applicant that their application is complete and an inspection needs to be scheduled.

He-P 824.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire the following year on the last day of the month it was issued unless a completed application for renewal has been received.

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 824.04(a)(1) at least 120 days prior to the expiration of the current license to include:

- (1) The current license number;
- (2) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 824.10(f), if applicable. If such a request is not received, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license;
- (3) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 824.10(f), if applicable. If such request is not received, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license;
- (4) A list of current employees who have a permanent waiver granted in accordance with He-P 824.17(e)(2); and
- (5) A copy of any temporary, new or existing variances or waivers applied for or granted by the state fire marshal in accordance with RSA 153:5 and Saf-C 6005.

(c) In addition to He-P 824.06(b), if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704.02 for nitrates.

(d) Following an inspection, a license shall be renewed if the department determines that the licensee:

- (1) Submitted an application containing all the items required by He-P 824.06(b) and (c), as applicable, prior to the expiration of the current license; and
- (2) Is found to be in compliance with RSA 151 and He-P 824, and all the federal requirements at the renewal inspections, or has submitted a POC that has been accepted by the department and implemented by the licensee if area of non-compliance were cited.

He-P 824.07 HH Construction, Modifications or Renovations.

(a) For new construction and for rehabilitation of an existing building, including, but not limited to, renovations, modifications, reconstruction, and additions, construction documents and shop drawings, including stamped architectural, sprinkler, and fire alarm plans, shall be submitted to the department at least 60 days prior to the start of such work.

(b) The architectural, sprinkler, and fire alarm plans in (a) above shall accurately show the room designation(s) and exact measurements of each area to be licensed, including but not limited to window and door sizes and each room's use.

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

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

(e) The department shall review construction documents, drawings, and plans of a newly proposed or existing facility for compliance with all applicable sections of RSA 151 and He-P 824 and shall notify the applicant or licensee as to whether the proposal complies with these requirements.

(f) The HH shall comply with all applicable state laws, rules, and local ordinances when undertaking construction or rehabilitation.

(g) A licensee or applicant undertaking construction, repairs, renovations, rehabilitation or modifications of a building shall comply with the appropriate chapters and sections of the state fire code and state building code.

(h) All HHs newly constructed or rehabilitated after the 2022 effective date of these rules shall comply with the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2022 edition), as applicable, available as noted in Appendix A.

(i) Where rehabilitation is done within an existing facility, all such work shall comply with applicable sections of the FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2022 edition), available as noted in Appendix A.

(j) The department shall be the authority having jurisdiction for the requirements in He-P 824.07(h)-(i) and shall negotiate compliance with the licensee and their representatives and grant waivers in accordance with He-P 824.10 as appropriate.

(k) Penetrations, holes, or other openings in fire walls, fire partitions, smoke barriers, floors, and ceilings that allow the transfer of fire, heat, or smoke shall be closed and sealed using a listed or approved fire system that provides an equivalent rating as provided by the original surface.

(l) Waivers granted by the department for construction or rehabilitation under the FGI guidelines above shall not require annual renewal unless the underlying reason or circumstances for the waivers change.

(m) Exceptions or variances pertaining to the state fire code referenced in He-P 824.07(g) shall be granted only by the state fire marshal.

(n) Exceptions or variances pertaining to the state building code shall be granted by the local building official or the state fire marshal if in a state owned building.

(o) The building, including all construction and rehabilitated spaces, shall be inspected pursuant to He-P 824.09 prior to its use.

He-P 824.08 HH Requirements for Organizational or Service Changes.

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

- (1) Ownership;
- (2) Physical location;
- (3) Address;

- (4) Name;
- (5) Number of beds authorized under the current license; or
- (6) Services.

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

- (1) A change in ownership;
- (2) A change in the physical location;
- (3) An increase in the number of beds authorized under the current license; or
- (4) A change in services.

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

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

(e) An inspection by the department shall be conducted prior to operation for changes in the following:

- (1) Ownership, unless the current licensee is in full compliance, in which case an inspection shall be conducted as soon as practical by department;
- (2) The physical location;
- (3) A change in the number of beds or patients authorized under the current license;
- (4) A change in licensing classification; or
- (5) A change that places the facility under a different life safe code occupancy chapter.

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

(g) A revised license and license certificate shall be issued for changes in the HH's name or a change in addresses without a change in physical location.

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

- (1) A change of administrator;
- (2) An increase or decrease in the number of beds;

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

(4) When a waiver has been granted in accordance with He-P 824.10.

(i) The HH shall inform the department in writing when there is a change in administrator or medical director no later than 5 days prior to a change or as soon as practicable in the event of a death or other extenuating circumstances requiring an administrator or medical director change, and provide the department with the following:

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

(2) Copies of applicable licenses for the new administrator or medical director;

(3) The results of a criminal background check for the new administrator or medical director;

(4) A copy of the criminal attestation as described in He-P 824.19(k) for the new administrator or medical director; and

(5) The results of a BEAS registry check from the bureau of elderly and adult services for the new administrator or medical director.

(j) Upon review of the materials submitted in accordance with (i) above, the department shall make a determination as to whether the new administrator or medical director meets the qualifications for the position as specified in He-P 824.03(al) and He-P 824.15(h).

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

(l) When there is to be a change in the services provided, prior to providing the additional services the HH shall provide the department with a description of the service change and, where applicable, identify what additional personnel will be hired and their qualifications, how the new services will be incorporated into the infection control and quality improvement programs and describe what changes, if any, will be made to the physical environment.

(m) The department shall review the information submitted under (h) above and determine if the added services can be provided under the HH's current license.

(n) The HH shall inform the department in writing via email, fax, or mail of any change in the e-mail address no later than 10 days of the change. The department shall use email as the primary method of contacting the facility in the event of an emergency.

(o) A restructuring of an established HH that does not result in a transfer of the controlling interest of the facility, but which might result in a change in the name of the facility or corporation, shall not constitute a change in ownership and a new license shall not be required.

(p) If a licensee chooses to cease operation of an HH, the licensee shall submit written notification to the department at least 60 days in advance which shall include a written closure plan.

He-P 824.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 824, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The licensed premises;
- (2) All programs and services provided by the HH; and
- (3) Any records required by RSA 151 and He-P 824.

(b) The department shall conduct a clinical and life safety inspection, as necessary, to determine full compliance with RSA 151 and He-P 824 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 824.08(e)(1);
- (3) A change in the physical location of the HH;
- (4) An increase in the number of beds;
- (5) Occupation of space after construction, renovations or alterations;
- (6) A change in the licensing classification; or
- (7) The renewal of a non-certified HH license.

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

(d) A statement of findings for clinical inspections or a notice to correct for life safety code inspections shall be issued when, as a result of any inspection, the department determines that the HH is in violation of any of the provisions of He-P 824, RSA 151, or other federal or state requirement(s).

(e) If areas of non-compliance were cited in either a notice to correct or a statement of findings, the licensee shall submit a POC, in accordance with He-P 824, within 21 days of the date on the letter that transmits the inspection report.

He-P 824.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 824 shall submit a written request for a waiver to the commissioner that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary;

- (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and patients as the rule from which a waiver is sought, or provide a reasonable explanation why the applicable rule should be waived; and
 - (4) The period of time for which the waiver is sought.
- (b) A waiver shall be permanent unless the department specifically places a time limit on the waiver.
- (c) A request for waiver shall be granted if the commissioner determines that the alternative proposed by the applicant or licensee:
- (1) Meets the objective or intent of the rule;
 - (2) Does not negatively impact the health, safety, or well-being of the patients; and
 - (3) Does not affect the quality of patient services.
- (d) The licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.
- (e) Waivers shall not be transferable.
- (f) When a licensee wishes to renew a non-permanent waiver beyond the approved period of time, the licensee shall apply for a new waiver with the renewal application or at least 60 days prior to the expiration of the existing waiver, as appropriate, by submitting the information required by (a) above.
- (g) The request to renew a waiver shall be subject to (b) through (f) above.

He-P 824.11 Complaints.

- (a) The department shall investigate any complaint that meets the following conditions:
- (1) The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);
 - (2) The complaint is based upon the complainants' first-hand knowledge regarding the allegations or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s); or
 - (3) There is sufficient, specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of RSA 151 or He-P 824.
- (b) When practicable, the complaint shall be in writing and contain the following information:
- (1) The name and address of the HH, or the alleged unlicensed individual or entity;
 - (2) The name, address, and telephone number of the complainant; and
 - (3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 824.

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

- (1) Requests for additional information from the complainant or the facility;
- (2) A physical inspection of the premises;
- (3) Review of any relevant records; and
- (4) Interviews with individuals who might have information that is relevant to the investigation.

(d) For a licensed HH, the department shall:

- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if areas of non-compliance were found as a result of the investigation; and
- (2) Notify any other federal, state, or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate.
- (3) Notify the licensee, in writing, and take no further action if the department determines that the complaint is unfounded, under (a) above, or does not violate any statutes or rules; and
- (4) Require the licensee to submit a POC in accordance with He-P 824.

(e) The following shall apply for the unlicensed individual or entity:

- (1) In accordance with RSA 151:7-a, II, the department shall provide written notification to the owner or person responsible that includes:
 - a. The date of investigation;
 - b. The reasons for the investigation; and
 - c. Whether or not the investigation resulted in a determination that the services being provided require licensing under RSA 151:2, I(d);
- (2) In accordance with RSA 151:7-a, II, the owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (e)(1) above to submit a written response to the findings prior to the department's issuance of a warning;
- (3) In accordance with RSA 151:7-a, I, the department may issue a written warning, following an investigation conducted under RSA 151:6 or an inspection under RSA 151:6-a, to the owner or person responsible, requiring compliance with RSA 151 and He-P 824;
- (4) The warning in (e)(3) above, shall include:
 - a. The time frame within which the owner or person responsible shall comply with the directives of the warning;

b. The final date by which the action or actions requiring licensure must cease or by which an application for licensure must be received by the department before the department initiates any legal action available to it to cease the operation of the facility; and

c. The right of the owner or person responsible to appeal the warning under RSA 151:7-a, III, which shall be conducted in accordance with RSA 151:8 and RSA 541-A:30, III, as applicable; and

(5) Any person or entity who fails to comply after receiving a warning as described in (e)(3) above shall be subject to an action by the department for injunctive relief under RSA 151:17 and an administrative fine pursuant to He-P 824.13.

(f) Complaint investigation files shall be confidential in accordance with RSA 151:13, and shall not be disclosed publicly, but shall be released by the department on written request only:

(1) To the department of justice when relevant to a specific investigation;

(2) To law enforcement when relevant to a specific criminal investigation;

(3) When a court of competent jurisdiction orders the department to release such information; or

(4) In connection with an adjudicative proceeding relative to the licensee.

He-P 824.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 824, or other applicable licensing rules, including:

(1) Requiring a licensee to submit a POC in accordance with (c) below;

(2) Imposing a directed POC upon a licensee in accordance with (d) below;

(3) Imposing conditions upon a licensee; or

(4) Monitoring of a license.

(b) When administrative remedies are imposed, the department shall provide written notice, as applicable, which:

(1) Identifies each area in which the licensee is not in compliance with RSA 151 or a provision of these rules; and

(2) Identifies the specific remedy(s) that has been proposed.

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

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

a. How the licensee intends to correct each area of non-compliance;

- b. What measures will be put in place, or what system changes will be made to ensure that the non-compliance does not recur; to include how the measures will be evaluated for effectiveness;
 - c. The date by which each area of non-compliance shall be corrected; and
 - d. The position of the employee responsible for the corrective action;
- (2) The licensee shall submit a POC to the department within 21 days of the date on the letter that transmitted the statement of findings or notice to correct, unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:
- a. The licensee demonstrates that he or she has made a good faith effort, as verified by documentation or other means, to develop and submit the POC within the 21 day period but has been unable to do so; and
 - b. The department determines that the health, safety or well-being of a patient will not be jeopardized as a result of granting the extension;
- (3) The department shall review each POC and accept each plan that:
- a. Achieves compliance with RSA 151 and He-P 824;
 - b. Addresses all areas of non-compliance as cited in the statement of findings or notice to correct;
 - c. Prevents a new violation of RSA 151 or He-P 824 as a result of this implementation of the POC; and
 - d. Specifies the date upon which the areas of non-compliance will be corrected;
- (4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;
- (5) If the POC is not acceptable, the department shall notify the licensee in writing within 14 days of the reason for rejecting the POC;
- (6) The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected, unless, within the 14 day period, the licensee requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:
- a. The licensee demonstrates that he or she has made a good faith effort, as verified by documentation or other means, to develop and submit the POC within the 14 day period but has been unable to do so; and
 - b. The department determines that the health, safety or well-being of a patient will not be jeopardized as a result of granting the extension;
- (7) The revised POC shall comply with (c)(1) above and be reviewed in accordance with (c)(3) above;

- (8) If the revised POC is not acceptable to the department or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with He-P 824.12(d) and a fine in accordance with He-P 824.13(c)(12);
- (9) The department shall verify the implementation of any POC that has been submitted and accepted by:
- a. Reviewing materials submitted by the licensee;
 - b. Conducting a follow-up inspection; or
 - c. Reviewing compliance during the next inspection;
- (10) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (11) If the POC has not been implemented by the completion date, at the time of the next inspection the licensee shall be:
- a. Notified by the department in accordance with He-P 824.12(b); and
 - b. Issued a directed POC in accordance with He-P 824.12(d) and a fine in accordance with He-P 824.13(f)(12).
- (d) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or licensee to implement when:
- (1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the patients and personnel;
 - (2) A revised POC is not submitted within 14 days of the written notification from the department or such other date as applicable if an extension was granted by the department; or
 - (3) A revised POC submitted by the licensee or administrator has not been accepted.
- (e) If at the time of the next inspection the directed POC referenced in (d) above has not been implemented by the completion date stated in the directed POC, the department shall, as appropriate:
- (1) Issue a warning that enforcement action will be taken if the POC is not implemented;
 - (2) Impose a fine;
 - (3) Deny the application for a renewal of a license in accordance with He-P 824,13(b); or
 - (4) Revoke the license in accordance with He-P 824.13(b).
- (f) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with an area or areas of non-compliance cited by the department on a statement of findings, provided that the applicant or licensee submits a written request for an informal dispute resolution.
- (g) The informal dispute resolution shall be requested in writing by the applicant, licensee, or program director no later than 14 days from the date the statement of findings was issued by the department.

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

(i) The deadline to submit a POC in accordance with (c) above shall not apply until the notice of the determination in (h) above has been provided to the applicant or licensee.

(j) Any violations cited for the state fire code may be appealed to the New Hampshire state fire marshal and shall not be the subject of informal dispute resolutions as described in this section.

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

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

(1) Repeated non-compliance on the part of the facility in areas that impact health, safety, or well-being of patients;

(2) The presence of conditions in the HH that negatively impact the health, safety, or well-being of patients;

(3) Concern that the facility is not ending the pattern of citations for violations of licensing rules and coming into compliance with those rules; or

(4) Conditions exist for implementation of temporary management as described in (i) below but no temporary manager can be found.

(m) The department shall appoint a temporary manager to assume operation of a HH when, following an inspection, the department determines that:

(1) The licensee has repeatedly failed to manage and operate the HH in compliance with RSA 151 and He-P 824 and such HH practices have failed to meet the needs of the patients;

(2) The licensee has failed to develop or implement policies and procedures for infection control, sanitation or life safety codes, imposing harm or the potential for harm to the patients; or

(3) The health, safety and well-being of the patients are at risk and emergency action is required.

He-P 824.13 Enforcement Actions and Hearings.

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

(1) The reasons for the proposed action;

(2) The action to be taken by the department;

(3) If a fine is imposed, the automatic reduction of the fine by 25% if the fine is paid within 10 days of the date on the written notice from the department and the area of non-compliance has been corrected, or a POC has been accepted and approved by the department; and

(4) The right of an applicant or licensee to an administrative hearing in accordance with RSA 151:8 or RSA 541-A:30 III as applicable, before the enforcement action becomes final.

(b) The department shall deny an application or revoke a license if:

(1) An applicant or a licensee violated a provision of RSA 151 or He-P 824 which poses a threat to the patient's health, safety, or well-being;

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

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

(4) After being notified of and given an opportunity to supply missing information, the applicant or licensee fails to submit an application that meets the requirements of He-P 824.04;

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

a. Provides false or misleading information to the department;

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

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

(6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 824.12(c), (d), and (e);

(7) The licensee has submitted a POC that has not been accepted by the department in accordance with He-P 824.12(c)(6) and has not submitted a revised POC in accordance with He-P 824.12(c)(6)b.;

(8) The licensee is cited a third time under RSA 151 or He-P 824 for the same violation within the last 5 inspections;

(9) A licensee, or its corporate officers, has had a license revoked and submits an application during the 5-year prohibition period specified in (i) below;

(10) Unless a waiver has been granted, upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 824;

(11) Unless a waiver has been granted, the department makes a determination that the applicant, administrator, licensee, or a household member has been found guilty of or pled guilty to a felony assault, fraud, theft, abuse, neglect, or exploitation adjudicated and founded by the department or any administrative agency in this or any other state;

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

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

(c) The department shall impose fines as follows:

- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 for an applicant or unlicensed provider;
- (2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant, unlicensed provider or a licensee shall be \$2000.00;
- (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee or unlicensed provider shall be \$500.00;
- (4) For a failure to transfer a patient whose needs exceeds the services or programs provided by the HH, in violation of RSA 151:5-a, the fine for a licensee shall be \$500.00;
- (5) For admission of a patient whose needs exceed the services or programs authorized by the HH licensing classification, in violation of RSA 151:5-a, II and He-P 824.15(a) and (b), the fine for a licensee shall be \$1000.00;
- (6) For a failure to comply with the directives of a warning issued by the department, in violation of RSA 151:7-a and He-P 824.11(i), the fine for an unlicensed provider or a licensee shall be \$500.00;
- (7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 824.06(b), the fine for a licensee shall be \$100.00;
- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 824.08(a)(1), the fine for a licensee shall be \$500.00;
- (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 824.08(a)(2), the fine for a licensee shall be \$500.00;
- (10) For a failure to allow access by the department to the HH's premises, programs, services, patients or records, in violation of He-P 824.09(a)(1)-(3), the fine for an applicant, unlicensed individual or licensee shall be \$2000.00;
- (11) For a failure to notify the department prior to a change in the administrator or medical director, in violation of He-P 824.08(d), the fine for a licensee shall be \$100.00;
- (12) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 824.12(c)(2) and (6), the fine for a licensee shall be \$100.00;
- (13) For a failure to implement or maintain the corrective action set forth in any POC that has been accepted or issued by the department, in violation of He-P 824.12(c)(11), the fine for a licensee shall be \$1000.00;
- (14) For a failure to establish, implement or comply with licensee policies, the fine for a licensee shall be \$500.00;
- (15) For a failure to provide services or programs required by the licensing classification and specified by He-P 824.14(d), the fine for a licensee shall be \$500.00;
- (16) For exceeding capacity, in violation of He-P 824.14(m), the fine for a licensee shall be \$500.00;

- (17) For providing false or misleading information or documentation, in violation of He-P 812.14(g), the fine shall be \$1,000.00 per offense;
- (18) For a failure to meet the needs of the patient, in violation of He-P 824.15(a), the fine for a licensee shall be \$1000.00 per patient;
- (19) For employing an administrator or other personnel who do not meet the qualifications for the position, without having a waiver granted by the department in accordance with He-P 824.10 in violation of He-P 824.18(h)-(j), the fine for a licensee shall be \$500.00;
- (20) For failure to submit architectural plans or drawings, when applicable, prior to undertaking construction or renovation of the licensed facility in violation of He-P 824.07(a), the fine for a licensed facility shall be \$500.00;
- (21) For occupying a renovated area of a licensed facility or a new construction prior to approval by local and state authorities; the fine shall be \$500.00 which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department;
- (22) When an inspection determines that a violation of RSA 151 or He-P 824 has the potential to jeopardize the health, safety or well-being of a patient, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same area of non-compliance is cited within 2 years of the original area of non-compliance, the fine for a licensee shall be double the original fine, but not to exceed \$1000.00; and
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in a. above the fine for a licensee shall be triple the original fine, but not to exceed \$2000.00; and
- (23) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 824 shall constitute a separate violation and shall be fined provided that if the applicant or licensee is making good faith efforts, as verified by documentation or other means, to comply with the provisions of RSA 151 or He-P 824, the department shall not issue a daily fine.
- (d) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” or cash in the exact amount due; and
 - (2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.
- (e) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to appeal.
- (f) If a written request is not made pursuant to (e) above, the action of the department shall become final.

(g) The department shall order the immediate suspension of a license and the provision of services when it finds that the health, safety, or welfare of a patient is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(h) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 824 is achieved.

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

(j) RSA 541 shall govern further appeals of department decisions under this section.

(k) When an HH's license has been denied or revoked, the applicant, licensee, administrator or medical director shall not be eligible to reapply for a license, or be employed as an administrator or medical director for at least 5 years, if the enforcement action pertained to their role in the HH.

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

(1) The date the department's decision to revoke or deny the license, if not filed; or

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

(m) Notwithstanding (k) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 824.

(n) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A or He-P 824.

He-P 824.14 Duties and Responsibilities of All Licensees.

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

(b) Each HH shall be owned and operated by a home hospice care provider licensed in New Hampshire in accordance with RSA 151:2.

(c) The licensee shall have written policies and procedures setting forth:

(1) The rights and responsibilities of patients in accordance with the patients' bill of rights; and

(2) The policies described in (d), (e), and (w) below.

(d) The HH shall define, in writing, the scope and type of services to be provided by the HH, which shall include at a minimum, the core services listed in He-P 824.15.

(e) The HH shall develop and implement written policies and procedures governing the operation and all services and shall assess and monitor the quality of care and service provided to patients on an ongoing basis.

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

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

(h) The HH shall not advertise or provide services that it is not licensed to provide, pursuant to RSA 151:2, III.

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

(j) The HH shall have responsibility and authority for:

(1) Managing, controlling, and operating the HH;

(2) Meeting the needs of the patients during those hours that the patient is in the care of the HH;

(3) Initiating action to maintain the HH 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;

(4) The continuity of inpatient care;

(5) Establishing, in writing, a chain of command that sets forth the line of authority for the operation of the HH;

(6) Appointing an administrator;

(7) Verifying the qualifications of all personnel;

(8) Providing sufficient numbers of qualified personnel who are available to meet the needs of patients during all hours that the HH has told the patient that they will provide service;

(9) Providing personnel with sufficient supplies and equipment to meet the needs of the patients;

(10) Requiring all personnel to follow the orders of the licensed practitioner for every patient and to encourage the patient to follow the licensed practitioner's orders; and

(11) Implementing any POC that has been accepted or issued by the department.

(k) The licensee shall consider all patients to be competent and capable of making all decisions relative to their own health care unless the patient:

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

(2) Has a durable power of attorney for health care that has been activated in accordance with RSA 137-J; or

(3) Has a surrogate designated in accordance with RSA 137-J.

(l) The licensee shall only admit an individual or retain a patient whose needs are compatible with the facility and the services and programs offered, and whose needs can be met by the HH.

(m) If an individual is admitted who requires lift equipment for transfers, all direct care personnel shall have been trained in the correct operation of such equipment.

(n) A licensee shall not deny admission to any person because that person does not have a guardian or an advance directive, such as a living will or durable power of attorney for health care, established in accordance with RSA 137-H or RSA 137-J.

(o) The patient shall be transferred or discharged, as defined under RSA 151:19, I-a and VII, in accordance with RSA 151:21, V, for reasons including, but not limited to, the following:

- (1) The patient's medical or other needs exceed the services offered by the licensee or are not otherwise met by third party providers that the licensee has contracted with;
- (2) The patient cannot be safely evacuated in accordance with Saf-C 6000;
- (3) The patient or the patient's guardian, if any, determines that the patient shall leave the facility or
- (4) The patients' medical condition is no longer compatible with the facility and the services and programs offered.

(p) The licensee shall develop a discharge plan with the input of the patient and the guardian or agent, if any.

(q) The following documents shall accompany the patient upon transfer:

- (1) The most recent patient assessment tool, care plan, and quarterly progress notes;
- (2) The most recent nursing assessment, if applicable;
- (3) The most recent multi-disciplinary care plan, if applicable;
- (4) Current medication records; and
- (5) A licensed practitioner's order for transfer, if applicable.

(r) If the transfer or discharge referenced in (d) above is required by the reasons listed in RSA 151:26, II(b), a written notice shall be given to the patient as soon as practicable prior to transfer or discharge.

(s) The licensee shall not exceed the maximum number of patients or beds licensed by the department, unless authorized by the department, such as during an emergency.

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

- (1) The current license certificate issued in accordance with RSA 151:2;
- (2) All inspection reports issued in accordance with He-P 824.09(c) and He-P 824.11(d), for the previous 12 months;

- (3) A copy of the patients' bill of rights specified by RSA 151:21;
 - (4) A copy of the licensee's policies and procedures relative to the implementation of patient rights and responsibilities as required by RSA 151:20;
 - (5) The licensee's plan for fire safety, evacuation and emergencies, identifying the location of, and access to all fire exits; and
 - (6) Information on how to contact the office of the long-term care ombudsman.
- (u) The HH shall admit and allow any department representative to inspect the HH and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 824 as authorized by RSA 151:6 and RSA 151:6-a.
- (v) Physical or chemical restraints shall only be used in the case of an emergency, pursuant to RSA 151:21, IX. Immediately after the use of a physical or chemical restraint, the patient's guardian or agent, if any, and the department shall be notified of the use of restraints.
- (w) The HH shall:
- (1) Have policies and procedures on:
 - a. What type of emergency restraints may be used;
 - b. When restraints may be used; and
 - c. What professional personnel may authorize the use of restraints; and
 - (2) Provide personnel with education and training on the limitations and the correct use of restraints.
- (x) The use of mechanical restraints shall be allowed only as defined under He-P 824.03(ak).
- (y) The following methods of mechanical restraints shall be prohibited:
- (1) Full bed rails;
 - (2) Gates, if they prohibit a patient's free movement throughout the living areas of the HH;
 - (3) Half doors, if they prohibit a patient's free movement throughout the living areas of the HH;
 - (4) Geri chairs, when used in a manner that prevents or restricts a patient from getting out of the chair at will;
 - (5) Wrist or ankle restraints;
 - (6) Vests or pelvic restraints; and
 - (7) Other similar devices that prevent a patient's free movement.
- (z) For reportable incidents the licensees shall:

- (1) Complete an investigation to determine if abuse or neglect could have been a contributing factor to the incident;
 - (2) Fax to 603-271-5574 or, if a fax machine is not available, submit via regular mail, postmarked within 2 business days of the incident together with a telephone call to the department reporting the incident and notifying the department of the mailed report, the following information to the department within 2 business days of a reportable incident:
 - a. The HH name;
 - b. A description of the incident, including identification of injuries, if applicable;
 - c. The name of the licensee(s) or personnel involved in, witnessing, or responding to the reportable incident;
 - d. The name of the patient involved and the name of any witnesses to the reportable incident;
 - e. The date and time of the reportable incident;
 - f. The action taken in direct response to the reportable incident, including any follow-up;
 - g. If medical intervention was required, by whom and the date and time;
 - h. Whether the patient's guardian, agent, or personal representative, if any, was notified;
 - i. The signature of the person reporting the reportable incident; and
 - j. The date and time the patient's licensed practitioner was notified;
 - (3) If abuse or neglect is suspected, the licensee shall notify the department with a written report within 5 days describing the actions taken by personnel, the final outcome or continuation of the reportable incident, and actions taken to prevent a reoccurrence if it was not submitted in the initial report;
 - (4) Contact the department immediately by telephone, fax, or e-mail to report the information required by (1) above in the case of the death of any patient who dies within 10 days of a reportable incident;
 - (5) Provide the information required by (3) above in writing within 3 business days of the unexpected death of any patient or the death of any patient who dies within 10 days of a reportable incident if the initial contact was made by telephone or if additional information becomes available subsequent to the time the initial contact was made; and
 - (6) Submit any further information requested by the department.
- (aa) The HH shall respond to a notice of deficiencies by providing a POC in accordance with He-P 824.12(c).

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

(ac) The HH shall, upon request, provide a patient or their legal guardian or agent, if applicable, with a copy of his or her patient record pursuant to the provisions of RSA 151:21, X.

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

(ae) Any licensee that maintains electronic records shall develop a system with written policies and procedures designed to protect the privacy of patients and staff that, at a minimum, include:

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

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

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

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

(ag) At the time of admission, the HH shall give a patient, their guardian or agent, if applicable, a listing of all HH's charges and identify what care and services are included in the charge.

(ah) The licensee shall give a patient a written notice as follows:

(1) For an increase in the cost or fees for any HH services 30 days advance notice; or

(2) For an involuntary change in room or bed location 14 day advance notice, unless the change is required to protect the health, safety, and well-being of the patient or other patients, in such case the notice shall be as soon as practicable.

(ai) The HH shall provide all personnel with education in hospice philosophy and hospice care in compliance with the CMS conditions of participation.

(aj) The HH shall comply with all federal, state and local health, building, fire and zoning laws, rules and ordinances.

(ak) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66, RSA 155:68 and RSA 155:69 and He-P 824.24(h).

(al) If the HH holds or manages a patient's funds or possessions, the facility shall have written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other patients, or other household members.

(am) The HH shall not falsify any documentation required by law or provide false or misleading information to the department.

He-P 824.15 Required Services.

(a) The licensee shall provide the following core hospice care services:

- (1) Nursing services sufficient to meet the nursing needs of the patient, which are:
 - a. Determined by the patient's care plan; and
 - b. Available, as needed, 24 hours a day;
- (2) LNA and personal care services that are provided either directly or by contract as the needs of the patient dictate and as determined by the patient's care plan;
- (3) Providing patients with pharmaceutical services such as equipment, appliances, medical supplies and other pharmaceutical services as the needs of the patient dictate and as determined by the patient's care plan;
- (4) Medical social services shall be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services. Medical social services shall be provided by a qualified social worker;
- (5) Hospice volunteer services;
- (6) Nutritional counseling, physical or occupational therapy, and speech therapy that are provided or arranged for as needed in accordance with patient's care plan;
- (7) Spiritual services which are offered in accordance with the patient's and family's beliefs and values;
- (8) Bereavement services that are available to the family for up to one year following the death of the patient;
- (9) Health and safety services to minimize the likelihood of accident or injury, with care and oversight provided 24 hours a day regarding:
 - a. The patients' functioning, safety, and whereabouts; and
 - b. The patients' health status, including the provision of intervention as necessary or required; and
- (10) Medication services in accordance with He-P 824.17.

(b) In addition to the services in (a) above the licensee shall provide the following services:

- (1) Food services in accordance with He-P 824.21;
- (2) Housekeeping, laundry, and maintenance services; and
- (3) Basic supplies necessary for patients to maintain personnel hygiene and grooming.

(c) If, on a temporary basis, not to exceed 90 days, the hospice care provider cannot provide any of the core care and services in (a) above, the HH shall have a written agreement with another agency to provide the required services.

(d) Any contractual agreement to provide care and services shall:

- (1) Identify the care and services to be provided;
- (2) Specify the qualifications of the personnel that will be providing the care and services;
- (3) Require that the HH must authorize the services; and
- (4) Stipulate the HH retains professional responsibility for all care and services provided.

(e) The HH shall provide or arrange for the provision of short-term in-patient stays in a hospital or nursing home during those times when the patient's pain or symptoms are unable to be managed in the HH.

(f) The HH shall retain professional management responsibility for all services that are provided including contracted services when a hospice patient is in another licensed facility. These responsibilities shall be defined in a written contractual agreement.

(g) The licensee shall ensure that the following positions are staffed at the HH location:

- (1) An administrator;
- (2) A director of patient services, but the administrator may also be the director of patient services if the administrator meets the qualifications of the position;
- (3) A volunteer coordinator;
- (4) A social services coordinator; and
- (5) A spiritual and or bereavement coordinator.

(h) Any administrator shall:

- (1) Have at least a bachelor's degree in business or a health-related field with a minimum of 3 years' experience in hospice or palliative care or;
- (2) Be a registered nurse; and
- (3) Designate, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(i) The administrator shall be responsible for maintaining the HH in full compliance with all federal, state and local laws, rules, codes and ordinances at all times.

(j) The director of patient services shall:

- (1) Be a New Hampshire-licensed registered nurse or an advanced practice registered nurse;
or
- (2) Have a bachelor's degree in a health field related to hospice care.

(k) The director of patient services shall:

- (1) Be responsible for the overall delivery of patient care and services;
- (2) Provide sufficient nursing personnel to meet the need of the patients;
- (3) Supervise the overall delivery of patient care and services; and
- (4) Coordinate the supervision of licensed practical nurses (LPN), licensed nurse aides (LNA) and or personal care attendants (PCA) by a registered nurse and determine if the LNA or PCA is providing care and services in accordance with the patient's care plan.

(l) The medical director, who shall be a physician licensed in the state of New Hampshire, shall be responsible for:

- (1) The oversight of the medical component of the HH's patient care program;
- (2) Participating on the interdisciplinary patient care team if the patient's own licensed practitioner cannot participate; and
- (3) Determining, in consultation with the interdisciplinary team, that an individual is appropriate for hospice and or palliative care services.

(m) Volunteer services shall be provided under the direction of a coordinator of volunteer services who:

- (1) Implements a direct service volunteer program;
- (2) Coordinates the orientation, education, support, and supervision of direct service volunteers; and
- (3) Coordinates the utilization of direct service volunteers with other hospice staff.

(n) All volunteers shall be oriented and educated relative to their prescribed function according to the hospice care provider's policies and procedures.

(o) The licensee shall develop and maintain policies and procedures for its volunteer services that address the following areas:

- (1) Recruitment and retention;
- (2) Health screening and 2-step TB testing;
- (3) Orientation;
- (4) Scope of function;
- (5) Supervision;
- (6) Ongoing training and support;
- (7) Records of volunteer activities; and
- (8) Criminal record checks.

(p) The social services coordinator shall have:

- (1) At least a master's degree from a graduate school of social work; or

(2) A bachelor's degree in a related health or human services field, have at least 2 years' experience as a social worker and have established a consultative relationship with a person who qualifies in (1) above.

(q) The social services coordinator shall:

- (1) Participate in the development of the care plan; and
- (2) Work in conjunction with the director of patient services to coordinate all social services required by the care plan and ensure their delivery.

(r) The coordinator of bereavement and spiritual care services shall be a person who has at least a bachelor's degree in an applicable field such as theology of education, psychology or counseling and who has education in death and dying, grief, and bereavement.

(s) Persons providing bereavement services shall have education in death and dying, grief and bereavement.

(t) The coordinator of bereavement and spiritual care services shall be responsible for providing an organized program of bereavement services for up to 12 months after the death of the patient that includes but is not limited to:

- (1) Counseling to families after the patient's death; and
- (2) Developing a care plan that reflects the needs of the patient's family.

(u) The licensee may only perform POCT, that are waived complexity as designated by the federal drug administration (FDA) and known as CLIA-waived laboratory tests, unless the facility is also licensed by the State of New Hampshire as a laboratory under He-P 808.

(v) If CLIA-waived laboratory testing is performed by personnel, the licensee shall:

- (1) Obtain the appropriate CLIA certificate as per 42 CFR Part 493.15; and
- (2) Develop and implement a point of care testing policy, which educates and provides procedures for the proper handling and use of POCT devices, including the documentation of training and demonstrated competency of all testing personnel.

(w) The licensee shall have current copies of manufacturer's instructions and package inserts and shall follow all manufacturer's instructions and recommendations for the use of POCT meters and devices to include, but not limited to:

- (1) Storage requirements for POCT meters and devices, test strips, test cartridges, and test kits;
- (2) Performance of test specimen requirements, testing environment, test procedure, troubleshooting error codes and messages, reporting results; and
- (3) All recommended and required quality control procedures for POCT meters and devices.

(x) Licensee's performing CLIA-waived laboratory testing or specimen collection shall be in compliance with He-P 808, He-P 817, and 42 CFR 493.

He-P 824.16 Patient Admission Criteria, Temporary Absence, Transfer and Discharge.

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

(1) Provide, both orally and in writing, to the patient, their guardian or agent, if applicable, the HH's:

- a. Policy on patient rights and responsibilities;
- b. Complaint procedure;
- c. List of care and services that are provided directly by the HH; and
- d. List of the care and services that are provided by contract;

(2) Obtain written confirmation acknowledging receipt of the items in (1) above from the patient, their guardian or agent, if applicable;

(3) Collect and record the following information:

- a. Patient's name, home address, home telephone number, and date of birth;
- b. Name, address, and telephone number of an emergency contact and guardian and/or agent, if applicable;
- c. Name of patient's primary care provider and their address and telephone number;
- d. Copies of all legal directives such as durable power of attorney, legal guardian or living will; and
- e. Written and signed consent for the provision of care and services; and

(4) Obtain documentation of informed consent and consent for release of information.

(b) In addition to (a) above, at the time of admission, the licensee shall provide a written copy to the patient and the guardian or agent, if any, or personal representative, and receive written verification of receipt for the following:

(1) A patient's agreement including the following information:

- a. The basic daily, weekly, and monthly fee;
- b. A list of the core services required by He-P 824.15(a) and (b) that are covered by the basic fee;
- c. Information regarding the timing and frequency of cost of care increases;
- d. The time period covered by the admissions contract;
- e. The HH's house rules;

- f. The grounds for immediate termination of the agreement, pursuant to RSA 151:21, V;
 - g. The HH's responsibility for patient discharge planning;
 - h. Information regarding nursing, other health care services or supplies not provided in the core services, to include:
 - 1. The availability of services;
 - 2. The HH's responsibility for arranging services; and
 - 3. The fee and payment for services, if known;
 - i. The licensee's policies and procedures regarding:
 - 1. Arranging for the provision of transportation;
 - 2. Arranging for the provision of third party services, such as a hairdresser or cable television;
 - 3. Acting as a billing agent for third party services;
 - 4. Monitoring third party services contracted directly by the patient and provided on the HH premises;
 - 5. Handling of patient funds pursuant to RSA 151:24 and He-P 824.14(af);
 - 6. Bed hold, in compliance with RSA 151:25;
 - 7. Storage and loss of the patient's personal property; and
 - 8. Smoking;
 - j. The licensee's medication management services; and
 - k. The list of grooming and personal hygiene supplies provided by the HH as part of the basic daily, weekly, or monthly rate;
- (2) A copy of the most current version of the patients' bill of rights under RSA 151: 21 and the HH's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
- (3) A copy of the patient's right to appeal an involuntary transfer or discharge under RSA 151:26, II(5); and
- (4) The HH's policy and procedure for handling reports of abuse, neglect, or exploitation which shall be in accordance with RSA 161-F:46 and RSA 169-C:29.

(c) The hospice care provider shall ensure that medical direction is provided either from the patient's attending licensed practitioner or the hospice medical director.

- (d) Patients who are admitted or accepted for services shall:
- (1) Have a nursing assessment at the following intervals to determine the level of care and services required by the patient:
 - a. Within 48 hours of admission; and
 - b. Thereafter as required by the CMS conditions of participation; and
 - (2) Have a signed and dated order for any service for which such order is required by the practice acts of the person providing care, renewed at least every 90 days.
- (e) The assessment required by (d)(1) above shall contain, at a minimum, the following:
- (1) Pertinent diagnoses including mental status;
 - (2) A pain assessment, including symptom control and vital signs;
 - (3) A physical assessment;
 - (4) A cognition and mental status assessment;
 - (5) A behavioral assessment;
 - (6) A psychosocial assessment;
 - (7) Medication and treatments;
 - (8) Functional limitations;
 - (10) Nutritional requirements;
 - (11) Any equipment required; and
 - (12) Any safety precautions.
- (f) In addition to the information required in (e) above, the nursing assessment shall include:
- (1) Reactions of the patient and family members to terminal illness;
 - (2) History of the patient's and family coping strengths and weaknesses;
 - (3) Social and financial concerns; and
 - (4) Spiritual beliefs and desires of the patient.
- (g) If the assessment required by (d) above is completed by an LPN, the assessment shall be reviewed and co-signed by the registered nurse or physician that is supervising the LPN prior to the development of the patient's care plan.
- (h) The licensee shall establish an interdisciplinary hospice care team composed of at least:

- (1) A licensed practitioner;
 - (2) A registered nurse;
 - (3) A social worker; and
 - (4) A clergy person or counselor.
- (i) The interdisciplinary hospice care team shall:
- (1) Establish the care plan;
 - (2) Be the primary care delivery team for a patient and his or her family through the total duration of hospice care; and
 - (3) Be responsible for supervising any patient care and services provided by others.
- (j) The interdisciplinary team shall, in conjunction with the patient, the patient's personal representative, and their family, develop an individualized care plan, which reflects the changing care needs of the patient and family.
- (k) The care plan required by (j) above shall include:
- (1) The date the problem or need was identified;
 - (2) A description of the problem or need;
 - (3) The goal for the patient;
 - (4) The action or approach to be taken by HH personnel;
 - (5) The responsible person(s) or position; and
 - (6) The interventions used to address problems identified in the assessment including:
 - a. Medications ordered;
 - b. Pain control interventions, both pharmacological and non-pharmacological;
 - c. Symptom management treatment; and
 - d. Services required including frequency of visits.
- (l) The care plan required by (j) above shall be:
- (1) Developed in conjunction with the patient and their guardian or agent, if applicable;
 - (2) Completed within 3 days after completion of the nursing assessment;

- (3) Reviewed and revised at least every 30 days by the interdisciplinary team following the completion of each assessment; and
 - (4) Made available to all personnel that assist the patients.
- (m) The patient and their family shall be encouraged to participate in all components of care, including:
- (1) Assessment and problem identification;
 - (2) Implementation of the plan of care; and
 - (3) Evaluation and revision of the plan, as needed.
- (n) At the time of a patient's admission, the licensee shall obtain orders from a licensed practitioner for medications, prescriptions and diet.
- (o) A patient may refuse all care and services.
- (p) When a patient refuses care or services that could result in a threat to their safety or that of others, the licensee or their designee shall:
- (1) Inform the patient of the potential results of their refusal;
 - (2) Notify the licensed practitioner and guardian or agent if any, of the patient's refusal of care; and
 - (3) Document in the patient's record the refusal of care and the patient's reason for the refusal.
- (q) Progress notes shall be written by any member of the interdisciplinary team to document:
- (1) Changes in the patient's physical, functional and mental abilities;
 - (2) Changes in the patient's behaviors such as eating or sleeping patterns; and
 - (3) Newly identified needs of the patient and or their family.
- (r) All staff of the HH shall follow the approaches stated in the care plan.
- (s) The licensee shall provide an emergency data sheet to emergency medical personnel in the event of an emergency transfer to another medical facility.
- (t) The data sheet referenced in (s) above shall include:
- (1) The patient's full name and the name the patient prefers, if different;
 - (2) Name, address and telephone number of the patient's next of kin, guardian or agent, if any;
 - (3) Diagnosis;
 - (4) Medications, including last dose taken and when the next dose is due;

- (5) Allergies;
- (6) Functional limitations;
- (7) Date of birth;
- (8) Insurance information;
- (9) Advance directive; and
- (10) Any other pertinent information not specified in (1)-(9) above.

(u) Written notes shall be documented in the patient's record for any unusual incident, occurrence, or explained absence involving the patient which shall include the information required by He-P 824.14(t) and the signature and title of the person reporting the incident or occurrence.

(v) For each patient accepted for care and services at the HH, a current and accurate record shall be maintained and include, at a minimum:

- (1) The written confirmation required by He-P 824.16(b)(1);
- (2) The identification data required by He-P 824.16(b)(2);
- (3) The admission agreement required by He-P 824.16(c)(1);
- (4) Consent and medical release forms, as applicable;
- (5) Pertinent medical information;
- (6) The emergency data sheet required by He-P 824.16(t);
- (7) All orders from a licensed practitioner, including the date and signature of the licensed practitioner required by He-P 824.16(e)(2);
- (8) All assessments required by He-P 824.16(e)(1);
- (9) All laboratory and x-ray reports if the tests were taken at the HH;
- (10) All consults;
- (11) All care plans required by He-P 824.16(k) including documentation that the patient or patient's guardian or agent, if applicable, participated in the development of the care plan;
- (12) All progress notes required by He-P 824.16(r) including the signature of the person providing the care;
- (13) All written notes required by He-P 824.16(v) including the signature of the person providing the care;
- (14) All daily medication records required by He-P 824.17(aa);

(15) Discharge or transfer documentation, which shall include:

a. In the case of patient death:

1. Date and place of death; and
2. Bereavement follow-up plan; and

b. In the case of discharge other than patient death or transfer:

1. Date and time of patient discharge;
2. The physical, mental, and medical condition of patient at discharge;
3. Discharge instruction and referral; and
4. Signed licensed practitioner's order for discharge, if applicable; and

(16) Documentation of any unusual incidents involving the patient including the information required by (v) above.

He-P 824.17 Patient Records

(a) The licensee shall maintain a legible, current, and accurate record for each patient based on services provided at the HH.

(b) At a minimum, patient records shall contain the following:

(1) A copy of the patient's service agreement and/or admission contract and all documents required by He-P 824.16(c)(1);

(2) Notwithstanding (1) above, financial records may be kept in a separate file;

(3) Identification data, including:

- a. Vital information including the patient's name, date of birth, and marital status;
- b. Patient's religious preference, if known;
- c. Patients veteran status, if known; and
- d. Name, address and telephone number of an emergency contact person;

(4) The name and telephone number of the patient's licensed practitioner(s);

(5) For individuals contracted by the HH or the patient to provide services at the HH, their name, employer, business address and telephone number;

(6) Patient's health insurance information;

- (7) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
 - (8) A record of the health assessment in accordance with He-P 824.16(e)(1);
 - (9) Written, dated, and signed orders for the following:
 - a. All medications, treatments and special diets; and
 - b. Laboratory services and consultations performed at the HH;
 - (10) Results of any laboratory tests, X-rays, or consultations performed at the HH;
 - (11) All admission and progress notes;
 - (12) For services that are provided at the HH by individuals who are not employed by the licensee, documentation shall include the name of the agency providing the services, the date services were provided, the name of the person providing services and a brief summary of the services provided;
 - (13) Documentation of medical or specialized care;
 - (14) Documentation of reportable incidents;
 - (15) The consent for release of information signed by the patient, guardian or agent, if any;
 - (16) The medication record as required;
 - (17) Documentation of any accident or injuries occurring while in the care of the facility and requiring medical attention by a practitioner; and
 - (18) Documentation of a patient's refusal of any care or services.
 - (19) The licensee shall arrange for and document the immunization of all consenting patients for pneumococcal disease, as applicable, and all consenting patients for influenza in accordance with RSA 151:9-b and report immunization data to the department's immunization program.
- (c) Patient records and patient information shall be kept confidential and only provided in accordance with law.
- (d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a patient's record shall occur.
- (e) When not being used by authorized personnel, patient records shall be safeguarded against loss or unauthorized use or access.
- (f) Records shall be retained for 4 years after discharge, except that when the patient is a minor, records shall be retained until the person reaches the age of 19, but no less than 4 years after discharge.
- (g) The licensee shall arrange for storage of, and access to, patient records as required by (g) above in the event the HH ceases operation.

He-P 824.18 Medications.

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

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

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

- (1) Obtain any medication ordered for immediate use at the HH;
- (2) Reorder medications for use at the HH; and
- (3) Receive and record new medication orders.

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

- (1) The patient's name;
- (2) The medication name, strength, prescribed dose and route, if different than by mouth;
- (3) The frequency of administration;
- (4) The indications for usage for all medications that are used PRN; and
- (5) The dated signature of the ordering practitioner.

(e) For PRN medications the ordering practitioner or a pharmacist shall indicate, in writing, the indications for use and any special precautions or limitations to use of the medication, including the maximum allowed dose in a 24-hour period.

(f) For each prescription medication being taken by a patient, the licensee shall maintain either the original written order or a copy of the order in the patient's record, signed by a licensed practitioner or other individual authorized by law.

(g) Each medication, including licensed practitioner's samples, shall legibly display the following information:

- (1) The patient's name;
- (2) The medication name, strength, the prescribed dose and route of administration;
- (3) The frequency of administration;
- (4) The indications for usage of all PRN medications; and
- (5) The date ordered.

(h) The label of all medication containers maintained in the HH shall match the current written orders of the licensed practitioner unless authorized by (j) below.

(i) Only a pharmacist shall make changes to a prescription medication container label. Any change or discontinuation of medications taken at the HH shall be pursuant to a written order licensed practitioner or other professional authorized by law.

(j) When the licensed practitioner or other professional authorized by law changes the dose of a medication and personnel of the HH are unable to obtain a new prescription label:

(1) The licensed nurse shall clearly and distinctly mark the original container, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the HH's written procedure, indicating that there has been a change in the medication order;

(2) Licensed nurse shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record; and

(3) The change in dosage, without a change in prescription label as described in (1) and (2) above, shall be allowed for a maximum of 90 days from the date of the new medication order, until the medications in the marked container are exhausted or, in the case of PRN medications, until the expiration date on the container, whichever occurs first.

(k) The licensee shall require that all telephone orders for medications or treatments are:

(1) Taken only by a licensed health care professional if such action is within the scope of their practice act;

(2) Immediately transcribed and signed by the individual taking the order; and

(3) Be counter-signed by the authorized licensed practitioner authorized by law within 30 days.

(l) Over-the-counter medications shall be handled in the following manner:

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

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

(m) The medication storage area for medications not stored in the patient's room shall be:

(1) Locked and accessible only to authorized personnel;

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

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

(n) All medication at the HH shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use except as authorized by (x)(5) below.

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

(p) If controlled substances, as defined by RSA 318-B, are stored in a central storage area in the HH, they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

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

(r) The destruction of contaminated, expired, or discontinued medication shall be completed within 15 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first and shall:

- (1) Be accomplished in the presence of at least 2 people if a controlled substance; and
- (2) Be documented in the record of the patient for whom the drug was prescribed.

(s) Upon discharge or transfer, the licensee shall make the patient's current medications, except for controlled drugs which shall be destroyed in accordance with (r) above, available to the patient and the guardian or agent, if any.

(t) Medication(s) may be returned to pharmacies for credit only as allowed by the law.

(u) When a patient is going to be absent from the HH at the time medication is scheduled to be taken, the medication container shall be given to the patient if the patient is capable of self-administering, as described in (x) below.

(v) A written order from a licensed practitioner shall be required every 90 days for any patient who is authorized to carry emergency medications, including but not limited to nitroglycerine and inhalers.

(w) Patients shall receive their medications by one of the following methods:

- (1) Self-administered medication as allowed by (x) below; or
- (2) Administered by individuals authorized by law.

(x) For patients who self-administer medication as defined in He-P 824.03(bf), the licensee shall:

- (1) Obtain a written order from a licensed practitioner on an annual basis:
 - a. Authorizing the patient to self-administer medications without supervision;
 - b. Authorizing the patient to store the medications in their room; and
 - c. Identifying the medications that may be kept in the patient's room;
- (2) Evaluate the patient's ability to self-administer medication upon admission and whenever there is a significant change in the patient, as defined in 824.03(bg), to ensure they maintain the physical and mental ability to self-administer;
- (3) Have the patient store the medication(s) in his or her room by keeping them in a locked drawer or container to safeguard against unauthorized access and making sure that this arrangement will maintain the medications at proper temperatures;
- (4) Have a copy of the key to access the locked medication storage area in the patient's room; and
- (5) Allow the patient to fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.

(y) 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.

(z) Personnel shall remain with the patient until the patient has taken the medication.

(aa) The licensee shall maintain a written record for each medication taken by the patient at the HH that contains the following information:

- (1) Name of the patient;
- (2) Any allergies or allergic reactions to medications;
- (3) The name, strength dose, frequency, and route of the medication;
- (4) The date and the time the medication was taken;
- (5) The signature and identifiable initials and job title of the person administering the medication;
- (6) Documented reason for any medication refused or omitted; and
- (7) For PRN medications, the reason the patient required the medication and the effect of the PRN medication.

(ab) An LNA who is not licensed as a medication nurse assistant in accordance with RSA 326-B may administer the following when under the direction of the licensed nurse employed by the HH:

- (1) Medicinal shampoos and baths;
- (2) Glycerin suppositories and enemas; and
- (3) Medicinal topical products to intact skin as ordered by the licensed practitioner.

(ac) Non-prescription stock medications shall only be accessed and administered by the licensed nurse or medication nurse assistant on duty.

(ad) An HH shall use emergency drug kits only in accordance with board of pharmacy rule Ph 705.03 under circumstances where the HH:

- (1) Has a director of nursing who is a RN licensed in accordance with RSA 326-B; and
- (2) Has a contractual agreement with a medical director who is licensed in accordance with RSA 329 and a consultant pharmacist who is licensed in accordance with RSA 318.

(ae) The licensee shall develop and implement a system for reporting any observed adverse reactions to medication and side effects, or medication errors such as incorrect medications, within 24 hours of the adverse reaction or medication error.

(af) If ordered by the department to do so, the HH shall obtain the services of a consulting pharmacist to rectify medication deficiencies, which present a risk to the patient's health and safety, as identified during an inspection or investigation.

He-P 824.19 Personnel.

(a) The licensee shall ensure that sufficient numbers of qualified personnel are present in the HH to meet the needs of patients at all times.

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

- (1) Duties of the position;
 - (2) Physical requirements of the position; and
 - (3) Qualifications and educational requirements of the position.
- (c) All direct care personnel shall be at least 18 years of age unless they are:
- (1) An LNA working under the supervision of an RN in accordance with Nur 700; or
 - (2) Part of an established educational program working under the supervision of a registered nurse.
- (d) For all new hires, the licensee shall:
- (1) Obtain and review a criminal records check in accordance with RSA 151:2-d. Results must include criminal history from the state of New Hampshire;
 - (2) Verify the qualifications and licenses, as applicable, of all applicants prior to employment; and
 - (3) Verify that the applicant is not on the BEAS registry maintained by the department's bureau of elderly and adult services per RSA 161-F:49.
- (e) Unless a waiver is granted in accordance with He-P 824.10, the licensee shall not offer employment for any position if the individual:
- (1) Has been convicted of a felony in this or any other state;
 - (2) Has been convicted of a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation in this or any other state;
 - (3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, theft, abuse, neglect, or exploitation of any person; or
 - (4) Otherwise poses a threat to the health, safety, or well-being of patients.
- (f) If the information identified in (e) above regarding any person in (d) above is learned after the person is hired, contracted with, or engaged, the licensee shall immediately notify the department and either:
- (1) Cease employing, contracting with, or engaging the person; or
 - (2) Request a waiver of (e) above.
- (g) If a waiver of (e) above is requested, the department shall review the information and the underlying circumstances in (e) above and shall either:
- (1) Notify the licensee that the person cannot or can no longer be employed, contracted with, or engaged by the licensee; or
 - (2) Grant a waiver of (e) above if, after investigation, it determines that the person does not pose a current threat to the health, safety, or well-being of a patient(s).

(h) The licensee shall not employ, contract with, or engage, any person in (d) above who is listed on the BEAS state registry unless a waiver is granted by BEAS.

(i) In lieu of (d) and (h) above, the licensee may accept from independent agencies contracted by the licensee or by an individual patient to provide direct care or personal care services a signed statement that the agency's employees have complied with (c) and (g) above and do not meet the criteria in (d) above

(j) Prior to having direct care contact with patients, personnel, including volunteers and independent contractors shall:

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

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

(3) Comply with the requirements of the Centers for Disease Control and Prevention "Guidelines for Preventing the Transmission of M. tuberculosis in Health-Care Settings" (2005 edition), available as noted in Appendix A, if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to M. tuberculosis through shared air space with persons with infectious tuberculosis; and

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

(k) Within the first 7 days of employment, all personnel who have direct or indirect contact with patients, to include volunteers who have direct care contact or who prepare and serve food shall receive a tour of the HH and an orientation that includes the following:

(1) The patients' rights in accordance with RSA 151:21;

(2) The HH's complaint procedures;

(3) The duties and responsibilities of the position;

(4) The medical emergency procedures;

(5) The HH's infection control procedures and required by He-P 824.22;

(6) The HH's emergency and evacuation procedures;

(7) The procedures for food safety for those personnel involved in preparation, serving, and storing of food; and

(8) The mandatory reporting requirements such as RSA 161:F: 46-48 and RSA 169-C: 29-31.

(l) Within the first 3 months of employment, all personnel who have direct or indirect contact with patients, to include volunteers who have direct care contact or who prepare and serve food shall receive an orientation to hospice philosophy relative to the delivery of care and services to hospice patients and their families.

(m) All personnel shall complete mandatory annual in-service education, which shall include a review of the information required by (k)(7) and (8) above.

(n) The licensee shall comply with all dementia training requirements pursuant to RSA 151:47-49 including continuing education.

(o) Such continuing education shall include new information on best practices in the treatment and care of persons with dementia and be provided for:

(1) A minimum of 6 hours for initial continuing education to covered administrative staff members and covered direct service staff members; and

(2) A minimum of 4 hours of ongoing training each calendar year.

(p) All personnel shall sign a statement at the time the initial offer of employment is made and then annually thereafter stating that they:

(1) Do not have a felony conviction in this or any other state;

(2) Have not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a patient; and

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

(q) Personnel, volunteers, or independent contractors hired by the licensee who will have direct care contact with patients, as defined in He-P 824.03(s), or direct contact with food who have a history of TB or a positive skin test shall have a symptomatology screen in lieu of a TB test.

(r) The licensee shall inform personnel of the line of authority at the HH.

(s) The personnel file for each individual shall include the following:

(1) A completed application for employment or a resume;

(2) Proof that the individual meets the minimum age requirements;

(3) A statement signed by each individual that he or she has received a copy of and received training on the implementation of the licensee's policy setting forth the patient's rights and responsibilities as required by RSA 151:21;

(4) A copy of the results of the criminal record check as described in (a) above;

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

a. Position title;

b. Qualifications and experience; and

c. Duties required by the position;

(6) Record of satisfactory completion of the orientation program required by (n) above;

(7) Information as to the general content and length of all in-service or educational programs attended;

(8) Record of satisfactory completion of all required education programs and demonstrated competencies that is signed and dated by the employee;

(9) Documentation that the required physical examinations, health screenings, TB test results, and radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals; and

(10) The statement required by (t) below.

(t) All personnel shall sign a statement at the time the initial offer of employment is made and then annually thereafter stating that they:

(1) Do not have a felony conviction in this or any other state;

(2) Have not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation or pose a threat to the health, safety, or well-being of a patient; or

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

(u) The licensee shall maintain separate personnel records that:

(1) Contain the information required by (s) above; and

(2) Are protected and stored in a secure and confidential manner.

(v) The licensee shall document evidence of immunization against influenza and pneumococcal disease for all consenting employees and shall provide to its consenting employees annual immunizations against influenza, to include:

(1) That immunizations shall be provided and reported in accordance with RSA 151:9-b, I-V; and

(2) The facility shall have a plan that identifies and documents, with dates, employees that have received or declined to receive immunizations.

He-P 824.20 Quality Improvement.

(a) The HH shall develop and implement a quality improvement program that reviews policies and all care and services provided to patients and maximize quality by preventing or correcting identified problems.

(b) As part of its quality improvement program, a quality improvement committee shall be established.

(c) The HH shall determine the size and composition of the quality improvement committee based on the size of the facility and the care and services provided.

- (d) The quality improvement committee shall:
- (1) Determine the information to be monitored;
 - (2) Determine the frequency with which information will be reviewed;
 - (3) Determine the indicators that will apply to the information being monitored;
 - (4) Evaluate the information that is gathered;
 - (5) Determine the action that is necessary to correct identified problems;
 - (6) Recommend corrective actions to the licensee;
 - (7) Evaluate the effectiveness of the corrective actions; and
 - (8) Meet quarterly.

He-P 824.21 Infection Control.

(a) The HH shall appoint an individual who will oversee the development and implementation an infection control program that educates and provides procedures for the prevention, control and investigation of infectious and communicable diseases.

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

- (1) Proper hand washing techniques;
- (2) The utilization of universal precautions.;
- (3) The management of patients with infectious or contagious diseases or illnesses;
- (4) The handling, storage, transportation, and disposal of those items specified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904; and
- (5) The reporting of infectious and communicable diseases as required by He-P 301.

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

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

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

(e) Personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the SRHCF until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.

(f) Personnel with an open wound who prepare food or provide direct care in any capacity shall cover such wound at all times by an impermeable, durable, tight-fitting bandage.

(g) Personnel infected with scabies or lice/pediculosis shall not provide direct care to patients or prepare food until such time as they are no longer infected.

(h) If the licensee accepts a patient who is known to have a disease reportable under He-P 301 or an infectious disease, which means any diseases caused by the growth of microorganisms in the body which might or might not be contagious, the HH shall provide the required procedures, equipment and staff, as specified by the United States Centers for Disease Control and Prevention, “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007), available as noted in Appendix A.

He-P 824.22 Food Services.

(a) The licensee shall provide food services that meet:

(1) The US Department of Agriculture recommended dietary allowance as specified in the US Department of Agriculture’s “Dietary Guidelines for Americans” (2020-2025 edition), available as noted in Appendix A;

(2) The nutritional needs of each patient; and

(3) The special dietary needs associated with health or medical conditions for each patient as identified on the patient assessment.

(b) Each patient shall be offered at least 3 nutritious meals and snacks in each 24-hour period when the patient is in the licensed premises unless contraindicated by the patient’s care plan.

(c) Snacks shall be available between meals and at bedtime if not contraindicated by the patient’s care plan.

(d) The licensee shall provide therapeutic diets to patients as directed by a licensed practitioner or other professional with prescriptive authority.

(e) For the purposes of emergency preparedness, each licensee shall have the following supplies of foods maintained on the premises for the licensed capacity:

(1) Enough refrigerated, perishable foods for a 3-day period;

(2) Enough non-perishable foods for a 7-day period; and

(3) Enough drinking water for a 3-day period.

(f) All food and drink provided to the patients shall be:

(1) Safe for human consumption and free of spoilage or other contamination;

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

(3) Served at the proper temperatures;

- (4) Labeled, dated and stored at proper temperatures; and
 - (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination; and
 - (6) The use of expired, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded.
- (g) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.
- (h) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.
- (h) If soiled linen is transported through food service areas, the linen shall be in an impervious container.
- (i) Trash receptacles in food service areas shall have covers and shall remain closed except when in use.
- (j) All HH personnel involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

He-P 824.23 Sanitation.

- (a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.
- (b) All furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary and in good repair.
- (c) A supply of potable water shall be available for human consumption and food preparation, pursuant to Env-Ws 315 and 316.
- (d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the patients.
- (e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.
- (f) All patient bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination.
- (g) Cleaning solutions, compounds, and substances considered hazardous or toxic materials, as defined in RSA 147-A:2,VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place, such as a locked box, separate from food, medications and patient supplies.
- (h) Toxic materials shall not be used in a way that contaminates food, equipment, or utensils or in any way other than in full compliance with the manufacturer's labeling.
- (i) Only individuals authorized under RSA 430:33 may apply pesticides, as defined by RSA 430:29, XXVI, in food storage, food preparation or dining areas.
- (j) Solid waste, garbage, and trash shall be stored in a manner to make it inaccessible to insects and rodents, outdoor animals, and facility pets.

(k) In-house trash and garbage receptacles shall be emptied in a timely manner and lined, or cleaned and disinfected after emptying or when visibly soiled.

(l) Trash receptacles in food service areas shall be covered.

(m) Laundry and laundry rooms shall meet the following requirements:

(1) Laundry and laundry rooms shall be kept separate from kitchen and dining areas;

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

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

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

(5) Soiled materials, linens, and clothing shall be handled as little as possible and transported in a laundry bag, sack or a covered container.

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

(o) There shall be a designated work area for soiled materials and linens that contain a work counter of at least 6 linear feet, a sink, and a storage area.

(p) Any HH that has its own water supply and whose water has been tested and has failed to meet the acceptable levels identified in this section, or as required by the department of environmental services, shall notify the department.

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

He-P 824.24 Physical Environment.

(a) The HH shall:

(1) Have all entrances and exits accessible at all times;

(2) Be maintained in good repair and kept free of hazards to personnel and patients, including, but not limited to, hazards from falls, burns, or electrical shocks;

(3) Be free from environmental nuisances, including excessive noise and odors;

(4) Keep all corridors free from obstructions; and

(5) Take measures to prevent the presence of rodents, insects, and vermin.

(b) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, welfare and comfort of patient(s) and personnel, including reasonable accommodations for patients and personnel with mobility limitations.

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

(1) Maintain a temperature as follows, except where patients have control of the thermostat in their own room:

- a. Be at least 65 degrees Fahrenheit at night; and
- b. Be at least 70 degrees Fahrenheit during the day if the patient(s) are present; and

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

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

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

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

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

(f) Unvented fuel-fired heaters shall not be used in any HH.

(g) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code as adopted under RSA 329-A:15 and RSA 155-A.

(h) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows in each room that can be opened.

(i) Each patient bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage.

(j) The number of sinks, toilets, tubs or showers shall be in a ratio of at least one for every 6 patients.

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

(l) All hand washing facilities shall be provided with hot and cold running water.

(m) Each bedroom shall:

(1) Contain no more than 2 beds;

(2) Have its own separate entry to permit the patient to reach his or her bedroom without passing through the room of another patient;

(3) Have a side hinge door and not a folding or sliding door or a curtain;

- (4) Provide accommodations for family members to remain with the patient throughout the night and physical space for family after a patient's death;
 - (5) Be separated from halls, corridors and other rooms by floor to ceiling walls; and
 - (6) Be located on the same level as the bathroom facilities, if the patient has impaired mobility as identified by the HH assessment.
- (n) The licensee shall provide the following for the patient's use, as needed:
- (1) A bed appropriate to the needs of the patient;
 - (2) A firm mattress that complies with the state fire code;
 - (3) Clean linens, blankets, and a pillow;
 - (4) A bureau;
 - (5) A mirror;
 - (6) A bedside table;
 - (7) A lamp;
 - (8) A chair;
 - (9) A closet or storage space for personal belongings; and
 - (10) Window blinds, shades or curtains that provide privacy.
- (o) The patient may use his or her own personal possessions provided they do not pose a risk to the patient or others.
- (p) The licensee shall provide the following rooms to meet the needs of patients:
- (1) One or more living rooms or multi-purpose rooms; and
 - (2) Dining facilities with a seating capacity capable of meeting the needs of all patients.
- (q) Each licensee shall have a UL listed communication system in place so that all patients can effectively contact personnel when they need assistance with care or in an emergency.
- (r) All bathroom, bedroom, and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (s) Screens shall be provided for:
- (1) Doors;
 - (2) Windows; and
 - (3) Other openings to the outside.

(t) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (s) above.

He-P 824.25 Emergency and Fire Safety.

(a) All HHs shall meet the appropriate chapters of the state fire code and state building code.

(b) All HH's shall have:

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

(2) At least one ABC type fire extinguisher on every level or every 75 feet of corridor as required by NFPA 10 that shall:

a. Be manually inspected when initially placed in service;

b. Be inspected either manually or by means of an electronic monitoring device/system at intervals not exceeding 31 days; and

c. Be inspected at least once per calendar month and include:

1. Documentation of the manual fire extinguisher inspections which shall be maintained on-site in accordance with NFPA 10 and available at the time of the inspection or investigation; and

2. Documentation of electronically monitored fire extinguishers which shall be provided to the department within 2 business days of the completion of the inspection or investigation; and

(3) An approved carbon monoxide monitor on every level.

(c) Immediately following any fire or emergency situation, licensees shall notify the department by phone to be followed by written notification within 72 hours, with the exception of:

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

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

(d) The written notification under (c) above shall include:

(1). The date and time of the incident;

(2) A description of the location and extent of the incident, including any damage;

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

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

(5) The name of any personnel or patients 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.

(e) For the use and storage of oxygen and other related gases, HHs shall comply with NFPA 99, Health Care Facilities Code including, but not limited to, the following:

(1) All freestanding compressed gas cylinders shall be firmly secured to the adjacent wall or secured in a stand or rack;

(2) Storage locations shall be outdoors in an enclosure or within an enclosed interior space of noncombustible or limited-combustible construction, with doors, or with gates if outdoors, that can be secured against unauthorized entry;

(3) Oxidizing gases, such as oxygen and nitrous oxide, shall:

a. Not be stored with any flammable gas, liquid, or vapor;

b. Be separated from combustibles or incompatible materials by:

1. A minimum distance of 20 ft (6.1 m);

2. A minimum distance of 5 ft (1.5 m) if the entire storage location is protected by an automatic sprinkler system designed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems; or

3. An approved, enclosed flammable liquid storage cabinet of noncombustible construction having a minimum fire protection rating of one-half hour for cylinder storage; and

c. Shall be secured in an upright position, such as with racks or chains;

(4) A precautionary sign, readable from a distance of 5 ft (1.5 m), shall be conspicuously displayed on each door or gate of the storage room or enclosure, and shall include, at a minimum, the following: “CAUTION, OXIDIZING GAS(ES) STORED WITHIN - NO SMOKING”; and

(5) Precautionary signs, readable from a distance of 5 ft (1.5 m), and with language such as “OXYGEN IN USE, NO SMOKING”, shall be conspicuously displayed wherever supplemental oxygen is in use and in aisles and walkways leading to the area of use, and shall be attached to adjacent doorways or to building walls or be supported by other appropriate means.

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

(e) If the licensee has chosen to allow smoking, a designated smoking area shall be provided which has, at a minimum:

(1) A dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;

(2) Walls and furnishings constructed of non-combustible materials; and

(3) Metal waste receptacles and safe ashtrays.

(f) A copy of the fire safety plan including fire drill actions shall be made available to and reviewed with the patient, or the patient's guardian or a person with durable power of attorney (DPOA), at the time of admission and a summary of the patient's responsibilities shall be provided to the patient. Each patient shall receive an individual fire drill walk-through within 5 days of admission, as appropriate.

(g) The fire safety plan shall be reviewed and approved as follows:

(1) A copy of the fire safety plan shall be made available, annually and whenever changes are made, to the local fire chief for review and approval;

(2) The local fire chief shall give written approval initially to all fire safety plans; and

(3) If changes are made to the plan, they shall be submitted to the local fire chief for review and approval, as appropriate, prior to the change.

(h) Fire drills shall be conducted as follows:

(1) For all HHs which are constructed to meet the Health Care Occupancy Chapter of Life Safety Code, NFPA 101 as defined in RSA 153:1, VI-a, except as modified in Saf- FMO 300, and the rules and regulations adopted and enforced by the state fire marshal's office and/or the municipality or have been physically evaluated, renovated, and approved by a New Hampshire licensed fire protection engineer, the NH state fire marshal's office and the department to meet the Health Care Occupancy Chapter, the following shall be required:

a. The facility shall develop a fire safety plan, which provides for the following:

1. Use of alarms;

2. Transmission of alarms to fire department;

3. Emergency phone call to fire department;

4. Response to alarms;

5. Isolation of fire;

6. Evacuation of immediate area;

7. Evacuation of smoke compartment;

8. Preparation of floors and building for evacuation;

9. Extinguishment of fire; and

10. Written emergency telephone numbers for key staff, fire and police departments, poison control center, 911, and ambulance service(s);

b. Fire drills shall be conducted quarterly on each shift to familiarize facility personnel including, but not limited to, medical personnel, maintenance engineers, and administrative staff, with the signals and emergency action required under varied conditions;

c. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions;

d. Buildings that have a shelter in place, also known as defend in place, shall have this plan approved by the department and their local fire chief and shall be constructed to meet the Health Care Occupancy Chapter of the Life Safety Code;

e. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement shall be permitted to be used instead of audible alarms

f. If the facility has an approved defend or shelter in place plan, then all personnel, patients, and visitors shall evacuate to that appropriate location or to the outside of the building to a selected assembly point and drills shall be designed to ensure that patients shall be given the experience of evacuating to the appropriate location or exiting through all exists;

g. Facilities shall complete a written record of fire drills and include the following:

1. The date and time, including AM or PM, the drill was conducted and if the actual fire alarm system was used;

2. The location of exits used;

3. The number of people, including patients, personnel, and visitors, participating at the time of the drill;

4. The amount of time taken to completely evacuate the facility, evacuate to an approved area of refuge, or evacuate through a horizontal exit;

5. The name and title of the person conducting the drill;

6. A list of problems and issues encountered during the drill;

7. A list of improvements and resolution to the issues encountered during the fire drill;

8. The names of all staff members participating in the drill; and

9. Written records of the fire drills shall be maintained on site and available to the department during an inspection or investigation conducted in accordance with RSA 151:6 and RSA 151:6-a; and

h. At no time shall a staff member who has not participated in a fire drill be the only staff member on duty within the facility; and

(2) The facility shall conduct a fire drill in the presence of a representative of the department, state fire marshal's office, or the local fire department upon request.

(a) Each facility shall have an individual or group, known as an emergency management committee, with the authority for developing, implementing, exercising, and evaluating the emergency management program. The committee shall include the facility administrator and others who have knowledge of the facility and the capability to identify resources from key functional areas within the facility and shall solicit applicable external representation, as appropriate.

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

(c) The plan in (b) above shall:

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

(2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;

(3) Be available to all personnel;

(4) Be based on realistic conceptual events;

(5) Be modeled on the Incident Command System (ICS) in coordination with local emergency response agencies;

(6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats which shall be worn at all times in a visible location during the emergency;

(7) Include the facility's response to both short-term and long-term interruptions in the availability of utility service in the disaster or emergency, including establishing contingency plans for continuity of essential building systems or evacuation to include the following, as applicable:

a. Electricity;

b. Water;

c. Ventilation;

d. Fire protection systems;

e. Fuel sources;

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

g. Communications systems;

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

(9) Include the management of patients, particularly with respect to physical and clinical issues to include:

- a. Relocation of patients with their medical record including the medicine administration records, if time permits, as detailed in the emergency plan;
- b. Access, as appropriate, to critical materials such as pharmaceuticals, medical supplies, food supplies, linen supplies and industrial and potable water; and
- c. How to provide security during the disaster;

(10) Identify a designated media spokesperson to issue news releases and an area where the media can be assembled, where they won't interfere with the operations of the facility;

(11) Reflect measures needed to restore operational capability with consideration of fiscal aspects because of restoration costs and possible cash flow losses associated with the disruption;

(12) Include an educational, competency-based program for the staff, to provide an overview of the components of the emergency management program and concepts of the ICS and the staff's specific duties and responsibilities; and

(13) If the facility is located within 10 miles of a nuclear power plant and is part of the New Hampshire plan for radiological emergency preparedness, include this plan in the event of a radiological disaster or emergency.

(d) The facility shall conduct and document with a detailed log, including personnel signatures, 2 drills a year at least one of which shall rehearse mass casualty response for the facility with emergency services, disaster receiving stations or both.

(e) For the purposes of emergency preparedness, each licensee shall have the following supplies of foods and water maintained on the premises based on the average daily census of patients and staff:

- (1) Enough refrigerated, perishable foods for a 3-day period;
- (2) Enough non-perishable foods for a 7-day period; and
- (3) Potable water for a 3-day period.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 824.07(h) and (i)	Facility Guidelines Institutes (FGI), “Guidelines for Design and Construction of Residential Health, Care, and Support Facilities” (2022 edition)	Publisher: Facility Guidelines Institutes Cost: \$235-multiple user/\$90-single user The incorporated document is available at: https://fgiguideines.org/guidelines/2022-edition/
He-P 824.19(j)(3)	United States Centers for Disease Control and Prevention, “Guidelines for Preventing the Transmission of M. tuberculosis in Health-Care Settings” (2005 edition)	Publisher: United States Center for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm?s_cid=rr5417a1_e
He-P 824.21(h)	United States Centers for Disease Control and Prevention, “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in healthcare Settings” (June 2007 edition)	Publisher: United States Center for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/coronavirus/mers/downloads/Isolation2007.pdf
He-P 824.22(a)(1)	US Department of Agriculture’s, “Dietary Guidelines for Americans” (2020-2025 edition)	Publisher: US Department of Agriculture Cost: Free of Charge The incorporated document is available at: https://www.dietaryguidelines.gov/

APPENDIX B

Rule	Specific State or Federal Statutes the Rule Implements
He-P 824.01 – He-P 824.03	RSA 151:9, I(a) and (b) and RSA 151:9, VII(a)(2)
He-P 824.04 – He-P 824.07	RSA 151:2, I and II and RSA 151:9, I(c) and (d)
He-P 824.08	RSA 151:9, I(a)
He-P 824.09	RSA 151:9, I(e)
He-P 824.10	RSA 151:9, I(a)
He-P 824.11	RSA 151:9, I(e)
He-P 824.12	RSA 151:9, I(f), (g), (l) and (m)
He-P 824.13	RSA 151:9, I(f), (h) and (l)
He-P 824.14 – He-P 824.26	RSA 151:9, I(a) and RSA 151:9, VII(a)(2)