

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Statutory Authority: RSA 151:9

PART He-P 805 SUPPORTED RESIDENTIAL HEALTH CARE FACILITY LICENSING RULES

Readopt with amendment He-P 805.03 through He-P 805.13, effective 4-21-15 (Document #10813), to read as follows:

He-P 805.03 Definitions.

- (a) "Abuse" means any one of the following:
- (1) "Emotional abuse" means the misuse of power, authority, or both, verbal harassment, or confinement which results or could result in the mental anguish or emotional distress of residents;
 - (2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to residents; or
 - (3) "Sexual abuse" means contact or interaction of a sexual nature involving residents 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 medication management.
- (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 an action imposed upon a licensee in response to non-compliance with RSA 151 and He-P 805.
- (f) "Administrator" means the licensee or individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premise.
- (g) "Admission" means the point in time when a resident, who has been accepted by a licensee for the provision of services, physically moves into the facility.
- (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, or a surrogate decision-maker in accordance with RSA 137-J:35.
- (i) "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 decision-maker identified under RSA 137-J:34-37.
- (j) "Applicant" means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an SRHCF pursuant to RSA 151.

(k) “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 805, or other federal or state requirements.

(l) “Assessment” means an evaluation of the resident to determine the care and services that are needed.

(m) “Care assessment for residential services (CARES) tool” means the document developed by the department to assess the needs of a resident or prospective resident as required by RSA 151:5-a, I.

(n) “Care plan” means a written guide developed by the licensee, in consultation with the resident or guardian, agent, or personal representative, if applicable, as a result of the assessment process for the provision of care and services as required by He-P 805.16(d) - (j).

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

(p) “Chemical restraints” means any medication that is used for discipline or staff convenience, in order to alter a resident’s behavior such that the resident requires a lesser amount of effort or care, and is not in the resident’s best interest, and not required to treat medical symptoms.

(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 New Hampshire department of health and human services, or his or her designee.

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

(t) “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 effects 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.

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

(v) “Department” means the New Hampshire department of health and human services at 129 Pleasant Street, Concord, NH 03301.

(w) “Direct care” means the provision of hands-on care and services to a resident, including but not limited to medical, nursing, psychological, or rehabilitative treatments.

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

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

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

(aa) “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 resident 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)”.

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

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

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

(ae) “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 with RSA 151 or He-P 805.

(af) “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”.

(ag) “Exploitation” means the illegal use of a resident’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 resident through the use of undue influence, harassment, duress, deception, or fraud.

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

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

(aj) “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.

(ak) “Household member” means the caregiver, all family members and any other individuals age 17 or older, other than residents that reside at the licensed premises for more than 30 days.

(al) “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.

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

(an) “Informed consent” means the decision by a resident, his or her guardian, agent, or surrogate decision-maker to agree to a proposed course of treatment, after the resident, 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.

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

(ap) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 805 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 and He-P 805.

(aq) “Laboratory” means any building, place, or mobile laboratory van, for the biological, microbiological, serological, chemical, immunohematological, 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 disease.

(ar) “License” means the document issued to an applicant or licensee of an SRHCF which authorizes operation in accordance with RSA 151 and He-P 805, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

(as) “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 SRHCF is licensed for.

(at) “Licensed practitioner” means a:

- (1) Medical doctor;
- (2) Physician's assistant;
- (3) Advanced practice registered nurse;
- (4) Doctor of osteopathy;
- (5) Doctor of naturopathic medicine; or
- (6) Any other practitioner with diagnostic and prescriptive powers licensed by the appropriate state licensing board.

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

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

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

(ax) “Life safety code” means the standards, 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.

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

(az) “Medical director” means a medical doctor, advanced practice registered nurse, doctor of osteopathy or doctor of naturopathic medicine licensed in New Hampshire in accordance with RSA 329 or 326-B who is responsible for overseeing the quality of medical care and services in an SRHCF.

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

(bb) “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.

(bc) “Neglect” means an act or omission that results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional or physical health and safety of a resident.

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

(be) “Nursing care plan” means a written guide developed by a nurse in consultation with the resident and/or guardian, agent, or personal representative, that lists the interventions necessary to meet the resident’s nursing needs.

(bf) “One and 2 family dwelling unit” means one- and 2-family dwellings, which shall include those buildings containing not more than 2 dwelling units in which each dwelling unit is occupied by members of a single family with not more than 3 outsiders, if any, accommodated in rented rooms.

(bg) “Orders” means an electronic or written document, or a verbal direction, by a licensed practitioner for medications, treatments, recommendations, 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.

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

(bi) “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.

(bj) “Patient rights” means the privileges and responsibilities possessed by each resident provided by RSA 151:21. This term includes “resident rights”.

(bk) “Performance based design” means an engineering approach to fire protection design and construction based on:

- (1) Established fire safety goals and objectives;
- (2) Deterministic and probabilistic analysis of fire scenarios; and
- (3) Quantitative assessment of design alternatives against the fire safety goals and objectives using accepted engineering tools, methodologies, and performance criteria.

(bl) “Personal assistance” means providing or assisting a resident in carrying out activities of daily living.

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

(bn) “Personnel” means individual(s), either paid or volunteer, who provide direct or indirect care or services, or both, to a resident(s).

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

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

(bq) “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 get 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.

(br) “Point of care testing (POCT)” means medical diagnostic testing performed using either manual methods or hand held instruments at or near the point of care, at the time and place of patient care.

(bs) “Pro re nata (PRN) medication” means medication taken as circumstances may require.

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

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

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

(bv) “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.

(bw) “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.

(bx) “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.

(by) “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.

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

- (1) The unanticipated death of the resident;
- (2) An injury to a resident, that is of a suspicious nature of potential abuse or neglect under circumstances where the injury was not observed by any person or the cause of the injury could not be explained by the resident; or
- (3) The elopement or unexplained absence of a resident from the SRHCF.

(ca) “Resident” means any person admitted to or in any way receiving care, services or both who resides in a SRHCF.

(cb) “Residential board and care”, as defined in NFPA 101 of the fire code, means a facility where residents are provided with personal care and activities that foster continued independence and residents are trained and required to respond to fire drills to the extent they are able. These facilities are further grouped as “small”, 4-16 beds or “large”, over 16 beds.

(cc) “Residential care facility”, as defined in NFPA 101 of the fire code, means a long term care residence providing personal assistance at the residential care level pursuant to RSA 151:9, VII(a)(1).

(cd) “Resident record” means a separate file maintained for each resident, which includes all documentation required by RSA 151 and He-P 805 and as required by other federal and state law.

(ce) “Respite care” means the admission of a person from his or her primary residence to an SRHCF, on either a planned or emergency basis, for a period not to exceed 30 days in order to relieve the primary caregiver from the demands of providing home-based care.

(cf) “Self administration with assistance” means the resident takes his or her own medication(s) after being prompted by personnel, but without requiring physical assistance from others.

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

(ch) “Self directed medication administration” means an act whereby a resident, who has a physical limitation that prohibits him or her from self-administering, directs personnel to physically assist in the medication process.

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

(cj) “Severe mobility impairment” means the ability to move to stairs but without the ability to use them.

(ck) “Significant change” means a decline or improvement in a resident’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 resident’s health status; and
- (3) Requires interdisciplinary review and/or revision of the care plan.

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

(cm) “Stock medication” means over-the-counter medication available for use by more than one resident.

(cn) “Supported residential health care facility (SRHCF)” means a long-term care residence providing personal assistance at the supported residential care level pursuant to RSA 151:9, VII(a)(2).

(co) “Therapeutic diet” means a diet ordered by a licensed practitioner or other licensed professional with prescriptive authority as part of the treatment for disease, clinical conditions, or increasing or decreasing specific nutrients in the food consumed by the resident.

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

(cq) “Unexplained absence” means an incident involving a resident leaving the premises of the SRHCF without the knowledge of the SRHCF personnel in a manner that is contrary to their normal routine.

(cr) “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 805.04 Initial License Application Submission.

(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 Services” (January 2022), signed by the applicant or 2 of the corporate officers, affirming to the following:

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

- (2) A floor plan of the prospective SRHCF;

- (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, IX, 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) A resume identifying the qualifications of the SRHCF administrator;
- (6) Copies of applicable licenses for the SRHCF administrator;
- (7) Written local approvals as follows:
- a. For an existing building, the following written local approvals shall be obtained no more than 90 days prior to submission of the application, from the following local officials or if there is no such official(s), from the board of selectmen or mayor:
 1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
 2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
 3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
 4. The fire chief verifying that the applicant complies with the state fire code and codes adopted by reference as defined in RSA 153:1, VI-a, except as modified in Saf-FMO 300 including the health care chapter of the Life Safety 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 application based on the local official's review of the building plans and again upon completion of the construction project;
- (8) If the SRHCF uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485, Env-Dw 702.02, Env-Dw 704.02, or if a public water supply is used, a copy of a water bill; and
- (9) The results of a criminal records check from the NH department of safety for the applicant, licensee if different than the applicant, and administrator.
- (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 805.05 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 805.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 805.04(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 805.13(b) if 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, abuse, neglect, or exploitation;

(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 805.

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

(h) A written notification of denial, pursuant to He-P 805.13(a), shall be sent to an applicant applying for an initial license if it has been determined by the inspection in He-P 805.05(f) and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 805.

(i) A written notification of denial, pursuant to He-P 805.13(b)(4), 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 805.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire one year from the date of issuance, 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 805.04(a)(1) at least 120 days prior to the expiration of the current license and 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 805.10(f), if applicable;

(3) A list of any current employees who have a permanent waiver granted in accordance with He-P 805.18(c); and

(4) A copy of any non-permanent or new variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005, or successor rules, whether adopted by the department of safety, or amended pursuant to RSA 153:5, I, by the state fire marshal, with the board of fire control.

(c) In addition to He-P 805.06(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-Dw702 for bacteria and Env-Dw 704.02 for nitrates.

(d) Following an inspection as described in He-P 805.09, a license shall be renewed if the department determines that the licensee:

(1) Submitted an application containing all the items required by He-P 805.06(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 805, 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.

(e) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license and does not intend to cease operation shall be required to submit an application for an initial license pursuant to He-P 805.04(a) and shall be subject to a fine in accordance with He-P 805.13(c)(7).

He-P 805.07 SRHCF Construction, Modifications or Structural Alterations.

(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 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 NH 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 805 and notify the applicant or licensee as to whether the proposal complies with these requirements.

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

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

(h) A licensee or applicant undertaking construction or rehabilitation of a building shall comply with the following:

- (1) Saf-C 6000 and the state fire code under RSA 153:1, VI-a, including but not limited to, NFPA 1 and NFPA 101, and as amended in Saf-FMO 300, by the state fire marshal with the board of fire control and ratified by the general court pursuant to RSA 153:5;
- (2) The state building code as defined in RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155-A:10, V; and
- (3) The Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities", (2018 edition), available as noted in Appendix A.

(i) All SRHCFs newly constructed or rehabilitated after the 2022 effective date of these rules shall comply with the FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 edition), as applicable, as available as noted in Appendix A.

(j) 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 Health, Care, and Support Facilities" (2018 edition), as available as noted in Appendix A.

(k) The department shall be the authority having jurisdiction for the requirements in (h) and (i) above and shall negotiate compliance with the licensee and their representatives and grant waivers in accordance with He-P 805.10 as appropriate.

(l) 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.

(m) 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.

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

(o) The building, including all construction and rehabilitated spaces shall be subject to an inspection pursuant to He-P 805.09 prior to its use.

He-P 805.08 SRHCF Requirements for Organizational or Service Changes.

(a) The SRHCF 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 SRHCF 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 address without a change in location the SRHCF shall provide the department with a copy of the notification from the local, state, or federal agency that requires the change.

(d) When there is a change in the name, the SRHCF 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 the department;
- (2) The physical location;
- (3) An increase in the number of beds or residents authorized under the current license;
- (4) A change in license classification; or
- (5) A change that places the facility under a different life safety 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 SRHCF name or a change in address 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 805.10.

(i) The SRHCF 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;
- (3) The results of a NH criminal background check from the NH department of safety for the new administrator or medical director;
- (4) The results of the criminal attestation as described in He-P 805.18(t); and
- (5) The results of the BEAS registry check per He-P 805.18(e).

(j) Upon review of the materials submitted in accordance with (i) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position as specified in He-P 805.18(g) and (h).

(k) If the department determines that the new administrator 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, the SRHCF 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, in the physical environment will be made.

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

(n) The SRHCF 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 SRHCF 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 a SRHCF, the licensee shall submit written notification to the department at least 60 days in advance which shall include a written closure plan.

He-P 805.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 805, 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 SRHCF; and
- (3) Any records required by RSA 151 and He-P 805.

(b) The department shall conduct a clinical and life safety code inspection, as necessary, to determine full compliance with RSA 151 and He-P 805 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 805.08(e)(1);
- (3) A change in the physical location of the SRHCF;
- (4) A change in the licensing classification;
- (5) A change in the life safety code occupancy chapter the facility is licensed under;
- (6) An increase in the number of beds;
- (7) Occupation of space after construction, renovations or alterations; or
- (8) The renewal of a license.

(c) In addition to (b) above, the department shall conduct an inspection to verify the implementation of any POC accepted or issued by the department 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 notice to correct for life safety code inspections shall be issued when, as a result of any inspection, the department determines that the SRHCF is in violation of any of the provisions of He-P 805, 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 805, within 21 days of the date on the letter that transmits the inspection report.

He-P 805.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 805 shall submit a written request for a waiver to the department 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 if less than permanent.

(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 department 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 residents; and
- (3) Does not affect the quality of resident 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) If a waiver renewal 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.

(h) The request to renew a waiver shall be subject to (b) through (f) above.

He-P 805.11 Complaints.

(a) The department shall investigate any complaint that meets the following conditions:

(1) The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);

(2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s); 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 805.

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

(1) The name and address of the SRHCF, 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 805.

(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 SRHCF, the department shall:

(1) Provide written notification of the results of the investigation to the licensee along with an inspection report if areas of non-compliance were found as a result of the investigation;

(2) Notify any other federal, state, or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate;

(3) Notify the licensee, in writing, and take no further action if the department determines that the complaint is unfounded, under (a) above, or does not violate any statutes or rules; and

(4) Require the licensee to submit a POC in accordance with He-P 805.

(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(e);

(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 805;

(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 805.13 (c)(6).

(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 805.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 805, 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 license; or
- (4) Monitoring of a licensee.

(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, He-P 805, or other applicable licensing rules; and
- (2) Identifies the specific remedy(s) that has been imposed.

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

(1) Upon receipt of a statement of findings, or a notice to correct, the licensee shall submit its written POC for each item, written in the appropriate space 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 to develop and submit the POC within the 21-calendar day period but has been unable to do so; and
- b. The department determines that the health, safety, or well-being of a resident will not be jeopardized as a result of granting the extension;

(3) The department shall review and accept each POC that:

- a. Achieves compliance with RSA 151 and He-P 805;
 - 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 805 as a result of the 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 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 resident shall 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 805.12(d) and a fine in accordance with He-P 805.13(c)(13);
- (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 annual 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 or revised POC has not been implemented by the completion date at the time of the next inspection, the licensee shall be:
- a. Notified by the department in accordance with He-P 805.12(b); and
 - b. Issued a directed POC in accordance with (d) below and shall be subject to a fine, as appropriate, in accordance with He-P 805.13(c)(14) below.

(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 residents 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:

- (1) Issue a warning that enforcement action will be taken if the POC is not implemented;
- (2) Impose a fine in accordance with He-P 805.13(c);
- (3) Deny the application for a renewal of a license in accordance with He-P 805.13(b); or
- (4) Revoke the license in accordance with He-P 805.13(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; or
- (2) The presence of conditions in the SRHCF that negatively impact the health, safety, or well-being of patients.

He-P 805.13 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 805 which poses a risk of harm to a resident'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 805.04;
- (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 805.12(c),(d), and (e);
- (7) The licensee is cited a third time under RSA 151 or He-P 805 for the same violation within the last 5 inspections;
- (8) A licensee, or its corporate officers, has had a license revoked and submits an application during the 5-year prohibition period specified in (i) below;
- (9) Unless a waiver has been granted, upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 805;
- (10) 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;

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

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

(c) The department shall impose fines as follows:

(1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 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 resident whose needs exceed the services or programs provided by the SRHCF, in violation of RSA 151:5-a, the fine for a licensee shall be \$500.00;

(5) For admission of a resident whose needs exceed the services or programs authorized by the SRHCF licensing classification, in violation of RSA 151:5-a, II, and He-P 805.15(a) and (b), the fine for a licensee shall be \$1,000.00;

(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 805.11(e)(5), 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 at least 120 days prior to the expiration date, in violation of He-P 805.06(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 805.08(a), 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 805.08(b)(2), the fine for a licensee shall be \$500.00;

(10) For a failure to notify the department of a change in e-mail address as required by He-P 805.08(n), the fine for a licensee shall be \$100.00;

(11) For a failure to allow access by the department to the SRHCF's premises, programs, services, or records, in violation of He-P 805.09(a)(1)-(3), the fine for an applicant, unlicensed individual, or licensee shall be \$2000.00;

(12) For a failure to notify the department prior to a change in the administrator or medical director, in violation of He-P 805.08(i), the fine for a licensee shall be \$100.00;

(13) 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 805.12(c)(2) and (6), the fine for a licensee shall be \$100.00;

- (14) 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 805.12(c)(11) and (e), the fine for a licensee shall be \$1000.00;
- (15) For a failure to establish, implement, or comply with licensee policies, as required by He-P 805.16(i) and He-P 805.19(d), the fine for a licensee shall be \$500.00;
- (16) For a failure to provide services or programs required by the licensing classification and specified by He-P 805.14(b), the fine for a licensee shall be \$500.00;
- (17) For exceeding capacity, in violation of He-P 805.14(l), the fine for a licensee shall be \$500.00, per day;
- (18) For providing false or misleading information or documentation, in violation of He-P 805.14(r) the fine for shall be of \$1000.00 per offense;
- (19) For a failure to meet the needs of the resident, in violation of He-P 805.15(a), the fine for a licensee shall be \$500.00, per resident;
- (20) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 805.18(g)-(h), under circumstances where the department has not granted a waiver in accordance with He-P 805.10, the fine for a licensee shall be \$500.00;
- (21) For failure to cooperate with the inspection or investigation conducted by the department, in violation of He-P 815.09(a), the fine shall be \$2000.00;
- (22) 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 805.07(a), the fine for a licensed facility shall be \$500.00;
- (23) For occupying a renovated area of a licensed facility or a new construction prior to approval by local and state authorities; as required by He-P 805.09(b)(7), 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;
- (24) When an inspection determines that a violation of RSA 151 or He-P 805 has the potential to jeopardize the health, safety, or well-being of a resident, 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 deficiency the fine for a licensee shall be \$1000.00; or
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in a. above the fine for a licensee shall be \$2000.00;
- (25) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 805 shall constitute a separate violation warranting additional fines in accordance with He-P 805.13(c), provided that if the applicant or licensee is making good faith efforts to comply with the provisions of RSA 151 or He-P 805, as verified by documentation or other means, 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) The department shall impose state monitoring under the following conditions:
- (1) Repeated poor compliance on the part of the facility in areas that may impact the health, safety or well-being of residents; or
 - (2) Concern that the conditions in the SRHCF have the potential to worsen.
- (f) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to appeal.
- (g) If a written request is not made pursuant to (f) above, the action of the department shall become final.
- (h) The department shall order the immediate suspension of a license and the provision of services when it finds that the health, safety, or well-being of a resident is in jeopardy and requires emergency action in accordance with RSA 541:A-30, III.
- (i) 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 805 is achieved.
- (j) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.
- (k) RSA 541 shall govern further appeals of department decisions under this section.
- (l) When a SRHCF'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 SRHCF.
- (m) The 5-year period referenced in (l) above shall begin on:
- (1) The date of the department's decision to revoke or deny the license, if no appeal is filed; or
 - (2) The date a final decision upholding the action of the department is issued, if a request for an administrative hearing is made and a hearing is held.
- (n) Notwithstanding (l) 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 805.
- (o) If the department has reasonable information or evidence that a licensee, applicant, administrator, or others are circumventing rule (l) above by applying for a license through an agent or other person and will retain ownership, management authority, or both, the department shall deny the application.

(p) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A, or He-P 805.

Readopt with amendment He-P 805.16, effective 4-21-15 (Document #10813), to read as follows:

He-P 805.16 Required Services.

(a) The licensee shall provide administrative services that include the appointment of a full-time, on-site administrator who:

- (1) Is responsible for the day-to-day operations of the SRHCF;
- (2) Works no less than 35 hours per week at the SRHCF, which may include day, evening, night, and weekend hours;
- (3) Meets the requirements of He-P 805.18(g) and (h); and
- (4) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(b) At the time of application for admission, the licensee shall provide the resident and legal agent, if any or personal representative, a written copy of the residential service agreement pursuant to RSA 161-J, except that a copy of the residential service agreement shall not be required if the facility admission contract includes all of the provisions of a residential service agreement.

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

- (1) An admissions contract including the following information:
 - a. The basic daily, weekly, and monthly fee;
 - b. A list of the core services required by He-P 805.14(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 SRHCF's house rules;
 - f. The reasons a resident may be transferred or discharged in accordance with RSA 151:5-a, II, or RSA 151:21, V;
 - g. The SRHCF's responsibility for resident 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 SRHCF's responsibility for arranging services; and
 3. The fee and payment for services, if known;

- i. The licensee's policy 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 resident and provided on the SRHCF premises;
 5. Handling of resident funds pursuant to RSA 151:24 and He-P 805.14(q);
 6. Bed hold, in compliance with RSA 151:25;
 7. Storage and loss of the resident's personal property; and
 8. Smoking;
 - j. If the facility is not constructed to meet the health care occupancy chapter of NFPA 101, the admission agreement shall note that the resident may need to be discharged or transferred when the facility can no longer meet the resident's evacuation needs as required by the approved fire safety and emergency plan approved by the local fire department;
 - k. The licensee's medication management services and associated costs; and
 - l. The list of grooming and personal hygiene supplies provided by the SRHCF 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 SRHCF's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
 - (3) A copy of the resident's right to appeal an involuntary transfer or discharge under RSA 151:26, II(5);
 - (4) The SRHCF'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;
 - (5) Information on accessing the long-term care ombudsman;
 - (6) Information on advanced directives;
 - (7) Whether or not personnel are trained in cardiopulmonary resuscitation (CPR), first aid, or both; and
 - (8) Whether or not the facility has an automatic electronic defibrillator (AED) onsite and available for use in an emergency.
- (d) The SRHCF shall assess each resident's needs using the "Care Assessment for Residential Services Tool" (January 2022).
- (e) All personnel who administer the CARES tool shall be trained to complete the CARES tool by the department or entities listed in RSA 151:5-a, III.

(f) The assessment described in (d) above shall:

- (1) Be completed no more than 30 days prior to admission to the SRHCF;
- (2) Be completed in consultation with the resident and guardian or agent, if any; and
- (3) Be repeated every 6 months or after any significant change as defined in He-P 805.03(cj);
- (4) Be signed and dated by the individual who completed the CARES tool; and
- (5) Be signed by the resident and guardian, agent, or personal representative, acknowledging that the CARES tool was completed as directed in (2) above.

(g) If the guardian, agent, or personal representative, if any, is unable to sign the CARES tool, the facility shall have documented evidence that the guardian, agent, or personal representative has had an opportunity to take part in completing and reviewing the completed CARES tool.

(h) If the CARES tool identifies the need for a nursing assessment, the nursing assessment shall be completed within 72 hours of the completion of the CARES tool.

(i) If the CARES tool identifies a need for a care plan, the care plan shall be:

- (1) Completed within 24 hours of the resident's admission for the initial CARES tool and within 24 hours of the completion of all subsequent CARES tools;
- (2) Made available to personnel who assist residents;
- (3) Be completed in consultation with the resident and guardian or agent, if any; and
- (4) If the resident and guardian or agent are unable or unwilling to participate as required by (3) above, it shall be documented in the resident record.

(j) The care plan identified in (i) above shall include on an ongoing basis:

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

(k) All care plans shall be reviewed at least every 6 months to determine if:

- (1) The care plan will be continued for another 6 months;
- (2) The care plan will be revised to meet the needs of the resident; or
- (3) The care plan will be discontinued because the plan is no longer needed.

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

- (1) Care plan outcomes if a care plan was developed as identified by the CARE tool;
- (2) The resident's physical, functional, and mental abilities; and
- (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships.

(m) At the time of a resident's admission, the licensee shall obtain written and signed orders from a licensed practitioner for medications, treatment, and special diet.

(n) The licensee shall have each resident obtain a health assessment by a licensed practitioner within one year prior to admission or within 72 hours following admission to the SRHCF.

(o) The health assessment referenced in (n) above shall include:

- (1) Diagnoses, if any;
- (2) The medical history;
- (3) A list of current medications including over-the-counter medications, treatments, and special diets, if applicable; and
- (4) Allergies.

(p) Each resident shall have at least one health assessment every 12 months, unless the primary care licensed practitioner determines annually that a health assessment is not necessary and specifies in writing an alternative time frame, or the resident annually refuses in writing.

(q) A resident may refuse all care and services.

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

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

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

(t) The information data sheet referenced in (s) above shall include:

- (1) Full name and the name the resident prefers, if different;
- (2) Name, address, and telephone number of the resident'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) Advanced directives; and
- (10) Any other pertinent information not specified in (1)-(9) above.

(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, 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, as applicable.

Readopt with amendment He-P 805.18, effective 4-21-15 (Document #10813), to read as follows:

He-P 805.18 Personnel.

(a) For all applicants for employment, except those licensed by the New Hampshire board of nursing, and for all household members 17 years of age or older, the licensee shall:

- (1) Obtain and review a criminal records check from the New Hampshire department of safety;
- (2) Review the results of the criminal records check in accordance with (b) below; and
- (3) Verify the qualifications of all applicants prior to employment.

(b) Unless a waiver is granted in accordance with (c) below, the licensee shall not offer employment for any position or allow a household member to continue to reside in the residence 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, abuse, theft, neglect, or exploitation;

(3) Has been found by the department or any administrative agency in this or any other state to have committed assault, fraud, abuse, neglect, or exploitation of any person; or

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

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

(d) No employee shall be permitted to maintain their employment, and no household member shall be permitted to remain residing in the facility, if he or she has been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation of any person in this or any other state by a court of law or has had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department.

(e) The licensee shall check, prior to hiring, the names of all prospective employees against the bureau of elderly and adult services (BEAS) state registry maintained pursuant to RSA 161-F:49 and He-E 720, and the NH board of nursing, nursing assistant registry maintained pursuant RSA 326-B:26 and 42 C.F.R. section 483.156.

(f) The licensee shall not make a final offer of employment to any prospective employee listed on the BEAS state registry or the NH board of nursing, nursing assistant registry unless a waiver is granted by the bureau of elderly and adult services or the NH board of nursing, respectively.

(g) For an SRHCF licensed for 17 or more beds, all administrators shall be at least 21 years of age and have one of the following combinations of education and experience:

(1) A bachelor's degree from an accredited institution and 2 years of relevant experience working in a health care setting;

(2) A New Hampshire license as an RN, with at least 2 years of relevant experience working in a health care setting;

(3) An associate's degree from an accredited institution plus 4 years of relevant experience working in a health care setting; or

(4) A New Hampshire license as an LPN, with at least 4 years of relevant experience working in a health care setting.

(h) For an SRHCF licensed for 16 or fewer beds, all administrators shall be at least 21 years of age and have one of the following combinations of education and experience:

(1) A bachelor's degree from an accredited institution and one year of relevant experience working in a health care setting;

(2) A New Hampshire license as an RN, with at least one year of relevant experience working in a health care setting;

(3) An associate's degree from an accredited institution plus 2 years of relevant experience working in a health care setting;

(4) New Hampshire license as an LPN, with at least 2 years of relevant experience working in a health care setting; or

(5) Be a high school graduate or have a GED with 6 years of relevant experience working in a health care setting with at least 2 of those years as direct care personnel in a long-term care setting within the last 5 years.

(i) All administrators shall obtain and document in accordance with (s)(7) and (8) below, 12 hours of continuing education related to the operation and services of the SRHCF each annual licensing period.

(j) All personnel shall be at least 18 years of age if working as direct care personnel unless they are:

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

(2) Involved in an established educational program working under the supervision of a nurse.

(k) The licensee shall inform personnel of the line of authority at the SRHCF.

(l) The licensee shall educate personnel about the needs and services required by the residents under their care.

(m) Prior to having direct care contact with residents, 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 SRHCF.

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

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

(2) The SRHCF's complaint procedures;

(3) The duties and responsibilities of the position;

(4) The medical emergency procedures;

(5) The emergency and evacuation procedures;

(6) The infection control procedures as required by He-P 805.22;

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

(8) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

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

(1) The licensee's resident's rights and complaint procedures required under RSA 151;

(2) The licensee's infection control program;

(3) The licensee's written emergency plan; and

(4) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

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

(q) 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.

(r) The licensee shall provide an annual review of its policies and procedures for self-administration of medication without assistance, self-administration of medication with assistance, and self-directed medication administration to all direct care personnel.

(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 residents 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 resident; 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.

Readopt with amendment He-P 805.20, effective 4-21-15 (Document #10813), to read as follows:

He-P 805.20 Respite Care in SRHCF.

- (a) The licensee shall only admit an individual for respite care services when the needs of the individual are compatible with the services and programs offered by the facility and the facility can meet the needs of the individual in accordance with He-P 805.15.
- (b) When a temporary admission to an SRHCF occurs and the individual is scheduled for a stay of no more than 30 consecutive days as agreed upon by the individual and the licensee as part of a discharge plan, the licensee shall:
- (1) Obtain written verification signed by the resident, guardian or agent, if any, or personal representative, indicating they have been given a copy of the resident rights and responsibilities as required by RSA 151:20, I;
 - (2) Obtain a signed admissions contract listing the services that shall be provided;
 - (3) Obtain information regarding allergies, diagnoses, if any, and written and signed orders for medications, treatments, and special diets within 72 hours from the licensed practitioner;
 - (4) Be permitted to use the prescription label on the medication container supplied by the individual as the licensed practitioner's order provided that:
 - a. The medication is in the original bottle as dispensed by the pharmacy;
 - b. The pharmacy label has not been altered in any manner; and
 - c. The prescription label indicates that the medication is still current;

- (5) Complete the CARES tool prior to or immediately on admission;
- (6) Identify the resident's history of wandering or unexplained absences; and
- (7) Obtain advanced directives information, if available.

(c) For planned recurrent respite care the resident shall be discharged but may be readmitted using the same admission documents completed within the previous 6 months, as long as there are no identified changes in the resident's condition or care needs.

(d) If the resident exceeds the 30-day time period, they shall no longer be considered respite care and a complete admission shall occur within 72 hours.

Readopt with amendment He-P 805.24 and He-P 805.25, effective 4-21-15 (Document #10813), to read as follows:

He-P 805.24 Physical Environment.

(a) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being and comfort of resident(s) and personnel, including reasonable accommodations for residents and personnel with disabilities.

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

(1) Maintain a temperature as follows, except where residents 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 resident(s) are present; and

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

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

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

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

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

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

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

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

(h) Each resident 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.

(i) The number of sinks, toilets, tubs or showers shall be in a ratio of one for every 6 individuals, unless household members and personnel have separate bathroom facilities not used by residents.

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

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

(l) In an SRHCF licensed for 16 or fewer residents, there shall be at least 80 square feet per room with a single bed and 160 square feet per room with 2 beds, exclusive of space required for closets, wardrobe, and toilet facilities.

(m) In an SRHCF licensed for 17 or more residents, there shall be at least 100 square feet for each resident in each private-bedroom and at least 80 square feet for each resident in a semi-private bedroom, exclusive of space required for closets, wardrobes, and toilet facilities;

(n) The space requirements in (l), (m), and (n) above shall be exclusive of space required for closets, wardrobes, and bathroom.

(o) Each bedroom shall:

(1) Contain no more than 2 beds;

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

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

(4) Not be used simultaneously for other purposes;

(5) Be separated from halls, corridors, and other rooms by floor to ceiling walls;

(6) Be located on the same level as the bathroom facilities, if the resident has impaired mobility as identified by the CARES tool; and

(7) If a licensed bedroom is temporarily being utilized for another purpose, it shall retain the capability of being restored to meet the requirements of a licensed bedroom without requiring additional construction or renovation.

(p) The licensee shall provide the following for the residents' use, as needed, except as requested by the resident or guardian and documented in their resident record:

(1) A bed appropriate to the needs of the resident;

(2) A firm mattress that complies with the state fire code and codes as defined in RSA 153:1, VI-a, except as modified in Saf-FMO 300;

(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.
- (q) The resident may use his or her own personal possessions provided they do not pose a risk to the resident or others.
- (r) The licensee shall provide the following rooms to meet the needs of residents:
- (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 residents.
- (s) Each licensee shall have an Underwriters Laboratories (UL) Listed communication system in place so that all residents can effectively contact personnel when they need assistance with care or in an emergency.
- (t) Lighting shall be available to allow residents to participate in activities such as reading, needlework, or handicrafts.
- (u) All bathroom, bedroom, and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (v) During seasons when insects are active, screens shall be provided for:
- (1) Doors;
 - (2) Windows; and
 - (3) Other openings to the outside.
- (w) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (w) above.

He-P 805.25 Fire Safety.

- (a) SRHCFs shall meet one of the following requirements:
- (1) All SRHCFs established after October 25, 2006, shall meet the Health Care Occupancy Chapter of NFPA 101 as defined in RSA 153:1, VI-a, except as modified in Saf- FMO 300; or
 - (2) All SRHCFs established prior to October 25, 2006, shall meet at a minimum the Residential Board and Care Chapter of NFPA 101 as defined in RSA 153:1, VI-a, except as modified in Saf- FMO 300.
- (b) All SRHCFs shall have:
- (1) Smoke detectors on every level and in every bedroom that are interconnected and either hardwired, powered by the SRHCF's electrical service, or wireless, as approved by the state fire marshal for the SRHCF;
 - (2) At least one ABC type fire extinguisher on every level or every 75 feet of corridor as required by NFPA 10 and:

- a. Be manually inspected when initially placed in service;
 - b. Be inspected either manually or by means of an electronic monitoring device or system at intervals not exceeding 31 days; and
 - c. Be inspected at least once per calendar month and documentation of manual fire extinguisher inspections shall be maintained on-site in accordance with NFPA 10 and available at the time of the inspection or investigation. Documentation of electronically monitored fire extinguishers 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 required by (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 injury or damage;
 - (3) A description of events preceding and following the incident;
 - (4) The name of any personnel or residents who were evacuated as a result of the incident, if applicable;
 - (5) The name of any personnel or residents who required medical treatment as a result of the incident, if applicable; and
 - (6) The name of the individual the licensee wishes the department to contact if additional information is required.
- (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 resident, or the resident's guardian or a person with durable power of attorney (DPOA), at the time of admission and a summary of the resident's responsibilities shall be provided to the resident. Each resident 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 buildings constructed to the Residential Board and Care or One and Two Family Dwelling Chapters of the Life Safety Code (NFPA 101), the following shall be required:
 - a. The administration of every residential board and care facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary;
 - b. Residents shall be trained to assist each other in case of fire or emergency to the extent that their physical and mental abilities permit them to do so, without additional personal risk;
 - c. All SRHCF facilities shall conduct fire drills not less than 6 times per year on a bimonthly basis, with not less than 2 drills conducted during the night when residents are sleeping. Actual exiting from windows shall not be required, however opening the window and signaling for help shall be an acceptable alternative;
 - d. The drills shall involve the actual evacuation of all residents to an assembly point, as specified in the emergency plan, and approved by the department and the local fire authority based on construction of the building and shall provide residents with experience in egressing through all exits and means of escape;
 - e. Facilities shall complete a written record of fire drills that includes 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 residents, personnel, and visitors, participating at the time of the drill;
 4. The amount of time taken to completely evacuate the facility;
 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; and
 8. The names of all staff members participating in the drill;
 - f. 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;

g. At least annually, the facility shall conduct a resident Fire Safety Evacuation Scoring System (FSES) as listed in NFPA 101A, Alternatives to Life Safety, to determine the residents needs during a fire drill including, but not limited to, mobility, assistance to evacuate, staff needed, risk of resistance, residents ability to evacuate on their own and choose an alternate exit; and

h. The fire drills for facilities built to the Residential Board and Care chapter of the Life Safety Code (NFPA 101), shall be permitted to be announced, in advance, to the residents just prior to the drill;

(2) For all SRHCFs that were originally 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, residents, 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 residents 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 residents, 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

(3) 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.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 805.07 (h)(3), (i), and (j)	Facility Guidelines Institute's (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 Edition)	Publisher: Facility Guidelines Institute (FGI) Cost: \$75.00/book or \$200.00/user, per year for subscription to website. The incorporated document is available for purchase at https://www.fguidelines.org/guidelines/2018-fgi-guidelines/
He-P 805.18(m)(3)	United States Centers for Disease Control and Prevention's "Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings" (2005 Edition)	Publisher: United States Centers for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/tb/publications/slidesets/infectionguidelines/default.htm

APPENDIX B

Rule	Specific State or Federal Statutes the Rule Implements
He-P 805.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 805.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 805.05	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 805.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 805.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a)
He-P 805.08	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 805.09	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 805.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 805.11	RSA 151:6, I; RSA 151:9, I(e)
He-P 805.12	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 805.13	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 805.16	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 805.18	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2); and RSA 151:49-50
He-P 805.20	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 805.24	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 805.25	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)