

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Statutory Authority: RSA 151:9

PART He-P 807 RULES FOR RESIDENTIAL TREATMENT AND REHABILITATION FACILITIES

Statutory Authority: RSA 151:9, I.

He-P 807.01 Purpose. The purpose of this part is to set forth the licensing requirements for all residential treatment and rehabilitation facilities (RTRF) pursuant to RSA 151:2, I(d).

Source. #1779 eff 7-19-81; ss by #2347, eff 4-28-83; ss by #3193, eff 1-28-86; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED: 5-28-92

New. #5751, eff 12-2-93, EXPIRED: 12-2-99

New. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a RTRF, except:

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.03 Definitions. In this part, the following words have the following meanings, unless context clearly indicates otherwise:

- (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 clients;
  - (2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to clients; or
  - (3) "Sexual abuse" means contact or interaction of a sexual nature involving clients 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;

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(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) “Administrator” means the individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premise;

(f) “Admission” means the point in time when a client, who has been accepted by a licensee for the provision of services, physically moves into the facility;

(g) “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” shall include 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;

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

(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 in accordance with RSA 137-J:35;

(j) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a RTRF 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 807, or other federal or state requirements;

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

(m) “Care plan” means a documented guide developed by the licensee, in consultation with the licensed practitioner, personnel, the client, and/or the client’s guardian, agent or personal representative, if any, as a result of the assessment process for the provision of care and services. This term also includes “treatment plan”;

(n) “Change of ownership” means a change in the controlling interest of an established RTRF to a successor business entity;

(o) “Chemical restraint” means any medication prescribed to control a client’s behavior or emotional state without a supporting diagnosis or for the convenience of program personnel;

(p) “Client” means any person admitted to or in any way receiving care, services or both from a RTRF licensed in accordance with RSA 151 and He-P 807;

(q) “Client record” means documents maintained for each client, which includes all documentation required by RSA 151 and He-P 807, and all documentation compiled relative to the client as required by other federal or state laws;

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

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(s) “Comprehensive evaluation” means a multi-disciplinary assessment of level of function by healthcare professionals licensed or certified in the field of rehabilitation;

(t) “Contracted employee” means a temporary employee working under the direct supervision of the RTRF but employed by an outside agency;

(u) “Core services” means those minimal services to be provided to any client by the licensee that shall be included in the basic rate;

(v) “Critical incident stress management (CISM)” means an adaptive, short-term psychological helping process that focuses solely on an immediate and identifiable problem. Individuals undergoing CISM are able to discuss the situation that occurred and how it 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;

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

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

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

(z) “Directed plan of correction” means a plan developed and written by the department that specifies the actions the licensee must take to correct identified areas of non-compliance;

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

(ac) “Enforcement action” means the imposition of an administrative fine, the denial of an application, or the revocation or suspension of a license in response to non-compliance RSA 151 or He-P 807;

(ad) “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. This term includes fixtures;

(ae) “Exploitation” means the illegal use of a client’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 client through the use of undue influence, harassment, duress, deception or fraud;

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

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

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(ah) “Impaired” means when a physician or health care worker whose ability to function in his or her usual role has been reduced or otherwise compromised by any substances including but not limited to legally prescribed medications or alcohol;

(ai) “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;

(aj) “Infectious waste” means those items specified by Env-Sw 103.28;

(ak) “Informed consent” means the decision by a person or his or her guardian, agent, or surrogate decision maker to agree to a proposed course of treatment, after the person 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;

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

(am) “Inspection” means the process followed by the department to determine an applicant or a licensee’s compliance with RSA 151 and He-P 807 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 and He-P 807;

(an) “License” means the document issued by the department to an applicant at the start of operation as an RTRF, which authorizes operation of a RTRF in accordance with RSA 151 and He-P 807, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date, and license number;

(ao) “License certificate” means the document issued by the department to an applicant or licensee that, contains the information on a license and includes the name of the administrator, the type(s) of services authorized and the number of beds that the RTRF is licensed for;

(ap) “Licensed practitioner” means:

(1) Medical doctor;

(2) Physician's assistant;

(3) Advanced practice registered nurse (APRN);

(4) Doctor of osteopathy;

(5) Doctor of naturopathic medicine; or

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

(aq) “Licensed premises” means the building, or buildings, that comprise the physical location that the department has approved for the licensee to conduct operations in accordance with its license;

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

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

(at) “Life safety code” means the national Fire Protection Association (NFPA) 101, as adopted by the commissioner of the department of safety in Saf-C 6000 under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control;

(au) “Mechanical restraint” means locked or secured RTRFs or units within a RTRF, or anklets, bracelets, or similar devices that cause a door to automatically lock when approached, thereby preventing a client from freely exiting the RTRF or unit within;

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

(aw) “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;

(ax) “Neglect” means an act or omission which 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 any client;

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

(az) “Nursing care” means the provision of care or oversight of a physical, mental, or emotional condition or diagnosis by a nurse;

(ba) “Orders” means a document, produced verbally, electronically, or in writing, by a licensed practitioner for medications, treatments, recommendations, or 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;

(bb) “Owner” means a person or organization who has controlling interest in the RTRF;

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

(bd) “Performance-based design” means a flexible, informed design approach that allows for design freedom while specifically addressing fire and life safety concerns of a specific building project, and that makes use of computer fire models or other fire engineering calculation methodologies, such as timed egress studies, to help assess if proposed fire safety solutions meet fire safety goals under specific conditions;

(be) “Personal representative” means a person, other than the licensee of an employee of or a person having a direct or indirect ownership interest in, a facility, who is designated in writing by a client or client’s legal guardian for a specific, limited purpose or for the general purpose of assisting the client in the exercise of any rights as defined in RSA 151:19, V;

(bf) “Personnel” means individual(s) employed by the facility, volunteer(s), or independent contractor(s), who provide direct care or services to a client;

(bg) “Physical restraint” means the use of any hands-on or other physically applied techniques to physically limit the client’s freedom of movement, such as forced escorts, holding, prone restraints, or other containment techniques;

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

(bi) “Point of care testing (POCT)” means laboratory testing performed using either manual methods or hand held instruments at or near the site of client care;

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

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

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

- (1) Knowledge of client whereabouts;
- (2) Minimizing the likelihood of accident or injury; and
- (3) Other means of ensuring client safety;

(bm) “Qualifications” means education, experience and skill requirements specified by the federal government, state government, an accredited professional review agency, or by policy of the licensee;

(bn) “Qualified personnel” means facility staff that have been trained to adequately perform certain assigned tasks, such as housekeeping staff trained in infection control or kitchen staff trained in food safety protocols;

(bo) “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;

(bp) “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;

(bq) “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;

(br) “Reportable incident” means an occurrence of any of the following while the client is either in the RTRF or in the care of the RTRF personnel:

- (1) The unanticipated death of the client;
- (2) An injury to a client, that is indicative 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 client; or
- (3) The unexplained absence of a client from the RTRF who is determined to be a danger to themselves or others;

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(bs) “Residential treatment and rehabilitation facility”(RTRF) means a place, excluding hospitals as defined in RSA 151-C:2, which provides residential care, treatment and comprehensive specialized services relating to the individual’s medical, physical, psychosocial, vocational, or educational needs;

(bt) “Self administration of medication without assistance” means an act whereby the client takes his or her own medication(s) without the assistance of another person;

(bu) “Self administration with supervision” means an act whereby the client takes his or her own medication(s) after being prompted by personnel, but without requiring physical assistance from others;

(bv) “Self- directed medication administration” means an act whereby a client, who has a physical limitation that prohibits him or her from self-administration of medication without assistance, directs personnel to physically assist in the medication process, which does not include assisting with infusions, injections, or filling insulin syringes;

(bw) “Service” means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a client;

(bx) “Significant change” means a change in cognitive or physical capabilities that decreases a client’s ability to care for himself beyond an episodic event;

(by) “Therapeutic diet” means a diet ordered by a licensed practitioner or other licensed professional with prescriptive authority as part of the treatment for disease or clinical conditions, or to increase or decrease specific nutrients in the food consumed by the client;

(bz) “Unexplained absence” means an incident involving a client leaving the premises of the RTRF without the knowledge of the RTRF personnel; and

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

### He-P 807.04 Initial License Application Requirements.

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

(1) A completed application form entitled “Application for Residential, Health Care License, or Special Health Care Services” (March 2019) signed by the applicant or 2 of the corporate officers affirming the following:

a. “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.”;

b. For any new RTRF to be newly licensed:

“I certify that I have notified the public of the intent to file this application with a

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description of the facility to be licensed by publishing a notice in a newspaper of general circulation covering the area where the facility is to be located in at least 2 separate issues of the newspaper no less than 10 business days prior to the filing of this application.”; and

c. For any RTRF to be newly licensed and to be located within a radius of 15 miles of a hospital certified as a critical access hospital, pursuant to 42 C.F.R. 485.610 (b) and (c):

“I certify that the facility is to be located within a radius of 15 miles of a hospital certified as a critical access hospital, pursuant to 42 C.F.R. 485.610 (b) and (c), and that I have given written notice of the intent to file this application with a description of the facility to be licensed to the chief executive officer of the hospital by registered mail no less than 10 business days prior to the filing of this application.”

(2) A floor plan of the prospective RTRF;

(3) If applicable, proof of authorization from the New Hampshire secretary of state to do business in 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, VI, payable in cash or, if paid by check or money order, the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”;

(5) A resume identifying the name, qualifications, and copies of applicable licenses for the RTRF administrator;

(6) 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;

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, Saf-C 6000 under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control, including the applicable chapter National Fire Protection Association (NFPA) 101 , and local fire ordinances applicable for an RTRF; and

b. For a building under construction, the written approvals required by a. above shall be submitted at the end of construction based on the local official’s review of the building plans and their final on-site inspection of the construction project;



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

(8) The results of a criminal records check from the NH department of safety for the applicant(s), licensee if different from the applicant and the administrator for which the application is submitted.

(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

Source. #9873-B, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.05 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 807.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 807.04(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 pursuant to He-P 807.10, the department shall deny a licensing request in accordance with He-P 807.13(b) if, it determines that the applicant, administrator, or a household member:

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

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

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

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

(f) Following both a clinical and a life safety code 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 807.

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

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(h) A written notification of denial, pursuant to He-P 807.13(b), shall be sent to an applicant applying for an initial license if it has been determined by the inspection in (f) above and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 807.

(i) A written notification of denial, pursuant to He-P 807.13(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.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire one year from date of issuance, unless a completed application for renewal has been received.

(b) Each licensee seeking renewal shall complete and submit to the department an application form pursuant to He-P 807.04(a)(1) at least 120 days prior to the expiration of the current license to include:

(1) The current license number;

(2) A request for renewal of any existing waivers previously granted by the department, in accordance with He-P 807.10(f), if applicable. If such a request is not received, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license;

(3) A list of current employees who have a permanent waiver granted in accordance with He-P 807.18(f); and

(4) A copy of any non-permanent or new variances applied for or granted by the state fire marshall, in accordance with Saf-C 6005.03 - 6005.04, 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 (b) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704 for nitrates.

(d) Following an inspection as described in He-P 807.09, a license shall be renewed if the department determines that the licensee:

(1) Submitted an application containing all the items required by (b) and (c) above prior to the expiration of the current license; and

(2) Is found to be in compliance with RSA 151, He-P 807, and all federal requirements at the renewal inspections, or has submitted a POC that has been accepted by the department and implemented by the licensee if areas 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 807.04 and shall be subject to a fine in accordance with He-P 807.14.

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Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.07 RTRF Construction, Modifications or Renovations.

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

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

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

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

(e) The department shall review construction documents, drawings, and plans of a newly proposed or existing facility for compliance with all applicable sections of RSA 151 and He-P 807 and shall notify the applicant or licensee as to whether the proposal complies with these requirements.

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

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

(1) The state fire code, Saf-C-6000, as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control, as follows:

- a. NFPA 101, Life Safety Code Residential Board and Care Occupancy Chapter; or
- b. NFPA 101, Life Safety Code Health Care Occupancy Chapter; and

(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 FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities", (2018 edition), available as noted in Appendix A; and

(h) All RTRFs newly constructed or rehabilitated after the 2019 effective date of these rules shall comply with the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 edition), as applicable, available as noted in Appendix A.

(i) Where rehabilitation is done within an existing facility, all such work shall comply with applicable sections of the FGI "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 edition), available as noted in Appendix A.

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(j) The department shall be the authority having jurisdiction for the requirements in He-P 807.07(i)-(k) and shall negotiate compliance with the licensee and their representatives and grant waivers in accordance with He-P 807.10 as appropriate.

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

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

(m) Exceptions or variances pertaining to the state fire code referenced in He-P 807.07(h)(1) shall be granted only by the state fire marshal.

(n) The building, including all construction and rehabilitated spaces, shall be subject to an inspection pursuant to He-P 807.09 prior to its use.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.08 RTRF Requirements for Organizational Changes.

(a) The RTRF 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; or
- (5) Services.

(b) The RTRF 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; or
- (3) A change in service.

(c) When there is a change in address without a change in location the RTRF 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 RTRF 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:

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- (1) Ownership, unless the current licensee is in full compliance, in which case an inspection shall be conducted as soon as practical by department;
  - (2) The physical location;
  - (3) A change in licensing classification; or
  - (4) 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 a change in physical location.
- (g) A revised license and license certificate shall be issued for changes in the RTRF's name.
- (h) A revised license certificate shall be issued for any of the following:
- (1) A change of administrator;
  - (2) A change in address without a change in physical location; or
  - (3) When a waiver has been granted in accordance with He-P 807.10.
- (i) The RTRF shall inform the department in writing when there is a change in administrator 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 change, and provide the department with the following:
- (1) A resume identifying the name and qualifications of the new administrator;
  - (2) The results of a NH criminal background check conducted pursuant to He-P 807(e);
  - (3) Copies of applicable licenses for the new administrator; and
  - (4) A copy of the criminal attestation as described in He-P 807.18(s).
- (j) Upon review of the materials submitted in accordance with (e) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position as specified in He-P 807.16(a) and He-P 807.18(k).
- (k) If the department determines that the new administrator does not meet the qualifications, it shall so notify the RTRF in writing so that a waiver can be sought or the program can search for a qualified candidate.
- (l) The RTRF shall inform the department in writing via e-mail, fax, or mail of any change in the e-mail address as soon as practicable and in no case 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.
- (m) A restructuring of an established RTRF 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.
- (n) When there is to be a change in the services provided, the RTRF 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.

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(o) The department shall review the information submitted under (n) above and determine if the added services can be provided under the RTRF's current license including physical plan restrictions.

(p) If a licensee chooses to cease operation of an RTRF, the licensee shall submit written notification to the department at least 60 days in advance which shall include a written closure plan that ensures adequate care of clients until they are transferred or discharged to an appropriate alternate setting that is consistent with the clinical needs of the resident based on assessment including but not limited to another RTRF, a higher level of care facility, a lower level of care facility, or a home.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 807, as authorized by RSA 151:6 and RSA 151:6-a, the applicant or licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The proposed or licensed premises;
- (2) All programs and services provided by the RTRF; and
- (3) Any records required by RSA 151 and He-P 807.

(b) The department shall conduct a clinical and life safety code inspection, as necessary to determine full compliance with RSA 151 and He-P 807 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 807.08(e)(1);
- (3) A change in the licensee's physical location;
- (4) A change in licensing classification;
- (5) An increase in the number of clients beyond what was authorized under the initial license;
- (6) Occupation of space after construction, renovations or structural alterations; or
- (7) The renewal of a license.

(c) In addition to (b) above, the department shall conduct an inspection as necessary to verify the implementation of any POC accepted or issued by the department.

(d) A statement of findings for clinical inspections or a notice to correct for life safety code inspections shall be issued when, as a result of any inspection, the department determines that the RTRF is in violation of any of the provisions of He-P 807, RSA 151, or other federal or state requirement.

(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 807.12(c), within 21 days of the date on the letter that transmits the inspection report.

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(f) A written notification of denial shall be sent to an applicant applying for an initial license if it has been determined by the inspection mentioned in He-P 807.09(b) that the prospective premises are not in full compliance with RSA 151 and He-P 807.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

### He-P 807.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 807 shall submit a written request for a waiver to the commissioner that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary; and
- (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and clients as the rule from which a waiver is sought.

(b) A waiver shall be permanent unless the department specifically places a time limit on the waiver.

(c) A request for waiver shall be granted if the commissioner determines that the alternative proposed by the applicant or licensee:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health, safety or well-being of the clients; and
- (3) Does not negatively affect the quality of client 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 expiration of the existing waiver, as appropriate, by submitting the information required by (a) above.

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

### He-P 807.11 Complaints.

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

- (1) The alleged violation(s) of RSA 151 or He-P 807 occurred not more than 6 months prior to the date the department was made aware of the allegation(s);

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- (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); and
  - (3) There is sufficient specific information for the department to determine that the allegations(s), if proven true, would constitute a violation of any of the provisions of RSA 151 or He-P 807.
- (b) When practicable the complaint shall be in writing and shall contain the following information:
- (1) The name and address, if known, of the RTRF, 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 807.
- (c) Investigations shall include all techniques and methods for gathering information that are appropriate to the circumstances of the complaint, which include:
- (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 RTRF, 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, rules, or regulations based on the results of the investigation, as appropriate;
  - (3) If the department determines the complaint is unfounded, and does not violate their statutes, rules, or regulations the licensee will be notified in writing of such determination and the department will take no further action; and
  - (4) If areas of non-compliance are found, require the licensee to submit a POC in accordance with He-P 807.12(c).
- (e) The following shall apply for the unlicensed individual or entity:
- (1) 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, IV.



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(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 He-P 807.11 (e)(1) to submit a completed application for a license;

(3) If the owner of an unlicensed RTRF does not comply with (2) above, the department shall issue a written warning to immediately comply with RSA 151 and He-P 807; and

(4) Any person or entity who fails to comply after receiving a warning as described in (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 807.13(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 any adjudicative proceedings relative to the licensee.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.12 Administrative Remedies.

(a) The department shall, after notice and opportunity to be heard, impose administrative remedies for violations of RSA 151, He-P 807, or other applicable licensing rules, including:

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

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

(3) Imposing conditions upon a licensee;

(4) Monitoring of a license;

(5) Immediate suspension of a license; or

(6) Revocation of a license.

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

(1) Identifies each area of non-compliance with RSA 151 or a provision of these rules; and

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

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

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

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- 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 day period but has been unable to do so; and
  - b. The department determines that the health, safety or well-being of a client 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 807;
  - 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 807 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:
- a. The department shall notify the licensee in writing within 14 days of the reason for rejecting the POC;
  - b. 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:
    1. 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
    2. The department determines that the health, safety or well-being of a client will not be jeopardized as a result of granting the waiver;
  - c. The revised POC shall comply with (1) above and be reviewed in accordance with (3) above; and

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d. 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 (d) below and a fine in accordance with He-P 807.13(c)(12);

(6) 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;

(7) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and

(8) 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 (b) above; and
- b. Issued a directed POC in accordance with (d) below and shall be subject to a fine in accordance with (f)(12) below.

(d) The department shall develop and impose a directed POC that specifies corrective actions for the 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 clients and personnel;
- (2) A revised POC is not submitted within 14-days of the written notification from the department; and
- (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) Impose a fine according to He-P 807.13(c)(6);
- (2) Deny the application for a renewal of a license in accordance with He-P 807.13(b)(6); or
- (3) Revoke or suspend the license in accordance with He-P 807.13(g).

(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 if the applicant or licensee submits a written request for an informal dispute resolution to the department.

(g) The informal dispute resolution shall be requested in writing by the applicant, licensee, or administrator no later than 14 days from the date the statement of findings was issued by the department and shall include any evidence that has not yet been reviewed by the department.

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(h) Upon receipt of the requested informal dispute resolution made by the applicant, licensee, or administrator, the department shall review the evidence presented and if requested, within the informal dispute resolution request, meet with, in person or via telephone, the applicant, licensee, or administrator.

(i) The department shall change the statement of findings or notice to correct if, based on the evidence presented, the statement of findings is determined to be incorrect.

(j) The statement of findings or notice to correct shall not be changed, if based on the evidence presented, the statement of findings is determined to be correct.

(k) The department shall provide a written notice to the applicant or licensee notifying the applicant, licensee, or administrator of such determination.

(l) 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.

(m) 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 resolution as describe in this section.

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

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

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

(2) The presence of conditions in the RTRF that negatively impact the health, safety, or well-being of clients.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

### He-P 807.13 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 a 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 has violated provisions of RSA 151 or He-P 807, which poses a risk of harm a client's or employee's health, safety or well-being;

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- (2) An applicant or a licensee has failed to pay an administrative fine imposed by the department;
  - (3) An applicant or a licensee has 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, an applicant or licensee fails to submit an application that meets the requirements of He-P 807.04;
  - (5) An applicant, licensee, or any representative or employee of the applicant or licensee:
    - a. Provides false or misleading information to the department;
    - b. Prevents or interferes, or fails to cooperate with any inspection or investigation 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 807.12(d) and (e);
  - (7) The licensee has submitted a POC that has not been accepted by the department in accordance with He-P 806.12(c)(5) and has not submitted a revised POC as required by He-P 806.12(c)(5);
  - (8) The licensee is cited a third time under RSA 151 or He-P 807 for the same violations within the last 5 inspections;
  - (9) A licensee, or its corporate officers has had a license revoked and submits an application during the 5-year prohibition period specified in (h) below;
  - (10) Unless a waiver has been granted upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 807;
  - (11) Unless a waiver has been granted the department makes a determination that the applicant, administrator, or licensee has been found guilty of or pled guilty to a felony assault, fraud, theft, abuse, neglect, or exploitation adjudicated and founded by the department or any administrative agency in this or any other state;
  - (12) The applicant or licensee employs an administrator who does not meet the qualifications for the position under circumstances in which the department has not granted a waiver; or
  - (13) The applicant has had a license revoked by any division or unit of the department within 5 years prior to the application.
- (c) The department shall impose fines as follows:
- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 for an applicant or unlicensed provider;
  - (2) For a failure to cease operations after a denial of a license and after receipt of an order to cease and desist, in violation of RSA 151:2 and RSA 541-A:30, or continuing to operate after a failure to renew the license by the expiration date, the fine for an applicant, unlicensed entity or a licensee shall be \$2000.00;

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- (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 entity shall be \$500.00;
- (4) For a failure to transfer a client whose needs exceeds the services or programs provided by the RTRF, in violation of RSA 151:5-a, the fine shall be \$500.00;
- (5) For admission of a client whose needs at the time of registration exceed the services or programs authorized by the RTRF, in violation of RSA 151:5-a, II and He-P 807.15(a), the fine for a licensee shall be \$1000.00;
- (6) For a failure to comply with the directives of a warning issued by the department, in violation of RSA 151:7-a and He-P 807.11(e)(4), the fine for an unlicensed provider or licensee shall be \$500.00;
- (7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 807.06(e), the fine shall be \$100.00;
- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 807.08(a)(1), the fine 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 807.08(a)(2), the fine shall be \$1000.00;
- (10) For a failure to notify the department of a change in e-mail address, in violation of He-P 807.08(l), the fine shall be \$100.00;
- (11) For a refusal to allow access by the department to the RTRF's premises, programs, services or records, in violation of He-P 807.09(a), the fine for an applicant, unlicensed entity, or licensee shall be \$2000.00;
- (12) For a failure to submit a POC or revised POC, within 21 or 14-days, respectively, of the date on the letter that transmits the inspection report, or the date of an extension as granted, in violation of He-P 807.12(c)(2) and (5), the fine for a licensee shall be \$500.00;
- (13) For a failure to implement or maintain the corrective action set forth in any POC that has been accepted or issued by the department, in violation of He-P 807.12(c)(8), the fine for a licensee shall be \$1000.00;
- (14) For a failure to establish, implement or comply with licensee policies, as required by He-P 807.14(a), (d), and (e), the fine for a licensee shall be \$500.00;
- (15) For a failure to provide services or programs required by the licensing classification and specified by He-P 807.14(c), the fine for a licensee shall be \$500.00;
- (16) For providing false or misleading information or documentation, in violation of He-P 807.14(i), the fine shall be \$1000.00 per offense;
- (17) For failure to meet the needs of a client or clients, as described in He-P 807.18(a) and He-P 807.24(j), the fine for a licensee shall be \$1000 per client;
- (18) For placing a client in a room that has not been approved or licensed by the department, in violation of He-P 807.09(b)(5), the fine for a licensee shall be \$500;

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(19) For employing an administrator or other personnel who do not meet the qualifications for the position, without having a waiver granted by the department in accordance with He-P 807.10, in violation of He-P 807.16(a), the fine for a licensee shall be \$500.00;

(20) For failure to submit architectural plans or drawings, when applicable, prior to undertaking construction or renovation of the licensed facility in violation of He-P 807.07(a), the fine for a licensed facility shall be \$500.00;

(21) For occupying a renovated area of a licensed facility or new construction prior to approval by local and state authorities, as required by He-p 807.09(b)(6), the fine shall be \$500 which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department;

(22) When an inspection determines that there is a violation of RSA 151 or He-P 807 for which a fine was previously imposed, 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 non-compliance, the fine for a licensee shall be \$1000; 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; and

(23) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 807 shall constitute a separate violation and shall be fined in accordance with He-P 807.13(c), provided that if the applicant or licensee is making good faith efforts to comply with the violations of the provisions of RSA 151 or He-P 807, 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) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(f) If a written request for a hearing is not made pursuant to (e) above, the action of the department shall become final.

(g) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of care of clients when it finds that the health, safety, or well-being of clients is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(h) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 807 is achieved.

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

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

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

- (1) The date of the department's decision to revoke or deny the license, if appeal is filed; or
- (2) The date a final decision upholding the action of the department, if a request for a hearing was made and a hearing was held.

(l) Notwithstanding (k) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 807.

(m) If the department has reasonable information or evidence that a licensee, applicant, administrator, or others are circumventing (k) above by applying for a license through an agent or other individual and will retain ownership, management authority, or both, the department shall deny the application.

(n) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A, or He-P 807.

(o) Any violations cited for fire code shall be appealed to the New Hampshire state fire marshal.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.14 Duties and Responsibilities of the Licensee.

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

(b) The licensee shall admit only those clients whose needs can be met by the RTRF.

(c) The licensee shall have a system to regularly identify the daily census, including times any client is absent from the RTRF.

(d) The licensee shall define, in writing, the scope and type of services to be provided by the RTRF.

(e) The licensee shall comply with the Patients' Bill of Rights as set forth in RSA 151:19-30.

(f) The licensee shall have a written policies and procedures to include:

- (1) The rights and responsibilities of all clients in accordance with the Patients' Bill of Rights under RSA 151:21;
- (2) The policies described in He-P 807.14, He-P 807.16, He-P 807.19, and He-P 807.26; and
- (3) A policy that ensures the safety of all persons present on the licensed premises where firearms are permitted.

(g) The licensee shall develop and implement written policies and procedures governing the operation of the RTRF and all services provided by the facility and for:



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- (1) Reviewing the policies and procedures every 3 years; and
- (2) Revising them as needed.

(h) The licensee shall assess and monitor the quality of care and service provided to clients on an ongoing basis.

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

(j) The licensee shall not:

- (1) Advertise or otherwise represent itself as operating a RTRF, unless it is licensed; or
- (2) Advertise that it provides services that it is not authorized to provide.

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

(l) Licensees shall:

- (1) Meet the needs of the clients during those hours that the clients are in the care of the RTRF;
- (2) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the RTRF;
- (3) Appoint an administrator;
- (4) Verify the qualifications of all personnel;
- (5) Provide sufficient numbers of qualified personnel to meet the needs of clients during all hours of operation;
- (6) Provide sufficient supplies, equipment, and lighting to meet the needs of the clients;
- (7) Require all personnel to follow the orders of the licensed practitioner for every client that has such orders and encourage the client to follow the licensed practitioner's orders;
- (8) Initiate action to maintain the RTRF in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state, and local laws, rules, regulations, and ordinances; and
- (9) Implement any POC that has been accepted by the department.

(m) The licensee shall consider all clients competent and capable of making health care decisions unless the client:

- (1) Has a guardian appointed by a court;
- (2) Has a durable power of attorney for health care or surrogate decision making that has been activated; or
- (3) Is an un-emancipated minor.

(n) In accordance with RSA 141-C:7, He-P 301.02, and He-P 301.03 the licensee shall report all positive tuberculosis test results for personnel to the office of infectious disease control by:

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- (1) Telephone at 603-271-4496;
- (2) Telephone at 603-271-5300 after business hours; or
- (3) Fax to 603-271-0545.

(o) If the licensee registers and treats a client who is known to have a disease reportable under He-P 301 or an infectious disease, which is any disease caused by the growth of microorganisms in the body which might or might not be contagious, the licensee shall follow the required procedures and personnel training for the care of the clients, as specified by the United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007 edition), available as noted in Appendix A.

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

- (1) The license and current license certificate issued in accordance with RSA 151:2;
- (2) All inspection reports issued in accordance with, He-P 807.09 (d) for the previous 12 months;
- (3) A copy of the patients’ bill of rights;
- (4) A copy of the licensee’s policies and procedures relative to the implementation of patient rights and responsibilities as required by RSA 151:20;
- (5) The licensee’s evacuation floor plan identifying the location of and access to all fire exits; and
- (6) A copy of the licensee’s complaint procedure, including a statement that complaints may be submitted, in writing, to the Department of Health and Human Services, Health Facilities Administration, 129 Pleasant Street, Concord, NH 03301 or by calling 1-800-852-3345;

(q) The licensee shall admit and allow any department representative to inspect the premises and all programs and services that are being provided by the licensee at any time for the purpose of determining compliance with RSA 151 and He-P 807 as authorized by RSA 151:6 and RSA 151:6-a.

(r) A licensee shall, upon request, provide a client or the client’s guardian, agent, or surrogate decision-maker if any, with a copy of his or her client record pursuant to the provisions of RSA 151:21, X.

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

(t) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of clients and personnel that, at a minimum, include:

- (1) Procedures for backing up files to prevent loss of data;
- (2) Safeguards for maintaining the confidentiality of information pertaining to clients and staff; and
- (3) Systems to prevent tampering with information pertaining to clients and staff.

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

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(v) The licensed premises shall comply with all state and local:

- (1) Health requirements;
- (2) Building ordinances;
- (3) Fire ordinances; and
- (4) Zoning ordinances.

(w) Smoking shall be prohibited in the RTRF per RSA 155:66, I(b), except as permitted by RSA 155:67. If allowed, smoking shall be restricted to designated smoking areas as per the licensee's official smoking policy, but in no case shall smoking be permitted in any room containing an oxygen cylinder or oxygen delivery system or in a resident's bedroom.

(x) For reportable incidents, allegations of abuse, neglect, mistreatment or misappropriation of property, the licensee shall have responsibility for:

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

(2) Faxing to 603 271-4968, or if a fax machine is not available, submitting via regular mail, postmarked within 24 hours of the incident together with a telephone call to the department reporting the incident and notifying the department of the mailed report, the following information to the department within 24 hours of the reportable incident:

- a. The RTRF name;
- b. A description of the incident, including identification of injuries, if applicable;
- c. The name of the licensee(s) or personnel involved in, witnessing, or responding to the reportable incident;
- d. The name of client(s) involved in or witnessing the incident;
- e. The date and time of the incident;
- f. The action taken in direct response to the incident, including any follow-up;
- g. If medical intervention was required, who provided the medical intervention and the date and time that the medical intervention was provided;
- h. When the client's guardian, agent, surrogate decision-maker, or personal representative, if any, was notified;
- i. The signature of the person reporting the incident; and
- j. The date and time the client's licensed practitioner was notified, if applicable; and

(3) Within 5 days, submit a completed investigation report to the department containing the following information:

- a. All items referenced in (1) above;

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- b. The names and results of interview(s) with all personnel, resident(s) or other individuals involved in the reportable incident, including all applicable statement signatures; and
- c. The action taken by the licensee in direct response to the incident(s), including any and all follow-up.

(4) Immediately notifying the local police department, the department, and the guardian, agent, surrogate decision-maker, or personal representative, if any, when a client who has been assessed or is known as being a danger to self or others, has eloped after the licensee has searched the building and the grounds of the RTRF; and

(5) Submit additional information, if required to the department, to support the incident report referenced in (x)(3) above.

(y) The licensee shall provide the following core services:

(1) Health and safety services to minimize the likelihood of accident or injury, with protective care and oversight provided regarding:

- a. The clients' functioning, safety and whereabouts;
- b. The clients' health status, including the provision of intervention as necessary or required; and
- c. Personnel safety.

(2) Emergency response and crisis intervention;

(3) Medication services in accordance with He-P 807.17;

(4) Food services in accordance with He-P 807.20;

(5) Housekeeping, laundry and maintenance services;

(6) On-site activities designed to sustain and promote physical, intellectual, social and spiritual well-being of all clients;

(7) Assistance in arranging medical and dental appointments, including arranging transportation to and from such appointments and reminding the clients of the appointments; and

(8) Personal supervision of clients when required to offset deficits that may pose a risk to self or others if the client is not supervised.

(z) The licensee shall provide access, as necessary, to the following services pursuant to RSA 151:2, IV and RSA 151:9, VII(a)(4):

(1) Nursing services, in accordance with RSA 326-B, including supervision and instruction of direct care personnel, relative to the delivery of nursing care;

(2) Rehabilitation services, including documentation of the licensed practitioner's order for the service, such as physical therapy, occupational therapy, and speech therapy; and

(3) Behavioral health care services.

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- (aa) The licensee shall:
  - (1) Provide basic supplies necessary for clients to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush, and toilet paper; and
  - (2) Not be responsible for the cost of purchasing a specific brand of product at a client's request.
- (ab) The licensee shall educate personnel about the needs and services required by the clients under their care.
- (ac) Physical or chemical restraints shall only be used as allowed by RSA 151:21, IX.
- (ad) Immediately after the use of a physical or chemical restraint, the client's guardian or agent, if any, and the department shall be notified of the use of restraints.
- (ae) The RTRF shall:
  - (1) Have policies and procedures on:
    - a. What type of emergency restraints may be used;
    - b. When restraints may be used; and
    - c. Who may authorize the use of restraints; and
  - (2) Provide personnel with education and training on the limitations and the correct use of restraints.
- (af) The use of physical restraints shall be allowed only as defined under He-P 807.03(bf).
- (ag) The RTRF shall document accidents, injuries, and reportable incidents and include:
  - (1) The date and time of the occurrence;
  - (2) A description of the occurrence, including identification of injuries, if applicable;
  - (3) The actions taken;
  - (4) The signature of the person documenting the unusual incident; and
  - (5) If medical intervention was required, the date and time that the emergency contact person and guardian or agent, if any, and the licensed practitioner were notified.
- (ah) The licensee shall not exceed the maximum number of clients or beds licensed by the department, unless authorized by the department, such as during an emergency.
- (ai) The licensee shall give a client a written notice as follows:
  - (1) For an increase in the cost or fees for any RTRF services 30 days advanced notice; or
  - (2) For an involuntary change in room or bed location, 14 days advanced notice, unless the change is required to protect the health, safety, and well-being of the client or other clients, in such case the notice shall be as soon as practicable.
- (aj) The licensee shall determine the smoking status of the RTRF.

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(ak) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66–69 and He-P 807.24(f).

(al) The licensee may hold or manage a client’s funds or possessions only when the facility receives written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other clients or other household members.

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

(an) The licensee shall respond to a notice of areas of non-compliance by providing a POC in accordance with He-P 807.12(c).

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.15 Client Admission Criteria, Temporary Absence, Transfer, and Discharge Criteria.

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

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

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

- (1) The client’s medical or other needs exceed the services offered by the licensee or are not otherwise met by third party providers that the licensee has contracted with;
- (2) The client cannot be safely evacuated in accordance with Saf-C 6000;
- (3) The client or the client’s guardian, if any, determines that the client shall leave the facility;
- (4) The client is a danger to himself/herself or others;
- (5) The client completed the program or was transferred based on changes in the client’s functioning; or
- (6) The client was terminated from the program based on one of the following:
  - a. The client was administratively discharge;
  - b. The client was in non-compliance with the program;
  - c. The client left the program before completion against advise of treatment staff; or
  - d. The client is inaccessible.

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

(e) The following documents shall accompany the client upon transfer:

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

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

(g) Notwithstanding (a) and (c) above, a client receiving hospice care from a licensed home health hospice caregiver, may remain in the RTRF upon written agreement with the client or his/her legal guardian and the RTRF.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.16 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 RTRF;
- (2) Meets the requirements of He-P 807.18(k) and (l);
- (3) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence; and
- (4) In the event the administrator will be absent for a period to exceed 30 consecutive days, the facility shall notify the department who the interim administrator will be and submit credentials to verify he or she meets the requirements of (2) above.

(b) At the time of application for admission, the licensee shall provide the client a written copy of the clientele service agreement pursuant to RSA 161-J:4.

(c) In addition to (b) above, at the time of admission, the licensee shall provide a written copy to the client and the guardian or 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, or monthly fee;
  - b. A list of the core services required by He-P 807.14 that are covered by the basic fee;
  - c. Information regarding the timing and frequency of cost of care increases;

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- d. The time period covered by the admissions contract;
  - e. The RTRF's house rules;
  - f. The grounds for immediate termination of the agreement, pursuant to RSA 151:21, V;
  - g. The RTRF's responsibility for client 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 RTRF's responsibility for arranging services; and
    - 3. The fee and payment for services, if known;
  - i. The licensee's policies and procedures regarding:
    - 1. Arranging for the provision of transportation;
    - 2. Arranging for the provision of third party services, such as a hairdresser or cable television;
    - 3. Acting as a billing agent for third party services;
    - 4. Monitoring third party services contracted directly by the client and provided on the RTRF premises;
    - 5. Handling of client funds pursuant to RSA 151:24 and He-P 807.14(t);
    - 6. Storage and loss of the client's personal property; and
    - 7. Smoking;
  - j. The licensee's medication management services; and
  - k. The list of grooming and personal hygiene supplies provided by the RTRF 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 RTRF's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;
- (3) The RTRF'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; and
- (4) Information on advanced directives.
- (d) The RTRF shall perform a preliminary assessment of each client's needs and develop a preliminary care plan upon admission or within 24 hours following admission.
- (e) A comprehensive evaluation shall be completed within 30 days for neuro-rehabilitation facilities.
- (f) The evaluation required by (e) above shall:



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- (1) Be completed in consultation with the client's licensed practitioner, as applicable, and guardian or agent, if any;
  - (2) Be reviewed every 6 months or after any significant change as defined in He-P 807.03(b1);
  - (3) Include a medication review;
  - (4) Include a review of the client's clinical and treatment record; and
  - (5) Include an assessment for pain, vital signs, physical, cognitive, mental, and behavioral status, as well as an assessment as to how the client is psychologically adapting to his or her social environment.
- (g) A care plan or treatment plan shall be written and shall include the date the problem or need was identified, the client goal or treatment to be taken, the date of re-evaluation, and responsible person(s), as applicable.
- (h) The care plan or treatment plan shall:
- (1) Be completed within 24 hours of the comprehensive evaluation;
  - (2) Be updated following the completion of each future assessment;
  - (3) Be made available to personnel who assist clients in the implementation of the plan; and
  - (4) Address the needs identified by the comprehensive evaluation in (e) above.
- (i) The care plan or treatment plan as defined in He-P 807.03(k) and required by (g) above, shall include:
- (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.
- (j) Progress notes shall be written at least monthly and include at a minimum:
- (1) Treatment care plan outcomes;
  - (2) Changes in the client's physical, functional, and mental abilities;
  - (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships; and
  - (4) Summary of protective care that has been provided.
- (k) At the time of a client's admission, the licensee shall ensure that orders from a licensed practitioner are obtained for medications, and that special dietary requirements are documented.
- (l) All personnel shall follow the orders of the licensed practitioner for each client and encourage clients to follow the practitioner's orders.

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(m) The licensee shall have each client obtain a health examination by a licensed practitioner within 30 days prior to admission or within 72 hours following admission to the RTRF.

(n) The health examination in (m) above shall include:

- (1) Diagnoses, if any;
- (2) The medical history;
- (3) Medical findings, including the presence or absence of communicable disease;
- (4) Vital signs;
- (5) Prescribed and over-the-counter medications;
- (6) Allergies;
- (7) Dietary needs; and
- (8) Pain assessment for neuro-rehabilitation clients.

(o) Each client shall have at least one health examination every 12 months, unless the licensed practitioner determines that an annual physical examination is not necessary and specifies in writing an alternative time frame, or the client refuses in writing.

(p) A client may refuse all care and services.

(q) When a client 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 client and guardian of the potential results of their refusal;
- (2) Notify the licensed practitioner of the client's refusal of care; and
- (3) Document in the client's record the refusal of care and the client's reason for the refusal if known.

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

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

- (1) Full name and the name the client prefers, if different;
- (2) Name, address, and telephone number of the client'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;

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- (9) Advanced directives; and
- (10) Any other pertinent information not specified in (1)-(9) above.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.17 Medication Services.

(a) All medications and treatments shall be administered in accordance with the orders of the licensed practitioner, except as allowed in (b) below.

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

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

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

(d) For each prescription medication being taken by a client, the licensee shall maintain, in the client's record, either the original or a copy of the written order signed by a licensed practitioner.

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

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

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

(g) All prescription medications brought by a client shall be in their original containers and comply with (e) above.

(h) Each prescription medication shall legibly display the following information:

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

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(6) The name of the prescribing licensed practitioner; and

(7) The expiration date of the medication(s).

(i) Pharmaceutical samples shall be used in accordance with the licensed practitioner's written order and labeled by the licensed practitioner, the administrator, licensee, or their designee with the client's name and shall be exempt from (h)(2)-(6) above.

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

(k) Only a pharmacist shall make changes to prescription medication container labels.

(l) Any change or discontinuation of medications taken at the RTRF shall be pursuant to a written order from a licensed practitioner.

(m) When the licensed practitioner changes the dose of a medication and personnel of the RTRF are unable to obtain a new prescription label:

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

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

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

(n) Telephone orders shall be counter-signed by the licensed practitioner within 15 days of receipt.

(o) All prescription medications, with the exception of nitroglycerin, epi-pens, and rescue inhalers, which may be kept on the client's person or stored in the client's room, shall be stored as follows:

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

(2) Medications shall be kept in a storage area that is:

a. Locked and accessible only to authorized personnel;

b. Organized to allow correct identification of each client's medication(s);

c. Illuminated in a manner sufficient to allow reading of all medication labels; and

d. Equipped to maintain medication at the proper temperature;

(3) Schedule II controlled substances, as defined by RSA 318-B:1-b, shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel; and

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

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

(1) Only original, unopened containers of OTC medications shall be allowed to be brought into the program;

(2) OTC medication shall be stored in accordance with (p)(1) above; and

(3) OTC medication containers shall be marked with the name of the client using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner.

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

(r) Except as allowed by (x) below, any contaminated, expired or discontinued medication shall be destroyed within 30 days of the expiration date, the end date of a licensed practitioner's orders or the medication becomes contaminated, whichever occurs first.

(s) Controlled drugs shall be destroyed only in accordance with state law and;

(1) Be accomplished in the presence of at least 2 people; and

(2) Be documented in the record of the client for whom the drug was prescribed.

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

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

(v) If a client is going to be absent from the RTRF at the time medication is scheduled to be taken and the client is not capable of self-administering, the medication container shall be given to the person responsible for the client while the client is away from the RTRF.

(w) Upon discharge or transfer, the licensee shall make the client's current medications available to the client and the guardian or agent, if any.

(x) A written order from a licensed practitioner shall be required annually for any client who is authorized to carry emergency medications, including but not limited to nitroglycerine and inhalers.

(y) Clients shall receive their medications by one of the following methods:

(1) Self-administered medication as allowed by (z) below;

(2) Self-directed administration of medication as allowed by (aa) below;

(3) Self-administered with supervision as allowed by (ab) and (ac) below; or

(4) Administered by individuals authorized by law.

(z) For clients who self-administer medication as defined in He-P 807.03(br) the licensee shall:

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- (1) Obtain a written order from a licensed practitioner on an annual basis:
  - a. Authorizing the client to self-administer medications without supervision;
  - b. Authorizing the client to store the medications in their room; and
  - c. Identifying the medications that may be kept in the client's room;
- (2) Evaluate the client on a 6 month basis or sooner, based on a significant change in the client, to ensure the client maintains the physical and mental ability to self-administer;
- (3) Have the client store the medication(s) in his or her room by keeping them in a locked drawer or container to safeguard against unauthorized access and making sure that this arrangement will maintain the medications at proper temperatures;
- (4) Have a copy of the key to access the locked medication storage area in the client's room; and
- (5) Allow the client to fill and utilize a medication system that does not require that medication remain in the container as dispensed by the pharmacist.

(aa) The licensee shall allow the client to self-direct administration of medications as defined in He-P 807.03(bt) if the client:

- (1) Has a physical limitation due to a diagnosis that prevents them from self-administration;
- (2) Receives evaluations every 6 months or sooner, based on a significant change in the client, to ensure the client maintains the physical and mental ability to self-direct administration of medications;
- (3) Obtains an annual written verification of their physical limitation and self-directing capabilities from their licensed practitioner and requests the RTRF to file the verification in their client record; and
- (4) Verbally directs personnel to:
  - a. Assist them with preparing the correct dose of medication by pouring, applying, crushing, mixing or cutting; and
  - b. Assist the client to apply, ingest or instill the ordered dose of medication.

(ab) If a client self-administers medication with supervision, as defined in He-P 807.03(bs), personnel shall:

- (1) Remind the client to take the correct dose of his or her medication at the correct time;
- (2) Place the medication container within reach of the client;
- (3) Remain with the client to observe the client taking the appropriate amount and type of medication as ordered by the licensed practitioner;
- (4) Record on the client's daily medication record that they have supervised the client taking his or her medication; and
- (5) Document in the client's record any observed or reported side effects, adverse reactions, and refusal to take medications and or medications not taken.

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(ac) If a client self-administers medication with supervision, personnel shall not physically handle the medication in any manner.

(ad) Medication administered by individuals authorized by law to administer medications shall be:

- (1) Prepared immediately prior to administration; and
- (2) Prepared, identified, and administered by the same person in compliance with RSA 318-B and RSA 326-B.

(ae) Personnel shall remain with the client until the client has taken the medication.

(af) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall follow the requirements of RSA 326-B.

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

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

(ah) Except for those clients who self-administer medication, the licensee shall maintain a written record for each medication taken by the client at the RTRF that contains the following information:

- (1) Any allergies or allergic reactions to medications;
- (2) The medication name, strength, dose, frequency, and route of administration;
- (3) The date and the time the medication was taken;
- (4) The signature, identifiable initials, and job title of the person who administers, supervises or assists the client taking medication;
- (5) For PRN medications, the reason the client required the medication and the effect of the PRN medication; and
- (6) Documented reason for any medication refusal or omission.

(ai) Personnel who are not otherwise licensed practitioners, nurses, or medication nursing assistants and who assist a client with self-administration with supervision, self-directed administration, or administration of medication via nurse delegation shall complete, at a minimum, a 4-hour medication supervision education program covering both prescription and non-prescription medication.

(aj) The medication supervision education program shall be taught by a licensed nurse, licensed practitioner or pharmacist, whether in-person or through other means such as electronic media.

(ak) The medication supervision education program required by (ai) above shall include:

- (1) Infection control and proper hand washing techniques;
- (2) The 5 rights which are as follows:

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- a. The right client;
  - b. The right medication;
  - c. The right dose;
  - d. Administered at the right time; and
  - e. Administered via the right route;
- (3) Documentation requirements;
  - (4) General categories of medications such as antihypertensives or antibiotics;
  - (5) Desired effects and potential side effects of medications; and
  - (6) Medication precautions and interactions.

(al) The administrator may accept documentation of training required by (ai) above if it was previously obtained by the applicant for employment at another licensed facility.

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

(an) The written documentation of the report in (am) above shall be maintained in the client's record.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.18 Personnel.

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

(b) There shall be at least one awake personnel member on duty at all times while clients are in the facility.

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

- (1) Position title;
- (2) Duties of the position;
- (3) Physical requirements of the position; and
- (4) Qualifications and educational requirements of the position.

(d) For all applicants for employment, volunteers, and independent contractors who will provide direct care or personal care services to clients or who will be unaccompanied by an employee while performing non-direct care or non-personal care services within the facility, the licensee shall:

- (1) Obtain and review a criminal records check from the New Hampshire department of safety, except, pursuant to RSA 151:2-d;



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- (2) Review the results of the criminal records check in accordance with (e) below;
- (3) Verify the qualifications of all applicants prior to employment;
- (4) Verify that the applicant is not listed on the BEAS state registry maintained by the department's bureau of elderly and adult services in accordance with RSA 161-F:49; and
- (5) Verify the applicant is licensed, registered, or certified if required by state statute.

(e) Unless a waiver is granted in accordance with (g) below, the licensee shall not offer employment, contract with, or otherwise engage a person in (d) above if the person:

- (1) Has been convicted of a felony in this or any other state;
- (2) Has been convicted for sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation in this or any other state;
- (3) Has been found by the department or any administrative agency in this or any other state for assault, fraud, theft, abuse, neglect, or exploitation of any person; or
- (4) Otherwise poses a threat to the health, safety, or well-being of the clients.

(f) If the information identified in (e) above regarding any person subject to (d) above is learned after the person is hired, contracted with, or engaged with, the licensee shall immediately notify the department and either:

- (1) Cease employing, contracting with, or engaging the person; or
- (2) Request a waiver of (d) above.

(g) If a waiver of (d) above is requested, the department shall review the information and the underlying circumstances in (d) above and shall either:

- (1) Notify the licensee that the person shall not or no longer shall be employed, contracted with, or engaged by the licensee, or the person shall not or no longer shall reside in the facility if, after investigation, it determines that the person poses a threat to the health, safety, or well-being of a client; or
- (2) Grant a waiver of (d) above if, after investigation, it determines that the person does not pose a current threat to the health, safety, or well-being of a client(s).

(h) The licensee shall:

- (1) Not employ, contract with, or engage any person in (d) above who is listed on the BEAS state registry unless a waiver is granted by BEAS; and
- (2) Only employ, contract with, or engage board of nursing licensees who are listed on the nursing assistant registry or licensing site with the NH board of nursing or are licensed with a reciprocal multi-compact state.

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

(j) The waiver in (g)(2) above shall be permanent for as long as the individual remains in the same job unless additional convictions or findings under (e) above occur.

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(k) Administrators shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:

- (1) A bachelor's degree from an accredited institution and one year of relevant experience working in a health related field;
- (2) A New Hampshire license as an RN, with at least one year relevant experience working in a health related field; or
- (3) An associate's degree from an accredited institution plus 3 years relevant experience in a health related field.

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

(m) 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 licensed staff.

(n) The licensee shall inform personnel of the line of authority at the RTRF.

(o) Prior to having contact with clients or food, personnel shall:

- (1) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or a licensed practitioner and the results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, both conducted not more than 12 months prior to employment, contract, or engagement;
- (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; and
- (3) Comply with the requirements of the Centers for Disease Control "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.

(p) In lieu of (o)(1) above, independent agencies contracted by the facility or by an individual client to provide direct care or personal care services may provide the licensee with a signed statement that its employees have complied with (o)(1) and (3) above before working at the RTRF.

(q) Prior to having contact with clients or food, personnel shall receive a tour of the RTRF and an orientation that explains the following:

- (1) The clients' rights in accordance with RSA 151:20;
- (2) The RTRF's complaint procedures;
- (3) The duties and responsibilities of the position;
- (4) The medical emergency procedures;

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- (5) The emergency and evacuation procedures;
- (6) The infection control procedures as required by He-P 807.21;
- (7) The facility confidentiality requirements;
- (8) Grievance procedures for both staff and clients;
- (9) The procedures for food safety for personnel involved in preparation, serving and storing of food; and
- (10) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

(q) 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 client's rights and complaint procedures required under RSA 151;
- (2) The licensee's infection control program;
- (3) The licensee's written emergency plan;
- (4) The licensee's policies and procedures; and
- (5) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

(r) The licensee shall provide an annual review of its policies and procedures for self-administration of medication, self-administration of medication with supervision, and self-directed medication administration to all direct care personnel, as applicable.

(s) The RTRF shall maintain a separate employee file for each employee, which 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 clients rights and responsibilities as required by RSA 151:21;
- (4) A copy of the results of the criminal record check as described in (d) 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 (q) 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 required above;

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(9) A copy of a current, valid driver's license, including proof of insurance, if the employee transports clients;

(10) 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;

(11) The statement required by (u) below; and

(12) The results of the registry checks in (h) above

(t) The RTRF shall maintain the records, but not necessarily a separate file, for all volunteers and for all independent contractors who provide direct care or personal care services to clients or who will be unaccompanied by an employee while performing non-direct care or non-personal care services within the facility, as follows:

(1) For volunteers, the information in (s)(1), (3), (4), (6), and (8)-(12) above; and

(2) For independent contractors, the information in (s)(3), (4), (6), and (8)-(12) above, except that the letter in (h) and (o) above may be substituted for (s)(4), (10), and (12) above, if applicable.

(u) 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 client; 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.

(v) An individual shall not have to re-disclose any of the matters in (u) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment, contract, or engagement.

(w) An individual shall disclose any new convictions, as soon as practicable, to the facility administrator. Any such convictions shall be reported to the department for review.

(x) The licensee shall protect and store in a secure and confidential manner all records described in (s) and (t) above.

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

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

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

(z) Personnel shall not be impaired while on the job by any substances including, but not limited to, legally prescribed medication, therapeutic cannabis, or alcohol.

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(aa) The RTRF shall have a written policy, as described in RSA 151:41, establishing procedures for the prevention, detection, and resolution of controlled substance misuse, and diversion, which shall apply to all personnel, and which shall be the responsibility of a designated employee or interdisciplinary team.

(ab) The policy in (aa) above shall include provisions relating to the following:

- (1) Education;
- (2) Procedures for monitoring the distribution and storage of controlled substances;
- (3) Procedures for voluntary self-referral by employees who are misusing substances;
- (4) Co-worker reporting procedures;
- (5) Drug testing procedures to include at a minimum, testing where reasonable suspicion of misuse or diversion by personnel exists;
- (6) Employee assistance procedures;
- (7) Confidentiality of investigations, reports, and resolutions of controlled drug misuse or diversion;
- (8) Investigation, reporting, and resolution of controlled drug misuse or diversion; and
- (9) The consequences for violation of the controlled substance misuse, and diversion prevention policy.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.19 Client Records.

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

(b) Client records shall contain the following:

- (1) A copy of the client's service agreement and all documents required by He-P 807.16(c);
- (2) Identification data, including:
  - a. Vital information including the client's name;
  - b. Home address;
  - c. Home telephone number;
  - d. Name, address and telephone number for emergency contact;
  - e. Date of birth, and
  - f. Guardian, agent, or surrogate decision-maker where applicable.
- (3) The name and telephone number of the client's licensed practitioner(s);

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- (4) The client's health insurance information;
  - (5) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
  - (6) A record of the health examination(s) in accordance with He-P 807.16(m) and (o);
  - (7) Written, dated and signed orders for the following:
    - a. All medications, treatments, and special diets, as applicable; and
    - b. Laboratory services and consultations performed at the RTRF;
  - (8) Results of any laboratory tests, X-rays, or consultations performed at the RTRF;
  - (9) All evaluations, assessments, and treatment plans, including documentation that the client and the guardian or agent, if any, has participated in the development of the care and treatment plans;
  - (10) All admission and progress notes;
  - (11) If services are provided at the RTRF by individuals not employed by the licensee, documentation that includes the name of the agency providing the services, the date services were provided, the name of the person providing services, and a brief summary of the services provided;
  - (12) Documentation of any alteration in the client's daily functioning such as:
    - a. Signs and symptoms of illness; and
    - b. Any action that was taken including practitioner notification;
  - (13) Documentation of any medical or specialized care;
  - (14) Documentation of reportable incidents;
  - (15) The consent for release of information signed by the client, guardian, or agent, if any;
  - (16) Discharge summary, planning, and referrals;
  - (17) Transfer or discharge documentation, including notification to the client, guardian, agent, or surrogate decision-maker, if any, of involuntary room change, transfer or discharge, if applicable;
  - (18) The information required by He-P 807.17(ai) as applicable;
  - (19) Information data sheet, which contains the information required by He-P 807.16(s);
  - (20) Documentation of nurse delegation of medications as required by the nurse practice act, as applicable; and
  - (21) Documentation of a client's refusal of any care or services.
- (c) Client records and client information shall be kept confidential and only provided in accordance with HIPAA, or any other applicable provision of law.

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(d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a client's record shall occur.

(e) When not being used by authorized personnel, client records shall be safeguarded against loss or unauthorized use or access.

(f) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of residents and personnel that, at a minimum, include:

- (1) Procedures for backing up files to prevent loss of data;
- (2) Safeguards for maintaining the confidentiality of information pertaining to residents and staff; and
- (3) Systems to prevent tampering with information pertaining to residents and staff.

(g) Records shall be retained for at least 7 years after discharge, except that when the client is a minor, records shall be retained for at least 7 years after the minor reaches the age of majority.

(h) The licensee shall arrange for storage of, and access to, client records as required by (g) above in the event the RTRF ceases operation.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

### He-P 807.20 Food Services.

(a) The licensee shall provide food services that:

- (1) Meet the US Department of Agriculture recommended dietary allowance as specified in the United States Department of Agriculture's "Dietary Guidelines for Americans 2015-2020" (Eighth Edition), available as listed in Appendix A;
- (2) Meet the special dietary needs associated with health or medical conditions for each client as identified in their client record; and
- (3) Offer at least 3 meals in each 24-hour period when the client is in the licensed premise unless contraindicated by the client's treatment plan.

(b) Snacks shall be available between meals and at bedtime if not contraindicated by the client's care plan.

(c) If a client refuses the item(s) on the menu, a substitute shall be offered.

(d) Each day's menu shall be posted in a place accessible to food service personnel and clients.

(e) A dated record of menus as served shall be maintained for at least the previous 4 weeks.

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

(g) If a client has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the client's medical record and notify the client's licensed practitioner.

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- (h) All food and drink provided to the clients shall be:
- (1) Safe for human consumption and free of spoilage or other contamination;
  - (2) Stored, prepared, and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;
  - (3) Served at the proper temperatures;
  - (4) Labeled, dated, and stored at proper temperatures; and
  - (5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.
- (i) The use of outdated or unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded.
- (j) All food not in the original package shall be stored in labeled and dated containers designed for food storage.
- (k) All work surfaces shall be cleaned and sanitized after each use.
- (l) All dishes, utensils, and glassware shall be in good repair, cleaned, and sanitized after each use and properly stored.
- (m) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.
- (n) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.
- (o) If soiled linen is transported through food service areas, the linen shall be in an impervious container.
- (p) Garbage or trash in the kitchen area shall be placed in lined containers with covers.
- (q) All RTRF persons involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.21 Infection Control.

- (a) The RTRF shall develop and implement an infection control program that educates and provides procedures for the prevention, control, and investigation of infectious and communicable diseases to include:
- (1) Proper hand washing techniques;
  - (2) The utilization of standard precautions, as specified by the United States Centers for Disease Control and Prevention "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" (June 2007), available as noted in Appendix A;



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- (3) The management of clients with infectious or contagious diseases or illnesses;
  - (4) The handling, storage, transportation, and disposal of those items identified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904;
  - (5) The reporting of infectious and communicable diseases as required by He-P 301; and
  - (6) Maintenance of a sanitary physical environment.
- (b) The infection control education program shall address:
- (1) Causes of infection;
  - (2) Effects of infections;
  - (3) Transmission of infections; and
  - (4) Prevention and containment of infections.
- (c) Personnel infected with a disease or illness transmissible through food, fomites, or droplets shall not work in food service or provide direct care in any capacity without personal protection equipment to prevent disease transmission until they are no longer contagious.
- (d) Personnel infected with scabies or lice shall not provide direct care to clients or work in food services until such time as they are no longer infected.
- (e) Pursuant to RSA 141-C:1, personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the RTRF until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.
- (f) Personnel with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight fitting bandage.
- (g) Each licensee caring for clients with infectious or contagious diseases shall have available appropriate isolation accommodations, equipment, rooms and personnel as specified by the United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings,” (June 2007), available as listed in Appendix A.
- (h) The licensee shall arrange for and document the immunization of all consenting clients for pneumococcal disease, as applicable, and all consenting personnel and clients for influenza in accordance with RSA 151:9-b and report immunization data to the department’s immunization program.
- (i) The RTRF shall develop and implement a POCT policy, if it provides POCT that educates and provides procedures for the proper handling and use of POCT devices, as well as prevention, control, and investigation of infectious and communicable diseases.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.22 Sanitation.

- (a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.

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- (b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary, and in good repair.
- (c) A supply of potable water shall be available for human consumption and food preparation.
- (d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the clients.
- (e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the Facility Guidelines Institute “Guidelines for the Design and Construction of Residential Health, Care, and Support Facilities, Table 2.5-1” (2018 edition), available as noted in Appendix A, and summarized as follows:
  - (1) 70-120 degrees Fahrenheit for clinical areas, representing the minimum and maximum allowable temperatures;
  - (2) 140 degrees Fahrenheit for dietary areas, except that provisions shall be made to provide 180 degrees Fahrenheit rinse water at the ware washer, which may be by separate booster, unless a chemical rinse is provided; and
  - (3) 160 degrees Fahrenheit for laundry by steam jet or separate booster heater, unless a proven processes which allows cleaning and disinfection of linen with decreased water temperatures is used which meets the designed water temperatures specified by the manufacturer.
- (f) All client bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination.
- (g) Cleaning solutions, compounds, and substances considered hazardous or toxic materials, as defined in RSA 147-A:2 VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place, such as a locked box, separate from food, medications, and client supplies.
- (h) Toxic materials shall not be used in a way that contaminates food, equipment, or utensils or in any way other than in full compliance with the manufacturer’s labeling.
- (i) Only individuals authorized under RSA 430:33 may apply pesticides, as defined by RSA 430:29, XXVI, in food storage, food preparation, or dining areas.
- (j) Solid waste, garbage, and trash shall be stored in a manner to make it inaccessible to insects and rodents, outdoor animals, and facility pets.
- (k) In-house trash and garbage receptacles shall be emptied in a timely manner and lined, or cleaned and disinfected after emptying or when visibly soiled.
- (l) Trash receptacles in food service areas shall be covered.
- (m) Laundry and laundry rooms shall meet the following requirements:
  - (1) Laundry and laundry rooms shall be kept separate from kitchen and dining areas;
  - (2) Clean linen shall be stored in a clean area and shall be separated from soiled linens at all times;
  - (3) Soiled materials, linens and clothing shall be transported in a laundry bag, sack, or container and washed in a sanitizing solution used in accordance with the manufacturer's recommendations; and

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

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

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

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.23 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 client(s) and personnel, including reasonable accommodations for clients and personnel with mobility limitations.

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

(1) Maintain a temperature as follows, except where clients 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 client(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 RTRF.

(f) Plumbing shall be sized, installed, and maintained in accordance with the International Plumbing Code, as specified in the state building code under RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155:A:10,V.

(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 client 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 or comparable artificial lighting.

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(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 clients.

(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 RTRF licensed for 16 or fewer clients, 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 RTRF licensed for 17 or more clients, there shall be at least 100 square feet for each client in each private bedroom and at least 80 square feet for each client in a semi-private bedroom, exclusive of space required for closets, wardrobes, and toilet facilities.

(n) Existing bedrooms in an RTRF licensed prior to the 2019 effective date of these rules shall be exempt from (l) and (m) above.

(o) Each bedroom shall:

(1) Contain no more than 2 beds;

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

(3) Have a side hinge or pocket door that meets applicable codes, and not a folding 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; and

(6) Be located on the same level as the bathroom facilities, if the client has impaired mobility as identified by the assessment.

(p) The licensee shall provide the following for the clients' use, as needed:

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

(2) A firm mattress that complies with Saf-C 6000 under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control;

(3) Clean linens, blankets, and a pillow;

(4) A bureau;

(5) A mirror;

(6) A bedside table;

(7) Adequate lighting;

(8) A chair;

(9) A closet or storage space for personal belongings; and

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(10) Window blinds, shades or curtains that provide privacy.

(r) The client may use his or her own personal possessions provided they do not pose a risk to the client or others.

(s) The resident or guardian may indicate and the home shall document that the resident does not wish or need to have one of more of the items in (p) above and the reason for the removal.

(t) The licensee shall provide the following rooms to meet the needs of clients:

(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 clients.

(u) Each licensee shall have a communication system in place so that all clients can effectively contact personnel when they need assistance with care or in an emergency.

(v) Lighting shall be available to allow clients to participate in activities such as reading, needlework or handicrafts.

(w) All bathroom, bedroom, and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.

(x) Screens shall be provided for:

(1) Doors;

(2) Windows; or

(3) Other openings to the outside.

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

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.24 Fire Safety.

(a) All RTRFs shall meet at a minimum the residential board and care chapter of NFPA 101 as adopted by the department of safety in Saf-C 6000, as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control.

(b) All RTRFs, including those with 3 or fewer clients, shall have:

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

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

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- a. Fire extinguishers shall be inspected either manually or by means of an electronic monitoring device or system at least once per calendar month, at intervals not exceeding 31 days;
- b. Records for manual inspection, or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed;
- c. Annual maintenance shall be performed on each extinguisher by trained personnel, and a tag or label shall be securely attached that indicates that maintenance was performed; and
- d. The components of the electronic monitoring device or system in a. above, if used, shall be tested and maintained annually in accordance with the manufacturers listed maintenance manual; and

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

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

(e) Immediately following any fire or emergency, including but not limited to, gas leak or evacuation of the facility due to flooding or an explosion, licensees shall notify the department by phone to be followed by written notification within 72 hours, with the exception of a false alarm or emergency medical services (EMS) transport for a non-emergent reason.

(f) The written notification required by (e) 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 clients who were evacuated as a result of the incident, if applicable;
- (5) The name of any personnel or clients 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.

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

(h) 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, prior to the change.

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(i) 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. Clients 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 RTRF 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 clients 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 clients 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 clients with experience in egressing through all exits and means of escape, except as noted in c. above;
- e. shall complete a written record of fire drills that include the following:
  1. The date and time, including AM/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 clients, 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 admission, the facility shall conduct a client Fire Safety Evacuation Scoring System (FSSES) as listed in NFPA 101A, Alternatives to Life Safety, to determine the clients' needs during a fire drill including mobility, assistance to evacuate, staff needed, risk of resistance, clients ability to evacuate on his or her own, and choosing an alternate exit; and

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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 clients just prior to the drill; and

(2) For RTRFs originally constructed to the health care occupancy chapter of the life safety code and to the codes, rules and regulations adopted and enforced by the state fire marshal's office and/or the municipality, or which have been physically evaluated, rehabilitated, and approved by a New Hampshire licensed engineer qualified in fire protection, the state fire marshal's office, and the department pursuant to He-P 807.07, 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 such as 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 plan, also known as defend-in-place plan, shall have this plan approved by the department per the state fire code, Saf-C-6000, as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control, 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, clients, 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 clients shall be given the experience of evacuating to the appropriate location or exiting through all exists;



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

1. The date and time, including AM/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 clients, personnel, and visitors, participating at the time of the drill;
4. The amount of time taken to completely evacuate the facility to an approved area of refuge or 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, if any;
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; 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.

(j) Storage and use of oxygen cylinders or systems shall comply with NFPA 99, Health Care Facilities Code including but not limited to:

(1) Oxidizing gases such as oxygen and nitrous oxide shall be separated from combustibles or flammable materials by one of the following:

- a. Minimum distance of 6.1 m (20 ft);
- b. Minimum distance of 1.5 m (5 ft) if the entire storage location is protected by an automatic sprinkler system designed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems; or
- c. A gas cabinet constructed per NFPA 30, Flammable and Combustible Liquids Code, or NFPA 55, Compressed Gases and Cryogenics Fluids Code, if the entire storage location is protected by an automatic sprinkler system designed in accordance with NFPA 13;

(2) Cylinders shall be protected from damage by means of the following specific procedures:

- a. Oxygen cylinders shall be protected from abnormal mechanical shock which is liable to damage the cylinder, valve, or safety device;
- b. Oxygen cylinders shall not be stored near elevators or gangways or in locations where heavy moving objects will strike them or fall on them;
- c. Cylinders shall be protected from tampering by unauthorized individuals;
- d. Cylinders or cylinder valves shall not be repaired, painted, or altered;
- e. Safety relief devices in valves or cylinders shall not be tampered with;

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- f. Valve outlets clogged with ice shall be thawed with warm, not boiling, water;
  - g. A torch flame shall not be permitted, under any circumstances, to come in contact with a cylinder, cylinder valve, or safety device;
  - h. Sparks and flame shall be kept away from cylinders;
  - i. Even if they are considered to be empty, cylinders shall not be used as rollers or supports or for any purpose other than that for which the supplier intended them;
  - j. Cylinders exceeding size E and containers larger than 45 kg (100 lb) weight shall be transported on a proper hand truck or cart complying with NFPA 99, section 11.4.3.1;
  - k. Freestanding cylinders shall be properly chained or supported in a proper cylinder stand or cart; and
  - l. Cylinders shall not be supported by radiators, steam pipes, or heat ducts; and
- (3) Cylinders and their contents shall be handled with care, which shall include the following specific procedures:
- a. Oxygen fittings, valves, pressure reducing regulators, or gauges shall not be used for any service other than that of oxygen;
  - b. Gases of any type shall not be mixed in an oxygen cylinder or any other cylinder;
  - c. Oxygen shall always be dispensed from a cylinder through a pressure reducing regulator;
  - d. The cylinder valve shall be opened slowly, with the face of the indicator on the pressure reducing regulator pointed away from all persons;
  - e. Oxygen shall be referred to as “oxygen”, not air, and liquid oxygen shall be referred to as “liquid oxygen”, not liquid air;
  - f. Oxygen shall not be used as a substitute for compressed air;
  - g. The markings stamped on cylinders shall not be tampered with, because it is against federal statutes to change these markings;
  - h. Markings used for the identification of contents of cylinders shall not be defaced or removed, including decals, tags, and stenciled marks, except those labels/tags used for indicating cylinder status, for example, full, in use, and empty;
  - i. The owner of the cylinder shall be notified if any condition has occurred that might allow any foreign substance to enter a cylinder or valve, giving details and the cylinder number;
  - j. Neither cylinders nor containers shall be placed in the proximity of radiators, steam pipes, heat ducts;
  - k. Very cold cylinders or containers shall be handled with care to avoid injury; and
  - l. A precautionary sign, readable from a distance of 1.5 m (5 ft), shall be displayed on each door or gate of the storage room or enclosure, and shall include the following wording at a minimum:

**CAUTION:  
OXIDIZING GAS(ES) STORED WITHIN  
NO SMOKING**

(k) If the licensee has chosen to allow smoking under He-P 807.14(w), an outside location or a room used only for smoking shall be provided which:

- (1) Has a dedicated ventilation system, so that smoke or odors cannot escape or be detected outside the designated smoking room;
- (2) Has walls and furnishings constructed of non-combustible materials;
- (3) Has metal waste receptacles and safe ashtrays; and
- (4) Is in compliance with the requirements of RSA 155:64-77, the Indoor Smoking Act and He-P 1900.

(l) Each licensee shall develop a written emergency plan that covers:

- (1) Loss of electricity;
- (2) Loss of water;
- (3) Loss of heat;
- (4) Bomb threat;
- (5) Severe weather;
- (6) Fire;
- (7) Gas leaks;
- (8) Unexplained client absences; and
- (9) Any situation that requires evacuation of the RTRF.

(m) Each licensee shall:

- (1) Annually review and revise, as needed, its emergency plan;
- (2) Submit its emergency plan to the local emergency management director for review and approval when initially written and whenever the plan is revised; and
- (3) Maintain documentation on-site which establishes that the emergency plan has been approved as required under (2) above.

(n) Each RTRF that has been pre-approved in writing by the local emergency management director as an emergency shelter may accept, on an emergency basis, clients of the RTRF's their local community provided that:

- (1) It has a generator capable of supplying the entire facility;
- (2) It has sufficient personnel and food to meet the needs of both the clients and any evacuees; and

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(3) It makes arrangements to transfer the evacuee as soon as practicable if they learn after accepting the evacuee that they cannot meet his or her needs.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

He-P 807.25 Emergency Preparedness.

(a) Each facility shall have an emergency management committee, of which the facility administrator must be a member.

(b) The emergency management committee shall have the authority for developing, implementing, exercising, and evaluating an emergency management program.

(c) The emergency management committee shall include other individuals who have knowledge of the facility and the capability to identify resources from key functional areas within the facility and shall solicit applicable external representation including but not limited to:

- (1) Elected state and local officials;
- (2) Police, fire, civil defense, and public health professionals;
- (3) Environment, transportation, and hospital officials;
- (4) Facility representatives; and
- (5) Representatives from community groups and the media.

(d) An emergency management program shall include, at a minimum, the following elements:

- (1) The emergency management plan as described in (e) and (f) below;
- (2) The roles and responsibilities of the committee members;
- (3) A description of how the plan is implemented, exercised, and maintained; and
- (4) Accommodation for emergency food and water supplies.

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

(f) The plan in (e) above shall:

- (1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, severe weather or human-caused emergency such as missing residents and bomb threats;
- (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;
- (3) Be available to all personnel;
- (4) Be based on realistic conceptual events;
- (5) Be modeled on the ICS in coordination with local emergency response agencies;

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- (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;
- (7) Develop and implement a strategy to prevent an incident that threatens life, property, and the environment of the facility;
- (8) Develop and implement a mitigation strategy that includes measures to be taken to limit or control the consequences, extent, or severity of an incident that cannot be prevented;
- (9) Develop and implement a protection strategy to protect life, property, and the environment from human caused incidents and events and from natural disasters;
- (10) For (7)-(9) above, incorporate the findings of a hazard vulnerability assessment including the results of an analysis of impact, program constraints, operational experience, and cost-benefit analysis to provide strategies that can realistically be implemented without requiring undue expenses to the facility;
- (11) Conduct a facility-wide inventory and review, to include the property that the facility is located on, to determine the status of hazards that may be incorporated into the prevention, protection, and mitigation strategies, and to determine the outcome of prior strategies at least annually;
- (12) Include the facility's response to both short-term and long-term interruptions in the availability of utility service in the disaster or emergency, including establishing contingency plans for continuity of essential building systems or evacuation to include the following, as applicable:
  - a. Electricity;
  - b. Potable water;
  - c. Non-potable water;
  - d. Heating, ventilation, and air conditioning (HVAC);
  - e. Fire protection systems;
  - f. Fuel required for building operations to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;
  - g. Fuel for essential transportation to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;
  - h. Medical gas and vacuum systems, if applicable;
  - i. Communications systems; and
  - j. Essential services, such as kitchen and laundry services;
- (13) Include a plan for alerting and managing staff in a disaster, and accessing CISM, if necessary;
- (14) Include the management of residents, particularly with respect to physical and clinical issues, to include:

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

(15) Identify a designated media spokesperson to issue news releases and an area where the media can be assembled, where they will not interfere with the operations of the facility;

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

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

(18) If the facility is located within 10 miles of a nuclear power plant and is part of the NewHampshire Radiological Emergency Response Plan (RERP), include the required elements of the RERP.

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

- (1) Drills shall be monitored by at least one designated evaluator who has knowledge of the facility's plan and who is not otherwise involved in the drill;
- (2) Drills shall evaluate program plans, procedures, training, and capabilities to identify opportunities for improvement;
- (3) The facility shall conduct a debriefing session not more than 72 hours after the conclusion of the drill. The debriefing shall include all key individuals, including observers, administration, clinical staff, and appropriate support staff; and
- (4) Exercises and actual events shall be critiqued to identify areas for improvement. The critique shall identify deficiencies and opportunities for improvement based upon monitoring activities and observations during the exercise. Opportunities for improvement identified in critiques shall be incorporated in the facility's improvement plan.

(h) For the purposes of emergency preparedness, each licensee shall have in writing, a plan for the management of emergency food, water, and other supplies, which shall include:

- (1) Assumptions for calculations of food and water supplies, for maximum number of staff and residents, water source of supply, either tap or commercial, and expiration in months, tracking of supplies, rotation of products, and contracts and memorandums of understanding with food and water suppliers such as:
  - (a) Enough refrigerated, perishable foods for a 3-day period;
  - (b) Enough non-perishable foods for a 7-day period; and

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- (c) Potable water for a 3-day period.
- (2) Designated storage location(s); and
- (3) Non-food and water, back-up supplies including but not limited to medical, office, and other supplies necessary to continue operation of the facility and provide necessary care and oversight of residents during the emergency.

Source. #9873-A, eff 2-24-11; ss by #12727, INTERIM, eff 2-20-19, EXPIRED: 8-19-19

New. #12962, eff 12-31-19

**Appendix A: Incorporation by Reference Information**

<b>Rule</b>	<b>Title</b>	<b>Obtain at:</b>
He-P 807.07(g)(3), (h), and (i)	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  <a href="https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/">https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/</a>
He-P 807.14(o) and He-P 807.21(a)(2), and (g)	United States Centers for Disease Control and Prevention’s “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007)	Publisher: United States Centers for Disease Control and Prevention  Cost: Free of Charge  The incorporated document is available at:  <a href="https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf">https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf</a>
He-P 807.18(o)(3)	Centers for Disease Control and Prevention’s “Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings” (2005 Edition)	Publisher: Centers for Disease Control and Prevention  Cost: Free of Charge  The incorporated document is available at:  <a href="https://www.cdc.gov/tb/publications/slidesets/infectionguidelines/default.htm">https://www.cdc.gov/tb/publications/slidesets/infectionguidelines/default.htm</a>
He-P 807.20(a)(1)	United States Department of Agriculture’s “ Dietary Guidelines for Americans 2015-2020” (Eighth Edition)	Publisher: United States Department of Agriculture  Cost: Free to the Public  The incorporated document is available at:

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Rule	Title	Obtain at:
		<a href="https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf">https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf</a>
He-P 807.22(e)	Facility Guidelines Institute's (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities Table 2.5-1" (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 <a href="https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/">https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/</a>

**Appendix B**

Rule	Specific State or Federal Statutes the Rule Implements
He-P 807.01-He-P 807.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 807.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 807.05-He-P 807.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 807.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a)
He-P 807.08-He-P 807.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 807.11	RSA 151:6, I; RSA 151:9, I(e)
He-P 807.12-He-P 807.13	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 807.14-He-P 807.25	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 807.24 (a) and (p)	NFPA 101
He-P 807.24 (b)-(o)	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 807.25-He-P 807.26	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)