

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number He-P 815

<p>1. Agency Name & Address: Dept. of Health & Human Services Bureau of Licensing and Certification Health Facilities Administration 129 Pleasant Street, Brown Bldg. Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 151:9</u> 3. Federal Authority: _____ 4. Type of Action: Adoption <u>X</u> Repeal _____ Readoption _____ Readoption w/amendment _____</p>
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5. Short Title: **Intermediate Care Facilities for Individuals with Intellectual Disabilities**

6. (a) Summary of what the rule says and of any proposed amendments:

The Department of Health and Human Services (Department) is proposing to adopt He-P 815.

He-P 815 sets forth the licensing requirements for all Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) licensed pursuant to RSA 151:2, I(e) and described in RSA 151:9, VII(a)(2), and thereby ensure, through basic standards, the health and safety of residents in an Intermediate Residential Care Facility that provides comprehensive and individualized health care and rehabilitation services to residents to promote their functional status and independence including shelter, food, training, and protective oversight services.

The proposed He-P 815 specifies:

- **The minimum requirements for equipment, personnel, training, operating, volume, and other criteria to assure the quality and safety for residents receiving care in an ICF/IID;**
- **The procedure for applying for and maintaining an ICF/IID license, including but not limited to, the frequency of licensing inspections, submission of information and data to evaluate the performance and ongoing operation of services and enforcement; and**
- **The fees for applying for and maintaining an ICF/IID, including potential fines for non-compliance.**

6. (b) Brief description of the groups affected:

Groups affected by this rule include the operators of an ICF/IID and their agents, as well as the qualifying patients who utilize this service.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State or Federal Statutes the Rule Implements
He-P 815.01	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.02	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 815.05	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 815.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 815.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a)
He-P 815.08	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.09	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.11	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.12	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 815.13	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 815.14	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.15	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.16	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.17	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.18	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.19	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.20	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.21	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.22	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.23	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.24	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.25	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Allyson Zinno** Title: **Administrator- Administrative Rules Unit**
 Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: Allyson.E.Zinno@dhhs.nh.gov
Concord, NH 03301

TTY/TDD Access: Relay NH 1-800-735-2964
 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<https://www.dhhs.nh.gov/doing-business-dhhs/legal-services/administrative-rules/nh-administrative-rules-public-comment>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, August 24, 2022**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, August 17, 2022 at 2:00pm**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:127 , dated June 30, 2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

The Department of Health and Human Services states that the proposed rule requires clinical and life safety inspections, which will result in indeterminable payroll costs to the Department. These costs will be offset in part by revenue generated from the proposed fee of \$25 per licensed bed. In addition, the proposed schedule of fines may increase revenue, to the extent that licensed entities are in noncompliance with the rule.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

The proposed rule will result in the following costs to Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID):

- A license fee of \$25 per licensed bed;
- Indeterminable compliance costs for licensees that opt to perform Clinical Laboratory Improvement Amendments (CLIA)-waived laboratory tests;
- Indeterminable administrative costs due to daily operation, record keeping, and reporting requirements;
- Indeterminable costs due to fines, to the extent that facilities are in noncompliance with the rule; and
- Indeterminable costs due to training requirements.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Statutory Authority: RSA 151:9

Adopt He-P 815 to read as follows:

PART He-P 815 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF/IID)

He-P 815.01 Purpose. The purpose of this part is to set forth the licensing requirements for all intermediate care facilities for individuals with intellectual disabilities(ICF/IID) licensed pursuant to RSA 151:2, I(e), and thereby ensure, through basic standards, the health and safety of residents in an ICF/IID that provides comprehensive and individualized health care and rehabilitation services to residents to promote their functional status and independence including shelter, food, training, and protective oversight services.

He-P 815.02 Scope. This part shall apply to any person, agency, partnership, corporation, government entity, association, or other legal entity operating an ICF/IID except:

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

He-P 815.03 Definitions.

- (a) "Abuse" means any one of the following:
 - (1) "Emotional abuse" means the misuse of power, authority, or both, verbal harassment, or confinement which results or could result in the mental anguish or emotional distress of a resident;
 - (2) "Physical abuse" means the misuse of physical force which results or could result in physical injury to an resident; or
 - (3) "Sexual abuse" means contact or interaction of a sexual nature involving a resident without his or her informed consent.
- (b) "Activities of daily living (ADL)" means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and medication management;
- (c) "Addition" means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.
- (d) "Administer" means an act whereby one or more doses of a medication is instilled into the body, applied to the body of, or otherwise given to a resident for immediate consumption or use by an individual authorized by law, including RSA 318-B and RSA 326-B.
- (e) "Administrator" means the person responsible for the management of the licensed premises who reports to and is accountable to the governing body.
- (f) "Admission" means the point in time when a resident, who has been accepted by a licensee for the provision of services, physically moves into the facility.

(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.

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

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

(k) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an ICF/IID pursuant to RSA 151:2, I(e).

(l) “Area of non-compliance” means any action, failure to act, or other set of circumstances that cause a licensee to be out of compliance with RSA 151, He-P 815, or other federal or state requirements.

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

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

(o) “Certified Intermediate Care Facility” means an Intermediate Care Facility that is certified by the Centers of Medicare and Medicaid Services (CMS) and deemed compliant with He-P 815.

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

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

(r) “Clinical Laboratory Improvement Amendments (CLIA)” means the requirements outlined at 42 CFR Part 493 which set forth the conditions that all laboratories must meet to be certified to perform testing on human specimens. A laboratory is defined as a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. These examinations also include procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. Facilities only collecting or preparing specimens, or both, or only serving as a mailing service and not performing testing are not considered laboratories.

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

(t) “Contracted employee” means a temporary employee working under the direct supervision of the ICF/IID but employed by an outside agency.

(u) “Core services” means those minimal services to be provided to any resident that must 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 at 129 Pleasant Street, Concord, NH 03301.

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

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

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

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

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

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

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

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

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

(ah) “Enforcement Action” means the imposition of an administrative fine, the denial of an application, or the revocation or suspension of a license in response to the non-compliance of RSA 151 or He-P 815.

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

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

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

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

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

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

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

(ap) “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.

(aq) “Infectious waste” means those items specified by Env-Wm 2604.01.

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

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

(at) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 815 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 and He-P 815.

(au) “License” means the document issued by the department to an applicant or licensee of an ICF/IID which authorizes operations in accordance with RSA 151 and He-P 815, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date, and the license number.

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

(aw) “Licensed practitioner” means:

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

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

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

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

(ba) “Life safety code” means the adoption by reference of the life safety code, as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5.

(bb) “Mechanical restraint” means locked, secured or alarmed ICF/IIDs or units within an ICF/IID, or anklets, bracelets, or similar devices that cause a door to automatically lock when approached, thereby preventing a resident from freely exiting the ICF/IID or unit within. These do not include postural supports for residents with inadequate tone or motor control to balance independently.

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

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

(be) “Mental illness” means “mental illness” as defined in RSA 135-C:2, X, namely “a substantial impairment of emotional processes, or of the ability to exercise conscious control of one’s actions, or of the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment primarily caused by:

- (1) Epilepsy;
- (2) Intellectual disability;
- (3) Continuous or non-continuous periods of intoxication caused by substances such as alcohol or drugs; or

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

(bf) “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.

(bg) “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 a resident.

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

(bi) “Nursing care” means the provision or oversight of a resident’s physical, mental, or emotional condition or diagnosis as confirmed by a licensed practitioner.

(bj) “Nutritional requirements” means the necessary food and liquid intake required to maintain acceptable parameters of nutritional status.

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

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

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

(bn) “Resident rights” means the privileges and responsibilities possessed by each resident provided by RSA 151:21.

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

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

(bq) “Personnel” means an individual who is employed by the facility, a volunteer, or an independent contractor, and provides direct care or personal care services to residents.

(br) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the resident’s freedom of movement, which includes but is not limited to forced escorts, holding, prone restraints, or other containment techniques. Physical restraints does not include postural supports for residents with inadequate tone or motor control to balance independently.

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

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

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

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

- (1) A lancing or finger stick device to obtain blood specimen;
- (2) A test strip and/or reagents to apply a specimen to for testing; or;
- (3) A meter or monitor to calculate and show the results, including:
 - a. Blood glucose meters, also called “glucometers”;
 - b. Prothrombin Time (PT) and International Normalized Ratio (INR) anticoagulation meters; or
 - c. A Cholesterol meter.

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

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

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

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

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

(ca) “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.

(cb) “Renovation” means the replacement in kind, strengthening, or upgrading of building elements, materials, equipment or fixtures, that does not result in a reconfiguration of the building spaces within.

(cc) “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.

(cd) “Reportable incident” means an occurrence of any of the following while the resident is either in the ICF/IID or in the care of ICF/IID personnel:

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

(ce) “Resident” means any person admitted to or in any way receiving care, services or both who resides in an ICF/IID.

(cf) “Resident record” means a separate file maintained for each resident, which includes all documentation required by RSA 151 and He-P 815 and as required by other federal and state law.

(cg) “Seclusion” means an intervention defined as solitary containment in a fully protective environment with close surveillance by qualified personnel for purposes of safety or behavior management.

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

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

- (1) Will not normally resolve itself without further intervention by personnel or by implementing standard disease-related clinical interventions;
- (2) Impacts more than one area of the resident’s health status; and
- (3) Requires interdisciplinary review and/or revision of the care plan.

(cj) “State monitoring” means the placement of individuals by the department at an ICF/IID to monitor the operation and conditions of the facility.

(ck) “Supervision” means the process by which the resident is guided and assisted in the activities and behaviors necessary to achieve and maintain his or her maximum independence.

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

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

(cm) “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.

He-P 815.04 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” (January 2022), signed by the applicant or 2 of the corporate officers affirming and certifying the following:

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

(2) A floor plan of the prospective ICF/IID;

(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,” if a sole proprietorship or if otherwise 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 and qualifications of the ICF/IID administrator;

(6) Copies of applicable licenses, certificates, or both for the ICF/IID administrator;

(7) Written local approvals as follows:

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

1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
4. The fire chief verifying that the applicant complies with the state fire code, RSA 153:1, VI-a, including the appropriate occupancy chapter of the life safety code 101 and the uniform fire code, NFPA 1, as published by the national fire protection association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5, and local fire ordinances applicable for a health care facility; and

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

- (8) If the ICF/IID uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Dw 702.02, Env-DW 704.02, or if a public water supply is used, a copy of a water bill;
 - (9) The results of a criminal records check for the applicant(s), licensee if different than the applicant, medical director, and the administrator, as applicable;
 - (10) A copy of the criminal attestation as described in He-P 815.17(m)(8) for the administrator and medical director;
 - (11) If residents are adults, the results of a BEAS registry check from the bureau of elderly and adult services for the administrator and medical director; and
 - (12) If residents are minors, the results of the DCYF central registry check of founded report of abuse and neglect for the administrator and medical director.
- (b) The applicant shall mail or hand-deliver the documents to:
- Department of Health and Human Services
Office of Legal and Regulatory Services
Health Facilities Administration
129 Pleasant Street
Concord, NH 03301

He-P 815.05 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 815.04(a) have been received.
- (b) If an application does not contain all of the items required by He-P 815.04(a), the department shall notify the applicant in writing of the items required before the application can be processed.
- (c) Any licensing fee submitted to the department in the form of a check or money order and returned to the state for any reason, shall be processed in accordance with RSA 6:11-a.
- (d) Licensing fees shall not be transferable to any other application(s).
- (e) Unless a waiver has been granted, the department shall deny a licensing request in accordance with He-P 815.13(b) if it determines that the applicant, licensee, administrator, or medical director:
 - (1) Has been convicted of any felony in this or any other state;
 - (2) Has been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation;
 - (3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person; or
 - (4) Otherwise poses a threat to the health, safety, or well-being of residents.
- (f) Following both a clinical and 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 815.

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

(h) A written notification of denial, pursuant to He-P 815.13(a), shall be sent to an applicant applying for an initial license if it has been determined by the inspection in He-P 815.05(g) and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 815.

(i) A written notification of denial, pursuant to He-P 815.13(b)(4), shall be sent to an applicant applying for an initial license if the department has received no communication from the applicant within 3 months of sending written notification to the applicant that their application is complete and an inspection needs to be scheduled.

He-P 815.06 License Expirations and Procedures for Renewals.

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

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 815.04(a)(1) at least 120 days prior to the expiration of the current license to include:

(1) The current license number;

(2) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-P 815.10(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 any current employees who have a permanent waiver granted in accordance with He-P 815.10; and

(4) A copy of any non-permanent or new variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03-6005.04, 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 He-P 815.06(b), if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704.02 for nitrates.

(d) Following an inspection as described in He-P 815.09, a license shall be renewed if the department determines that the licensee:

(1) Submitted an application containing all the items required by He-P 815.06(b) and (d) as applicable, prior to the expiration of the current license; and

(2) Is found to be in compliance with RSA 151 and He-P 815, and all the federal requirements at the renewal inspections, or has submitted a POC that has been accepted by the department and implemented by the licensee if area of non-compliance were cited.

(e) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license and does not intend to cease operation, shall be required to submit an application for an initial license pursuant to He-P 815.04.

He-P 815.07 ICF/IID New Construction and Existing Building Rehabilitation.

(a) For new construction and for building 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 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 windows and door sizes and each room's use.

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

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

(e) The department shall review construction documents, drawings, and plans of a newly proposed or existing facility for compliance with all applicable sections of RSA 151 and He-P 815 shall and notify the applicant or licensee as to whether the proposal complies with these requirements.

(f) Construction and building rehabilitation initiated prior to receiving department approval shall be done at the applicant or licensee's own risk.

(g) The ICF/IID shall comply with all applicable state laws, rules, and local ordinances when undertaking construction or building rehabilitation.

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

(1) The state fire code and codes adopted by reference as defined in RSA 153:1, VI-a, except as modified in Saf- FMO 300, including but not limited to the health care chapter of NFPA 101, and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5;

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.

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

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

(k) The department shall be the authority having jurisdiction for the requirements in He-P 815.07(h)-(i) and shall negotiate compliance with the licensee and their representatives and grant waivers in accordance with He-P 815.10 as appropriate.

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

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

(n) Exceptions or variances pertaining to the state fire code referenced in He-P 815.07(h)(1) shall be granted only by the state fire marshal.

(o) The building, including all construction and rehabilitated spaces shall be subject to an inspection pursuant to He-P 815.09 prior to its use.

He-P 815.08 ICF/IID Requirements for Organizational Changes.

(a) The ICF/IID 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; or
- (4) Name;
- (5) Number of beds authorized under the current license: or
- (6) Services.

(b) The ICF/IID 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) An increase in the number of beds authorized under the current license; or
- (4) A change in services.

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

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

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

(1) Ownership, unless the current licensee is in full compliance, in which case an inspection shall be conducted as soon as practical by the department:

(2) The physical location;

(3) An increase in the number of beds or residents authorized under the current license;

(4) A change in licensing classification; or

(5) A change that places the facility under a different life safety code occupancy chapter.

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

(g) A new license and license certificate shall be issued for change of ownership, classification or physical location.

(h) A revised license and license certificate shall be issued for changes in the SRHCF name or a change in address without a change in physical location.

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

(1) A change of administrator;

(2) An increase or decrease in the number of beds;

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

(4) When a waiver has been granted in accordance with He-P 815.10.

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

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

(2) Copies of applicable licenses, certificates, or both, for the new administrator; and

(3) The results of a criminal records check from the NH department of safety for the new administrator.

(4) The results of the criminal attestation as described in He-P 815.17(m)(8).

(k) Upon review of the materials submitted in accordance with (i) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position as specified in He-P 815.15(a)(7).

(l) If the department determines that the new administrator does not meet the qualifications as specified in (j) above, it shall so notify the ICF/IID in writing so that a waiver can be sought or the ICF/IID can search for a qualified candidate.

(m) The ICF/IID 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.

(n) The department shall use email as the primary method of contacting the facility in the event of an emergency.

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

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

He-P 815.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 815, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The licensed premises;
- (2) All programs and services provided by the ICF/IID; and
- (3) Any records required by RSA 151 and He-P 815.

(b) The department shall conduct a clinical and life safety inspection as necessary, to determine full compliance with RSA 151 and He-P 815 prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership except as allowed under He-P 815.08(e)(1);
- (3) A change in the physical location of the ICF/IID;
- (4) A relocation within the facility;
- (5) A change in the life safety code occupancy chapter the facility is licensed under;
- (6) An increase in the number of beds;
- (7) Occupation of space after construction, modifications, or structural alterations; or
- (8) The renewal of a non-certified 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 as part of an annual inspection, or as a follow-up inspection focused on confirming the implementation of a POC.

(d) A statement of findings for clinical inspections or notice to correct for life safety code inspections shall be issued when, as a result of an inspection, the department determines that the ICF/IID is in violation of any of the provisions of He-P 815, 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 written POC, in accordance with He-P 815.12, within 21 days of the date on the letter that transmits the inspection report.

He-P 815.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 815 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 how a waiver is justified;
- (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and residents as the rule from which a waiver is sought or provide a reasonable explanation why the applicable rule should be waived; and
- (4) The period of time for which the waiver is sought if less than permanent.

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

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

- (1) Meet the objective or intent of the rule;
- (2) Do not negatively impact public health or the health, safety, or well-being of the residents; and
- (3) Do not affect the quality of resident services.

(d) The licensee's subsequent compliance with the terms of the waiver as approved shall be considered equivalent to complying with the rule from which waiver was sought.

(e) Waivers shall not be transferable.

(f) When a licensee wishes to renew a non-permanent waiver beyond the approved period of time, the licensee shall apply for a new waiver with the renewal application or at least 60 days prior to the expiration of the existing waiver, as appropriate, by submitting the information required by (a) above.

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

He-P 815.11 Complaints.

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

- (1) The alleged violation(s) occurred not more than 6 months prior to the date the department was made aware of the allegation(s);
- (2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s);
- (3) There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of RSA 151 or He-P 815; or
- (4) The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:

- a. Physical injury or abuse;

- b. Verbal, or emotional abuse; or
 - c. The danger of physical injury to one or more residents.
- (b) When practicable, the complaint shall be in writing and contain the following information:
- (1) The name and address of the ICF/IID, or the alleged unlicensed person 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 and He-P 815.
- (c) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, including, but not limited to:
- (1) Requests for additional information from the complainant or the facility;
 - (2) A physical inspection of the premises;
 - (3) Review of any relevant records; and
 - (4) Interviews with residents who might have information that is relevant to the investigation.
- (d) For the licensed ICF/IID, the department shall:
- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if areas of non-compliance were found as a result of the investigation;
 - (2) Notify any other federal, state, or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate;
 - (3) Notify the licensee in writing and take no further action if the department determines that the complaint is unfounded or does not violate any statutes or rules; and
 - (4) Require the licensee to submit a POC in accordance with He-P 815.12.
- (e) The following shall apply for the unlicensed individual or entity:
- (1) In accordance with RSA 151:7-a, II, the department shall provide written notification to the owner or person responsible that includes:
 - a. The date of investigation;
 - b. The reasons for the investigation; and
 - c. Whether or not the investigation resulted in a determination that the services being provided require licensing under RSA 151:2, I(e);
 - (2) In accordance with RSA 151:7-a, II, the owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (e)(1) above to submit a written response to the findings prior to the department's issuance of a warning;
 - (3) In accordance with RSA 151:7-a, I, the department may issue a written warning, following an investigation conducted under RSA 151:6 or an inspection under RSA 151:6-a, to the owner or person responsible, requiring compliance with RSA 151 and He-P 815;

(4) The warning in (e)(3) above, shall include:

- a. The time frame within which the owner or person responsible shall comply with the directives of the warning;
- b. The final date by which the action or actions requiring licensure must cease or by which an application for licensure must be received by the department before the department initiates any legal action available to it to cease the operation of the facility; and
- c. The right of the owner or person responsible to appeal the warning under RSA 151:7-a, III, which shall be conducted in accordance with RSA 151:8 and RSA 541-A:30, III, as applicable; and

(5) Any person or entity who fails to comply after receiving a warning as described in (e)(3) above shall be subject to an action by the department for injunctive relief under RSA 151:17 and an administrative fine pursuant to He-P 815.13(c)(5).

(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 administrative or judicial proceedings relative to the licensee.

He-P 815.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 815, or other applicable licensing rules, including:

- (1) Requiring a licensee to submit a POC in accordance with (c) below;
- (2) Imposing a directed POC upon a licensee in accordance with (d) below;
- (3) Imposing conditions upon a license; or
- (4) Monitoring of a licensee.

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

- (1) Identifies each area in which the licensee is not in compliance with RSA 151 or a provision of these rules; and
- (2) Identifies the specific remedy(s) that has been imposed.

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

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

- a. How the licensee intends to correct each area of non-compliance;
- b. What measures will be put in place, or what system changes will be made to ensure that the area of 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 written 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 resident will not be jeopardized as a result of granting the extension;

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

- a. Achieves compliance with RSA 151 and He-P 815;
- b. Addresses all areas of non-compliance cited in the statement of findings or notice to correct;
- c. Prevents a new violation of RSA 151 or He-P 815 as a result of the implementation of the POC; and
- d. Specifies the date upon which the areas of non-compliance will be corrected;

(4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;

(5) If the POC is not acceptable the department shall notify the licensee in writing within 14 days of the reason for rejecting the POC;

(6) The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected, unless, within the 14 day period, the licensee requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:

- a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and
- b. The department determines that the health, safety or well-being of a resident will not be jeopardized as a result of granting the extension;

(7) The revised POC shall comply with (c)(1) above and be reviewed in accordance with (c)(3) above;

- (8) If the revised POC is not acceptable to the department or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with He-P 815.12(d) and a fine in accordance with He-P 815.13(c)(11);
- (9) The department shall verify the implementation of any POC that has been submitted and accepted by:
- a. Reviewing materials submitted by the licensee;
 - b. Conducting an onsite follow-up inspection; or
 - c. Reviewing compliance during the next annual inspection;
- (10) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (11) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection, the licensee shall be:
- a. Notified by the department in accordance with He-P 815.12(b); and
 - b. Issued a directed POC in accordance with (d) below and shall be subject to a fine, as appropriate, in accordance with He-P 815.13(c)(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 residents and employees;
 - (2) A revised POC is not submitted within 14 days of the written notification from the department or such later date as applicable if an extension was granted by the department; or
 - (3) A revised POC submitted by the licensee or administrator has not been accepted.
- (e) If at the time of the next inspection the directed POC referenced in (d) above has been found not to have been implemented by the completion date stated in the directed POC, the department shall, as appropriate:
- (1) Impose a fine;
 - (2) Deny the application for a renewal of a license in accordance with He-P 815.13(b)(6); or
 - (3) Revoke the license in accordance with He-P 815.13(b)(6).
- (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 or a notice to correct, provided that the applicant or licensee submits a written request for an informal dispute resolution.
- (g) The informal dispute resolution shall be requested in writing by the applicant, licensee, or administrator no later than 14 days from the date the statement of findings or notice to correct was issued by the department.

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

(i) The deadline to submit a POC in accordance with (c)(2) above shall not apply until the notice of the determination in (h) above has been provided to the applicant or licensee.

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

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

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

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

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

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

(1) The licensee has repeatedly failed to manage and operate the ICF/IID in compliance with RSA 151 and He-P 815 and such ICF/IID practices have failed to meet the needs of the residents;

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

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

He-P 815.13 Enforcement Actions and Hearings.

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

(1) The reasons for the proposed action;

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

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

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

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

- (1) An applicant or a licensee violated RSA 151 or He-P 815 in a manner which poses a risk of harm to a resident's health, safety, or well-being;
 - (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 815.04;
 - (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, 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 815.12(c), (d), and (e);
 - (7) The licensee has submitted a POC that has not been accepted by the department in accordance with He-P 815.12 (c)(5) and has not submitted a revised POC as required by He-P 815.12 (c)(6);
 - (8) The licensee is cited a third time under RSA 151 or He-P 815 for the same violations within the last 5 inspections;
 - (9) A licensee, including corporate officers or board members, has had a license revoked and submits an application during the 5-year prohibition period specified in (j) below;
 - (10) Unless a waiver has been granted, upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 815;
 - (11) Unless a waiver has been granted, the department makes a determination that the applicant, administrator, licensee, or a household member has been convicted of or adjudicated for a sexual assault or other violent crime, theft or fraud, or a finding of abuse, neglect or exploitation in this or any other state, or poses a threat to the health, safety, or well-being of a resident;
 - (12) The applicant or employs an administrator who does not meet the qualifications for the position under circumstances in which the department has not granted a waiver; or
or
 - (13) The applicant has had a license revoked by another division or unit of the department within a 5 year period of 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 person or entity;
- (2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2, or continuing to operate after a failure to renew the license by the expiration date, the fine for an applicant, unlicensed person or entity, or a licensee shall be \$2000.00;
- (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III and He-P 815.14(g), the fine for an applicant, licensee, or unlicensed person or entity shall be \$500.00;
- (4) For a failure to transfer a resident whose needs exceed the services or programs provided by the ICF/IID after being directed by the department to transfer the resident, in violation of RSA 151:5-a, the fine shall be \$500.00;
- (5) 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 815.11(e), the fine shall be \$500.00;
- (6) For a failure to submit a renewal application for a license at least 120 days prior to the expiration date, in violation of He-P 815.06(b), the fine shall be \$100.00;
- (7) For a failure to notify the department prior to a change of ownership, in violation of He-P 815.08(a)(1), the fine shall be \$500.00;
- (8) For a failure to notify the department prior to a change in the physical location, in violation of He-P 815.08(a)(2), the fine shall be \$500.00;
- (9) For a failure to notify the department of a change in e-mail address, in violation of He-P 815.08(m), the fine shall be \$100.00;
- (10) For a refusal to allow access by the department to the ICF/IID's premises, programs, services, or records, in violation of He-P 815.09(a), the fine for an applicant, person, or licensee shall be \$2000.00;
- (11) 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 815.12(c)(2) and (6), the fine for a licensee shall be \$500.00;
- (12) 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 815.12(c)(11), the fine for a licensee shall be \$1000.00;
- (13) For a failure to establish, implement, or comply with licensee policies, as required by He-P 815.14(b) and (d), the fine for a licensee shall be \$500.00;
- (14) For a failure to provide services or programs required by the licensing classification and specified by He-P 815.14(c), the fine for a licensee shall be \$500.00;
- (15) For exceeding the licensed capacity in violation of He-P 815.14(k), the fine for a licensee shall be \$500.00 per day;
- (16) For providing false or misleading information or documentation, in violation of He-P 815.14(f), the fine shall be \$1000.00 per offense;

- (17) For a failure to meet the needs of an resident, in violation of He-P 815.14(i)(1), the fine for a licensee shall be \$1000.00 per resident;
- (18) For placing a resident in a room that, based on the floor plan required by He-P 815.04(a)(2), has not been approved or licensed by the department, the fine for a licensee shall be \$500.00;
- (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 815.10, in violation of He-P 815.14(i)(4) and (5), the fine for a licensee shall be \$500.00;
- (20) For failure to cooperate with the inspection or investigation conducted by the department, in violation of He-P 815.09(a), the fine shall be \$2000.00;
- (21) 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 815.07(a), the fine for a licensed facility shall be \$500.00;
- (22) For occupying a renovated area of a licensed facility or new construction prior to approval by local and state authorities, in violation of He-P 815.09(b)(7), the fine shall be \$500.00, which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department;
- (23) When an inspection determines that a violation of RSA 151 or He-P 815 has the potential to jeopardize the health, safety, or well-being of a resident, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same area of non-compliance is cited within 2 years of the original area of non-compliance, the fine for a licensee shall be \$1000.00; or
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in a. above, the fine for a licensee shall be \$2000.00;
- (24) Each day that the person or licensee continues to be in violation of the provisions of RSA 151 or He-P 815 shall constitute a separate violation and shall be subject to fines in accordance with He-P 815.13(c); and
- (25) If the applicant or licensee is making good faith efforts to comply with (4), (5) or (19) above, 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, licensee, or unlicensed entity 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 and the cessation of operations when it finds that the health, safety, or well-being of residents is in jeopardy and emergency action is required 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 815 is achieved.

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

(j) When an ICF/IID's license has been denied or revoked, if the enforcement action specifically pertained to his or her role in the ICF/IID, the applicant, licensee, or administrator shall not be eligible to reapply for a license or be employed as an administrator for at least 5 years.

(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 no appeal is filed;
or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is 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 815.

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

(n) RSA 541-A shall govern further appeals of department decisions under this section.

(o) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 815.

He-P 815.14 Duties and Responsibilities of All Licensees.

(a) The licensee shall comply with all federal, state, and local laws, rules, codes, and ordinances, as applicable, including RSA 161-F:49 and rules promulgated thereunder.

(b) In accordance with RSA 151:20, the licensee shall have a written policy setting forth the rights and responsibilities of residents receiving services at the ICF/IID, as well as written procedures to implement its policy to ensure that the rights set forth in RSA 151:21, "Patients' Bill of Rights" are upheld.

(c) The licensee shall define, in writing, the scope and type of services to be provided by the ICF/IID, which shall include at a minimum, the required services listed in He-P 815.15.

(d) The licensee shall develop and implement written policies and procedures governing the operation of all services provided by the ICF/IID and for:

(1) Reviewing the policies and procedures annually;

(2) Revising them as needed;

- (3) Implementing a written policy that ensures the safety of all persons present on the licensed premises where firearms are permitted; and
 - (4) Managing the behavior of residents under the age of 18, including how and under what circumstances seclusion or restraint is used, pursuant to RSA 126-U:2.
- (e) The licensee shall assess and monitor the quality of care and service provided to residents on an ongoing basis.
- (f) The licensee or any personnel shall not falsify any documentation or provide false or misleading information to the department.
- (g) The licensee shall not:
- (1) Advertise or otherwise represent the program as operating an ICF/IID, unless it is licensed; and
 - (2) Advertise that it provides services that it is not authorized to provide.
- (h) The licensee shall comply with all conditions of warnings and administrative remedies issued by the department, and all court orders.
- (i) Licensees shall:
- (1) Meet the needs of the resident;
 - (2) Initiate action to maintain the ICF/IID in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state, and local laws, rules, regulations, and ordinances;
 - (3) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the ICF/IID;
 - (4) Appoint a qualified administrator and medical director;
 - (5) Verify the qualifications of all personnel,
 - (6) Provide sufficient numbers of personnel who are present in the ICF/IID and are qualified to meet the needs of residents during all hours of operation;
 - (7) Provide the ICF/IID with sufficient supplies, equipment, and lighting to meet the needs of the residents;
 - (8) Implement any POC that has been accepted or issued by the department; and
 - (9) Require that all personnel follow the orders of the licensed practitioner for each resident and encourage the residents to follow the licensed practitioner's orders.
- (j) The licensee shall consider all residents to be competent and capable of making health care decisions unless the resident:
- (1) Has a guardian appointed by a court of competent jurisdiction;
 - (2) Has a durable power of attorney for health care that has been activated; or

(3) Is an un-emancipated minor.

(k) The licensee shall not exceed the maximum number of residents or beds licensed by the Department, unless authorized by the Department, such as during an emergency

(l) The licensee shall not admit a resident whose needs exceed the program and services offered by the ICF/IID.

(m) If the licensee accepts a resident 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 residents, 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.

(n) The licensee shall report all positive tuberculosis test results for employees to the department's bureau of disease control in accordance with RSA 141-C:7, He-P 301.02, and He-P 301.03.

(o) The licensee shall implement measures to ensure the safety of residents who are assessed as an elopement risk or danger to self or others.

(p) If serving an adult population, the licensee shall ensure compliance with all dementia training requirements pursuant to RSA 151:47-49 including continuing education to include new information on best practices in the treatment and care of persons with dementia and be provided for:

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

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

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

(1) The current license certificate issued in accordance with RSA 151:2;

(2) All inspection reports issued in accordance with He-P 815.09, for the previous 12 months;

(3) A copy of the residents' bill of rights specified by RSA 151:21;

(4) A copy of the licensee's policies and procedures relative to the implementation of resident rights and responsibilities as required by RSA 151:20;

(5) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted, in writing, to "Department of Health and Human Services, Office of Legal and Regulatory Services, Health Facilities Administration, 129 Pleasant Street, Concord, NH 03301" or by calling 1-800-852-3345, and information on how to contact the office of the long-term care ombudsman; and

(6) The licensee's plan for fire safety, evacuation, and emergencies, identifying the location of, and access to all fire exits.

(r) For reportable incidents, the licensee shall:

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

(2) Fax to 271-4968 or, if a fax machine is not available, convey by electronic or regular mail, the following information to the department within 48 hours of a reportable incident:

- a. The ICF/IID name;
- b. A description of the incident, including identification of injuries, if applicable;
- c. The name of the licensee(s) or employees involved in, witnessing, or responding to the reportable incident;
- d. The name of resident(s) involved in or witnessing the reportable incident;
- e. The date and time of the reportable incident;
- f. The action taken in direct response to the reportable incident, including any follow-up;
- g. If medical intervention was required, by whom and the date and time;
- h. When the resident's guardian or agent, if any, or personal representative was notified;
- i. The signature of the person reporting the reportable incident;
- j. The date and time the resident's licensed practitioner was notified, if applicable; and
- k. The date the facility performed the investigation required by (1) above;

(3) As soon as practicable, notify the local police department, the department, and the guardian, agent, surrogate decision-maker, or personal representative, if any, when a resident has an elopement or unexplained absence and the licensee has searched the building and the grounds of the ICF/IID without finding the resident; and

(4) Notify the department with a written report within 5 days describing the actions taken by personnel, the final outcome or continuation of the reportable incident, and actions taken to prevent a reoccurrence if it was not submitted in the initial report.

(s) For uses of restraint with a resident under the age of 18, the license shall notify the resident's parents or guardians in accordance with RSA 126-U:7 including verbal and written documentation.

(t) The licensee shall admit and allow any department representative to inspect the ICF/IID and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 815 as authorized by RSA 151:6 and RSA 151:6-a.

(u) Applicants, licensees, and employees shall cooperate with the department during all departmental inspections and investigations authorized under RSA 151 and He-P 815, including allowing representatives of the department to:

- (1) Enter and complete an inspection of the premises;
- (2) Review and reproduce any records, forms, or reports which are required to be maintained or made available to the department; and
- (3) Interview employees and residents of the ICF/IID.

(v) A licensee shall, upon request, provide a resident or the resident's guardian or agent, if any, with a copy of his or her resident record pursuant to the provisions of RSA 151:21, X.

(w) 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.

(x) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of residents and employees 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 employees; and
- (3) Systems to prevent tampering with information pertaining to residents and employees.

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

(z) The licensee shall provide cleaning and maintenance services, as needed, to protect residents, employees, and the public.

(aa) The ICF/IID shall comply with all federal, state, and local health, building, fire, and zoning laws, rules, and ordinances.

(ab) If the ICF/IID is not on a municipal water system, the water used in the ICF/IID shall be potable and suitable for human consumption.

(ac) If the licensee holds or manages a resident's funds or possessions, it shall first receive 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 residents, or other household members.

(ad) The licensee shall develop and follow policies and procedures regarding resident room or bed location changes.

(ae) Following the death of a roommate, the licensee shall facilitate the provision of social services for the resident as needed.

(af) If the residents are minors, any licensee, employee, personnel, or other person associated with the facility who suspects that a child is being abused or neglected is a mandated reporter in accordance with RSA 169-C:29 and shall report the suspected abuse to the division for children, youth, and families at 1-800-894-5533.

He-P 815.15 Required Services.

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

- (1) Is responsible for the day-to-day operations of the ICF/IID;
- (2) Works no less than 35 hours per week at the ICF/IID, which may include day, evening, night and weekend hours;

- (3) Delegates, in writing, an alternate onsite, qualified designee who shall assume the responsibilities of the administrator in his or her absence;
 - (4) Ensures development and implementation of ICF/IID policies and procedures on:
 - a. Patient's rights as required by RSA 151:20;
 - b. Advanced directives and DNR orders as required by RSA 137-J;
 - c. Discharge planning as required by RSA 151:26;
 - d. The use restraints in residents under the age of 18 in accordance with RSA 126-U;
 - e. The use of seclusion in accordance with RSA 126-U; and
 - f. Reportable incident reporting;
 - (5) Monitoring and evaluating the quality of resident care and resident care services in the ICF/IID pursuant to He-P 815.24;
 - (6) Identifying and making available education programs designed to maintain the personnel's expertise in areas related to the services provided in the ICF/IID; and
 - (7) Any new administrator shall be appointed by the Board of Directors and possess:
 - a. A master's degree in the field of human services, business administration, or public administration, awarded by a regionally accredited college or university, plus 2 years of experiences as a professional in human services, which included administrative responsibilities; or
 - b. A bachelor's degree with a minimum of 12 credits in the field of human services, business administration, or public administration, awarded by a regionally accredited college or university, plus 3 years of experience as a professional in human services, which included administrative responsibilities.
- (b) There shall be a full time director of nursing services who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and who is an RN with at least 2 years relevant experience in resident care.
- (c) The director of nursing services shall be responsible for:
- (1) Establishment of standards of nursing practice used in the ICF/IID;
 - (2) Ensuring that the admission process and resident assessment process coordinates resident requirements for nursing care with available nursing resources;
 - (3) Participating with the administrator and personnel to improve the quality of nursing care at the ICF/IID;
 - (4) Nursing care as authorized by the nurse practice act and according to RSA 326;

(5) The overall health and safety of residents; and

(6) Maintaining written personnel schedules, which shall be retained on-site for a period of at least 90 days and which include:

- a. At least one licensed nurse in the facility 24 hours a day;
- b. At least one registered nurse, for 8 consecutive hours a day 7 days a week; and
- c. Nursing assistants who have been verified in accordance with the New Hampshire board of nursing.

(d) Each ICF/IID shall have a medical director who is a licensed physician in the state of New Hampshire.

(e) Prior to or upon the time of admission, the licensee shall provide the resident a written copy of the admission agreement, except in the case of an emergency admission where the written agreement shall be given as soon as practicable.

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

(1) An admissions packet including the following information:

- a. A list of the core services required by He-P 815.15(g);
- b. The ICF/IID's facility rules;
- c. The grounds for transfer or discharge and termination of the agreement, pursuant to RSA 151:21, V;
- d. The ICF/IID's policy for resident discharge planning;
- e. Information regarding nursing, other health care services, or supplies not provided in the core services, to include:
 1. The availability of services;
 2. The ICF/IID's responsibility for arranging services; and
 3. The fee and payment for services, if known; and
- f. Information regarding:
 1. Arranging for the provision of transportation;
 2. Arranging for the provision of third party services, such as a hairdresser or cable television;
 3. Acting as a billing agent for third party services;

4. Monitoring third party services contracted directly by the resident and provided on the ICF/IID premises;
5. Handling of resident funds pursuant to RSA 151:24 and He-P 815.14(ab);
6. Bed hold, in compliance with RSA 151:25;
7. Storage and loss of the resident's personal property;
8. Smoking;
9. Roommates; and
10. The licensee's policy regarding the use of restraints;

(2) A copy of the residents' bill of rights under RSA 151:21 and the ICF/IID's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;

(3) A copy of the resident's right to appeal an involuntary transfer or discharge under RSA 151:26, II(5);

(4) The ICF/IID's policy and procedure for handling reports of abuse, neglect or exploitation, which shall be in accordance with RSA 161-F:46 and RSA 169-C:29;

(5) Information on accessing the office of the long term care ombudsman; and

(6) Information on advanced directives and DNR status.

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

(1) Services of a licensed nurse provided 24 hours a day;

(2) Services of an RN provided at least 8 hours within a 24-hour period;

(3) Emergency response and crisis intervention;

(4) Medication services in accordance with He-P 815.16;

(5) Food services in accordance with He-P 815.25;

(6) Housekeeping, laundry and maintenance services;

(7) On-site activities and/or access to community activities designed to meet the resident interests of residents to sustain and promote physical, intellectual, social, and spiritual well-being of all residents; and access to educational services if ages 3 to 21; and

(8) Assistance in arranging medical and dental appointments, including arranging transportation to and from such appointments and reminding the residents of the appointments.

(h) The licensee shall:

- (1) Make available basic supplies necessary for residents to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush, and toilet paper;
 - (2) Identify in the admission packet the cost, if any, of basic supplies for which there will be a charge; and
 - (3) Not be required to pay for a specific brand of the supplies referenced in (1) above.
- (i) Consistent with Medicaid Utilization Control regulations at 42 CFR §456.380 at the time of admission, clients shall be evaluated by a licensed practitioner to identify all diagnoses and complaints, provide orders for all medications and treatments and provide recommendations for restorative and rehabilitative services.
- (j) The licensee shall have each resident seen by a licensed practitioner at least annually and a health examination completed and documented.
- (k) The health examination referenced in (j) above shall include in the medical record:
- (1) Diagnoses, if any;
 - (2) 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;
 - (8) Evaluation of vision and hearing; and
 - (9) Routine screening laboratory examinations as determined necessary by the physician,
- (l) An initial nursing care plan shall be initiated upon admission and completed within 48 hours of the resident's admission.
- (m) The nursing care plan shall:
- (1) Be updated following the completion of each future assessment in (i) above;
 - (2) Be made available to personnel who assist residents in the implementation of the plan; and
 - (3) Address the needs identified by (i) and (k) above.
- (n) Nursing notes shall be written as per the licensee's policy, and appropriate to resident condition, resident change in condition, and in accordance with professional standards.

(o) Pursuant to RSA 151:21, IX, residents shall be free from chemical and physical restraints except when they are authorized in writing by a licensed practitioner for a specific and limited time necessary to protect the resident or others from injury, or as permitted by the CMS conditions of participation, or as allowed by (p) below.

(p) Pursuant to RSA 151:21, IX, in an emergency, physical restraints may be authorized by the personnel designated in (r)(3) below in order to protect the resident or others from injury, and such action shall be promptly reported to the resident's physician and documented in the resident's clinical record.

(q) All restraints involving residents under the age of 18, shall be in accordance with RSA 126-U and reported to the department in accordance with He-C 901.

(r) The ICF/IID shall have written policies and procedures for implementing physical, chemical, and mechanical restraints, including:

- (1) What type of emergency restraints may be used;
- (2) When restraints may be used;
- (3) What professional personnel may authorize the use of restraints;
- (4) The documentation of their use in the resident record including the physician order as applicable;
- (5) How the licensee plans for reduction of restraint use for any resident requiring restraints;
- (6) Initial personnel training and subsequent education and training required to demonstrate competence related to the use of physical, chemical and mechanical restraints;
- (7) The least restrictive to the most restrictive method to be utilized to control a resident's behavior; and
- (8) That the training shall be conducted by individuals who are qualified by education, training, and experience.

(s) The written policies and procedures required in (r) above shall include policies and procedures for restraints involving residents under the age of 18, which shall be in accordance with RSA 126-U and include reporting to the department in accordance with He-C 901.

(t) A resident or parent or guardian, if the resident is a minor, may refuse all care and services.

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

- (1) Inform the resident or parent or guardian, if the resident is a minor, of the potential results of their refusal;
- (2) Notify the licensed practitioner of the resident's or parent or guardian, if the resident is a minor, refusal of care;

- (3) Notify the agent, as applicable, unless the resident or parent or guardian, if the resident is a minor, objects; and
 - (4) Document in the resident's or parent or guardian, if resident is a minor, record a pattern of refusal of care and the reason for the refusal, if known, including education to the resident or parent/guardian, if the resident is a minor, of the risk of refusal.
- (v) The licensee shall provide the following information to emergency medical personnel in the event of an emergency transfer to another medical facility.
- (1) Full name and the name the resident prefers, if different;
 - (2) Name, address and telephone number of the resident's next of kin, guardian, or agent, if any;
 - (3) Diagnosis, as applicable;
 - (4) Medications, as applicable, including last dose taken and when the next dose is due;
 - (5) Allergies;
 - (6) Functional limitations;
 - (7) Date of birth;
 - (8) Insurance information;
 - (9) Advanced directives and DNR status; and
 - (10) Any other pertinent information not specified in (1)-(9) above.
- (w) The licensee may only perform POCT, that are waived complexity as designated by the federal drug administration (FDA) and known as CLIA-waived laboratory tests, unless the facility is also licensed by the State of New Hampshire as a laboratory under He-P 808.
- (x) If CLIA-waived laboratory testing is performed by personnel, the licensee shall:
- (1) Obtain the appropriate CLIA certificate as per 42 CFR Part 493.15; and
 - (2) Develop and implement a point of care testing policy, which educates and provides procedures for the proper handling and use of POCT devices, including the documentation of training and demonstrated competency of all testing personnel.
- (y) The Licensee shall have current copies of manufacturer's instructions and package inserts and shall follow all manufacturer's instructions and recommendations for the use of POCT meters and devices to include, but not limited to:
- (1) Storage requirements for POCT meters and devices, test strips, test cartridges, and test kits;
 - (2) Performance of test specimen requirements, testing environment, test procedure, troubleshooting error codes and messages, reporting results; and

(3) All recommended and required quality control procedures for POCT meters and devices.

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

He-P 815.16 Medication Services.

(a) All medications shall be administered in accordance with the orders of the licensed practitioner.

(b) Medications, treatments and diets ordered by the licensed practitioner shall be made available to the resident within 24 hours of the order, 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 ICF/IID;

(2) Reorder medications for use at the ICF/IID; and

(3) Receive and record new medication orders.

(d) For each prescription medication being taken by a resident, the licensee shall maintain one of the following:

(1) The original written or electronic order in the resident's record, signed by a licensed practitioner or other professional with prescriptive powers; or

(2) A copy of the original written or electronic order in the resident's record, signed by a licensed practitioner or other professional with prescriptive powers.

(e) Each medication order shall legibly display the following information unless it is an emergency medication as allowed by (aa) below:

(1) The resident'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 original or electronic signature of the ordering practitioner.

(f) Pharmaceutical samples shall be used in accordance with the licensed practitioner's order and labeled with the resident's name.

(g) The label of all medication containers maintained in the ICF/IID shall match the current orders of the licensed practitioner and include the expiration date of the medication unless authorized by (aa) below.

(h) Except as allowed by (f) above and (i) below, only a pharmacist shall make changes to prescription medication container labels.

(i) When the licensed practitioner changes the dose of a medication and personnel of the ICF/IID 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 ICF/IID'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.

(j) Any change or discontinuation of medications taken at the ICF/IID shall be pursuant to an order from a licensed practitioner or other professional with prescriptive powers.

(k) The licensee shall require that all telephone orders for medications, treatments, and diets are immediately transcribed and signed by the resident receiving the order.

(l) The transcribed order in (k) above shall be counter-signed by the authorized provider within 30 days of receipt or next visit but not to exceed 60 days.

(m) The licensee shall obtain an order from a licensed practitioner for all over-the-counter medications.

(n) The medication storage area shall be:

(1) Locked and accessible only to authorized personnel;

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

(3) Equipped to maintain medication at the proper temperature per manufacturer's requirements.

(o) All medications at the ICF/IID shall be kept in the original containers or packaging and properly closed after each use.

(p) 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.

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

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

(s) All contaminated, expired or discontinued medication shall be destroyed within 90 days of the expiration date, the end date of a licensed practitioner's orders or the date the medication becomes contaminated, whichever occurs first.

(t) Controlled drugs shall be destroyed only in accordance with state law.

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

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

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

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

(y) The licensee shall maintain a written record for each resident for each medication taken by the resident at the ICF/IID 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 resident taking medication;
- (5) For PRN medications, the reason the resident required the medication and the effect of the PRN medication; and
- (6) Documented reason for any medication refusal or omission.

(z) Stock medications shall only be accessed and administered by the licensed nurse or any other professional authorized by state or federal regulation pursuant to a licensed practitioner's order.

(aa) An ICF/IID shall use emergency drug kits only in accordance with board of pharmacy rule Ph 705.02 under circumstances where the ICF/IID:

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

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

(ac) The written documentation of the report in (ab) above shall be maintained in the resident's record.

He-P 815.17 Personnel.

(a) The licensee shall develop a job description for each position at the ICF/IID containing:

- (1) Duties of the position;
- (2) Physical requirements of the position; and
- (3) Education and experience requirements of the position.

(b) All direct care personnel shall be at least 18 years of age unless they are:

- (1) A student in a New Hampshire board of nursing approved nursing or nursing assistant program;
- (2) A nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
- (3) Part of an established educational program working under the supervision of a nurse.

(c) For all applicants for employment, for all volunteers, or for all independent contractors who will provide direct care or personal care services to residents, the licensee shall:

- (1) Obtain and review a criminal records check in accordance with RSA 151:2-d;
- (2) Verify the qualifications and licenses, as applicable, of all applicants prior to employment;
- (3) If residents are adults the licensee shall check the names of the persons in (c) above against the bureau of elderly and adult services (BEAS) state registry, maintained pursuant to RSA 161-F:49; and
- (4) If residents are minors, the licensee shall check the names of the persons in (c) above against the DCYF central registry check of founded reports of abuse and neglect.

(d) Unless a waiver is granted in accordance with He-P 815.10 and (f) below, the licensee shall not make a final offer of employment for any position if the individual:

- (1) Has been convicted of any felony in this or any other known state;
- (2) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, theft, neglect, or exploitation;
- (3) Has had a finding by the department or any administrative agency in this or any other known state for assault, fraud, theft, abuse, neglect, or exploitation or any person; or

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

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

(1) Cease employing, contracting with, or engaging the person; or

(2) Request a waiver of (d) above.

(f) 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 cannot or can no longer be employed, contracted with, or engaged by the licensee; 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 resident(s).

(g) If residents are adults, the licensee shall not employ, contract with, or engage, any person who is listed on the BEAS state registry unless a waiver is granted by BEAS.

(h) If residents are minors, the licensee shall not employ, contract with, or engage, any person who is listed on the DCYF central registry of founded reports of abuse and neglect.

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

(i) All employees shall:

(1) Meet the educational and physical qualifications of the position as listed in their job description;

(2) Not be permitted to maintain their employment if they have been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation of any person in this or any other state by a court of law or had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department;

(3) Be licensed, registered or certified as required by state statute and as applicable;

(4) Receive an orientation within the first 3 days of work prior to the assumption of duties that includes:

a. The ICF/IID's policies on resident rights and responsibilities and complaint procedures as required by RSA 151:20;

b. The duties and responsibilities, policies, procedures, and guidelines, of the position they were hired for;

- c. The ICF/IID's infection control program;
 - d. The ICF/IID's fire, evacuation, and emergency plans which outline the responsibilities of personnel in an emergency; and
 - e. Mandatory reporting requirements for abuse or neglect such as those found in RSA 161-F and RSA 169-C:29; and
- (5) Complete a mandatory annual in-service education, which includes a review of the ICF/IID's:
- a. Policies and procedures on resident rights and responsibilities and abuse or neglect;
 - b. Infection control;
 - c. Education program on fire and emergency procedures; and
 - d. Mandatory reporting requirements.
- (j) Prior to having contact with residents, employees 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, conducted not more than 12 months prior to employment;
 - (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB;
 - (3) Comply with the requirements of the United States 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 Mycobacterium tuberculosis through shared air space with persons with infectious tuberculosis; and
 - (4) Comply with all public health guidelines with regard to the requirements for communicable infectious disease reporting pursuant to He-P 301.
- (k) All licensees using the services of independent contractors as direct care personnel shall ensure and document that the independent clinical contractors have:
- (1) Been oriented in accordance with (i)(4) above;
 - (2) Documented results of all infectious disease testing shall comply as required by (j) (1)-(4) above;
 - (3) Licenses that are current and valid; and
 - (4) A written agreement that describes the services that will be provided.

(l) Current, separate and complete employee files shall be maintained and stored in a secure and confidential manner at the ICF/IID.

(m) The employee file shall include the following:

(1) A completed application for employment or a resume, including:

- a. Identification data; and
- b. The education and work experience of the employee;

(2) A signed statement acknowledging the receipt of the ICF/IID's policy setting forth the resident's rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;

(3) A job description signed by the employee that identifies the:

- a. Position title;
- b. Qualifications and experience; and
- c. Duties required by the position;

(4) A record of satisfactory completion of the orientation program required by (i)(4) above and any required annual continuing education, if any;

(5) Verification of current New Hampshire license, registration or certification in health care field and CPR certification, if applicable;

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

(7) Documentation of annual in-service education as required by (i)(5) above;

(8) A statement, which shall be signed at the time the initial offer of employment is made and then annually thereafter, stating that he or she:

- a. Does not have a felony conviction in this or any other state;
- b. Has not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety, or well-being of a resident; and
- c. Has 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;

(9) Documentation of the criminal records check;

(10) Documentation that the employee is not on the BEAS registry maintained by the department's bureau of elderly and adult services per RSA 161-F:49 if serving residents who are adult; and

(11) Documentation that the employee is not on the DCYF central registry of founded reports of abuse and neglect if serving residents who are minors.

(n) An employee need not re-disclose any of the matters in (m)(8) and (m)(9) above if the documentation is available and the department has previously reviewed the material and granted a waiver so that the individual can continue employment.

He-P 815.18 Quality Improvement.

(a) The ICF/IID shall establish an interdisciplinary quality improvement committee which:

(1) Shall have a minimum of 3 members, including the medical director, a resident representing nursing and a resident representing administration;

(2) Shall meet at least quarterly to evaluate quality improvement activities; and

(3) Shall make recommendations to the administrator to improve the quality of care.

(b) The quality improvement committee shall be responsible for:

(1) Determining the information to be monitored;

(2) Determining the frequency with which information will be reviewed;

(3) Determining the indicators that will apply to the information being monitored;

(4) Evaluating the information that is gathered;

(5) Determining the action that is necessary to correct identified problems;

(6) Recommending corrective actions to the licensee; and

(7) Evaluating the effectiveness of the corrective actions and determine additional corrective actions as applicable.

He-P 815.19 Infection Control.

(a) The ICF/IID shall appoint a person to be in charge of and develop and implement an infection control program that educates and provides procedures for the prevention, control and investigation of infectious and communicable diseases.

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

(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;

(3) The management of residents with infectious or contagious diseases or illnesses;

(4) The handling, storage, transportation, and disposal of those items identified as infectious waste in Env-Sw 2604; and

(5) Reporting of infectious and communicable diseases as required by He-P 301.

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

(1) Causes of infection;

(2) Effects of infections;

(3) Transmission of infections; and

(4) Prevention and containment of infections.

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

(e) Personnel infected with scabies or lice shall not provide direct care to residents or work in food services until such time as they are no longer infected.

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

(g) 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 bandage with secure edges.

(h) If the ICF/IID has an incident of an infectious diseases reported in (b)(5) above, the facility shall contact the public health nurse in the county in which the facility is located and follow the instructions and guidance of the nurse.

(i) The licensee shall immunize all consenting residents for influenza and pneumococcal disease and all consenting personnel for influenza in accordance with RSA 151:9-b and report immunization data to the department’s immunization program.

He-P 815.20 Sanitation.

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

(b) The furniture, floor, ceiling, walls, and fixtures shall be clean, sanitary, and in good repair.

(c) A supply of potable water shall be available for human consumption and food preparation, pursuant to Env-Ws315 and 316.

(d) A supply of hot and cold running water shall be available at all times and precautions such as temperature regulation, shall be taken to prevent a scalding injury to the residents.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.

(f) All resident 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 separate from food, medications, and resident 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 professionals authorized under RSA 430:33 may apply pesticides as defined by RSA 430:29, XXVI, for rodent or cockroach control in food storage, food preparation, or dining areas.

(j) Solid waste, garbage, and trash shall be stored in a manner to make in 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.

(l) Trash receptacles in food service area shall be covered at all time.

(m) The following requirements shall be met for laundry services:

(1) Dirty laundry shall not be permitted to contaminate kitchen and dining areas;

(2) Clean linen shall be stored in a clean area and 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

(4) Soiled linens and clothing that are considered contaminated with infectious waste under Env-Sw 2604 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 containers.

(p) Any ICF/IID 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 department.

He-P 815.21 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 residents and personnel, including reasonable accommodations for residents and personnel with disabilities.

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

- (1) Maintain a temperature as follows, except where residents have control of the thermostat in their own room:
 - a. Be at least 65 degrees Fahrenheit at night; and
 - b. Be at least 70 degrees Fahrenheit during the day if the resident(s) are present; and
- (2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.
- (c) Electric heating systems shall be exempt from (b)(2) above.
- (d) Portable space heating devices shall be prohibited, unless the following are met:
 - (1) Such devices are used only in personnel 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 ICF/IID.
- (f) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code as adopted under RSA 329-A:15 and RSA 155-A.
- (g) Ventilation shall be provided by means of a mechanical ventilation system or one or more screened windows that can be opened.
- (h) Each resident bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage.
- (i) The number of sinks, toilets, tubs or showers shall be in a ratio of one for every 6 individuals, unless household members and personnel have separate bathroom facilities not used by residents.
- (j) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.
- (k) All hand-washing facilities shall be provided with hot and cold running water.
- (l) There shall be at least 100 square feet in each private-bedroom and at least 80 square feet for each resident in a semi- private bedroom.
- (m) The space requirements in above shall be exclusive of space required for closets, wardrobes, and bathroom.
- (n) Each bedroom shall:
 - (1) Contain no more than 2 beds;
 - (2) Have its own separate entry to permit the resident to reach his/her bedroom without passing through the room of another resident;
 - (3) Have a side hinge door and not a folding or sliding door or a curtain;
 - (4) Not be used simultaneously for other purposes;

- (5) Be separated from halls, corridors and other rooms by floor to ceiling walls;
 - (6) Be located on the same level as the bathroom facilities, if the resident has impaired mobility; and
 - (7) If a licensed bedroom is temporarily being utilized for another purpose, it shall retain the capability of being restored to meet the requirements of a licensed bedroom without requiring additional construction or renovation.
- (o) The licensee shall provide the following for the residents' use, as needed, except as requested by the resident or guardian and documented in their resident record:
- (1) A bed appropriate to the needs of the resident;
 - (2) A firm mattress that complies with the state fire code and codes adopted by referenced as defined in RSA 153:1, VI-a, except as modified in Saf-FMO 300;
 - (3) Clean linens, blankets and a pillow;
 - (4) A bureau;
 - (5) A mirror;
 - (6) A bedside table;
 - (7) A lamp;
 - (8) A chair;
 - (9) A closet or storage space for personal belongings; and
 - (10) Window blinds, shades or curtains that provide privacy.
- (p) The resident may use his or her own personal possessions provided they do not pose a risk to the resident or others.
- (q) The licensee shall provide the following rooms to meet the needs of residents:
- (1) One or more living rooms or multi-purpose rooms; and
 - (2) Dining facilities with a seating capacity capable of meeting the needs of all residents.
- (r) Each licensee shall have a UL listed communication system in place so that all residents can effectively contact personnel when they need assistance with care or in an emergency.
- (s) Lighting shall be available to allow residents to participate in activities such as reading, needlework or handicrafts.
- (t) All bathroom, bedroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (u) During seasons when insects are active, screens shall be provided for:
- (1) Doors;
 - (2) Windows; and

(3) Other openings to the outside.

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

(w) If the ICF/IID admits residents under the age of 18, each age group shall have separate and distinct units.

(x) If the ICF/IID admits residents between the age of 10 and 17 years, residents shall be provided privacy for bathing, toileting, and sleeping.

He-P 815.22 Fire Safety.

(a) All ICF/IID s shall meet the requirements of the appropriate chapter of NFPA 101 as adopted pursuant to RSA 153:1, VI-a and amended in Saf-FMO 300 by the fire marshal with the board of fire control, pursuant to RSA 153:5 and any pertinent chapter and related codes regarding the installation, testing, and maintenance of the fire alarm system.

(b) All ICF/IID's shall have:

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

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

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

(c) Immediately following any fire or emergency situation, licensees shall notify the department by phone and in writing within 72 hours, with the exception of:

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

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

(d) The written notification required by (c) above shall include:

(1) The date and time of the incident;

(2) A description of the location and extent of the incident, including any injuries to residents or employees or

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

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

(5) The name of any personnel or residents who required medical treatment as a result of the incident, if applicable; and

(6) The name of the individual the licensee wishes the department to contact if additional information is required.

(e) 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 or 20 ft;
- b. Minimum distance of 1.5 m or 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;
- 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, supports, or for any purpose other than that for which the supplier intended them;
- j. Large cylinders exceeding size E and containers larger than 45 kg or 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 by its proper name, "oxygen", not air, and liquid oxygen shall be referred to by its proper name, 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 such as full, in use, or 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;
- l. A precautionary sign, readable from a distance of 1.5 m or 5 ft, shall be displayed on each door or gate of the storage room or enclosure; and
- m. The sign shall include the following wording as a minimum:

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

(f) If the licensee has chosen to allow smoking, 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.

(g) Each licensee shall develop a written fire safety plan.

(h) A copy of the fire safety plan including fire drill actions shall be made available to and reviewed with the resident, or the resident's guardian or a person with durable power of attorney (DPOA), at the time

of admission and a summary of the resident's responsibilities shall be provided to the resident. Each resident shall receive an individual fire drill walk-through within 5 days of admission, as appropriate.

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

- (1) A copy of the fire safety plan shall be made available, annually and whenever changes are made, to the local fire chief for review and approval;
- (2) The local fire chief shall give written approval initially to all fire safety plans; and
- (3) If changes are made to the plan, they shall be submitted to the local fire chief for review and approval, as appropriate, prior to the change.

(j) Fire drills shall be conducted as follows:

(1) For buildings constructed to the Residential Board and Care or One and Two Family Dwelling Chapters of the Life Safety Code (NFPA 101), the following shall be required:

- a. The administration of every residential board and care facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary;
- b. Residents shall be trained to assist each other in case of fire or emergency to the extent that their physical and mental abilities permit them to do so, without additional personal risk;
- c. All ICF/IID facilities shall conduct fire drills not less than 6 times per year on a bimonthly basis, with not less than 2 drills conducted during the night when residents are sleeping. Actual exiting from windows shall not be required, however opening the window and signaling for help shall be an acceptable alternative;
- d. The drills shall involve the actual evacuation of all residents to an assembly point, as specified in the emergency plan, and approved by the department and the local fire authority based on construction of the building and shall provide residents with experience in egressing through all exits and means of escape;
- e. Facilities shall complete a written record of fire drills that includes the following:
 1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;
 2. The location of exits used;
 3. The number of people, including residents, personnel, and visitors, participating at the time of the drill;
 4. The amount of time taken to completely evacuate the facility;
 5. The name and title of the person conducting the drill;
 6. A list of problems and issues encountered during the drill;
 7. A list of improvements and resolution to the issues encountered during the fire drill; and

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

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

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

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

(2) For all ICF/IID's that were originally constructed to meet the Health Care Occupancy Chapter of Life Safety Code, NFPA 101 as adopted pursuant to RSA 153:1, VI-a and amended in Saf-FMO 300 by the fire marshal with the board of fire control, pursuant to RSA 153:5, and the rules and regulations adopted and enforced by the state fire marshal's office and/or the municipality or have been physically evaluated, renovated and approved by a New Hampshire licensed fire protection engineer, the NH state fire marshal's office and the department to meet the Health Care Occupancy Chapter, the following shall be required:

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

1. Use of alarms;

2. Transmission of alarms to fire department;

3. Emergency phone call to fire department;

4. Response to alarms;

5. Isolation of fire;

6. Evacuation of immediate area;

7. Evacuation of smoke compartment;

8. Preparation of floors and building for evacuation;

9. Extinguishment of fire; and

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

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

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

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

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

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

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

1. The date and time including AM/PM the drill was conducted and if the actual fire alarm system was used;
2. The location of exits used;
3. The number of people, including residents, personnel, and visitors, participating at the time of the drill;
4. The amount of time taken to completely evacuate the facility or 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;
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; and

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

He-P 815.23 Emergency Preparedness.

(a) Each licensee shall have an individual or group, known as an emergency management committee, with the authority for developing, implementing, exercising and evaluating the emergency management program.

(b) The emergency management committee shall include the licensee's administrator and others who have knowledge of the facility and the capability to identify resources from key functional areas within the facility and shall solicit applicable external representation, as appropriate.

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

- (1) The emergency management plan as described in (d) and (e) 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.
- (d) The emergency management committee shall develop and institute a written emergency preparedness plan (plan) to respond to a disaster or an emergency.
- (e) The plan in (d) above shall:
- (1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, severe weather, and human-caused emergency to include, but not be limited to, missing residents and bomb threat;
 - (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;
 - (3) Be available to all personnel;
 - (4) Be based on realistic conceptual events;
 - (5) Be modeled on the Incident Command System (ICS) in coordination with local emergency response agencies;
 - (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;
 - (7) 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, 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 an 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. 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 Critical Incident Stress Management (CISM), if necessary;

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

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

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

(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 New Hampshire Radiological Emergency Response Plan (RERP), include the required elements of the RERP.

(f) 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 and exercises shall be monitored by at least one designated evaluator who has

knowledge of the -licensee's plan and who is not involved in the exercise;

(2) Drills and exercises shall evaluate program plans, procedures, training, and capabilities to identify opportunities for improvement;

(3) The licensee shall conduct a debriefing session not more than 72 hours after the conclusion of the drill or exercise. 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 licensee's improvement plan.

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

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

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

(3) Potable water for a 3-day period.

(h) Each licensee shall have, in writing, a plan for the management of emergency food and water supplies required in (g) above, which includes:

(1) Assumptions for calculations of food and water supplies including maximum number of staff and residents, water source of supply, either tap or commercial, and expiration in months, tracking of supplies, and rotation of products, contracts and memorandums of understanding with food and water suppliers;

(2) Storage location(s); and

(3) Back-up supplies.

He-P 815.24 Resident Records.

(a) The licensee shall maintain a legible, current and accurate record for each resident based on services provided at the ICF/IID.

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

(1) A copy of the resident's admission agreement and all documents required by He-P 815.15(f);

(2) Identification data, including:

a. Vital information including the resident's name, date of birth, and parent or guardian contact information

b. Resident or Resident's family's religious preference, if known;

- c. If an adult the resident's veteran status if known and marital status; and
 - d. Name, address and telephone number of an emergency contact person;
- (3) The name and telephone number of the resident's licensed practitioner(s);
 - (4) Resident'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 815.15(k);
 - (7) Written, dated and signed orders for the following:
 - a. All medications, treatments and special diets; and
 - b. Laboratory services and consultations;
 - (8) Results of any laboratory tests, or consultations;
 - (9) All assessments and care plans, and documentation that the resident and the guardian or agent, if any, have been given the opportunity or has participated in the development of the care plan;
 - (10) Documentation of informed consent;
 - (11) All admission and progress notes;
 - (12) Documentation of any alteration in the resident'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 unusual incidents;
 - (15) The consent for release of information signed by the resident, guardian or agent, if any;
 - (16) Discharge planning and referrals as applicable;
 - (17) Transfer or discharge documentation, including notification to the resident, guardian, or agent, if any, of transfer or discharge;
 - (18) Room change documentation, including notification to the resident, guardian, or agent, if any, and if applicable;
 - (19) The medication record as required by He-P 815.16(y) and (ac);

(20) Documentation of a resident's refusal of any care or services; and

(21) Code status.

(c) Resident records and resident information shall be kept confidential and only provided in accordance with law.

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

(e) Resident records shall be available to health care workers and any other person authorized by law or rule to review such records.

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

(g) Records shall be retained for 7 years after discharge, except for records of Medicaid residents, which shall be retained for 6 years from the date of service or until the resolution of any legal action(s) commenced during the 6-year period, whichever is longer.

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

He-P 815.25 Food Services.

(a) The licensee shall provide food services that:

(1) Meet the U.S. Department of Agriculture recommended dietary allowance as specified in the United States Department of Agriculture's "Dietary Guidelines for Americans 2020-2025" (Ninth Edition), available as noted in Appendix A;

(2) Provide the nutritional needs of each resident;

(3) Meet the special dietary needs associated with health or medical conditions for each resident as identified by the health examination required by He-P 815.15(j);

(4) Include provision of a food service manager who shall;

a. Be responsible for the day to day operation of the kitchen;

b. Have knowledge of the nutritional requirements for residents and of the planning and preparation of prescribed diets; and

c. Have all the required competencies as per the licensee's policy;

(5) Include facilities and equipment for meal delivery and assisted feeding, as applicable; and

(6) Include dining facilities that have eating areas sufficient in size to provide seating for at least 50% of the licensed capacity.

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

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

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

(e) Menus, including beverages for regular and therapeutic diets, shall be planned and written for at least 2 weeks in advance of serving.

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

(g) A listing of the diet orders and allowed foods for each resident shall be available to personnel.

(h) A dated record of menus as served shall be maintained for at least 3 months.

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

(j) Residents requiring therapeutic diets shall have an assessment of nutritional status by a qualified dietitian or dietary technician at least quarterly and with any significant weight loss or weight gain.

(k) If a resident has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the resident's medical record along with education relating to non-compliance with prescribed diet, and notify the resident's licensed practitioner.

(l) All food and drink provided to the residents 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.

(m) The use of outdated, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded or distinctly segregated from the usable food.

(n) All food not in the original package shall be stored in labeled and dated containers designed for food storage.

(o) All work surfaces shall be cleaned and sanitized after each use.

(p) All dishes, utensils and glassware shall be in good repair, cleaned, and sanitized after each use and properly stored.

(q) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.

(r) If soiled linen is transported through food service areas, the linen shall be in an impervious container.

(s) Garbage or trash in the kitchen area shall be placed in lined containers with covers.

(t) All personnel involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

(u) Regularly scheduled training programs including sanitation and safety shall be made available to personnel. Information as to the content and length of this training shall be documented and kept in employee records.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 815.07 (h)(3), (i), and (j)	Facility Guidelines Institute's (FGI)	Publisher: Facility Guidelines Institute (FGI)

Rule	Title	Publisher; How to Obtain; and Cost
	“Guidelines for Design and Construction of Residential Health, Care, and Support Facilities” (2018 Edition)	Cost: \$75.00/book or \$200.00/user, per year for subscription to website. The incorporated document is available for purchase at https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/
He-P 815.14(m) and He-P 815.19(b)(2)	United States Center for Disease Control and Prevention “2007 Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007 Edition)	Publisher: United States Center for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines.pdf
He-P 815.17(j)(3)	United States Centers for Disease Control and Prevention’s “Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings” (2005 Edition)	Publisher: United States Centers for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/tb/publications/slidesets/infectionguidelines/default.htm
He-P 815.25(a)(1)	United States Department of Agriculture’s “Dietary Guidelines for Americans 2020-2025” (Ninth Edition)	Publisher: United States Department of Agriculture Cost: Free to the Public The incorporated document is available at: https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf

Appendix B

Rule	Specific State or Federal Statutes the Rule Implements
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He-P 815.01	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.02	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 815.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 815.05	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 815.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 815.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a)
He-P 815.08	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.09	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.11	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 815.12	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 815.13	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 815.14	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.15	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.16	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.17	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.18	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.19	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.20	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.21	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.22	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.23	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.24	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)
He-P 815.25	RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF LEGAL AND REGULATORY SERVICES
HEALTH FACILITIES ADMINISTRATION
129 Pleasant Street, Concord, NH 03301
TDD Access: Relay NH 1-800-735-2964
Agency Phone: 603-271-9039

APPLICATION FOR RESIDENTIAL, HEALTH CARE LICENSE OR SPECIAL HEALTH CARE SERVICES

EXISTING FACILITY LICENSE #: _____
CURRENT FACILITY LICENSE EXPIRATION DATE, IF APPLICABLE: _____

THIS APPLICATION SHALL BE FILLED OUT IN ACCORDANCE WITH RSA 151:4. A SEPARATE APPLICATION MUST BE SUBMITTED FOR EACH LICENSURE CATEGORY. **PLEASE BE SURE TO COMPLETE THE ENTIRE APPLICATION.** IF A SECTION DOES NOT APPLY TO YOUR FACILITY, MARK NOT APPLICABLE (N/A). FAILURE TO COMPLETE THE APPLICATION WILL RESULT IN A DELAY IN THE LICENSURE PROCESS. SEND THE ENTIRE COMPLETED FORM TO THE ADDRESS ABOVE. IF YOU NEED TO REVIEW YOUR LICENSING RULES, THEY CAN BE FOUND ONLINE AT <https://www.dhhs.nh.gov/oos/bhfa/rules.htm>

Check all applicable items:

- | | | |
|---|---|---|
| <input type="checkbox"/> License renewal: | <input type="checkbox"/> *New facility: | <input type="checkbox"/> Other (please explain): |
| <input type="checkbox"/> *New owner: | <input type="checkbox"/> **Change in # of beds: | <input type="checkbox"/> ***Change in classification: |
| <input type="checkbox"/> **Change in address: | | |

- * Requires processing as a new application.
- ** Requires Local Approval Forms
- ***Requires both

LICENSEE (Legal Owner of Facility): _____ TELEPHONE #: () _____

NAME OF FACILITY (DBA): _____ TELEPHONE #: () _____
FAX #: () _____

STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

MAILING ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

ADMINISTRATOR: _____

MEDICAL DIRECTOR (IF APPLICABLE): _____

FACILITY E-MAIL ADDRESS (REQUIRED): _____

IF APPLICABLE:

NUMBER OF BEDS: PRESENTLY LICENSED: _____ TOTAL # TO BE LICENSED: _____

NUMBER OF HCBC CFI OR STATE PLACED INDIVIDUALS IN HOME (Complete for He-P 804, He-P 805 and He-P 814): _____

NUMBER OF ESRD STATIONS (Completed for He-P 811 licensees only): _____

BRANCH OFFICE LOCATIONS (Complete if applies under He-P 809.07, 819.07, 822.07 & 823.07 only):

OWNERSHIP

- a. Type of ownership: Association Partnership Corporation
 LLC Individual Other (explain)
- b. List name and address of each person having an ownership interest (directly or indirectly) of greater than 5% in the facility.
- c. If the licensee is organized as an association or corporation, list the name of the association or corporation and the name, address, and title of each officer.
- d. If the licensee is a partnership, list the name and address of each partner.
- e. Is this a certified facility? (**Facilities with deem status under RSA 151**) YES NO
 Only applies to He-P 802, 803, 809, 811, 812, 815, & 823
- If you are already a certified facility, is this an increase in services? If YES, please call 1-800-852-3345 ext. 9049
- f. Are you planning on being a certified facility? If YES, please call 1-800-852-3345 ext. 9049

FEES:

Hospitals (General, CAH, Psychiatric, Rehabilitation) (802)	\$25 per licensed bed
Free Standing Emergency Rooms (802)	\$500
Nursing Homes (803)	\$25 per licensed bed
Residential and Supported Residential Care Homes (804 & 805)	\$15 per licensed bed (NO CHARGE FOR HCBC OR NH STATE PLACED RESIDENTS)
Non-Emergency Walk-In Care Centers (806)	\$500
Residential Treatment and Rehabilitation Facilities (807)	\$25 per licensed bed
Home Health Care Providers (809)	\$250
Birthing Centers (810)	\$150
End Stage Renal Disease Dialysis Centers (811)	\$500
Ambulatory Surgical Centers (812)	\$500
<u>Intermediate Care Facilities for Individuals with Intellectual Disabilities(ICF/IID)</u>	\$25 per licensed bed
Educational Health Centers (816)	\$500
Adult Day Care Centers (818)	\$200
Case Management Agencies (819)	\$150
Home Care Service Provider Agencies (822)	Less than ten clients \$25; Ten or more clients \$250
Home Hospice Care Providers (823)	\$250
Hospice Houses (824)	\$25 per licensed bed
Residential Rehabilitation Substance Use Disorder Facilities (826)	\$25 per licensed bed
Freestanding Megavoltage Radiation Therapy Facility (827)	\$500
Psychiatric Residential Treatment Programs (830)	\$25 per licensed bed

A check or money order (payable to: **TREASURER, STATE OF NEW HAMPSHIRE**) must be attached to this application.

Applications submitted by those facilities exempt under RSA 151:4 I (a), (b) & (c) are not required to pay the license fee.
ADDITIONAL APPLICATION REQUIREMENTS: NOTE THAT NOT ALL APPLICATION REQUIREMENTS ARE LISTED HERE PLEASE REFER TO THE APPROPRIATE RULE TO DETERMINE OTHER ITEMS THAT NEED TO BE SUBMITTED.

1. Renewal applications must be submitted at least 120 days prior to expiration of the current license. **(Yearly)**
2. Include qualifications, including a resume with education and experience, and copies of all applicable licenses and certifications, for the administrator and medical director **(if applicable). (Yearly)**
3. Include information relative to whether the facility has been granted any waivers, exemptions, or variances to the rules by the Department of Health and Human Services and/or the State Fire Marshal. **(Yearly)**
4. Include a floor plan indicating the location of all rooms, # of beds in each bedroom, and fire exits. **(Initial Application Only – NOT FOR He-P 809. 819, 820 & 823)**
5. Include NH Secretary of State Authority to do business in the State of NH and/or tradename registration **(Initial Application Only)**
6. Include written local approvals from the health officer, the building official, the zoning officer, and the fire chief. For a building under construction, the written approvals required shall be submitted at the time of the application based on the local official's review of the building plans and again upon completion of the construction project. **(Initial Application Only for ALL categories)**
7. Include documentation that the water supply has been tested in accordance with RSA 485 and Env-Dw 702.02 and 704.02 (formerly Env-Ws 313.01 and 314.01). **(Initial Application Only – NOT FOR He-P 809. 819, 820 & 823)**
8. Include 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 702.02 (formerly Env-Ws 313.01) for bacteria and Env-Dw 704.02 (formerly Env-Ws 314.01) for nitrates. **(NOT FOR He-P809. 819, 820 & 823)**
9. Include a list of all employees who have previously been granted waivers for criminal background check results from the Department of Health and Human Services. **(Yearly and on initial application if change of ownership or category)**
10. Include the results of a criminal records check from the NH Department of Safety for the applicant(s), the licensee (owner even if entity) if different than the applicant, the administrator, and, if applicable, each household member 17 years of age or older who resides at the facility. **(Initial Application Only)**

FACILITY SERVICE DESCRIPTION: - Complete even on renewal

The following information will be used to determine which licensure category your facility will be placed in.

- I. Provide a detailed description of the services and programs you wish to provide.
- *II. Describe the facility's health care you wish to provide to residents.
- *III. Identify who will provide the health care listed in II.

*To be completed if applying for beds.

SIGNATURES: This application must be signed by:

1. The owner if a private facility;
2. Two officers if a corporation;
3. Two authorized individuals if an association or partnership;
4. The head of the government agency if a government unit.

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.

DATE: _____ SIGNED: _____
(NAME AND TITLE)

DATE: _____ SIGNED: _____
(NAME AND TITLE)

~~FOR ALL FACILITIES TO BE NEWLY LICENSED: (THIS INCLUDES ANY APPLICATION CHANGE THAT REQUIRES A NEW LICENSE NUMBER, OWNERSHIP AND CLASSIFICATION)~~

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

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

~~For all facilities 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. section 485.610 (b) and (c): If not sure if you are within 15 miles of a critical access hospital please call the office number on front of application. (If unsure if the facility is within 15 miles of a critical access hospital, please call the office and enquire)~~

~~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.~~

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

~~SIGNATURE REQUIRED FOR ONLY FACILITIES TO BE LICENSED UNDER THE LISTED CATEGORIES~~

~~I understand that, in accordance with RSA 151:4, III(a)(7), this facility cannot be licensed pursuant to He P 802, 806, 810, 811, 812, 816, 823, or 824 if it is 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), until the Commissioner makes a determination that the proposed new facility will not have a material adverse impact on the essential health care services provided in the service area of the critical access hospital. I also understand that if the Commissioner is not able to make such a determination, the license will not be issued.~~

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

~~DATE: _____ SIGNED: _____
(NAME AND TITLE)~~

