

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Statutory Authority: RSA 151:9

Readopt with amendment He-P 820, effective 10-20-12 (Document #10206), to read as follows:

PART He-P 820 INDIVIDUAL HOME CARE SERVICE PROVIDERS

He-P 820.01 Purpose. The purpose of this part is to set forth the mandatory registration requirements for all individuals who solicit and provide health support services, personal care services, or homemaker services for compensation pursuant to RSA 151:2-b, V.

He-P 820.02 Scope.

(a) This part shall apply to any individual who solicits and provides health support services, personal care services, or homemaker services except:

- (1) Agencies that are certified by the department as other qualified agencies delivering personal care services in accordance with RSA 161-H and He-P 601;
- (2) Home care service provider agencies that are licensed under He-P 822;
- (3) Agencies or entities that are licensed under He-P 809;
- (4) Persons providing only meal services in an individual's permanent or temporary residence;
- (5) Persons furnishing or delivering home medical supplies or equipment that does not involve the provision of services beyond those necessary to deliver, set up, and monitor the proper functioning of the equipment and educate the user on its proper use;
- (6) Persons who provide health support services, personal care services, or homemaker services without compensation;
- (7) Persons who provide health support services, personal care services, or homemaker services for compensation, but who do not solicit those services;
- (8) Persons who provide health support services, personal care services, or homemaker services only to a family member(s); and
- (9) Persons under the age of 18 who provide health support services, personal care services, or homemaker services.

(b) Employees of an agency in (a)(1)-(3) above who solicit and provide health support services, personal care services, or homemaker services for compensation outside the scope of their employment shall not be exempt from registration as an individual home care service provider.

(c) Because RSA 151:2, V, requires registration for an individual home care service provider to operate, and RSA 541-A:1, VIII, defines a "license" as a "form of permission required by law", even if called "registration", then requirements in RSA 151 which refer specifically to "license" or "licensing" shall also apply to the registration of individual home care service providers.

He-P 820.03 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 client;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to a client; or
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving a client with or without his or her informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and medication management.
- (c) “Administrative remedy” means a corrective action imposed upon a registrant in response to non-compliance with RSA 151 or He-P 820.
- (d) “Applicant” means an individual who is seeking a “registration certificate” in order to operate as a registered individual home care service provider under RSA 151:2-b, V.
- (e) “Area of non-compliance” means any action, failure to act, or other set of circumstances that cause a registrant to be out of compliance with RSA 151, He-P 820, or other federal or state requirements.
- (f) “Client” means any person receiving services from an individual who is registered in accordance with RSA 151 and He-P 820.
- (g) “Client rights” means the privileges and responsibilities possessed by each client provided by RSA 151:21-b.
- (h) “Commissioner” means the commissioner of the New Hampshire department of health and human services, or his or her designee.
- (i) “Days” means calendar days unless otherwise specified in the rule.
- (j) “Department” means the New Hampshire department of health and human services at 129 Pleasant Street, Concord, NH 03301.
- (k) “Enforcement action” means the imposition of an administrative fine, the denial of an application, or the revocation, or suspension of a license in response to non-compliance with RSA 151 or He-P 820.
- (l) “Exploitation” means the illegal use of a client’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud.
- (m) “Health support services” means non-medical supportive services that can be taught to the IH CSP by a client or caregiver, and do not require the skills of a licensed individual.
- (n) “Homemaker” means an individual whose scope of services is limited to providing homemaker services as reflected on the registration certificate.
- (o) “Homemaker services” means non-medical services that are of a supportive nature that do not require hands-on contact with a client other than to maintain the client’s safety. Such services include, but

are not limited to, laundry, housecleaning, cooking, transporting to and from medical or other appointments, shopping, and companion services.

(p) “Individual home care service provider (IHCSP)” means “individual homecare service provider” as defined in RSA 151:2-b, V, namely “any individual not employed by a home health care provider licensed under RSA 151:2, I(b) who solicits and provides health support services, personal care services, or homemaker services for compensation to clients in their places of residence; provided that the client is not a family member.” This term includes a registered individual home care service provider under RSA 151:2, V.

(q) “Investigation” means the process followed by the department to respond to allegations pursuant to RSA 151:6 of non-compliance with RSA 151 and He-P 820.

(r) “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 client.

(s) “Personal care services” means non-medical, hands-on services provided to a client, including, but not limited to, helping with activities of daily living such as grooming, toileting, eating, dressing, bathing, getting into or out of a bed or chair, walking, or reminding the client to take medications.

(t) “Registration” means the mandatory requirement established by RSA 151:9-a, XII, that an individual shall give notice to the department that he or she plans to solicit and provide personal care services or homemaker services for compensation. The “registration” is certified on a document called a “registration certificate” that authorizes the individual to provide these services for compensation.

(u) “Registration certificate” means the document issued by the department to an applicant or registrant that includes the name of the registrant and his or her physical address, the effective date and the registration number, any waivers granted to the registrant, upon renewal of a registration the new effective date of the registration, and at the registrant’s option, the registrant’s business name.

(v) “Solicit” or “solicits” means to advertise through any channel of communication, including, but not limited to audio, video, print, or electronic media, or by word of mouth as an individual home care service provider as defined in RSA 151:2-b, V, and He-P 820, or to actively seek or request compensation for providing individual home care services to a client as defined in RSA 151:2-b, V, and He-P 820.

He-P 820.04 Initial Registration Application Requirements.

(a) Each applicant for registration shall comply with the requirements of RSA 151:9-a, XII, and submit the following to the department:

(1) A completed application form entitled “Application for Individual Home Care Service Provider Registration” (January 2023) that is signed by the applicant and which states:

“I affirm that I am familiar with and in full compliance with the provisions of RSA 151:2, V, and He-P 820. I also affirm that I have not been convicted of a felony in this or any other state, have not been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect, exploitation or any other criminal offense that suggests that they may pose a threat to the health, safety or well-being of a client, and have not been found to have committed assault, fraud, abuse, neglect or exploitation by the department or any other administrative agency in this or any other state. I understand that providing false information shall be grounds for denial or revocation of my registration and the imposition of a fine.”;

- (2) The applicable fee, in accordance with RSA 151:5, XI, payable in cash in the exact amount of the fee or, if paid by check or money order, the exact amount of the fee made payable to the “Treasurer, State of New Hampshire.”;
 - (3) The results of a criminal records check, for the applicant. Results shall include the criminal history from the state of New Hampshire;
 - (4) The results of the state registry check, which is maintained by the department’s bureau of elderly and adult services pursuant to RSA 161-F:49;
 - (5) Qualifications, including education, experience and copies of all applicable licenses for the administrator; and
 - (6) If applicable, proof of authorization from the New Hampshire secretary of state to do business in the state of New Hampshire in the form of one of the following:
 - a. “Certificate of Authority,” if a corporation;
 - b. “Certificate of Formation,” if a limited liability corporation; or
 - c. “Certificate of Trade Name,” where applicable.
- (b) The application in He-P 820.04(a)(1) shall include the following advisory:

“Advisory: The New Hampshire Department of Health and Human Services is authorized to require all licensed home care providers to read and understand the Home Care Clients’ Bill of Rights set forth in RSA 151:21-b, and to distribute the law to all of their clients. The Department recommends that all individual homecare service providers read and understand the Home Care Clients’ Bill of Rights and share the information with their clients.”

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

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

He-P 820.05 Processing of Applications and Issuance of Registrations.

- (a) An application for an initial registration shall be complete when the department determines that all items required by He-P 820.04(a) have been received.
- (b) If an application does not contain all of the items required by He-P 820.04(a), the department shall notify the applicant in writing of the items required before the application can be processed.
- (c) Any registration 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) Registration fees shall not be transferable to any other application(s).
- (e) Unless a waiver has been granted in accordance with He-P 820.08, the department shall deny a registration request if it determines that the applicant or registrant:

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

(f) Following receipt and review of the application, the registration certificate signed by the commissioner shall be issued to the applicant if the department determines that the application meets all of the requirements in He-P 820.04(a) above.

(g) Upon receipt of the registration certificate, the individual:

- (1) May use the title “registered individual home care service provider”; and
- (2) Shall not use the title “licensed individual home care service provider”.

(h) All registrations issued in accordance with RSA 151 shall be non-transferable by person.

He-P 820.06 Registration Expirations and Procedures for Renewals.

(a) A registration 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 registrant shall complete and submit to the department an application form for renewal pursuant to He-P 820.04(a)(1) at least 120 days prior to the expiration date of the current registration.

(c) Following receipt and review of the renewal application, a registrant shall be renewed if the department determines that the application meets all of the requirements in (b) above.

(d) Any registrant who does not submit a complete application for renewal prior to the expiration of an existing registration shall be required to submit an application for initial registration pursuant to He-P 820.04.

He-P 820.07 Requirements for Organizational or Service Changes.

(a) The registrant shall provide the department with written notice that includes his or her current registration number no later than 30 days after any of the following changes:

- (1) Physical address of the registered individual;
- (2) Mailing address of the business if different than the physical address in (1) above; and
- (3) Name of the individual.

(b) Upon receipt of the notice set forth in (a) above, the department shall issue a revised registration certificate to the registrant that includes the relevant changes.

(c) A revised registration certificate shall also be issued when a new waiver has been granted.

(d) Registration certificates issued under (c) above shall be valid for one year from the date of issuance.

(e) The IHCSP 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 as this is the primary method used for all emergency notifications to the IHCSP.

(f) If a registrant chooses to cease operation of a IHCSP, the registrant shall submit written notification to the department at least 45 days in advance, which shall include a written closure plan that ensures adequate care of clients until they are transferred or discharged to an appropriate alternate setting.

He-P 820.08 Waivers.

(a) Applicants or registrants seeking waivers of specific rules in He-P 820 shall submit a written request for a waiver to the commissioner that includes:

(1) The specific reference to the rule for which a waiver is being sought;

(2) A full explanation of why a waiver is necessary; and

(3) A full explanation of alternatives proposed by the applicant or registrant, which shall be equally as protective of public health and clients as the rule from which a waiver is sought or provide a reasonable explanation why the applicable rule should be waived.

(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 granting of the waiver will not negatively impact the health, safety, or well-being of clients, or that the waiver is not being granted to one applicant or registrant who is in the same situation as another applicant or registrant whose waiver has been denied.

(d) Waivers shall not be transferable.

(e) When a registrant wishes to renew a non-permanent waiver beyond the approved period of time, the registrant 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.

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

He-P 820.09 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); and

(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 820.

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

- (1) The name and address, if known, of the IHCSPP, or the alleged unregistered individual or entity;
- (2) The name, address, and telephone number of the complainant; and
- (3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 820.

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

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

(d) For a registered individual, the department shall:

- (1) Provide written notification of the results of the investigation to the registrant;
- (2) Provide written notification to the registrant of the corrective action that must be taken to resolve the issues underlying the complaint; and
- (3) Notify any other federal, state, or local agencies of suspected violations of their statutes or rules based on the results of the investigation, if appropriate.

(e) For an unregistered individual, the department shall provide written notification of the results of the investigation that includes:

- (1) The date of investigation;
- (2) The reasons for the investigation; and
- (3) Whether or not the investigation resulted in a determination that the services being provided require registration under RSA 151:2, V.

(f) If an individual does not respond to a written notice within 30 days of the date it was sent, or if the department does not agree with the individual's response, the department shall:

- (1) Issue a written warning to immediately comply with RSA 151 and He-P 820; and
- (2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.

(g) Any individual who fails to comply after receiving a warning as described in (f) above shall be subject to an action by the department for injunctive relief under RSA 151:17.

(h) The fact that the department takes action for injunctive relief under RSA 151:17 shall not preclude the department from taking other action under RSA 151, He-P 820, or other applicable laws.

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

- (1) To the department of justice when relevant to a specific investigation;
- (2) To law enforcement when relevant to a specific criminal investigation;
- (3) When a court of competent jurisdiction orders the department to release such information;
or
- (4) In connection with any adjudicative proceedings relative to the registrant solely for the purposes of the adjudicative action.

He-P 820.10 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 820, or other applicable rules, including:

- (1) Requiring a registrant to submit a plan of correction (POC) in accordance with (c) below;
- (2) Imposing a directed POC upon a registrant in accordance with (d) below;
- (3) Imposing a fine upon an unregistered individual, applicant, or a registrant;
- (4) Monitoring of a registrant; or
- (5) Revocation of a registration.

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

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

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

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

- a. How the registrant intends to correct each area of non-compliance;
- b. What measures will be put in place, or what system changes will be made to ensure that the non-compliance does not recur, to include how the measures will be evaluated for effectiveness;
- c. The date by which each area of non-compliance shall be corrected; and
- d. The position of the employee responsible for the corrective action;

(2) The registrant shall submit a POC to the department within 21 calendar days of the date on the letter that transmitted the statement of findings or notice to correct unless the registrant

requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:

- a. The registrant demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21-calendar day period but has been unable to do so; and
- b. The department determines that the health, safety, or well-being of a client will not be jeopardized as a result of granting the extension;

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

- a. Achieves compliance with RSA 151 and He-P 820;
- b. Addresses all areas of non-compliance as cited in the statement of findings or notice to correct;
- c. Prevents a new violation of RSA 151 or He-P 820 as a result of the implementation of the POC; and
- d. Specifies the date upon which the deficiencies will be corrected;

(4) If the POC is acceptable, the department shall issue a registration 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 registrant in writing within 14 days of the reason for rejecting the POC;

(6) The registrant 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 registrant requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:

- a. The registrant demonstrates that the registrant 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 client will not be jeopardized as a result of granting the waiver;

(7) The revised POC shall comply with (1) above and be reviewed in accordance with (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 registrant shall be subject to a directed POC in accordance with (d) below and a fine in accordance with He-P 820.11(c)(7);

(9) The department shall verify the implementation of any POC that has been submitted and accepted by:

- a. Reviewing materials submitted by the registrant;

- b. Conducting a follow-up inspection; or
- c. Reviewing compliance during the next annual inspection;

(10) Verification of the implementation of any POC shall only occur after the date of completion specified by the registrant 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 registrant shall be:

- a. Notified by the department in accordance with (b) above; and
- b. Issued a directed POC in accordance with (d) below and shall be subject to a fine in accordance with He-P 820.11(c)(7).

(d) The department shall develop and impose a directed POC that specifies corrective actions for the registrant to implement when:

- (1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the clients and personnel;
- (2) A revised POC is not submitted within 14 days of the written notification from the department; or
- (3) A revised POC submitted by the registrant or administrator has not been accepted.

(e) If at the time of the next inspection the directed POC referenced in (d) above has not been implemented by the completion date stated in the directed POC the department shall:

- (1) Issue a warning that enforcement action will be taken if the POC is not implemented;
- (2) Impose a fine according to He-P 820.11(c)(7);
- (3) Deny the application for a renewal of a registration in accordance with He-P 820.11(b)(6);
or
- (4) Revoke or suspend the registration in accordance with He-P 820.11(b).

(f) The department shall offer an opportunity for informal dispute resolution to any applicant or registrant 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 registrant submits a written request for an informal dispute resolution to the department.

(g) The informal dispute resolution shall be requested in writing by the applicant, registrant, 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 if, based on the evidence presented, the statement of findings is determined to be incorrect. The department shall provide a written notice to the applicant or registrant of the determination.

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

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

- (1) Repeated non-compliance on the part of the IHCSP in areas that impact the health, safety, or well-being of clients; or
- (2) The presence of conditions in the IHCSP that negatively impact the health, safety, or well-being of clients.

He-P 820.11 Enforcement Actions and Hearings.

(a) Prior to imposing a fine, or denying or revoking a registration, the department shall send to the applicant or registrant a written notice that sets forth:

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (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 registrant to a hearing shall be conducted in the same manner as a registrant in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable.

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

- (1) An applicant or a registrant violated any of the provisions of RSA 151 or He-P 820 in a manner which poses a risk of harm to a client's health, safety, or well-being;
- (2) An applicant or a registrant has failed to pay a fine imposed under administrative remedies;
- (3) An applicant or a registrant 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 registrant fails to submit an application that meets the requirements of He-P 820.04;
- (5) An applicant, registrant, or any representative of the applicant or registrant:
 - 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) A registrant has had a registration revoked and submits an application during the 5-year prohibition period specified in (g) below;
 - (7) The registrant failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 820.10(d) and (e);
 - (8) The registrant has submitted a POC that has not been accepted by the department in accordance with He-P 820.10(c)(5) and has not submitted a revised POC as required by He-P 820.10(c)(5);
 - (9) A registrant, has had a registration revoked and submits an application during the 5-year prohibition period specified in (h) below;
 - (10) Unless a waiver has been granted the department makes a determination that the registrant has been found guilty of or pled guilty to a felony assault, fraud, theft, abuse, neglect, or exploitation adjudicated and founded by the department or any administrative agency in this or any other state; or
 - (11) The applicant has had a registration revoked by any division or unit of the department within 5 years prior to the application.
- (c) The department shall impose fines as follows:
- (1) For a failure to cease providing unregistered services after being notified by the department of the need for a registration, in violation of RSA 151:2, the fine shall be \$200.00 for an applicant or unregistered provider;
 - (2) For a failure to cease operations after a denial of a registration or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant or unregistered provider or a registrant shall be \$200.00;
 - (3) For advertising services or otherwise representing themselves as having a registration to provide services that they are not registered to provide, in violation of RSA 151:2, III, the fine for an applicant or unregistered provider shall be \$50.00;
 - (4) 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 820.09(f), the fine for an unregistered provider or a registrant shall be \$50.00;
 - (5) For a failure to submit a renewal application for a registration prior to the expiration date, in violation of He-P 820.06(b), the fine for a registrant shall be \$10.00;
 - (6) For a failure to allow access by the department to the IHCS programs, services, patients or records, in violation of He-P 820.09(a)(1)-(3), the fine for an applicant, unregistered individual, or registrant shall be \$2000.00;
 - (7) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 820.10(c)(2) and (6), the fine for a registrant shall be \$100.00;
 - (8) 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 820.10(c)(11), the fine for a registrant shall be \$1000.00;

- (9) For falsification of information contained on an application, the fine for an applicant or registrant shall be \$50.00 per offense;
- (10) When an inspection determines that a violation of RSA 151 or He-P 820 has the potential to jeopardize the health, safety, or well-being of a patient, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same area of non-compliance is cited within 2 years of the original area of non-compliance, the fine for a registrant shall be double the original fine, but not to exceed \$1000.00; and
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in a. above the fine for a registrant shall be triple the original fine, but not to exceed \$2000.00; and
- (11) Each day that the registrant continues to be in violation of the provisions of RSA 151 or He-P 820 shall constitute a separate violation and shall be fined in accordance with He-P 820.10.
- (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 registrant has issued payment to the department by check, and such check was returned for insufficient funds.
- (e) An applicant or registrant shall have 30 days after issuance 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 revocation of a registration, the cessation of services, and the transfer of care of clients when it finds that the health, safety, or well-being of clients is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.
- (h) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.
- (i) When an individual’s registration has been denied or revoked, the applicant or registrant shall not be eligible to reapply for a registration for 5 years from:
- (1) The date of the department’s decision to revoke or deny the registration became effective, if no request for an administrative hearing is requested; or
 - (2) The date an order is issued upholding the action of the department, if a request for an administrative hearing was made and a hearing was held.
- (j) The 5-year period referenced in (i) above shall begin on:
- (1) The date the department’s decision to revoke or deny the registration, if not filed; or

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

(k) Notwithstanding (j) 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 should be awarded a waiver under He-P 820.08.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A, or He-P 820.

He-P 820.12 Duties and Responsibilities of All Registrants.

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

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

(c) The registrant shall consider all clients to be competent and capable of making all decisions relative to their own service needs unless the client:

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

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

(d) Registrants may remind clients to take their medications, place medication container(s), including pill planners, within client reach, and open the medication container(s).

(e) The registrant shall comply with all dementia training requirements pursuant to RSA 151:47-49 including continuing education that shall include new information on best practices in the treatment and care of persons with dementia and be provided for:

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

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

(f) The registrant shall not falsify any documentation or provide false or misleading information to the department.

(g) The registrant shall not advertise or otherwise represent themselves as providing services not registered to provide, pursuant to RSA 151:2, III.

APPENDIX

Rule	Specific State or Federal Statutes the Rule Implements
He-P 820.01-He-P 820.03	RSA 151:9, I(a), (b); RSA 151:2, I(b); RSA 151:2-b; RSA 151:9-a, I
He-P 820.04-He-P 820.06	RSA 151:2, I and II and RSA 151:9, I; RSA 151:9-a, I and XII
He-P 820.07-He-P 820.08	RSA 151:9, I(a); RSA 151:9-a, I and XII
He-P 820.09	RSA 151:6,I; RSA 151:9, I(e); RSA 151:9-a, VIII
He-P 820.10	RSA 151:9, I(f), (g), (l), (m); RSA 151:9-a, IX, X, and XI
He-P 820.11	RSA 151:9, I(f), (h), (l); RSA 151:16-a; RSA 151:9-a,IX
He-P 820.12	RSA 151:9, I(a); RSA 151:9-a, I and VIII