

PART He-P 802 RULES FOR HOSPITALS AND SPECIAL HEALTH CARE SERVICES

Readopt He-P 802.01, effective 1-28-21 (Document #13166), to read as follows:

He-P 802.01 Purpose. The purpose of this part is to set forth the licensing requirements for all hospitals pursuant to RSA 151:2, I(a) and the special health care services offered by hospitals pursuant to RSA 151:2-e.

Readopt with amendment He-P 802.02, effective 1-28-21 (Document #13166), to read as follows:

He-P 802.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a hospital, except:

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

Readopt with amendment He-P 802.03, effective 10-23-21 (Document #13281), to read as follows:

He-P 802.03 Definitions.

- (a) “Abuse” means any one of the following:
 - (1) “Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of patients;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to patients; and
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving patients with or without his or hertheir informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing, and medication management.
- (c) “Acute care hospital” means a hospital that provides inpatient medical care and other related services for surgery, acute medical conditions, or injuries usually for a short term illness or condition.
- (d) “Addition” means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.
- (e) “Administer” means an act whereby one or more doses of a medication is instilled into the body, applied to the body of, or otherwise given to a person for immediate consumption or use by an individual authorized by law, pursuant to RSA 318-B and RSA 326-B.
- (f) “Administrator” means the person responsible for the management of the licensed premises and who reports to and is accountable to the governing body.
- (g) “Admission” means the point in time when a patient has been accepted by a licensee for the provision of services. This term also includes “admitted”.

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

(hi) “Adverse event” means a consequence of care that results in an undesired outcome which may or may not have been preventable, and which is listed in RSA 151:38.

(ij) “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, and captive or affiliated insurance companies.

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

(kl) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a hospital pursuant to RSA 151:2, I(a) or provide a special health care service pursuant to RSA 151:2-e.

(lm) “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 802, or other applicable federal or state requirements.

(mn) “Cardiac catheterization laboratory services” mean those cardiac catheterization procedures that are performed in a cardiac catheterization laboratory, including diagnostic and interventional cardiac catheterization procedures.

(no) “Care plan or treatment plan” means a documented guide developed by the licensee, in consultation with personnel, the patient, and the patient’s guardian or agent, if any, as a result of the assessment process for the provision of care and services.

(op) “Change of ownership” means a change in the controlling interest of an established hospital or provider of special health care services to any individual, agency, partnership, corporation, government entity, association, or other legal entity.

(pq) “Chemical restraint” means any drug used for discipline or convenience and not required to treat medical symptoms. ~~means a drug or medication that is used as a restriction to manage the patient’s behavior or restrict the patient’s freedom of movement and is not a standard treatment or dosage for the patient’s condition.~~

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

(s) “Controlling Interest” means greater than 50% ownership interest.

(~~ft~~) “Critical access hospital (CAH)” means a hospital that has been so designated by the state in which it is located and has been surveyed by the state survey agency or by Centers for Medicare and Medicaid Services (CMS) pursuant to 42 CFR Subpart F § 485.606.

(~~su~~) “Critical incident stress management (CISM)” means an adaptive, short-term psychological helping process that focuses solely on an immediate and identifiable problem. Individuals undergoing CISM are able to discuss the situation that occurred and how it affects them and those around them allowing individuals to use this forum to acquire the tools necessary to hopefully limit post-traumatic stress related issues in their own lives and recognize it in others. ~~means an adaptive, short-term psychological helping process that focuses solely on an immediate and identifiable problem. Its purpose is to enable people to return to their daily routine more quickly and with less likelihood of experiencing post-traumatic stress disorder.~~

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

(~~uw~~) “Deficiency” means any action, failure to act, or other set of circumstances that cause a licensee to be out of compliance with RSA 151 or He-P 802.

(~~vx~~) “Demonstrated competency” means the ability of the employee to demonstrate to an evaluator that he or she is able to complete the required task in a way that reflects the minimum standard including, but not limited to, a certificate of completion of course material or a post-test to the training provided.

(~~wy~~) “Department” means the department of health and human services, at 129 Pleasant St, Concord, NH 03301.

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

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

(~~zab~~) “Dietitian” means a person who is licensed under RSA 326-H.

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

(~~adb~~) “Elopement” means an event in which a patient who is cognitively, physically, mentally, emotionally, or chemically impaired wanders away, walks away, runs away, escapes, or otherwise leaves the facility unsupervised, unnoticed, or prior to their scheduled discharge.

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

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

(aeg) “Emergency psychiatric services” means those services available on a 24-hour basis when a patient needs immediate treatment for psychiatric health concerns.

(afh) “Emergency services” means those services rendered in accordance with RSA 151:2-g and includes emergency medical treatment of both physical and behavioral health concerns.

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

(aj) “Enforcement action” means the imposition of an administrative fine, the denial of an application for a license, or the revocation or suspension of a license or suspension of a license in response to non-compliance RSA 151 or He-P 802.

(ahk) “Equipment” means any plumbing, heating, electrical, ventilating, air-conditioning, refrigerating, and fire protection equipment, and any elevators, dumbwaiters, escalators, boilers, pressure vessels, or other mechanical facilities or installations related to building services. This term includes fixtures.

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

(amj) “Facility” means “facility” as defined in RSA 151:19, II, including the part of the hospital where special health care services are rendered in accordance with RSA 151:2-e.

(ank) “Freestanding hospital emergency facility (FHEF)” means a hospital geographically separate from the parent hospital, which is owned or operated, directly or indirectly, by the parent hospital and which provides emergency acute care identical to those services provided by the parent hospital.

(ao) “Good cause” means any circumstances beyond a person’s control, that the department considers to be circumstances that prevents that person from taking some required action, including:

- (1) A death in the person’s immediate family;
- (2) Personal injury or serious illness of the person or an immediate family member; or
- (3) Another compelling reason or justification.

(apl) “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.

(aqm) “Guardian” means a person appointed in accordance with RSA 463, RSA 464-A or the laws of another state, to make informed decisions relative to the patient’s health care and other personal needs.

(ar) “Health care services” means “Health care services” as defined in RSA 151:4-a, I(a).

(as#) “Hospital” means “hospital” as defined in RSA 151:2, I(a).

(at~~e~~) “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.

(au~~p~~) “Independent contractor” means an individual or business entity providing service to working under the supervision of the licensee or its patients but not employed by the licensee.

(av~~q~~) “Infectious waste” means those items specified by Env-Sw 904.

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

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

(ay~~s~~) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 802 or to respond to allegations pursuant to RSA 151:6, of non-compliance with RSA 151 and He-P 802.

(az~~t~~) “License” means the document issued ~~by the department~~ to an applicant or licensee, at the start of operation as a hospital or provider of special health care services which authorizes operation ~~of a hospital or special health care services~~ in accordance with RSA 151 and He-P 802, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date, the name of the administrator, the type(s) of services authorized, the number of beds the facility is licensed for, and license number.

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

(ba~~v~~) “Licensed practitioner” means:

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

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

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

(bday) “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, means the National Fire Protection Association (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.~~

(beaz) “Locked unit” means a locked, secured, or alarmed hospital or units within a hospital, or anklets, bracelets or similar devices that cause a door to close automatically and lock when approached, thereby preventing a patient from freely exiting the hospital or unit within.

(bf) “Long term care hospitals (LTCH)” means a hospital certified as an acute care hospital by CMS that provides a broad spectrum of clinical services to acutely ill and medically complex patients, other than a rehabilitation, psychiatric, substance use disorder, intermediate care facility, or skilled nursing facility service, that has an average length of inpatient stay greater than 25 days and that meets the long-term care hospital patient level criteria issued by CMS.

(bg) "Material adverse impact" means "material adverse impact" as defined in RSA 151:4-a, I (b).

(bha) “Medical director” means a physician licensed in New Hampshire pursuant to RSA 329, who is responsible for the implementation of patient care policies and the coordination of medical care in the hospital.

(bjb) “Medical staff” means those physicians and other licensed practitioners permitted by law and licensee policies to provide patient care services independently within their scope of practice.

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

(bk) “Medication error” means any deviation in the administration of a medication as prescribed or in the documentation of such administration, with the exception of a patient’s refusal.

(blc) “Megavoltage radiation therapy equipment” means therapeutic equipment having a minimum power rating in excess of one MeV which utilizes directed beams of ionizing radiation to kill cancerous tissues. The term includes, but is not limited to, Cobalt-60 and linear accelerator machines.

(bme) “Modification” means the reconfiguration of any space, the addition, relocation, or 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. This term does not include repair or replacement of interior finishes.

(bnf) “Neglect” means an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health and safety of any patient. For the purposes of this definition, minimum means that the hospital provides stabilizing treatment to all patients until the patient has been physically transferred from the hospital.

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

(bpg) “Nursing care” means the provision or oversight of a patient’s physical, mental, or emotional condition or diagnosis by a nurse, that if not monitored on a routine basis by a nurse, would or could result in physical or mental harm to a patient.

(bqh) “Open heart surgery (OHS)” means open surgical procedures on the heart muscle, valves, coronary arteries, or other heart structures, including coronary artery bypass graft surgery.

(bri) “Orders” means an electronic or written document, or a verbal direction, by a licensed practitioner for medications, treatments, recommendations, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denotes approval by the licensed practitioner.

~~(bsj) “Owner” means a person, organization, corporation, association, or any other legal entity, whether organized for profit or not, holding or claiming ownership of or title to, a license, who has controlling interest in the hospital.~~

(btk) “Parent hospital” means the hospital which owns and operates a freestanding hospital emergency facility.

(bu4) “Patient” means any person admitted to or in any way receiving care, services, or both from a hospital licensed in accordance with RSA 151 and He-P 802.

(bvm) “Patient record” means a separate file maintained for each person receiving care and services by the licensee, which includes all documentation required by RSA 151 and He-P 802 and all documentation as required by other federal and state requirements.

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

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

(1) Established fire safety goals and objectives;

(2) Deterministic and probabilistic analysis of fire scenarios; and

(3) Quantitative assessment of design alternatives against the fire safety goals and objectives using accepted engineering tools, methodologies, and performance criteria.

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

(byp) “Personal care” means personal care services that are non-medical, hands-on services provided to a patient including, but not limited to, assistance 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 patient to take medications.

(bz) “Personal representative” means a person other than the licensee of, an employee of, or a person having a direct or indirect ownership interest in the licensed facility, who is designated in accordance with RSA 151:19, V to assist the patient for a specific, limited purpose or for the general purpose of assisting a patient in the exercise of any rights.

~~(cabq)~~ “Personnel” means an individual who is employed by, a volunteer of, or an independent contractor of the hospital who provides services to patients.

~~(cbbf)~~ “Physical restraint” means any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.~~means the use of hands on or other physically applied technique to physically limit a patient’s freedom of movement, such as forced escorts, holding, prone restraints, or other containment techniques. This term does not include orthopedic appliances.~~

~~(ccbs)~~ “Physician” means medical doctor or doctor of osteopathy currently licensed in the state of New Hampshire pursuant to RSA 329.

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

~~(cebu)~~ “Primary interventional cardiac catheterization” means those catheter-based procedures that involve modification of the coronary arterial system under emergency conditions.

~~(cfbv)~~ “Pro re nata (PRN) medication” means medication administered as circumstances might require in accordance with licensed practitioner’s orders.

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

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

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

~~(ciby)~~ “Psychiatric hospital” means a:

- (1) Hospital that has been verified by CMS as an inpatient psychiatric hospital; or
- (2) Hospital designated by CMS to provide psychiatric services in a distinct part unit.

~~(cjbz)~~ “Qualified personnel” means personnel that have been trained and have demonstrated competency to adequately perform the 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.

(ck~~a~~) “Radiographic images” means x-rays or other images which are either on film, paper, or stored electronically.

(cl~~b~~) “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.

(cm) “Rehabilitation” means any of the following undertaken in an existing building, as defined in this section:

(1) Addition;

(2) Modification;

(3) Reconstruction;

(4) Renovation; and

(5) Repair.

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

(cod) “Rehabilitation hospital” means a:

(1) Hospital that has been certified by CMS as an inpatient rehabilitation hospital; or

(2) Hospital designated by CMS to provide comprehensive physical rehabilitation services in a distinct part unit.

(cpe) “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.

(cq) “Retention” means the date on which the retainer has been paid securing the independent contractor’s services.

(c~~r~~f) “Service” means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a patient, such as dietary, laboratory, nursing, or surgery.

(cs) "Service area" means “service area” as defined in RSA 151:4-a, I (c).

(c~~t~~e) “Special health care service” means cardiac catheterization laboratory services, open heart surgery or coronary artery bypass graft surgery, or treatment using megavoltage radiation therapy equipment.

(cu) “State Building Code” means “state building code” as defined in RSA 155-A:I, VI.

(cv) “State Fire Code” means “state fire code” as defined in RSA 153:1 as amended by rules adopted pursuant to RSA 153:5.

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

(cx) “Surgery” means a branch of medicine concerned with disease or conditions requiring or amenable to operative or manual procedures.

(cyh) “Swing beds” means beds within a hospital or critical access hospital participating in Medicare that are approved by the CMS for the provision of a skilled level of care.

(czi) “Volunteer” means an unpaid person who assists with the provision of services such as personal care services, food services, entertainment, 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.

Adopt He-P 802.04 to read as follows:

He-P 802.04 Notice to Critical Access Hospitals.

(a) Prior to submitting an application for licensure in accordance with He-P 802.05, a proposed health care facility shall comply with the requirements of RSA 151:4-a, II, and send written notification of its intent to submit an application for licensure as an ambulatory surgical center, emergency medical care center hospital, birthing center, walk in care center, dialysis center, or special health care service, via certified mail to the department and to the chief executive officer of all critical access hospitals with a primary physical location within a 15 mile radius of the proposed ambulatory surgical center, emergency medical care center, hospital, birthing center, walk in care center, dialysis center, or special health care service.

(b) The written notification required in (a) above shall contain the following:

- (1) The name of the person or entity seeking to establish the proposed ambulatory surgical center, emergency medical care center, hospital, birthing center, walk in care center, dialysis center, or special health care service;
- (2) The proposed physical location of the facility;
- (3) The type of facility; and
- (4) The scope of services for the facility.

(c) Upon receipt of the written notification in (a) above, the chief executive officer of the critical access hospital(s) shall have 30 days to file a written objection with the department.

(d) The written objection in (c) above shall contain the following:

- (1) The critical access hospital’s detailed basis for the objection to the proposed health care facility to include:
 - a. If the proposed health care facility will have a material adverse impact on the critical access hospital’s operations; and

b. How the proposed health care facility will impact the health care services, in the service area in terms of utilization, patient charges, market share, physician referral patterns, personnel resources, and referral sources; and

(2) Proof that the objection was sent via certified mail to the proposed individual or entity seeking to establish the proposed health care facility.

(e) Upon receipt of an objection meeting the requirements of (d) above, from a critical access hospital located within a 15 mile radius of a proposed ambulatory surgical center, emergency medical care center, hospital, birthing center, walk in center, dialysis center, or special health care service, the department shall send a letter to the proposed health care facility informing them of the:

(1) Objection and the reason for the objection; and

(2) Opportunity to submit a written response to the objection, which shall include at a minimum;

a. Any information regarding the objection that may be relevant to the determination of material adverse impact; and

b. How the proposed health care facility will not impact the health care services in the service area in terms of utilization, patient charges, market share, physician referral patterns, personnel resources, and referral sources.

(f) The department shall provide the names of 3 independent contractors, retained by the department through a competitive procurement process, to the critical access hospital and proposed health care facility for their consideration.

(g) The independent contractors proposed in (f) above shall be experts in the provision of health care services and skilled in determining how utilization, patient charges, market share, physician referral patterns, personnel resources, and referral sources could be impacted by the proposed health care facility.

(h) If, after proposing 3 independent contractors, the critical access hospital and proposed health care facility cannot agree on an independent contractor within 30 days of the proposal by the department, the department shall designate the independent contractor to perform the assessment and create the expert report.

(i) Within 30 days of the selection of the independent contractor in accordance with (f) and (g) above, the department shall send a letter to the selected independent contractor requesting their services. This letter shall include:

(1) A request to engage the independent contractor's services to perform the assessment and create the expert report as required in RSA 151:4-a, II(b);

(2) A summary of the requirements for the content of the expert report, to include:

a. How the proposed project may or may not impact the health care services in the service area in terms of utilization, patient charges, market share, physician referral patterns, personnel resources, and referral sources; and

b. A summary of public comments received in accordance with (p) below shall be taken into consideration in completing the assessment;

(3) The contact information for the proposed health care facility and chief executive officer of the critical access hospital(s) raising the objection(s);

(4) The objection and response along with any other documentation received by the department relative to this transaction; and

(5) A deadline for completion of the expert report, which shall be no later than 90 days from retention of the expert unless an extension is granted by the department. Such an extension shall not exceed 30 days.

(j) Upon selection of the independent contractor, the department will notify the proposed health care facility and critical access hospital of the selected independent contractor.

(k) The independent contractor will invoice the proposed health care facility and critical access hospital the cost of any fees associated with the retention and work to be completed which shall be shared equally between the proposed health care facility and the critical access hospital.

(l) Invoices shall be paid for in advance of any services performed in accordance with RSA 151:4-a, II(b)(6).

(m) Payment of the proposed health care facility and critical access hospital's portion of the advance retainer for the independent contractor shall be paid within 5 business days.

(n) If the proposed health care facility fails to make payment in accordance with (m) above, it shall forfeit its right to submit an application for licensure.

(o) If the critical access hospital fails to make payment in accordance with (m) above, it shall forfeit its right to object and the proposed health care facility shall be allowed to apply for licensure.

(p) In accordance with RSA 151:4-a, II(b), the proposed health care facility and critical access hospital shall provide any information requested by the independent contractor to complete its report in accordance with the following:

(1) Information obtained at the request of the independent contractor shall not be considered confidential under RSA 151:13, unless the department determines that it should be exempt from disclosure under RSA 91-A:5;

(2) The proposed health care facility and critical access hospital shall provide the information within a reasonable time, as determined by the independent contractor, based on the scope of work of the project and the expected time to review said documentation, so that the independent contractor may finish its report in the required 90 day time period;

(3) If the proposed health care facility fails to provide requested information in a reasonable time, it shall forfeit its right to submit an application for licensure; and

(4) If the critical access hospital fails to provide requested information in a reasonable time, it shall forfeit its right to object and the proposed health care facility shall be allowed to apply for licensure.

(q) Within 30 days of retention of the independent contractor, the department shall publish a notice on the department's website to notify the public of the proposed health care facility and solicit public comment for a period of at least 7 days.

(r) All public comments received in (p) above shall be provided to and considered by the independent contractor for use in the analysis.

(s) Within 90 days of retention of the independent contractor, the report as described in RSA 151:4-a, II(b) and (i)(1)-(2) above, shall be submitted to the department, unless an extension is granted by the department in accordance with the following:

(1) The department may choose to grant an extension for good cause;

(2) Good cause is determined by the department and shall require the independent contractor to show why the report cannot be completed within the 90 days and that the extension is not a result of the proposed health care facility or critical access hospitals failure to comply with the rules; and

(3) Such an extension shall not exceed 30 days.

(t) Within 10 days of receipt of the expert report, the department shall provide a copy of the report to the proposed health care facility and critical access hospital.

(u) If the report finds that the proposed health care facility will have a material adverse impact, then the proposed health care facility shall not be allowed to apply for licensure.

(v) If the report finds that the proposed health care facility will not have a material adverse impact, then the proposed health care facility may proceed with application for licensure.

(w) The person or entity seeking to establish the proposed health care facility and the critical access hospital(s) shall have the right to request a rehearing by the commissioner, pursuant to RSA 541:3.

(x) The result of the rehearing may be appealed by petition to the Supreme Court, pursuant to RSA 541:6.

(y) If the proposed health care facility chooses to move forward with the licensing process prior to all appeal rights being exhausted, the proposed health care facility shall do so at its own risk and shall not hold the critical access hospital or the department liable for any costs incurred.

(z) The appellant shall bear all costs of the state in connection with any rehearing or petition for appeal, including the state's attorneys' fees.

Readopt with amendment and renumber He-P 802.04 through He-P 802.09, effective 1-28-21 (Document #13166), as He-P 802.05 through He-P 802.10 to read as follows:

He-P 802.054 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” (~~February 2023~~~~March 2019~~), signed by the applicant or 2 of the corporate officers, 2 authorized individuals if an association or partnership, or the head of the government agency if a government unit, affirming to the following:

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

~~b. For any hospital or special health care service to be newly licensed:~~

~~“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.”;~~

b. For any facility required to comply with RSA 151:4-a:

“I affirm that I have complied with RSA 151:4-a and a determination is on file with the department that finds the proposed health care facility shall be allowed to apply for licensure:

~~c. For any facility 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):~~

~~“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. section 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.”; and~~

~~d. For 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.”;~~

(2) A floor plan of the prospective hospital;

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

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

- b. "Certificate of Formation," if a limited liability corporation; or
- c. "Certificate of Trade Name," where applicable;

(4) List of affiliated or related parties;

(5) The applicable fee in accordance with RSA 151:5, 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";

(6) A resume identifying the name and qualifications of the administrator and medical director;

(7) Copies of applicable licenses, certificates, or both, for the administrator and medical director;

(8) 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 health care 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 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 their final inspection upon completion of the construction project;

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

(10) A written statement from the applicant, proposed licensee, administrator, and medical director stating that ~~he or she~~they:

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 patient in this or any other state;

c. Does not have any permanent restraining or protective orders against the applicant, licensee, or administrator;

d. 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 in this or any other state; and

(11) If any of the items in (10) above have occurred, the individual shall include a detailed explanation of the circumstances surrounding the occurrences; and

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

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

(14) Any waiver requests, if applicable.

(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

(c) If a hospital has not previously performed a special health care service but plans to do so, the hospital shall complete a new application including all of the above application requirements and any information required under He-P 802.3938, He-P 802.4039, and He-P 802.4140.

(d) A previously operating special health care service, which means a special health care service as defined by RSA 151:2-e that was being offered by a hospital prior to July 1, 2016 and has continued to be offered since July 1, 2016, shall not require additional licensure separate from the hospital license but shall still comply with RSA 151 and all applicable He-P 802 provisions.

He-P 802.065 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 RSA 151 and He-P 802.054(a) have been received.

(b) Following both a clinical and life safety code inspection, a license and license certificate shall be issued to the applicant if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 802.1009.

(c) If an application does not contain all of the items required by He-P 802.054(a), the department shall notify the applicant in writing of the items required before the application can be processed.

(d) 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.

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

(f) Unless a waiver has been granted, the department shall deny a licensing request in accordance with He-P 802.134 if it determines that the applicant, proposed licensee, medical director, or administrator:

- (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 patients.

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

(h) A written notification of denial, pursuant to He-P 802.143(b), shall be sent to an applicant applying for an initial license, if it has been determined by the inspection in He-P 802.05(g) and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 802.

(i) A written notification of denial, pursuant to He-P 802.143(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 802.076 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire the following year on the last day of the month it was issued for one full calendar year 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 802.054(a)(1) at least 120 days prior to the expiration of the current license to include:

~~(c) The licensee shall submit with the renewal application:~~

- (1) The materials required by He-P 802.054(a)(1) and (5);
- (2) The current license number;
- (3) A request for renewal of any existing non-permanent waivers previously granted by the department, in accordance with He-P 802.110(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;
- (4) A list of any current employees who have a permanent waiver granted in accordance with He-P 802.187(e)(2); and
- (5) A copy of any temporary, new, or exceptions or variances or waivers applied for or granted by the state fire marshal, in accordance with RSA 153:5 and Saf-C 6005;

~~(6) A copy of any new variances granted by the local building inspector or state building code review board in accordance with He-P 802.07(g)(3); and~~

(c) In addition to (b) above, (7) If a private water supply is used, 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 for bacteria and Env-Dw 704.02 for nitrates.

~~(d) If the request in (c)(3) above is not received at the time of renewal, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license.~~

(de) Following an inspection as described in He-P 802.1009, a license shall be renewed if the department determines that the licensee:

- (1) Submitted an application containing all the items required by (b) and (c) above as applicable, prior to the expiration of the current license; and
- (2) Is found to be in compliance with RSA 151, He-P 802, and all federal requirements at the renewal inspections, or has submitted a POC that has been accepted by the department and implemented by the licensee if deficiencies were cited at the renewal inspection.

(ef) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license shall not operate.

(fg) If a licensee fails to submit an application for renewal prior to the expiration of the license and continues to operate:

- (1) The licensee shall be considered an initial licensee and shall follow all application requirements set forth for an initial license pursuant to He-P 802.054; and
- (2) The licensee shall be subject to a fine in accordance with He-P 802.143(e).

He-P 802.078 Hospital Construction, Modifications, or Structural Alterations.

(a) As required by RSA 151:6 any licensee or applicant desiring to make renovations, modifications, reconstruction, and additions to its facilities or to construct new facilities shall submit architectural plans and specifications to the NH division of fire safety, state fire marshal's office 60 days prior to commencing such work.

(b) As required by RSA 153:10-b, V; sprinkler and fire alarm plans shall be submitted to the NH division of safety, state fire marshal's office and no device shall be installed until it has been approved by the NH division of fire safety, state fire marshal's office.

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

(d) New construction, renovations, modifications, reconstruction, and additions initiated prior to receiving NH state fire marshal's office approval shall be done at the licensee's or applicants own risk.

(e) 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.

(f) A licensee or applicant undertaking new construction, renovations, modifications, reconstruction, and additions to its facility shall comply with the appropriate chapters and sections of the adopted state fire codes, state building code, state laws and rules and local ordinances.

(g) Variances to the State Fire Code shall be granted by the state fire marshal under the process outlined in Saf-C 6005.

(h) All newly constructed or rehabilitated facilities shall comply with the Facility Guidelines Institute's (FGI) "Guidelines for Design and Construction of Hospitals" (2022 edition), as applicable, available as noted in Appendix A.

(i) Exceptions to the FGI guidelines above shall be granted by the state fire marshal.

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

(k) All new construction and rehabilitated spaces shall be subject to an inspection pursuant to He-P 802.10 prior to its use.

~~(a) At least 60 days prior to construction, the licensee shall submit to the department accurate architectural plans, including sprinkler and fire alarm plans or drawings, that show the room designation(s) and exact measurements of each area to be licensed, including windows and door sizes and each room's use, for the following:~~

~~(1) A new building;~~

~~(2) An addition or renovation to an existing building;~~

~~(3) Structural alterations to any patient area;~~

~~(4) Alterations that require approval from local or state authorities; and~~

~~(5) Alterations that might affect compliance with the health and safety, fire, or building codes, including but not limited to, fire suppression, detection systems, and means of egress.~~

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

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

~~— (d) The department shall review and approve plans for construction, modification, or structural alterations of a facility for compliance with all applicable sections of RSA 151 and He P 802 and notify the applicant of the approval prior to construction, modification, or structural alterations.~~

~~— (e) A licensee or applicant constructing, modifying, or structurally altering a building shall comply with the following:~~

~~(1) Saf C 6000 and the state fire code, under RSA 153:1, VI a , including, but not limited to, NFPA 1 and NFPA 101 and as amended in Saf Fmo 300 by the fire marshal with the board of fire control and ratified by the general court pursuant to RSA 153:5;~~

~~(2) The state building code as defined in RSA 155 A:1, IV, as amended by the building code Review Board pursuant to RSA 155 A:10, V; and~~

~~(3) Federal, state, and local laws, regulations, and ordinances.~~

~~— (f) Any newly constructed, modified, or structurally altered hospital or FHEF shall follow and comply with the Facility Guidelines Institutes (FGI)'s "Guidelines for Design and Construction of Hospitals" (2018 edition), available as noted in Appendix A, and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (2018 edition), available as noted in Appendix A.~~

~~— (g) The authority for waivers shall be as follows:~~

~~(1) The department shall be responsible for granting waivers pursuant to the FGI guidelines above and these rules;~~

~~(2) The state fire marshal shall be responsible for granting exceptions or variances pertaining to the state fire code; and~~

~~(3) The local building official or state building code review board shall be responsible for granting variances to the local or state building code, respectively.~~

~~— (h) Waivers granted by the department for construction or modifications under the FGI guidelines above shall be permanent and not require annual renewal unless the underlying reason or circumstances for the waiver changes.~~

~~— (i) Existing hospitals shall be deemed compliant with (f) above, unless and until modifications or changes are implemented in the facility.~~

~~— (j) The completed building shall be subject to an inspection pursuant to He P 802.1009 prior to its use.~~

He-P 802.098 Requirements for Organizational Changes.

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

- (1) Ownership;
- (2) Physical location;
- (3) Address;
- (4) Name;
- (5) Capacity;
- (6) Administrator;
- (7) Medical director; or
- (8) Affiliated or related parties.

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

(c) The licensee shall complete and submit a new application and obtain a new license ~~and license certificate~~ 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 beyond what was authorized under the initial license.~~

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

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

(fe) An inspection by the department shall be conducted prior to operation when there are changes in the following:

- (1) Ownership, unless the current licensee has no outstanding administrative actions in process and there will be no changes made by the new owner in the scope of services provided;
- (2) The physical location;
- (3) A change in the licensing classification;
- (4) A change that places the facility under a different life safety code occupancy chapter; or
- (5) An increase in the number of beds beyond what is authorized under the license.

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

- (1) Name;
- (2) A change of administrator or medical director;
- ~~(3) An increase in the number of beds beyond what is authorized under the license;~~
- ~~(3) A change in the scope of services provided;~~
- ~~(34) A change in the address without a change in physical location; or~~
- ~~(45) When a waiver has been granted.~~

(hg) The licensee shall inform the department in writing no later than 30 days prior to a change in administrator or medical director, or as soon as practicable in the event of a death or other extenuating circumstances requiring an administrator or medical director change, and provide the department with the following:

- (1) A resume identifying the name and qualifications of the new administrator or medical director;
- (2) Copies of applicable licenses for the new administrator or medical director;
- (3) The results of a criminal records check ~~from the department of safety~~ for the new administrator or medical director which shall include criminal history from the state of New Hampshire;
- ~~(4) The results of a BEAS registry check from the bureau of elderly and adult services for the administrator and medical director; and~~

(54) A statement, which shall be signed at the time the initial offer of employment, contract, or engagement and then annually thereafter, stating that ~~they~~he or she:

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

(i~~h~~) Upon review of the materials submitted in accordance with He-P 802.098(g), the department shall make a determination as to whether the new administrator or medical director meets the qualifications for the position, as specified in He-P 802.176(b) and He-P 802.176(c) respectively.

(j~~i~~) If the department determines that the new administrator ~~or medical director~~ does not meet the qualifications for the position as specified in (h) above, it shall notify the licensee in writing so that a waiver can be sought or the licensee can search for a qualified candidate.

~~(k) If the department determines that the new medical director does not meet the qualifications for the position as specified in (j) above, it shall notify the licensee in writing so that the licensee can search for a qualified candidate.~~

(l~~j~~) The licensee shall inform the department in writing via e-mail, fax, or mail of any change in the licensee's e-mail address as soon as practicable and in no case later than 10 days of the change. The department shall use email as the primary method of contacting the facility in the event of an emergency.

(m~~k~~) A restructuring of an established hospital that does not result in a transfer of the controlling interest of the licensee, but which might result in a change in the name of the licensee or corporation, shall not constitute a change in ownership.

~~(l) Licenses issued for a change of ownership shall expire on the date the license issued to the previous owner would have expired.~~

(n~~m~~) If a licensee chooses to cease the operation of the hospital or special health care service, the licensee shall submit written notification to the department at least 60 days in advance which shall include a written closure plan.

~~(n) The licensee shall return the previous license to the division within 10 days of the licensee ceasing operations.~~

~~(o) If the licensee is changing its ownership, physical location, address, or name, a new license shall not be issued if the licensee fails to return its previous license.~~

He-P 802.1009 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 802, 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 [proposed or](#) licensed premises;
- (2) All programs and services provided by the licensee; and
- (3) Any records required by RSA 151 and He-P 802.

(b) The department shall conduct a clinical and life safety code inspection to determine full compliance with RSA 151 and He-P 802, to include a clinical and a life safety inspection, prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 802.098(e)(1);
- (3) A change in the licensee's physical location;
- (4) An increase in the number of beds beyond what is authorized under the license;
- (5) Occupation of space after construction, modifications, or structural alterations; or
- (6) The renewal of a license, if not deemed under RSA 151:5-b.

(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 deficiency report or notice to correct shall be issued when, as a result of any inspection, the department determines that the licensee is in violation of any of the provisions of He-P 802, RSA 151, or any applicable state or federal law, administrative rule, or code.

(e) If deficiencies were cited, the licensee shall submit a POC, in accordance with He-P 802.132(c) within 21 days of the date on the letter that transmits the inspection report.

~~— (f) A written notification of denial shall be sent to an applicant applying for an initial license if it has been determined by the inspection in (b) above that the prospective premises is not in full compliance with RSA 151, He P 802, or any applicable federal, state, or local law, regulation, or code.~~

Readopt and renumber He-P 802.10, effective 1-28-21 (Document #13166), as He-P 802.11 to read as follows:

He-P 802.1140 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 802 shall submit a written request for a waiver to the commissioner that includes:

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

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

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

- (1) Meets the objective or intent of the rule;
- (2) Does not have the potential to negatively impact the health or safety of the patients; and
- (3) Does not negatively affect the quality of patient services.

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

(e) Waivers shall not be transferable.

(f) When a licensee wishes to renew a non-permanent waiver beyond the approved period of time, the licensee shall apply for a new waiver with the renewal application or at least 60 days prior to 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.

Readopt with amendment and renumber He-P 802.11 through He-P 802.13, effective 1-28-21 (Document #13166), as He-P 802.12 through He-P 802.14 to read as follows:

He-P 802.~~1244~~ Complaints.

(a) The department shall investigate a complaint against a licensed, non-CMS certified hospital when 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 802.

(b) The bureau of licensing and certification shall refer for investigation to the department's health facilities administration-certification unit or to the accrediting organization, as appropriate, any complaint against a CMS certified hospital that meets the following conditions:

(1) There is sufficient specific information to determine that if the allegation(s) were proven to be true, a violation would be determined to exist of the applicable requirements at 42 CFR 482, 42 CFR 485, 42 CFR 489, or the CMS, "Life Safety Code & Health Care Facilities Code Requirements" ~~(2017 update)~~—<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/LSC>, as available and noted in Appendix A; and

(2) Investigations shall be conducted in accordance with CMS Publication #100-07, "State Operations Manual", <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS1201984>, including Chapter 5-Complaint Procedures, and applicable appendices, as available and noted in Appendix A.

(c) For complaints alleging violations of RSA 151 or He-P 802, the department shall:

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

(2) Notify any other federal, state or local agencies of alleged 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 802. ~~1312~~(c) if the inspection results in deficiencies being cited.
- (d) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, including:
- (1) Requests for additional information from the complainant;
 - (2) A physical inspection of the premises;
 - (3) Review of any records that might be relevant and have probative value;
 - (4) Interviews with individuals who might have information that is relevant to the investigation and might have probative value; and
 - (5) Any other relevant investigative techniques.
- (e) For complaints regarding an unlicensed individual or entity:
- (1) The department shall provide written notification to the owner or person responsible that includes:
 - a. The date of inspection;
 - b. The reasons for the inspection; and
 - c. Whether or not the inspection resulted in a determination that the services being provided require licensing under RSA 151;
 - (2) The owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (1) above to respond to a finding that they are operating without a license or submit a completed application for a license in accordance with RSA 151:7-a, II;
 - (3) If the owner of an unlicensed hospital does not comply with (2) above, or if the department does not agree with the owner's response, the department shall:
 - a. Issue a written warning to immediately comply with RSA 151 and He-P 802; and
 - b. Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III; and
 - (4) Any person or entity who fails to comply after receiving a warning, as described in (3)a. above, shall be subject to an action by the department for injunctive relief under RSA 151:17. Whether or not 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 802, or other applicable laws.
- (f) Complaint investigation files shall:
- (1) Be confidential in accordance with RSA 151:13;
 - (2) Not be disclosed publicly; and
 - (3) Be released by the department on written request only:
 - a. To the department of justice when relevant to a specific investigation;

- b. To law enforcement when relevant to a specific criminal investigation;
- c. When a court of competent jurisdiction orders the department to release such information; or
- d. In connection with any adjudicative proceedings relative to the licensee.

He-P 802.1~~32~~ Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 802, 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 on a licensee; ~~or~~

(4) Imposing fines upon an unlicensed individual, applicant, or licensee in accordance with (f) below; or

(5) Monitoring of a license.

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

- (1) Identifies each deficiency in which the licensee is not in compliance with RSA 151 or He-P 802; and
- (2) Identifies the specific remedy(s) that has been ~~imposed~~proposed.

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

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

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

(2) The licensee shall submit the POC in (c) above to the department within 21 days of the date on the letter that transmitted the inspection report 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 ~~it has~~they have made a good faith effort, as verified by documentation or other means to develop and submit the POC within the 21-day period but has been unable to do so; and

b. The department determines that the health, safety, or well-being of the patients, personnel, or visitors 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 802;
- b. Addresses all deficiencies and deficient practices as cited in the inspection report;
- c. Prevents a new violation of RSA 151 or He-P 802 as a result of the implementation of the POC;
- d. Identifies the position(s) of the employee(s) responsible for the corrective action; and
- e. Specifies the date upon which the deficiencies will be corrected;

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

(5) If the POC is not acceptable:

~~a. The~~ the department shall notify the licensee in writing of the reason for rejecting the POC;

~~b(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 verbally or in writing, and the department grants the extension, based on the following criteria:

~~1a~~. The licensee demonstrates that ~~they have~~ made a good faith effort, as verified by documentation or other means, to develop and submit the POC within the 14-day period but has been unable to do so; and

~~2b~~. The department determines that the health, safety, or well-being of a patient will not be jeopardized as a result of granting the waiver;

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

~~(8)~~ If the revised POC is not acceptable to the department, or is not submitted in accordance with this section, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with He-P 802.1~~43~~(c)(12);

~~(9)~~ Following the date of completion specified by the licensee in the POC, the department shall verify the implementation of any POC by:

- a. Reviewing materials submitted by the licensee;
- b. Conducting an onsite follow-up inspection; or
- c. Reviewing compliance during the next annual inspection; ~~and~~

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

~~(117)~~ If the POC or revised POC has not been implemented as verified by (6) above, the licensee shall be:

- a. Notified by the department in accordance with (b) above; and
- b. Issued a directed POC in accordance with (d) below; and shall be subject to a fine as appropriate, in accordance with He-P 802.14(c)(13).
- ~~c. Subject to a fine in accordance with He P 802(c)(13).~~

(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, deficiencies were identified that require immediate corrective action to protect the health and safety of the patients and personnel; and

(2) A revised POC is not submitted within 14 days of the written notification from the department or such other date as applicable if an extension was granted by the department; or

(3) A revised POC submitted by the licensee or administrator has not been accepted.

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

(1) Issue a warning that enforcement action will be taken if the POC is not implemented;

(2) Impose a fine;

(3) Deny an application for a renewal of a license in accordance with He-P 802.14; or

(4) Revoke the license in accordance with He-P 802.14.

~~(2) A POC or revised POC is not submitted or accepted in accordance with (e)(1) and (5) respectively.~~

(fe) The department shall offer an opportunity for informal dispute resolution to any 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 to the department.

(gf) The informal dispute resolution shall be requested in writing by the licensee or administrator no later than 14 days from the date the statement of findings or notice to correct was issued by the department.

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

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

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

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

(1k) The department shall impose state monitoring if it determines that repeated poor compliance or the conditions of the facility might negatively impact the health, safety, or well-being of patients.

He-P 802.143 Enforcement Actions and Hearings.

(a) As specified in this section, the department shall take the following enforcement actions for violation of RSA 151, He-P 802, or other applicable licensing rules:

- (1) Issue a warning;
- (2) Impose a fine in accordance with (e) below;
- (3) Deny the application for a renewal of a license in accordance with (c) and (d) below;
- (4) Immediately suspend a license; or
- (5) Revoke the license in accordance with (c) and (d) below.

(b) ~~At the time of issuing a warning, imposing a fine, or denying, revoking, or suspending a license~~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 deficiency has been corrected, or a POC has been accepted and approved by the department; and
- (4) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable before the enforcement action becomes final.

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

- (1) An applicant or a licensee has violated provisions of RSA 151 or He-P 802, which poses a risk of ~~to~~ harm to a patient's health, safety, or well-being;
- (2) An applicant or a licensee has failed to pay a 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 on an application, an applicant or licensee fails to submit an application that meets the requirements of He-P 802.054; or
- (5) An applicant, licensee or any representative or employee of the applicant or licensee:
 - a. Provides false or misleading information to the department;
 - b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or

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

(6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 802.13~~2~~(c) and (d);

(7) A licensee has submitted a POC that has not been accepted by the department in accordance with He-P 802.13(c)(5) and has not submitted a revised POC as required by He-P 802.13(c)(6);

~~(87)~~ The licensee is cited a third time under RSA 151 or He-P 802 for the same violations within the last 5 inspections;

~~(98)~~ A licensee, its corporate officers, or its board members has had a license revoked and submits an application during the 5-year prohibition period specified in (l) below;

~~(109)~~ ~~Upon inspection~~Unless a waiver has been granted, upon inspection, the applicant's premises are not in compliance with RSA 151 or He-P 802 ~~and a waiver has not been granted;~~

~~(110)~~ Unless a waiver has been granted, -The department makes a determination that the administrator, licensee, medical director, or applicant ~~are~~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; ~~one or more of the offenses listed in He P 802.05(f) and a waiver has not been granted;~~

~~(124)~~ The applicant or licensee employs an administrator or medical director who does not meet all of the qualifications ~~listed in He P 802.16(b) for the positions under circumstances in which the department has not granted and a waiver has not been granted;~~ or

~~(132)~~ The applicant, administrator, licensee, or medical director has had a license revoked by any division of the department 5 years prior to ~~the filing of~~ the application.

(d) 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 or RSA 151:2-e, the fine shall be \$2,000.00 for an applicant or unlicensed provider;

(2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2, RSA 151:2-e, and RSA 541-A:30, or continuing to operate after a failure to renew the license by the expiration date, the fine for an applicant, unlicensed provider, or a licensee shall be \$2,000.00;

(3) For advertising services or otherwise representing that the facility has a license to provide services it is not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee or unlicensed provider shall be \$500.00;

(4) For a failure to transfer a patient whose needs exceeds the services or programs provided by the licensee in violation of RSA 151:5-a, the fine shall be \$500.00;

(5) For admission of a patient whose needs exceed the services or programs authorized by the license classification, in violation of RSA 151:5-a, II, and He-P 802.1~~9~~~~8~~, the fine for a licensee shall be \$1,000.00;

(6) For a failure to comply with the directives of a warning issued by the department in violation of RSA 151:7-a and He-P 802.1~~2~~~~1~~, He-P 802.1~~4~~~~3~~, or He-P 802.1~~5~~~~4~~, the fine shall be \$500.00;

(7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 802.076(b), the fine shall be \$500.00;

(8) For a failure to notify the department prior to a change of ownership, in violation of He-P 802.098(a)(1), the fine shall be \$500.00;

(9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 802.098(a)(2), the fine shall be \$500.00;

(10) For a failure to notify the department of a change in e-mail address as required by He-P 802.098(m), the fine for a licensee shall be \$5100.00;

(11) For a failure to allow access by the department to the licensee's premises, programs, services, patients or records, in violation of He-P 802.1009(a), the fine for an unlicensed individual or licensee shall be \$2,000.00;

(12) For a failure to notify the department prior to a change in the administrator or medical director, in violation of He-P 802.09(k), the fine for a licensee shall be \$100.00;

(132) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, in violation of He-P 802.132(c)(2) or (c)(5), the fine for a licensee shall be \$500.00 unless an extension has been granted by the department;

(134) For a failure to implement or maintain corrective action set forth in any POC that has been accepted or issued by the department, in violation of He-P 802.1213(c), the fine for a licensee shall be \$1,000.00;

(154) For a failure to establish, implement, or comply with all policies generated by the licensee as required under this rule, the fine for a licensee shall be \$1,000.00;

(165) For a failure to provide services or programs required by the licensing classification and specified by He-P 802.198, the fine for a licensee shall be \$500.00;

(176) For exceeding the maximum number of patients, in violation of He-P 802.154(m), the fine for a licensee shall be \$500.00 per day;

(187) For ~~creating or~~ providing false or misleading information or documentation to the department contained on an application or on any records required to be maintained for licensing, in violation of He-P 802.154(h), the fine shall be \$1,000.00 per offense;

(198) For a failure to meet the needs of the patient, in violation of He-P 802.154(k)(1), the fine for a licensee shall be \$1,000.00 per patient;

(2019) For employing, contracting with, or engaging an administrator, medical director, or other personnel who do not meet the qualifications for the position in violation of He-P 802.16(a) and He-P 802.20(k), respectively, or under circumstances where the department has not granted a waiver in accordance with He-P 802.11, the fine for a licensee shall be \$500.00; as set forth in this rule and a waiver was not received, the fine for a licensee shall be \$500.00;

(201) For placing a patient in a room that has not been approved or licensed by the department, in violation of He-P 802.287, the fine for a licensee shall be \$500.00;

(224) For failure to report an adverse event as required by He-P 802.165, the fine for a licensee shall be \$2,000.00 per occurrence;

(232) For failure to report infections and process measures as identified and required by He-P 802.232, the fine for a licensee shall be \$1,000.00 per occurrence;

(243) 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 802.087(a), the fine for a licensed facility shall be \$500.00;

(254) For occupying a renovated area of a licensed facility or new construction prior to approval by local and state authorities, as required by He-P 802.09(b)(6), the fine shall be \$500 per day which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department; or

(256) For failing to comply with any provision of He-P 802 where a patient's health, safety, or well-being is placed in jeopardy, the fine shall be \$1,000.00;

(27e) When an inspection determines that a violation of RSA 151 or He-P 802 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:

(1)a. If the same deficiency is cited within 2 years of the original deficiency, the fine for a licensee shall be double the initial fine, but not to exceed \$12,000.00; and

(2)b. If the same deficiency is cited a third time within 2 years of being fined in a. above, the fine for a licensee shall be triple the fine, but not to exceed \$2,000.00; and

(28) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 802 shall constitute a separate violation and shall be fined in accordance with He-P 802.132(f). If the applicant or licensee is making good faith efforts to comply with He-P 802, the department shall not issue a daily fine.

(e) 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.

(f) An applicant, licensee, or unlicensed entity shall have 310 days after receipt of the notice of enforcement action to request a hearing to contest the action.

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

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

(i) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 802 is achieved.

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

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

~~(m)~~ When a hospital's license has been denied or revoked, the applicant, licensee, administrator, or medical director shall not be eligible to reapply for a license, or be employed as an administrator or medical director for at least 5 years, if the enforcement action specifically pertained to their role and actions or inactions in the hospital.
~~revoked for a reason listed in (c) or (d) above, the licensee shall not be eligible to reapply for a license for at least 5 years.~~

~~(n) If a license is revoked, the administrator or medical director:~~

~~(1) Shall not be employed as an administrator or medical director for at least 5 years if the enforcement action pertained to their role in the hospital; and~~

~~(2) Shall be reported to the appropriate licensing board.~~

~~(m)~~ The 5-year period referenced in ~~(m) and (n)~~ above shall begin on:

~~(1) The date of the department's decision to revoke or deny the license, if no request for a hearing is requested pursuant to (h) above; or 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.~~

~~(p)~~ Notwithstanding ~~(l)~~ above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 802.

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

~~(q) RSA 151:8 and RSA 541-A shall govern further appeals of department decisions under this section.~~

~~(p)~~ 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 802.

Readopt with amendment and renumber He-P 802.14, effective 10-23-21 (Document #13281), as He-P 802.15 to read as follows:

He-P 802.1~~5~~⁴ Duties and Responsibilities of All Licensees.

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

(1) For Medicare Certified Hospitals (Acute), CMS federal regulation at 42 CFR Part 482;

(2) For Medicare Certified Critical Access Hospitals (CAH), CMS federal regulations at 42 CFR Part 485;

(3) For Medicare Certified Psychiatric Hospitals, CMS federal regulations at 42 CFR Part 482;

(4) For Medicare Certified Rehabilitation Hospitals, CMS federal regulations at 42 CFR Part 482;

(5) For Medicare Certified Hospitals with Prospective Payment System Units for Psych, ~~or~~ Rehab, or LTCH, CMS federal regulations at 42 CFR Part 412; and

(6) For any newly licensed and certified hospital not specified as an acute, rehab, psych, or CAH hospital, all applicable CMS federal regulations for that hospital's particular designation.

(b) The licensee shall comply with the patients' bill of rights as set forth in RSA 151:19-21.

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

(d) The written policy in (c) above shall include:

(1) Education;

(2) Procedures for monitoring the distribution and storage of controlled substances;

(3) Voluntary self-referral by employees who are addicted;

(4) Co-worker reporting procedures;

(5) Drug testing procedures to include at a minimum, testing where reasonable suspicion exists;

(6) Employee assistance procedures;

(7) Confidentiality;

(8) Investigation, reporting, and resolution of controlled drug misuse or diversion; and

(10) The consequences for violation of the controlled substance abuse, misuse, and diversion prevention policy.

~~(e)~~ (e) The licensee shall define, in writing, the scope and type of services to be provided by the hospital, which shall include, at a minimum, the required services listed in He-P 802.1~~9~~8.

~~(f)~~ (f) The licensee shall develop and implement written policies and procedures governing the operation and all services provided by the licensee.

~~(g)~~ (g) By January 1, 2023, the licensee shall complete and implement an operational plan for the recognition and management of patients with dementia or delirium in accordance with RSA 151:2-~~i~~. The licensee shall keep the plan on file and make the plan available to the department of health and human services, bureau of licensing and certification upon request.

~~(h)~~ (h) All policies and procedures shall be reviewed per licensee policy.

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

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

(k~~i~~) Except for the requirements of RSA 151:4, III(a)(5), the licensee shall not:

- (1) Advertise or otherwise represent itself as operating a hospital or providing a special health care service, unless it is licensed; and
- (2) Advertise that it provides services that it is not authorized to provide.

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

(m~~k~~) Licensees shall:

- (1) Meet the needs of the patients during those hours that the patients are in the care of the licensee;
- (2) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the hospital or special health care service;
- (3) Appoint an administrator;
- (4) Verify the qualifications of all personnel;
- (5) Provide sufficient numbers of qualified personnel to meet the needs of patients during all hours of operation;
- (6) Provide sufficient supplies, equipment, and lighting to meet the needs of the patients; and
- (7) Implement any POC that has been accepted by the department.

(n~~i~~) The licensee shall consider all patients to be competent and capable of making health care decisions unless the patient:

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

(o~~m~~) The licensee shall not exceed the number of occupants authorized by 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.~~

(p~~h~~) If the licensee accepts a patient 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 for the care of the patients, 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.

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

(r) The licensee shall implement measures to ensure the safety and stabilizing treatment of patients who are assessed as an elopement risk or danger to self or others.

(s) 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 802.1099(b), for the previous 12 months;
- (3) A copy of the patients' bill of rights;
- (4) A copy of the licensee's policies and procedures relative to the implementation of patient rights and responsibilities as required by RSA 151:20;
- (5) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted by calling 1-800-852-3345 x 9499 or in writing, to the:

Department of Health and Human Services
Office of Legal and Regulatory Services
Health Facilities Administration
129 Pleasant Street, Concord, NH 03301; and

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

(t) The licensee shall admit and allow any department representative to inspect the premises and all programs and services that are being provided by the licensee at any time for the purpose of determining compliance with RSA 151 and He-P 802 as authorized by RSA 151:6 and RSA 151:6-a.

(u) Licensees shall, in accordance with He-P 802.165:

- (1) Report all adverse events to the department;
- (2) Submit additional information if required by the department; and
- (3) Report the event to other agencies as required by law.

(v) The licensee shall immediately notify the local police department, the guardian and agent if any, when a patient, who has been assessed or is known as being a danger to self or others, has an unexplained absence after the licensee has searched the building and the grounds of the hospital.

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

(~~xw~~) All records required by law or this rule 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.

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

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

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

(~~aa~~y~~~~) The licensee shall provide cleaning and maintenance services, as needed to protect patients, personnel, and the public.

(~~ab~~z~~~~) The building housing the licensed facility shall comply with all state and local:

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

(~~ac~~aa~~~~) Smoking shall be prohibited in the licensed facility as required by RSA 155:66, I(b).

(~~ad~~ab~~~~) If the licensee is not on a public water supply, the water used by the licensee shall be suitable for human consumption, pursuant to Env-Dw 702.02 and Env-Dw 704.02.

(~~ae~~ae~~~~) If the licensee holds or manages a patient'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 patients, or other household members.

(~~af~~ad~~~~) The licensee shall have written policies on the proper completion of an involuntary emergency admission certificate for those in need of mental health treatment that:

- (1) Are in compliance with RSA 135-C:27-33 and He-M 613; and
- (2) Detail the medical screening examination and stabilizing treatment provided to patients with mental health needs.

(ag) The licensee shall require all individuals in contact with residents to wear a form of identification which readily discloses the name, licensure status, if any, and staff position as required per RSA 151:3-b.

Readopt and renumber He-P 802.15, effective 1-28-21 (Document #13166), as He-P 802.16 to read as follows:

He-P 802.16 ~~5~~ Adverse Event Reporting.

(a) Pursuant to RSA 151:38, the administrator or designee shall report to the department the following adverse events:

(1) Serious reportable events and specifications published in the National Quality Forum's "Serious Reportable Events in Healthcare- 2011 Update" <http://www.qualityforum.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=69573>, as available as noted in Appendix A; and

(2) The exposure of a patient to a non-aerosolized blood borne pathogen by a health care worker's intentional unsafe act.

(b) An act by hospital or ambulatory surgery center staff resulting in an infection or disease shall be considered to be purposefully unsafe if it meets the following criteria:

(1) There was an intentional act or reckless behavior;

(2) No reasonable person with similar qualifications, training, and experience would have acted the same way under similar circumstances; and

(3) There were no extenuating circumstances that could justify the act.

(c) If the licensee suspects an adverse event occurred, the administrator or designee shall send a report to the department in electronic or paper format, within 15 working days after discovery of the event, including:

(1) Licensee information;

(2) Patient information;

(3) Event information; and

(4) Type of occurrence as listed in (a) above.

(d) For events reported in (a) above, the licensee shall, within 60 days after discovery of the event, provide the department:

(1) An analysis that includes the type of harm and contributing factors; and

(2) A corrective action plan that includes what corrective actions are planned, who is responsible for implementation, when the action will be implemented and what measurements will be used to evaluate the corrective action plan or the justification for not implementing a corrective action plan if the licensee determines that one is not required.

(e) If the licensee suspects that it received a patient from a sending hospital that was subject to an adverse event, then the receiving administrator or designee shall notify the sending hospital's administrator or designee and the department. The department shall inform the sending hospital that a report is required in accordance with (a) above.

(f) Upon receipt of a report of an adverse event, the department shall:

(1) Acknowledge receipt of the event and review the information for completeness;

- (2) Review the corrective action plan for system changes that reduce the risk repeat of similar adverse events;
- (3) Communicate specific concerns to the licensee if the department does not find the corrective action plan credible;
- (4) Track and analyze adverse events for trends and underlying system problems; and
- (5) Provide information and make referrals to other state agencies as appropriate.

Readopt with amendment and renumber He-P 802.16 and He-P 802.17, effective 1-28-21 (Document #13166), as He-P 802.17 and He-P 802.18 to read as follows:

He-P 802.17~~6~~ Organization and Administration.

- (a) Each licensee shall have a governing body whose duties shall include:
 - (1) Management and control of the operation of the hospital;
 - (2) Assessment and improvement of the quality of care and services;
 - (3) Appointment of the administrator;
 - (4) Adoption of hospital by-laws defining responsibilities for the operation of the hospital, and establishment of a medical staff;
 - (5) Approval of medical staff by-laws as described in (e)(2) below, defining the medical staff responsibilities;
 - (6) Responsibility for management of the overall operation and fiscal viability of the hospital;
 - (7) Responsibility for determination of the qualifications for appointment for all personnel; and
 - (8) Ensuring compliance with all relevant health and safety requirements of federal, state, and local laws, rules, and regulations.
- (b) Each hospital shall have a full-time administrator who:
 - (1) Has a master's degree from an accredited institution and at least 4 years of experience working in a health-related field or has a bachelor's degree from an accredited institution and at least 8 years of experience working in a health-related field; and
 - (2) Shall be responsible to the governing body for the daily management and operation of the hospital and any special health care services offered by the hospital including:
 - a. Management and fiscal matters;
 - b. Implementing the by-laws adopted by the governing body;
 - c. The employment and termination of personnel necessary for the efficient operation of the hospital;

- d. The designation of an alternate, in writing, who shall be responsible for the daily management and operation of the hospital and any special health care services offered by the hospital in the absence of the administrator;
- e. Attendance at meetings of the governing body, medical staff, and personnel, to serve as a liaison to the governing body;
- f. The planning, organizing, and directing of such other activities as may be delegated by the governing body;
- g. The delegation of responsibility to subordinates as appropriate; and
- h. Ensuring development and implementation of all policies and procedures on:
 - 1. Patient's rights as required by RSA 151:19-21;
 - 2. Advanced directives as required by RSA 137-J;
 - 3. Discharge planning as required by RSA 151:26;
 - 4. Organ and tissue donor identification and procurement;
 - 5. Withholding of resuscitative services from patients pursuant to RSA 137-J; and
 - 6. Adverse event reporting.

(c) Each hospital shall have a full-time medical director who is qualified to practice medicine and licensed in the state of New Hampshire and has at least 5-years' experience as a physician in a hospital setting. ~~This shall not apply to critical access hospitals.~~

(d) Each hospital shall have a medical staff in accordance with the by-laws adopted under (a)(4) above.

(e) The medical staff shall be responsible for:

(1) Appointment of an executive committee made up of members of the medical staff which shall make recommendations directly to the governing body with regard to:

- a. The process by which physicians or other licensed practitioners shall be admitted to practice for the licensee;
- b. Evaluation of individuals seeking medical staff membership;
- c. Delineation of what clinical privilege includes;
- d. The organization of the quality assessment and improvement activities of the medical staff; and
- e. The appointment of a medical director who meets the qualifications of (c) above;

(2) Development of medical staff by-laws and policies in conjunction with the governing body which shall establish a mechanism for self-governance by the medical staff and accountability to the governing body;

(3) Monitoring and evaluation of the quality of patient care and patient care services in the hospital including:

- a. Monitoring of medication use and review of pharmacy activity in the hospital;
 - b. Review of patient record quality;
 - c. Review of blood use in the hospital; and
 - d. Review of other functions such as risk management, infection control, disaster planning, hospital safety, and utilization review; and
- (4) Identifying and making available education programs designed to maintain the medical staff's expertise in areas related to the services provided in the hospital.
- (f) 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:
- (1) Is an RN with a bachelor's and a master's degree from an accredited institution;
 - (2) Is an RN with a bachelor's degree and at least 4 years of relevant experience; or
 - (3) Is an RN with a minimum of 8 years of relevant experience.
- (g) The director of nursing services shall be responsible for:
- (1) Establishment of standards of nursing practice used in the hospital;
 - (2) Ensuring that the admission process and patient assessment process coordinates patient requirements for nursing care with available nursing resources;
 - (3) Participating with the governing body, administrator, and medical staff to improve the quality of nursing care at the hospital;
 - (4) Nursing care as authorized by the nurse practice act and according to RSA 326; and
 - (5) Nutritional monitoring.

He-P 802.1~~87~~ Personnel.

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

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

- (1) Obtain and review a criminal records ~~check. check from the New Hampshire department of safety, except those exempted pursuant to RSA 151:2-d, VI~~ which shall include criminal history from the state of New Hampshire;
- (2) Review the results of the criminal records check in accordance with (c) below;
- (3) Verify the qualifications of all applicants prior to employment; and
- (4) Verify that the applicant is not on the List of Excluded Individuals/Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General.

(c) Unless a waiver is granted in accordance with He-P 802.1~~19~~ and (e) below, the licensee shall not employ, contract, or engage an individual if that individual:

- (1) Has been convicted of any felony in this or any other state;
- (2) Has been convicted of 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 or any person; or
- (4) Otherwise poses a threat to the health, safety or well-being of patients.

(d) If the licensee discovers that an individual meets one of the criteria in (c) above and that individual is already employed, contracted with, or engaged, the licensee shall immediately notify the department and either:

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

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

- (1) Notify the licensee that the person cannot or can no longer be employed, contracted with, or engaged by the licensee if the department determines that the person poses a threat to the health, safety, or well-being of a patient; or
- (2) Grant a waiver pursuant to He-P 802.101 if the department determines that the person does not pose a current threat to the health, safety, or well-being of a resident(s).

(f) The licensee shall check the names of the persons in (be) above against the bureau of elderly and adult services (BEAS) state registry, maintained pursuant to RSA 161-F:49 and He-E 720, the NH board of nursing, nursing assistant registry, maintained pursuant to RSA 326-B:26 and 42 CFR 483.156, and the medical technician registry, maintained pursuant to RSA 328-I prior to employing, contracting with, or engaging them.

(g) The licensee shall:

- (1) Not employ, contract with, or engage, any person in (b) above who is listed on the BEAS state registry unless a waiver is granted by BEAS;
- (2) Only employ, contract with, or engage board of nursing licensees who are listed on the nursing assistant registry; and
- (3) Only employ, contract with, or engage medical technicians who are listed on the medical technician registry.

(h) In lieu of (be) and (fg) above, the licensee may accept from independent agencies contracted by the licensee or by an individual patient to provide direct care or personal care services a signed statement that the agency's employees have complied with (be) and (f) above and are allowable under (ce) and (g) above.

(i) Prior to having contact with patients or food, all personnel shall:

- (1) Receive a tour of the employee's work environment relative to their position;
- (2) Receive a copy of the job description for ~~his or her~~ position containing:

- a. Duties and responsibilities of the position;
 - b. Physical requirements of the position; and
 - c. Education and experience requirements of the position;
- (3) Meet the educational and physical qualifications of the position as listed in their job description;
- (4) Be licensed, registered, or certified as required by state statute and as applicable;
- (5) Receive an orientation within the first 3 days of work or prior to the assumption of duties that includes:
- a. The licensee's policies on rights and responsibilities and complaint procedures as required by RSA 151:20;
 - b. The procedures for food safety for personnel involved in preparation, serving, and storing of food;
 - c. The licensee's infection control program;
 - d. The licensee's fire, evacuation and emergency plans which outline the responsibilities of personnel in an emergency;
 - e. Mandatory reporting requirements for abuse or neglect such as those found in RSA 161-F and RSA 169-C:29; and
 - f. Beginning no later than January 1, 2023, the recognition and management of patients with dementia or delirium, in accordance with the licensee's operational plan developed pursuant to He-P 802.154(e);
- (6) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or a licensed practitioner and the results of a 2-step tuberculosis (TB) test Mantoux method, or other method approved by the Centers for Disease Control, both conducted not more than 12 months prior to employment, contract, or engagement;
- (7) 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;
- (8) 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
- (9) Comply with all public health guidelines with requirements for infectious disease reporting and management.
- (j) All personnel shall complete a mandatory annual in-service education, which includes a review of the licensee's:
- (1) Policies and procedures required under He-P 802;
 - (2) Infection control program;

- (3) Education program on fire and emergency procedures;
- (4) Mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29; and
- (5) Beginning no later than January 1, 2023, plan regarding the recognition and management of patients with dementia or delirium, in accordance with the licensee's operational plan developed pursuant to He-P 802.154(e).

(k) Personnel who have direct contact with patients who have a history of TB or a positive laboratory and antigen testing shall have a symptomatology screen of a TB test.

(l) Current and complete personnel files shall be maintained and stored in a secure and confidential manner at the hospital.

(m) The licensee shall maintain a separate employee file which shall include, at a minimum, the following:

- (1) A completed application for employment or a resume;
- (2) A signed statement acknowledging the receipt of the licensee's policy setting forth the patient's rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;
- (3) A signed and dated job description;
- (4) A record of satisfactory completion of the orientation program required by (i)(5) above ;
- (5) A copy of each 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) A record of satisfactory completion of all required education programs and demonstrated competencies that are signed and dated by the employee as required by (j) above;
- (8) Documentation of any performance reviews conducted;
- (9) Information as to the general content and length of all continuing education or educational programs attended;
- (10) A statement, which shall be signed at the time the initial offer of employment, contract, or engagement is made and then annually thereafter, stating that ~~they~~he or she:
 - a. ~~Does~~ not have a felony conviction in this or any other state;
 - b. ~~Have~~s not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a patient in this or any other state; and
 - c. ~~Have~~s 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 in this or any other state;

- (11) A copy of the results of a criminal records check;
- (12) Documentation that the individual or entity is not on the List of Excluded Individuals/Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General; and
- (13) The results of the registry check in (f) above.

(n) The licensee shall maintain the records, but not necessarily a separate file, for all volunteers and for all independent contractors who provide direct care or personal care services to patients, as follows:

- (1) For volunteers, the information in (m)(1), (3), (4), (6), and (8)-(12) above; and
- (2) For independent contractors, the information in (m)(3), (4), (6), and (8)-(12), except that the letter in (h) above may be substituted for (m)(11) and (13).

Readopt with amendment and renumber He-P 802.18, effective 10-23-21 (Document #13281), as He-P 802.19 to read as follows:

He-P 802.19 ~~8~~ Required Services.

(a) Each licensee shall provide the services that have been disclosed on its application and have been approved for by the department, or are required by state or federal law.

(b) If the licensee wishes to provide services other than the ones it is already licensed to provide, the licensee shall submit a letter of intent to provide the additional services, prior to providing the new service(s), to the department which includes:

- (1) A listing of the additional services to be provided;
- (2) The physical resources, personnel, and competency necessary to provide the additional services;
- (3) Floor plans describing change(s) or architectural plans if structural changes are involved;
- (4) The date the hospital wishes to start such services; and
- (5) Documentation of compliance with RSA 151 and He-P 802.

~~(c)~~ If the licensee wishes to provide a special health care service, the licensee shall complete the requirements of He-P 802.045 ~~(a) through (c) above.~~

(d) Each licensee shall ensure the availability of competent and sufficient personnel, with the required skills and experience, to provide the services in (a) and (b) above, including personnel able to provide services for both physical and behavioral health concerns.

~~(e)~~ The licensee shall have a policy governing CPR.

(f) The licensee shall establish health and safety services to minimize the likelihood of accident or injury, with protective care and oversight while the patient is at the hospital that includes:

- (1) Monitoring the patient's functioning, safety and whereabouts; and
- (2) Emergency response and crisis intervention.

(g) The licensee shall have social services available to the patient and patient's family, which shall be provided by a social worker with at least a bachelor's degree in social work or human services and includes:

- (1) The compilation of a social history and conducting patient psychosocial assessments;
- (2) The provision of emotional support to patients and families or caregivers as needed;
- (3) Assistance with the patient's adaptation to the hospital and involvement in the plan of care; and
- (4) Advocacy for the patient's human and civil rights and responsibilities.

(h) The licensee shall complete discharge planning on all patients admitted to the hospital including the provision of written instructions to the patient, agent, or guardian.

(i) Discharge planning shall include, as applicable:

- (1) The patient's medication needs upon discharge;
- (2) The need for medical equipment, special diets, or potential food-drug interactions;
- (3) The need for further placement in another health care setting;
- (4) The need for home health services upon discharge; and
- (5) Discharge instructions and education shall be provided to the patient in writing.

(j) All laboratories operated by the licensee shall be in compliance with He-P 808, He-P 817, and CMS 42 CFR Part 493 – Laboratory Requirements.

(k) Pharmacies shall be in compliance with RSA 318 and RSA 318-B and shall employ or contract with a pharmacist who is licensed to practice pharmacy in the state of New Hampshire.

Readopt and renumber He-P 802.19 through He-P 802.22, effective 1-28-21 (Document #13166), as He-P 802.20 through He-P 802.23 to read as follows:

He-P 802.~~2019~~ Patient Management.

(a) Admission procedures shall include:

- (1) Completion of a health assessment and medical evaluation in accordance with the licensee's policy which shall be documented for each patient accepted for care and treatment;
- (2) Provision of information concerning patient rights in a language the patient can understand, which might require a translator;
- (3) Provision of information in a clear concise manner to enable the patient to make appropriate treatment decisions;
- (4) Collection of specific patient medical and social history information as required by the licensee's policy including information concerning advanced directives or alternative decision makers; and
- (5) Development of a treatment plan.

(b) Discharge documentation shall include:

- (1) The date and time of discharge;
- (2) The status of the patient at the time of discharge; and
- (3) Any discharge planning or referrals that have been conducted for the patient.

He-P 802.210 Patient Records.

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

(b) Patient records shall include, at a minimum:

- (1) Identification data including the patient's:
 - a. Name;
 - b. Home address;
 - c. Home telephone number;
 - d. Name, address, and telephone number for an emergency contact person;
 - e. Date of birth;
 - f. Guardian or agent as applicable; and
 - g. Admitting diagnosis;
- (2) A signed acknowledgment of receipt of patient bill of rights by the patient, guardian, agent, or surrogate decision maker;
- (3) A written or electronic record of a health examination by a licensed practitioner;
- (4) Written, dated, and signed orders of all medications, treatments, and therapeutic diets;
- (5) Documentation of all services provided including signed progress notes by:
 - a. Nursing personnel;
 - b. Physicians; and
 - c. Other health professionals authorized by licensee policy;
- (6) Orders and results of any laboratory, x-rays, consultations, or other diagnostic tests;
- (7) The patient's health insurance information;
- (8) The consent for release of information signed by the patient, guardian, or agent, if any;
- (9) The medication record;
- (10) Documentation of any accident or injuries occurring while in the care of the facility;
- (11) Documentation of a patient's refusal of any care or services; and

(12) Transfer or discharge documentation including planning, referrals, and notification to the patient and guardian or agent if any.

(c) Patient records shall be available to authorized personnel and any other person authorized by law or rule to review such records.

(d) Patient records shall be retained, accessible, and stored in an area inaccessible to those who do not have authorized access to such records.

(e) The licensee shall create a policy to determine the method by which release of information from patient records shall occur.

(f) Patient records shall be safeguarded against loss or unauthorized use by implementation of appropriate use, handling, and storage procedures.

(g) Patient records shall be retained 7 years after discharge of a patient, and in the case of minors, patient records shall be retained until at least one year after reaching age 18, but in no case shall they be retained for less than 7 years after discharge.

(h) The licensee shall arrange for the storage of and access to medical records for 7 years in the event the hospital ceases operation.

(i) Electronic records shall be maintained according to current HIPAA regulations.

He-P 802.22+ Medication Services.

(a) All medications shall be made available to the patient in accordance with the written and signed orders of the licensed practitioner or other professional with prescriptive powers.

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

(1) Obtain any medication ordered for use at the hospital;

(2) Reorder medications for use at the hospital; and

(3) Receive and record new medication orders.

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

(1) The patient's name;

(2) The medication name, strength, prescribed dose, and route;

(3) The frequency of administration;

(4) For PRN doses, the indications for usage, to include the maximum allowed dose in a 24-hour period, for all medications that have 24-hour contra-indicated maximum doses; and

(5) The dated and timed signature of the ordering practitioner.

(d) Each prescription medication container and medication record together shall collectively legibly display the following information in such a way so as to clearly identify the intended recipient:

(1) The patient's name;

(2) The medication name, strength, the prescribed dose, and route of administration;

- (3) The frequency of administration;
- (4) The indications for usage of all PRN medications;
- (5) The date ordered;
- (6) The name of the prescribing practitioner; and
- (7) The expiration date of the medication(s).

(e) The dosage, frequency, and route of administration on the labels of all prescription medications for each patient shall be identical to the dosage, frequency, and route of administration on the facility medication record except as allowed by (h) below.

(f) The change in the dose of a medication, or the discontinuation of a medication, shall be authorized in writing by a licensed practitioner and the licensee shall indicate in writing, in the medication record, the date the dose or the discontinuance occurred.

(g) Only a pharmacist shall make changes to prescription medication container labels except as allowed by (j) below.

(h) When the licensed practitioner or other professional with prescriptive powers changes the dose and personnel are unable to obtain a new prescription label, the original container shall be clearly marked without obstructing the pharmacy label to indicate a change in the medication order.

(i) Only a licensed nurse shall accept telephone orders for medications, treatments, and therapeutic diets, and the licensed nurse shall immediately transcribe and sign the order.

(j) The transcribed order in (i) above shall be counter-signed by the authorized prescriber within 48 hours of receipt or as soon as possible but no longer than 30 days.

(k) No medications shall be given to or taken by a patient until a written order is received, except as allowed by (h) or (i) above.

(l) Faxes of signed orders or other electronic media with electronic signatures shall be acceptable to meet the requirements of (k) above.

(m) All over-the-counter medications shall have a signed practitioner's order specifying that the patient may take the medication according to the instructions of the manufacturer, or specifying the dosage, frequency, and route.

(n) The medication storage area for medications shall be:

- (1) Locked and accessible only to authorized personnel;
- (2) Clean and organized with adequate lighting to ensure correct identification of each patient's medication(s); and
- (3) Equipped to maintain medication at the proper temperature and humidity.

(o) All medication at the hospital shall be kept in the original containers as dispensed by the pharmacy 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 hospital, 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) Except as required by (t) below, any contaminated, expired, or discontinued medication shall be destroyed within 30 days following the expiration date, the date a licensed practitioner discontinued the order, or the medication becomes contaminated, whichever occurs first.

(t) Destruction of contaminated, expired, or discontinued controlled drugs shall:

- (1) Be in accordance with acceptable standards of practice identified by the manufacturer, as well as federal and state law, and rules;
- (2) Be accomplished in the presence of at least 2 people who shall sign, date, and record the amount destroyed; and
- (3) Be documented in the record of the patient for whom the drug was prescribed.

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

- (1) Any allergies or adverse 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 patient taking medication;
- (5) For PRN medications, the reason the patient required the medication and the effect of the PRN medication; and
- (6) Documented reason for any medication refusal or omission.

(v) The licensee shall report to the patient's licensed practitioner any adverse reactions and side effects to medications or medication errors, such as incorrect medications, immediately but not to exceed 24 hours depending on the severity of the reaction or error, and shall document in the patient's record the reaction, the error, and date, time, and person notified.

(w) The therapeutic use of cannabis by patients who are qualifying patients possessing a registry identification card may be permitted at a hospital as long as:

- (1) The licensee develops, maintains, and implements a general policy relative to patient use of cannabis at the licensed premises, including storage, security, and administration; and
- (2) The smoking of cannabis is not permitted on the licensed premises.

| He-P 802.2~~32~~ Infection Control.

(a) The licensee shall 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 written procedures for:

- (1) Proper hand washing techniques;
- (2) The utilization of universal precautions;
- (3) The management of patients with infectious or contagious diseases or illnesses;
- (4) The handling, transport and disposal of those items identified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904;
- (5) Reporting of infectious and communicable diseases as required by He-P 301;
- (6) Evaluating and revising the infection control program in accordance with current CDC recommended actions;
- (7) Maintenance of a sanitary physical environment; and
- (8) Infection control policies specific to each department.

(c) Education on the infection control program shall be completed by all personnel on an annual basis and address the:

- (1) Cause of infections;
- (2) Effect of infections;
- (3) Transmission of infections; and
- (4) Prevention and containment of infections.

(d) Personnel infected with a disease or illness transmissible through food, saliva, or droplets, shall not work in food service or provide direct care in any capacity without personal protective equipment until they are no longer contagious.

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

(f) Pursuant to RSA 141-C:1, personnel with a newly positive Mantoux tuberculosis skin test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the workplace until a diagnosis of tuberculosis is excluded or until the personnel member receives 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 and durable bandage with secure edges.

(h) The licensee shall immunize all consenting patients 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.

(i) The licensee shall have available space, supplies, and equipment for proper handling of suspected or actual infectious conditions.

(j) The licensee shall require that licensed practitioners evaluate all patients at risk for an infection or communicable disease to ensure the detection or presence of same.

- (k) The administrator shall appoint an infection control officer who shall:
- (1) Receive reports of communicable and infectious diseases; and
 - (2) Report to the director of the division of public health services all diseases for which reporting is required under RSA 141-C.
- (l) The licensee shall have a policy requiring personnel to make a report to the infection control officer if he or she suspects that a personnel member, including him or herself, or patient has a communicable disease.
- (m) The licensee shall identify, track, and report infections and process measures, as required by RSA 151:33 and He-P 309.

Readopt with amendment and renumber He-P 802.23, effective 1-28-21 (Document #13166), as He-P 802.24 to read as follows:

He-P 802.24 ~~3~~ Quality Assurance and Performance Improvement.

- (a) The licensee shall develop and implement a quality assurance and performance improvement program (QAPI) that reviews policies and services and maximizes quality by preventing and correcting identified problems.
- (b) As part of its QAPI, an interdisciplinary quality assurance and performance improvement committee shall be created and required to:
- (1) Meet at least quarterly to evaluate quality assurance and performance improvement activities;
 - (2) Generate dated, written minutes for each meeting;
 - (3) Maintain all QAPI activities, including minutes of meetings, for at least 2 years from the date the record was created; and
 - (4) Make recommendations to the governing body to improve the quality of care.
- (c) QAPI activities shall include:
- (1) Review of patterns and trends of activities which affect the quality of care;
 - (2) Ensuring that quality control logs are maintained for any laboratory controls and proficiency testing required;
 - (3) Ensuring that quality control logs for preventive maintenance and safety checks are maintained for all equipment according to manufacturer's recommendations or code requirements;
 - (4) Ensuring that the medical staff monitoring and evaluation of patient care recommendations referenced in He-P 802.16(d), are considered by the full quality assessment and improvement committee; and
 - (5) Reviewing and making recommendations for improvement in areas such as:
 - a. Infection surveillance;
 - b. Drug usage evaluation;

- c. Morbidity;
- d. Risk assessment;
- e. Mortality;
- f. Environmental safety;
- g. Monitoring of quality control practices in each service; and
- h. Adverse events in accordance with He-P 802.1~~65~~.

(d) For each QAPI activity, the committee shall:

- (1) Determine the information to be monitored;
- (2) Determine the frequency with which information will be reviewed;
- (3) Determine the indicators that will apply to the information being monitored;
- (4) Evaluate the information that is gathered;
- (5) Determine the action that is necessary to correct identified problems;
- (6) Recommend corrective actions to the licensee; and
- (7) Evaluate the effectiveness of the corrective actions and determine additional corrective actions as applicable.

Readopt and renumber He-P 802.24, effective 1-28-21 (Document #13166), as He-P 802.25 to read as follows:

He-P 802.2~~5~~⁴ 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 2015-2020” (Eighth Edition), available as noted in Appendix A;
- (2) Provide for the nutritional needs of each patient;
- (3) Provide substitutions if a patient declines the items offered;
- (4) Provide patients’ diets that are supervised by a dietitian;
- (5) Provide diets that are in accordance with the orders of patients’ licensed practitioners;
- (6) Include facilities and equipment for meal delivery and assisted feeding, as applicable; and
- (7) Provide food and drink to the patients that is:
 - a. Safe for human consumption and free of spoilage or other contamination;
 - b. 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;

c. Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling, and all other sources of contamination; and

d. Labeled, dated, stored, and served in a manner appropriate to maintain proper food temperatures.

(b) Each patient shall be offered at least 3 meals in each 24-hour period unless contraindicated by the patient's medical condition.

(c) Snacks shall be available between meals unless contraindicated by the patient's medical condition.

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

(e) 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.

(f) All work surfaces, food services equipment, dishes, utensils, and glassware shall be in good repair, cleaned and sanitized after each use, and properly stored.

(g) Soiled linen and trash shall not be transported through food preparation areas and shall be kept in an impervious container.

(h) All hospital 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.

(i) 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 personnel records.

(j) A current therapeutic diet manual approved by the dietician and medical staff shall be readily available to all medical, nursing, and food service personnel.

(k) The licensee shall have written policies and procedures to address the following:

(1) Availability of a diet manual and therapeutic diet menus to meet patients' nutritional needs;

(2) Frequency of meals served;

(3) System for diet ordering and patient trays deliveries;

(4) Accommodation of non-routine occurrences such as parenteral nutrition, total parenteral nutrition, peripheral parenteral nutrition, change in diet orders, early and late trays, and nutritional supplements;

(5) Integration of the food and dietetic service into the licensee's QAPI and infection control programs;

(6) Guidelines for acceptable hygiene practices of food service personnel; and

(7) Guidelines for kitchen sanitation.

(l) The licensee shall have a full-time employee who:

- (1) Serves as director of the food and dietetic services;
- (2) Is responsible for daily management of dietary services; and
- (3) Is qualified by experience or training.

(m) The licensee shall employ or contract with a qualified dietician to supervise the nutritional aspects of patient care.

(n) If the dietician does not work full-time, and when the dietician is not available, the licensee shall make adequate provisions for dietary consultation that meets the needs of the patients.

Readopt with amendment and renumber He-P 802.25 through He-P 802.30, effective 1-28-21 (Document #13166), as He-P 802.26 through He-P 802.31 to read as follows:

He-P 802.2~~65~~ Sanitation.

(a) The licensee shall maintain a clean, safe, and sanitary environment throughout the licensed premises.

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

(c) A supply of potable water shall be available for human consumption and food preparation.

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

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the FGI's "Guidelines for Design and Construction of Hospitals" (20~~22~~¹⁸ edition) and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (20~~22~~¹⁸ edition), available as noted in Appendix A, and summarized as follows:

(1) One hundred and five to 120 degrees Fahrenheit for clinical areas, the range represents the minimum and maximum allowable temperatures;

(2) One hundred and twenty degrees Fahrenheit for dietary areas. Provisions shall be made to provide 180 degrees Fahrenheit rinse water at the warewasher, and may be by separate booster, unless a chemical rinse is provided; and

(3) One hundred and sixty degrees Fahrenheit for laundry by steam jet or separate booster heater, unless a proven process which allows cleaning and disinfection of linen with decreased water temperatures is used, but the process shall meet the designed water temperatures specified by the manufacturer.

(f) All patient bathing and toileting facilities shall be cleaned and disinfected 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 program supplies.

(h) Toxic materials shall not be used in a way that contaminates food, equipment, or utensils or in any way other than in full compliance with the manufacturer's labeling.

(i) Only individuals authorized under RSA 430:33 may apply pesticides as defined by RSA 430:29, XXVI, 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 it inaccessible to insects, rodents, outdoor animals and hospital pets.

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

(l) Trash receptacles in food service area shall be covered at all times, except during food preparation and subsequent clean-up.

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

(1) The laundry room shall be kept separate from 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 which are considered contaminated with infectious waste under Env-Sw 904 shall be handled as infectious waste.

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

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

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

He-P 802.276 Physical Environment.

(a) The licensed premises shall be maintained so as to provide for the health, safety, well-being, comfort, and privacy of patients and personnel, including reasonable accommodations for patients and personnel with mobility limitations.

(b) The licensee shall:

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

(2) Maintain the premises in good repair and kept free of hazards to personnel and patients, including but not limited to hazards from falls, burns, or electric shocks;

(3) Keep the premises free from environmental nuisances, including excessive noise and odors;

(4) Keep all corridors free from obstructions; and

(5) Take reasonable measures to prevent the presence of rodents, insects, and vermin to include, but not limited to:

a. Having tightly fitting screens on all doors, windows, or other openings to the outside unless the door is self-closing and remains closed when not in use;

- b. Repairing holes and caulking of pipe channels; and
- c. Extermination by a pesticide applicator licensed under RSA 430.

 ~~(c)~~ [Ⓜ] Equipment providing heat within a hospital including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood furnace or boiler, or pellet furnace or boiler shall:

- (1) Maintain a temperature of at least 70 degrees Fahrenheit during the day if patient(s) are present; and
 - (2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.
- (d) Electric heating systems shall be exempt from [Ⓜ](2) above.

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

- (1) Such devices are used only in employee areas where personnel are present and awake at all times; and
 - (2) The heating elements of such devices do not exceed 212 degrees Fahrenheit.
- (f) Any heating device other than a central plan shall be designed and installed so that:
- (1) Combustible material cannot be ignited by the device or its appurtenances;
 - (2) If fuel-fired, such heating devices comply with the following:
 - a. They shall be chimney or vent connected;
 - b. They shall take air for combustion directly from outside; and
 - c. They shall be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area; and
 - (3) Any heating device has safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.
- (g) Unvented fuel-fired heaters shall not be used in any hospital.
- (h) Plumbing shall be sized, installed, and maintained in accordance with the state plumbing code pursuant to RSA 155-A.
- (i) Screens shall be provided for doors and windows that are left open to the outside.
- (j) Doors that are self-closing and remain closed when not in use are exempt from the requirement in (i) above.
- (k) The licensee shall have a telephone to which the patients have access.
- (l) Toilet and bathing facilities shall be provided to meet patient needs in relation to the number and acuity of the patients.
- (m) Separate toilets with hand washing sinks shall be provided for personnel and visitors.
- (n) All toilets shall be vented out-of-doors.

(o) Each bathroom shall be equipped with:

- (1) Soap dispensers;
- (2) Paper towels or a hand-drying device providing heated air; and
- (3) Hot and cold running water.

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

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

(r) All bathroom and closet doors must either swing or slide and have latches or locks which shall be designed for easy opening from the inside and outside in an emergency.

(s) The licensee shall comply with all state and local codes and ordinances for:

- (1) Zoning;
- (2) Building;
- (3) Health;
- (4) Fire;
- (5) Waste disposal; and
- (6) Water.

(t) The hospital shall be accessible at all times of the year.

(u) The licensee shall provide housekeeping and maintenance adequate to protect patients, personnel and the public.

(v) Reasonable precautions, such as repair of holes and caulking of pipe channels, shall be taken to prevent the entrance of rodents and vermin.

(w) Doors shall be of such width as to permit removal of hospital beds and meet the state fire and building code.

(x) Corridors in patient occupied areas shall be wide enough to permit passage of 2 hospital beds, in addition to complying with NFPA 101 for means of egress.

(y) Ventilation shall be provided throughout the entire hospital and, whenever necessary, mechanical means such as fans shall be provided to remove excessive heat, moisture, objectionable odors, dust, or explosive or toxic gases.

(z) There shall be an emergency generator system to provide power pursuant to the following, as adopted by the ~~State Fire Code commissioner of the department of safety in Saf C 6000, pursuant to RSA 153, and as amended by the state fire marshal with the board of fire control:~~

- (1) The Electrical Systems chapter of NFPA 99, Health Care Facilities Code; and
- (2) The Standard for Emergency and Standby Power Systems, NFPA 110.

(aa) Waste water shall be disposed of through a system which meets the requirements of RSA 485:1-A and Env-Wq 1000. Sink drains which have no connection to sanitary sewers or septic systems and similar methods of disposal above ground shall be strictly prohibited.

(ab) Facilities shall provide for prompt cleaning of bedpans, urinals and other utensils.

(ac) Any locked door providing egress from a patient room and/or means of egress within a hospital shall meet the requirements of the Health Care Occupancy chapter of NFPA 101, as adopted ~~pursuant to RSA 153:1, VI a and amended in Saf Fm 300 by the fire marshal with the board of fire control, pursuant to RSA 153:5~~ State Fire Code.

(ad) Delayed egress doors on locked units shall be equipped with locking devices, which shall:

- (1) Unlock upon actuation of the automatic fire detection and sprinkler system; and
- (2) Unlock upon loss of power.

(ae) A system for sterilization of equipment and supplies shall be provided which shall be checked for effective sterilization in accordance with the manufacturer's recommendation and the results of these quality control tests shall be documented.

(af) Sterile supplies and equipment shall be stored in a manner that protects from contamination and follows manufacturer's recommendations.

He-P 802.278 Patient Care Units and Patient Rooms.

(a) There shall be a nurse's station for each patient care unit.

(b) There shall be a utility room for every patient care unit with work and storage space and equipment for cleaning and sterilizing utensils as appropriate.

(c) Patient rooms in which patients shall be housed for more than 24 hours shall be outside rooms and shall not be located below grade unless they are dry, well ventilated, and have window space equivalent to or greater than 8% of the room's square footage.

(d) There shall be a minimum of 3 feet of clear aisle space leading from the side of any patient bed to the room door.

(e) As stated in the FGI's "Guidelines for Design and Construction of Hospitals" (20~~22~~²¹8 edition) and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (20~~22~~²¹8 edition), available as noted in Appendix A, patient rooms shall comply as follows:

(1) For multiple bed rooms:

- a. Medical and surgical rooms shall have 120 square feet/patient;
- b. Critical care units shall have 200 square feet/patient; and
- c. Intermediate care units shall have 150 square feet/ patient;

(2) For single rooms:

- a. Medical and surgical rooms shall have 100 square feet;
- b. Critical care units shall have 200 square feet; and

c. Intermediate care units shall have 120 square feet;

(3) For pediatric nursery, to minimize the possibility of cross infection, with the exception of pediatric critical care units, each nursery room serving pediatric patients shall contain no more than 8 bassinets. Each bassinet shall have a minimum clear floor area of 40 square feet;

(4) For pediatric rooms, requirements shall be the same as for adult beds due to the size variation and the need to change from cribs to beds and beds to cribs; and

(5) For newborn ICU, there shall be 120 square feet per bassinet excluding sinks and aisles.

(f) Each patient room, except for nursery beds, shall be served with a patient call station equipped for two-way voice communication. For psychiatric units and psychiatric hospitals, this shall be optional.

(g) In addition to the FGI's "Guidelines for Design and Construction of Hospitals" (20~~22~~¹⁸ edition) and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (20~~22~~¹⁸ edition), available and noted in Appendix A, the call systems shall meet the requirements of UL 1069 Standard for Hospital Signaling and Nurse Call Equipment. Use of alternate technologies that meet the requirements of UL 1069, including radio frequency systems, shall be permitted for call systems.

(h) All medication in each nursing unit shall be clearly labeled and stored in a lighted area or cabinet which is either locked or under constant observation.

He-P 802.2~~98~~ Life Safety and Fire Safety Procedures.

(a) All hospital's shall meet the appropriate chapter of NFPA 101, the appropriate chapters of the State Fire Code pursuant to RSA 153:5 and the appropriate chapters of the State Building Code.

(b) The administrator or designee shall appoint a safety committee which shall include representatives from administration, clinical services, and support services.

(c) The safety committee shall:

(1) Appoint a safety officer who shall:

a. Inspect the premises at least semi-annually to assure that all safety precautions are met; and

b. Report to the safety committee any findings noted during the inspections;

(2) Develop or approve written policies and procedures covering all matters of safety and fire protection and an emergency response plan, including:

a. The emergency procedures required by the emergency response plan shall include, but not be limited to, evacuation routes, emergency notification numbers, and emergency instructions and shall be available in locations accessible to personnel and visitors;

b. The fire safety plan shall provide for the following:

1. Use of alarms;

2. Transmission of alarm 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; and
 9. Extinguishment of the fire;
- c. Ensuring that the fire safety and evacuation plans are available to all supervisory personnel;
 - d. Ensuring that all employees receive in-service biennial training to clarify their responsibilities in carrying out the emergency plan; and
 - e. The required plan shall be readily available at all times in the telephone operator's location or at the security center; and
- (3) Conduct fire drills, including the transmission of a fire alarm signal and simulation of emergency fire situation, as follows:
- a. Infirm or bedridden patients shall not be required to be moved during drills to safety areas or to the exterior of the building;
 - b. Drills shall be conducted quarterly on each shift to familiarize hospital personnel with the signals and emergency action required under varied conditions; and
 - c. When drills are conducted between 9:00 p.m./2100 hours and 6:00 A.M./0600 hours, a coded or plain language announcement may be used instead of audible alarms.

He-P 802.~~3029~~ Emergency Preparedness.

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

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

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

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

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

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

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

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

- (1) Include site-specific plans for the protection of all persons on-site using an all hazards approach, in the event of fire, natural disaster, or severe weather and human-caused emergency to include missing patients and bomb threat;
- (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;
- (3) Be available to all personnel;
- (4) Be based on realistic conceptual events;
- (5) Be modeled on the incident command system (ICS) in coordination with local emergency response agencies;
- (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;
- (7) 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 licensee;
- (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 might be incorporated into the prevention, protection, and mitigation strategies and to determine the outcome of prior strategies at least annually;
- (12) Include the licensee'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. Access to 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) Identify a designated media spokesperson to issue news releases and an area where the media can be assembled, where they will not interfere with the operations of the facility;

(15) 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;

(16) 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

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

(1) Assumptions for calculation of food and water supplies, for maximum number of staff and patients, water source of supply, either tap or commercial, and expiration in months, tracking of supplies, rotation of products, and contracts and memorandums of understanding with food and water suppliers such as:

- a. Enough refrigerated, perishable foods for a 96-hour period;
- b. Enough non-perishable foods for a 96-hour period; and
- c. Portable water for a 96-hour period;

(2) Designated storage location(s); and

(3) Non-food and water, backup supplies including but not limited to medical, office, and other supplies necessary to continue operation of the facility and provide necessary care and oversight of patients during the emergency.

(h~~i~~) The licensee shall notify the department and local fire department when a required sprinkler or fire alarm system is out of service for more than 4 hours in a 24-hour period. The licensee shall be evacuated or an approved dedicated fire watch shall be provided for all parties left unprotected by the shutdown until the sprinkler or alarm system has been returned to service.

(1) If a facility loses fire sprinkler coverage for more than 10 hours a fire watch must be instituted per NFPA; or

(2) If a facility loses fire alarm coverage for more than 4 hours a fire watch shall be instituted per Centers for Medicare/Medicaid Services (CMS) or for non-certified facilities 8 hours per NFPA.

(i~~j~~) The licensee shall notify the department when the emergency power has been utilized for 6 or more hours due to power outage.

(j~~k~~) If there is an incident including, but not limited to, fire, toxic fumes including smoke that requires the evacuation of the hospital all or in part, the hospital shall notify the department immediately by phone and within 72 hours in writing. A full follow-up written report on the incident shall be completed and submitted to the department when the investigation has been conducted and completed, including what the incident was, action taken, injuries and or deaths that occurred during incident including during evacuation, emergency procedures followed, notification of emergency services including local fire departments and the corrective actions taken.

He-P 802.31~~0~~ Psychiatric Units. The following shall apply if the hospital has a distinct psychiatric unit:

(a) The psychiatric unit shall have a clinical director, service chief or equivalent that meets the training and experience requirements for examination by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry;

(b) The psychiatric unit shall have a director of nursing services who shall be:

- (1) A registered nurse (RN) currently licensed in New Hampshire who has a master's degree or its equivalent in psychiatric and mental health nursing; or
 - (2) An RN with a bachelor's degree and a minimum of 3 years of experience in the care of the mentally ill and to include one year in a nursing management position;
- (c) Admission procedures shall include, in addition to those specified in He-P 802.2019(a):
- (1) A psychiatric diagnosis;
 - (2) An admitting diagnosis including any concurrent disease; and
 - (3) Completion of a psychosocial assessment and family history as appropriate;
- (d) The psychiatric unit shall provide emergency psychiatric services on a 24 hour per day basis, 7 days per week;
- (e) The hospital shall perform a psychiatric evaluation as soon as practicable but no longer than 24 hours after admission on each patient admitted to the psychiatric unit including:
- (1) Medical history;
 - (2) Present mental status;
 - (3) Notation about the onset of symptoms and circumstances leading to admission and admitting diagnosis;
 - (4) An estimate of the patients intellectual functioning, memory functioning and orientation;
 - (5) An evaluation of the patient's use or abuse of alcohol or drugs, as appropriate; and
 - (6) When indicated a neurological examination;
- (f) The hospital shall require that each patient have an individual treatment plan which includes:
- (1) The diagnosis;
 - (2) An inventory of the patient's strengths and weaknesses which would enable him to function in a normal situation;
 - (3) Treatment goals;
 - (4) The specific treatment modalities used based on the strengths and weaknesses demonstrated by the patient;
 - (5) The responsibilities of each treatment team member; and
 - (6) Documentation as to the specific therapeutic activities the patient shall participate in during his or her hospitalization;
- (g) The psychiatric unit shall provide therapeutic activities which are:
- (1) Appropriate to the needs and interests of the patients;
 - (2) Directed toward restoring the patient's physical and psychosocial functioning; and
 - (3) In accordance with the treatment plan in (f) above;

(h) Progress notes shall be recorded in the patient's medical record by all personnel involved in carrying out the individual treatment plan for each patient;

(i) In the psychiatric unit where patients might be a hazard to themselves or others, all glazing, both interior and exterior, borrow lights, and glass mirrors shall be fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens;

(j) There shall be at least one seclusion room for each 24 beds or fraction thereof on each psychiatric unit;

(k) Seclusion rooms, if used as a treatment modality, shall:

(1) Where restraining patients is provided, have a maximum clear floor area of at least 60 square feet with a minimum wall length of 7 feet and a maximum wall length of 11 feet;

(2) Be accessed by an anteroom or vestibule that also provides access to a toilet room. The doors to the anteroom and the toilet room shall be a minimum of 3 feet 8 inches wide;

(3) Be for only one patient;

(4) Have doors that permit staff observation of patients through a view panel, while also maintaining provisions for patient privacy. The view panel shall be fixed glazing with polycarbonate or laminate on inside of glazing;

(5) Be under constant observation, which may include video monitoring, when being used;

(6) Be constructed to prevent patient hiding, escape, injury, or suicide;

(7) Be constructed of materials that are of a type acceptable to the local authority having jurisdiction and the state regulatory agency when the interior of the seclusion treatment room is padded with combustible materials;

(8) Not contain outside corners or edges;

(9) Have the ability to be locked as applicable;

(10) Not have electrical switches and receptacles within the rooms; and

(11) Have doors that swing out;

(l) The room(s) shall be appropriately located for direct nursing observation;

(m) Forensic units shall have security vestibules or sally ports at the unit entrance;

(n) Care and supervision of child psychiatric patients shall be separate and distinct from adult psychiatric patients;

(o) Patient room areas with beds or cribs shall be at least 100 square feet for single-bed rooms, 80 square feet per bed and 60 square feet per crib in multiple-bed rooms;

(p) Geriatric, Alzheimer's and other dementia units patient room areas shall be at least 120 square feet in single bedrooms and 200 square feet in multiple-bed rooms;

(q) Maximum room capacity shall be 2 patients;

(r) A visitor room for patients to meet with friends or family with a minimum floor space of 100 square feet shall be provided;

(s) A quiet room shall be provided for a patient who needs to be alone for a short period of time but does not require a seclusion room. Such a room shall be a minimum of 80 square feet. A group therapy room may be combined with this space if the unit accommodates not more than 12 patients and when at least 225 square feet of enclosed private space is available for group therapy activities;

(t) When door closers are required, they shall be mounted on the public side of the door rather than the private patient side of the door and whenever possible they should be within view of a nurse workstation;

(u) Door hinges shall be designed to minimize points for hanging;

(v) Door lever handles shall point downward when in the latched positions. All hardware shall have tamper-resistant fasteners;

(w) All window glazing, borrow lights, and glass mirrors shall be fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens;

(x) Clothing rods or hooks, if present, shall be designed to minimize the opportunity for patients to cause injury;

(y) Drawer pulls shall be of the recessed type to eliminate the possibility of use as a tie-off point;

(z) Special design considerations for injury and suicide prevention shall be given to shower, bath, toilet and sink hardware and accessories, including grab bars and toilet paper holders;

(aa) Grab bars are required in 10 percent of the private/semi-private patient toilet rooms. Where grab bars are provided, they shall be of a removable type and the space between the bar and the wall shall be filled to prevent a cord being tied around it for hanging;

(ab) The following shall not be permitted:

(1) Towel bars;

(2) Shower curtain rods; and

(3) Lever handles;

(ac) In private patient bathrooms, the ceiling shall be of the tamper-resistive type or of sufficient height to prevent patient access;

(ad) In patient bedrooms where acoustical ceilings are permitted, the ceiling shall be secured or of sufficient height to prevent patient access;

(ae) In private patient bathrooms, any plumbing, piping, ductwork, or other potentially hazardous elements shall be concealed above a ceiling;

(af) In patient bedrooms and bathrooms, ceiling access panels shall be secured or of sufficient height to prevent patient access;

(ag) In patient bedrooms and bathrooms, ventilation grilles shall be secured and have small perforations to eliminate their use as tie-off point or shall be of sufficient height to prevent patient access;

(ah) In unsupervised patient areas, sprinkler heads shall be recessed or of a design to minimize patient access;

(ai) In private patient bathrooms, air distribution devices, lighting fixtures, sprinkler heads, and other appurtenances shall be of the tamper-resistant type;

(aj) Electronic surveillance systems shall not be required in psychiatric nursing units, but if provided for the safety of the residents, any devices in resident areas shall be mounted in a tamper-resistance enclosure that is unobtrusive; and

(ak) A nurse-call system shall meet the requirements of UL 1069 Standard for Hospital Signaling and Nurse Call Equipment. Use of alternate technologies that meet the requirements of UL 1069, including radio frequency systems, shall be permitted for call systems and shall have tamper-resistant fasteners.

Readopt and renumber He-P 802.31 and He-P 802.32, effective 1-28-21 (Document #13166), as He-P 802.32 and He-P 802.33 to read as follows:

He-P 802.32 ~~4~~ Obstetrics. If a hospital provides the services of obstetrics, then:

(a) The unit shall be exclusively designed for maternity patients and their newborn infants, except that gynecological patients, with no communicable diseases, may be admitted when the need exists only as determined by hospital policy;

(b) The department head shall be, at a minimum, a registered nurse with education, training, and experience in obstetric nursing;

(c) A pediatrician or family practitioner shall direct the medical care of newborn infants;

(d) Personnel assigned to the unit shall be free of infections and shall not be assigned to care for any other patients who might present a hazard of cross-infection;

(e) The unit shall employ or contract with nurses qualified by obstetrical education, training, and experience and in numbers adequate to meet the needs of each patient;

(f) The unit shall be physically separate and arranged to prevent traffic from other areas of the hospital to pass through the unit;

(g) The unit shall have facilities for the following functions:

(1) Antepartum care for patient stabilization;

(2) Fetal diagnostic testing such as amniocentesis, ultrasound, oxytocin stress tests and non-stress tests;

(3) Labor observation and evaluation;

(4) Labor;

(5) Delivery;

(6) Postpartum care; and

(7) Neonatal care;

(h) The functions listed in (g) above may be combined in a single room or separated into separate service areas;

(i) If the functions listed in (g) above are in separate areas, the following shall apply:

- (1) Labor rooms shall include toilet and hand washing facilities in or immediately adjacent to the room;
 - (2) Delivery rooms shall be in close proximity to the labor rooms;
 - (3) Drugs and equipment necessary for emergency treatment of mother and infant shall be available in the delivery room;
 - (4) Occupancy in rooms for postpartum care shall be limited to 2 patients; and
 - (5) Lavatories shall be either in the room or available without accessing a general corridor;
- (j) If the functions listed in (g) above are combined, the rooms shall include the following:
- (1) Each room shall be equipped for all types of deliveries except Cesarean section births or any delivery requiring general anesthesia;
 - (2) Each combined function room shall have a toilet and shower room attached;
 - (3) Lavatories shall contain facilities for hand washing, and infant bathing; and
 - (4) Each combined function room shall have windows;
- (k) Care of infants who have shown no complications shall be provided either in a newborn nursery area or in the mother's room;
- (l) If nursery care is provided:
- (1) Each newborn nursery room shall contain no more than 16 infant stations. When a rooming in program is used, the total number of bassinets in these units may be reduced, but the newborn nursery shall not be omitted in its entirety from any hospital that includes delivery services;
 - (2) The hospital shall maintain a continuing care nursery for hospitals that provide continuing care for infants requiring close observation, such as, low birth-weight babies who are not ill but require more hours of nursing than normal neonates, the minimum of 120 square feet per infant station;
 - (3) Labor and delivery room(s) shall have a minimum clear floor area of 340 square foot with a minimum clear dimension of 13 feet. This shall include an infant stabilization and resuscitation space with a minimum clear floor area of at least 40 square feet. Each labor and delivery room shall be for single occupancy; and
 - (4) Cesarean/delivery room(s) shall have minimum clear floor area of 440 square feet with a minimum dimension of 16 feet. This shall include an infant resuscitation space with a minimum clear floor area of at least 80 square feet;
- (m) The number of bassinets shall exceed the number of obstetrical beds by 25% and, if intensive neonatal care is provided, the number of bassinets shall be increased by an additional 10%;
- (n) Emergency equipment for resuscitation shall be readily available and in operable condition;
- (o) Equipment for care of at risk infants shall be available;
- (p) The unit shall have the ability to provide isolation for infants with contagious diseases or infections; and

(q) Care of infants, either born in the unit or transported to the unit immediately after birth, shall include:

- (1) Use of a prophylactic in the infant's eyes in accordance with RSA 132:6; and
- (2) Provision for accurate identification of infants.

He-P 802.3~~32~~ Radiology and Radiation Services. If a hospital provides radiology, nuclear medicine, and therapeutic radiation services, then:

- (a) The chief of radiology shall be a medical radiologist or a consulting medical radiologist;
- (b) There shall be diagnostic x-ray facilities, providing a complete service, consisting of radiographic and fluoroscopic equipment;
- (c) There shall be adequate toilet and dressing rooms for patients;
- (d) Diagnostic x-ray and radiation therapy equipment shall be registered and radioactive material shall be licensed, in accordance with RSA 125-F, and shall meet all applicable requirements of He-P 4000;
- (e) The technical staff employed by the radiology department shall perform the service as assigned by the medical radiologist for diagnostic uses of radiation, and by the radiation oncologist for the therapeutic uses of radiation, and in accordance with He-P 4000;
- (f) The chief of radiology shall establish procedures necessary to assure the safe and proper use of all x-ray equipment and diagnostic uses of radioactive material in accordance with He-P 4000, including that technologists be trained commensurate to their duties in the operation and use of x-ray or radiation therapy equipment;
- (g) The medical director of radiation oncology shall establish procedures necessary to assure the safe and proper use of all therapeutic radiation machines and therapeutic uses of radioactive material in accordance with He-P 4000, including that technologists be trained commensurate to their duties in the operation and use of x-ray or radiation therapy equipment; and
- (h) A radiation oncologist or therapeutic radiologist shall supervise the therapeutic uses of radiation, including the use of radiation therapy machines, in accordance with He-P 4000.

Readopt with amendment and renumber He-P 802.33, effective 1-28-21 (Document #13166), as He-P 802.34 to read as follows:

He-P 802.3~~43~~ Surgical Services.

- (a) Hospitals which provide surgical services shall determine the scope of surgical services that shall be performed in the surgical suite.
- (b) The hospital shall determine the types of anesthesia that shall be utilized for each type of surgical procedure and assure its availability in the surgical suite.
- (c) The surgical suite shall be a separate unit, physically set apart from all other departments.
- (d) The surgical suite shall contain the following:
 - (1) At least one operating room equipped for general operating use within the scope of surgical services determined by the hospital in accordance with (a) above;

- (2) Facilities for sterilization, scrubbing and clean-up separate from the operating room;
 - (3) Clean, sterile, and soiled or decontamination rooms which shall be separate and distinct;
 - (4) Appropriate storage space for sterile supplies, instruments, anesthesia, and medications;
 - (5) Emergency lighting;
 - (6) Adequate ventilation, including air exchanges, humidity and temperature which shall meet the requirements of the ANSI/ASHRAE/ASHE Standard 170-2017~~3~~: Ventilation of Health Care Facilities as referenced in the FGI's "Guidelines for Design and Construction of Hospitals" (20~~22~~~~18~~ edition) and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (20~~22~~~~18~~ edition), available as noted in Appendix A, including but not limited to, operating rooms, sterile supply, clean, and decontamination rooms; and
 - (7) Space routinely used for administering inhalation anesthesia and inhalation analgesia which shall be served by a scavenging system to vent waste gases with the air supply at or near the ceiling and return or exhaust air inlets near the floor level.
- (e) The nursing director of the surgical suite shall be a registered nurse with education, training and experience in surgical nursing techniques.
- (f) The anesthesiologist shall be qualified in anesthesiology in accordance with the medical staff bylaws of the hospital.
- (g) The chief of surgical service shall be board certified in surgery.
- (h) The surgical suite shall not be used for childbirth except for Caesarian section procedures.
- (i) Except in emergencies, no operation shall be performed until:
- (1) The patient has had a physical examination and medical history completed;
 - (2) Any indicated laboratory and x-ray examinations have been completed; and
 - (3) The preoperative diagnosis has been recorded in the patient's record.

Readopt and renumber He-P 802.34, effective 10-23-21 (Document #13281), as He-P 802.35 to read as follows:

He-P 802.3~~5~~~~4~~ Emergency Services.

(a) Hospitals shall provide emergency services overseen by a medical director of emergency services who shall be certified by the American College of Emergency Physicians in emergency medicine or the equivalent osteopathic board, be eligible to sit for the examination in emergency medicine, or have equivalent training or experience in emergency medicine in the following skills in accordance with the American College of Emergency Physicians (ACEP) "Emergency Department Planning and Resource Guidelines," (20~~21~~~~20~~~~14~~ edition), available as noted in Appendix A:

- (1) Bladder catheterization;
- (2) Cardiopulmonary resuscitation;
- (3) Cardiac electro conversion;

- (4) Cardiac pacer placement;
- (5) Cricothyrotomy;
- (6) CVP catheter placement;
- (7) EKG interpretation;
- (8) Endotracheal intubation;
- (9) Gastric lavage;
- (10) Initial fracture/dislocation management;
- (11) Nasal packing;
- (12) Pericardiocentesis;
- (13) Spinal immobilization; and
- (14) Thoracotomy tube drainage.

(b) The medical director of emergency services shall hold current certification in advanced cardiac life support from the American Heart Association and in advanced trauma life support from the American College of Surgeons.

(c) An emergency department shall offer comprehensive emergency care to all individuals regardless of ability to pay 24 hours a day with at least one physician experienced in emergency care in the emergency care area or immediately available within the hospital.

(d) An emergency department shall employ or contract with licensed practitioners in the field of psychiatry, psychology, or other medical practitioners recognized by the board of medicine to have the knowledge and expertise to treat individuals in need of emergency mental health treatment to meet the mental health needs of individuals who present in the emergency department for mental health treatment.

(e) The nursing director of the emergency services shall be a registered nurse who is qualified by education, training, and experience to supervise the provision of emergency nursing services.

(f) The emergency department shall contain:

- (1) Appropriate access from ambulance unloading area to facilitate easy transfer of patients;
- (2) A waiting area for families of patients who are being treated or for patients waiting to be seen;
- (3) Treatment rooms for the care of emergency patients that are equipped to provide treatment of life-threatening conditions; and
- (4) Treatment areas which provide privacy for patient treatment without compromising patient care.

(g) Emergency service policies and procedures shall be developed regarding assessment and treatment by physicians and other personnel.

(h) The hospital shall develop a procedure for reporting suspected or alleged cases of child or adult abuse and neglect and emergency service personnel shall be trained in this procedure.

(i) Documentation of care provided in the emergency service department shall include the following information:

(1) A record of the emergency care provided; and

(2) A record of any emergency care provided prior to the patient's arrival in the emergency room.

Readopt with amendment and renumber He-P 802.35 through He-P 802.38, effective 1-28-21 (Document #13166), as He-P 802.36 through He-P 802.39 to read as follows:

He-P 802.3~~65~~ Critical Access Hospital. A critical access hospital (CAH), as defined in He-P 802.03(r), shall meet the criteria set forth in He-P 802, except as follows:

(a) A CAH may also be granted swing-bed approval to provide post-hospital skilled nursing facility-level care in inpatient beds, which are not counted in the 96-hour calculation;

(b) A CAH may contract with a licensed hospice to provide hospice care;

(c) The CAH may dedicate beds to the hospice, but the beds shall be counted toward the 25-bed maximum;

(d) The hospice patient shall not be included in the calculation of the 96-hour annual average length of stay;

(e) The hospice patient may be admitted to the CAH for any care involved in their treatment plan or for respite care;

(f) In addition to the 25-inpatient CAH beds, a CAH may also operate a psychiatric or a rehabilitation distinct part unit of up to 10 beds each;

(g) A CAH shall notify the department when it receives CAH status;

(h) The department shall issue a license to a CAH, which shall designate the number of staffed beds, up to the maximum allowed under critical access;

(i) The CAH shall be exempt from He-P 802.3~~43~~(f) and instead may have a certified registered nurse anesthetist;

(j) If a CAH wishes to change its critical access status, the hospital shall notify the department; and

(k) The CAH shall be exempt from He-P 802.3~~54~~(a) and (c).

(l) The CAH shall be exempt from He-P 802.17(c) and instead may have a medical director, as defined in He-P 802.03(ad), who is employed less than full time if approved using the waiver process as described in He-P 802.11.

He-P 802.3~~76~~ Psychiatric Hospital.

(a) A psychiatric hospital, as defined in He-P 802.03(~~cbbw~~), shall meet the criteria set forth in He-P 802, including He-P 802.2~~87~~.

(b) Each psychiatric hospital shall have a full time administrator who meets the qualifications for an administrator as defined in He-P 802.176(b) and shall be responsible to the governing body for the daily management and operation of the hospital which, in addition to those responsibilities defined in He-P 802.176(b), shall include ensuring development and implementation of hospital policies and procedures on:

- (1) Voluntary and involuntary emergency admission; and
- (2) Seclusion and restraints.

(c) Psychiatric hospitals shall be exempt from He-P 802.176(e) and (f) and He-P 802.324.

He-P 802.387 Rehabilitation Hospital.

(a) A rehabilitation hospital, as defined in He-P 802.03(cgz), shall meet the criteria set forth in He-P 802 and:

(1) Each rehabilitation hospital shall have a full time administrator who meets the qualifications for an administrator as specified in He-P 802.176(b)(1)-(2) and is responsible to the governing body for the daily management and operation of the hospital including those responsibilities specified in He-P 802.176(b); and

(2) Personnel requirements shall include:

a. A director of nursing services who shall be exempt from He-P 802.176(e) and (f) and instead:

1. Be a registered nurse currently licensed in New Hampshire; and
2. Possess at least a bachelor's degree with 3 years' experience in the provision of comprehensive physical rehabilitation services; and

b. A medical director of rehabilitation services who shall:

1. Be a medical doctor or doctor of osteopathic medicine licensed in the state of New Hampshire;
2. Provide services to the facility or unit and its inpatients for at least 20 hours per week; and
3. Meet one of the following requirements:
 - (i) Be board-certified by either the American Board of Physical Medicine and Rehabilitation or the American Society of Neurorehabilitation; or
 - (ii) Have at least 2 years of training or experience in the medical management of inpatients requiring rehabilitative services.

(b) In addition to the requirements in He-P 802.187, rehabilitation hospitals shall have available the services of:

- (1) An occupational therapist licensed by the state of New Hampshire;
- (2) A physical therapist licensed by the state of New Hampshire;
- (3) A speech-language pathologist licensed by the state of New Hampshire;

- (4) A respiratory therapist licensed by the state of New Hampshire;
- (5) A psychologist licensed by the state of New Hampshire;
- (6) An orthotist/prosthetist;
- (7) A rehabilitation nurse with education, training, and experience in rehabilitation nursing and licensed by the state of New Hampshire; and
- (8) Other nursing personnel and aides educated and trained to provide services as instructed by the physician.

(c) Rehabilitation hospitals that accommodate inpatients shall comply with the following construction requirements:

(1) The ~~Health Care Occupancy chapter of NFPA 101, as adopted pursuant to RSA 153:1, VI-a and as amended in Saf Fmo 300 by the fire marshal with the board of fire control, pursuant to RSA 153:5 State Fire Code;~~

(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's "Guidelines for Design and Construction of Hospitals" (20~~22~~18 edition) and FGI's "Guidelines for Design and Construction of Outpatient Facilities" (20~~22~~18 edition), available as noted in Appendix A.

(d) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules shall be 140 square feet in single-bed rooms and 125 square feet per bed in multiple-bed rooms.

(e) Maximum occupancy shall be 2 beds per room.

(f) A training unit shall be provided for teaching daily living activities, which includes:

- (1) A bedroom;
- (2) A full bathroom in addition to other toilet and bathing requirements;
- (3) A kitchen; and
- (4) Space for training stairs.

(g) Space requirements for the exercise area shall be designed to permit access to all equipment and be sized to accommodate equipment for physical therapy.

(h) In addition to He-P 802.2~~34~~, quality assurance, a rehabilitation hospital shall establish and maintain a comprehensive, ongoing, facility-wide quality assurance program which involves assessment of all quality assurance activities conducted in the provision of its health care and rehabilitation program and services at all levels which includes no less than:

- (1) Assessment of rehabilitation outcomes using measures currently adopted by CMS for rehabilitation hospitals; and
- (2) A mechanism to assure the utilization of systematic data collection based on valid samples of the total patient population to measure performance and patient results, and to make recommendations to physicians and centers of needed changes.

(i) Rehabilitation hospitals shall be exempt from He-P 802.3~~5~~4.

He-P 802.3~~9~~8 Freestanding Hospital Emergency Facility.

(a) A freestanding hospital emergency facility, as defined in He-P 802.03(a~~j~~k), shall be governed by the same regulations as a general hospital with the following additions:

(1) Each FHEF shall be owned and operated by a licensed parent general hospital, that participates in Medicare; and

(2) Shall document how the needs of patients will be met during hours when the FHEF is not in operation.

(b) Each FHEF shall have a full-time administrator who may also be the administrator of the parent hospital and who:

(1) Meets the requirements for an administrator as defined in He-P 802.1~~7~~6(b)(1)-(2); and

(2) Shall be responsible to the parent hospital administrator or governing body for the daily management and operation of the hospital which shall act as liaison to the parent hospital for the patients and personnel of the FHEF, in addition to those responsibilities defined in He-P 802.1~~7~~6(b).

(c) The FHEF medical staff shall be members of the parent hospital in accordance with the parent hospital by-laws.

(d) The FHEF shall have a medical director of emergency services.

(e) The medical director of emergency services shall meet the requirements set forth in He-P 802.3~~4~~1(a) and (b).

(f) The director of nursing services shall, in lieu of the requirements in He-P 802.1~~7~~6(e) and (f):

(1) Be part of the parent hospital's single organized nursing services;

(2) Be at least a registered nurse currently licensed in New Hampshire;

(3) Have a bachelor's degree in nursing or related field; and

(4) Hold a current certificate in advanced cardiac life support from the American Heart Association and be an emergency nurse certified by the Board of Certification for Emergency Nursing.

(g) Each FHEF shall provide the services disclosed under He-P 802.1~~9~~8(a).

(h) An existing parent hospital shall be responsible for providing information required in He-P 802.1~~9~~8(b)(1)-(5) as applicable.

(i) The FHEF shall offer comprehensive emergency care 24 hours a day, 7 days a week.

(j) The FHEF shall have at least one physician experienced in emergency care present in the emergency care area or able to be present within 5 minutes during the entire hours of operation.

(k) Emergency service policies and procedures regarding assessment and treatment by physicians and other personnel shall be developed by the parent hospital and followed by the FHEF.

(l) The parent hospital's procedure to handle suspected or alleged cases of child or adult abuse or neglect and emergency service shall be utilized by the FHEF and the personnel shall be trained in this procedure.

(m) Patients who require hospital admission shall be evaluated and stabilized prior to transfer to the parent hospital or hospital of the patient's choice.

(n) Patients who are treated and released from the FHEF shall be discharged and treated in accordance with He-P 802.198(g).

(o) A medical record shall be maintained and kept active for each patient admitted to the freestanding hospital emergency facility and shall be subject to all rules under He-P 802.2019, and in the event of transfer to a hospital, copies of the record of the medical assessment and notes about treatments given shall be transferred with the patient while the original record shall be maintained in the FHEF.

(p) An emergency laboratory shall be available to the FHEF during all hours of operation.

Readopt and renumber He-P 802.39 through He-P 802.41, effective 1-28-21 (Document #13166), as He-P 802.40 through He-P 802.42 to read as follows:

He-P 802.4039 Cardiac Catheterization Services.

(a) If cardiac catheterization services have not been provided by the hospital previously, no licensee shall offer cardiac catheterization services without a special health care service license.

(b) In accordance with RSA 151:2-e, all licensees shall comply with this section if they provide cardiac catheterization services, regardless of whether the licensee holds a special health care license.

(c) Cardiac catheterization laboratory services shall only be provided on the campus of a licensed hospital.

(d) Licensed hospitals providing interventional cardiac catheterization laboratory services without on-site open-heart surgery shall secure and maintain a formal transfer agreement with a hospital performing open heart surgery.

(e) Licensed hospitals providing elective interventional cardiac catheterization laboratories shall also provide primary interventional cardiac catheterization laboratory services within 12 months of commencement of elective interventional cardiac catheterization laboratory services.

(f) Licensed hospitals providing primary interventional cardiac catheterization services shall meet the procedure volume requirements of 150 cardiac catheterization procedures of any kind at the licensed location on an annual basis by the end of the third year of operation. This may be demonstrated by the number of claims the licensee files in any twelve-month period.

(g) Cardiac catheterization laboratories performing only diagnostic catheterization procedures and not interventional catheterization procedures shall not have any minimum volume requirements.

(h) Hospitals providing cardiac catheterization laboratory services shall include cardiac catheterization laboratory services in the hospital's quality assurance plan to objectively and systematically monitor patient care.

(i) The quality assurance plan referenced in (h) above shall:

(1) Contain patient selection criteria by procedures;

(2) Contain formal transfer agreements and emergency protocols for transfer to another facility which:

a. Specify the protocol for transfer to another facility; and

b. Include the signature of both hospitals and be dated within the past 12 months of submission with the application;

(3) Describe the mentoring program for licensed physicians, which shall include operator volume requirements; and

(4) Describe the process of review and outcomes analysis for patients who have been transferred without compromising the statutory confidentiality protection of the hospital's quality assurance program.

(j) All licensees performing cardiac catheterization laboratory services shall be accredited by a recognized accrediting agency for the provision of cardiac catheterization laboratory services.

(k) If the licensee is newly providing cardiac catheterization services, the licensee shall have 3 years, from the date of receiving a special health care license, to obtain accreditation required in (j) above.

(l) Staffing for cardiac catheterization laboratory services shall be in accordance with the accrediting agency's accepted staffing requirements.

(m) Cardiac catheterization laboratory services shall be directed and staffed by a board certified cardiologist with training and experience, which meets or exceeds the requirements of "ACCF/AHA/SCAI's "2013 Update of the Clinical Competence Statement on Coronary Artery Interventional Procedures" (July 2013), available as noted in Appendix A.

He-P 802.~~4140~~ Open Heart Surgery Services.

(a) If open heart surgery services have not been provided by the hospital previously, no licensee shall offer open heart surgery services without a special health care service license.

(b) In accordance with RSA 151:2-e, all licensees shall comply with this section if they provide open heart surgery services, regardless of whether the licensee holds a special health care license.

(c) Open heart surgery services shall be available and accessible on-site 24 hours per day, 7 days per week, for emergency purposes.

(d) All licensees performing open heart surgery services shall be accredited by a recognized accrediting agency for the provision of open heart surgery services.

(e) If the licensee is newly providing open heart surgery services, the licensee shall have 3 years, from the date of receiving a special health care license, to obtain accreditation required in (d) above.

(f) Staffing for open heart surgery services shall be in accordance with the accrediting agency's accepted staffing requirements.

(g) Each open heart surgery program shall provide, at a minimum, the following:

(1) A total of 4 segregated/private beds for cardiac care in an ICU;

(2) A telemetry unit proximate to the ICU;

- (3) An acute renal dialysis service;
 - (4) A cardiac rehabilitation service;
 - (5) A minimum of 2 operating rooms equipped and available as needed for open heart surgery;
 - (6) An in-house cardiac catheterization service; and
 - (7) An available and accessible supply of blood and platelets, through an in-house supply or through affiliation with an established blood bank network.
- (h) The licensee shall establish and maintain:
- (1) A quality assurance plan that includes:
 - a. An outline of utilization, or peer review and control programs, or both; and
 - b. An annual review of the morbidity and mortality rates and other indicators of patient outcomes, compared with regional or national averages;
 - (2) Protocols governing transfers, admissions, and discharges of open-heart surgery patients; and
 - (3) Protocols to establish, maintain, and annually review including:
 - a. A list of indications and contraindications to govern patient selection for open heart surgery;
 - b. Guidelines governing the admission of open heart surgery patients to the intensive care, coronary care and progressive care units, and discharge from these units; and
 - c. Mechanisms for follow-up surveillance of discharged patients.
- (i) Licensee's providing open heart surgery shall subscribe, for the purpose of external quality review, to a confidential data registry.
- (j) The licensee shall have the appropriate equipment to adequately perform open-heart surgery as required by the accrediting agency.
- (k) Each licensee performing open heart surgery shall perform 150 open heart surgery cases on an annual basis by the end of the third year of operation. This may be demonstrated by the number of claims the licensee files in any twelve-month period.

He-P 802.4~~2~~⁴ Megavoltage Radiation Therapy Services.

- (a) If megavoltage radiation therapy services have not been provided by the hospital previously, no licensee shall offer megavoltage radiation therapy services without a special health care service license.
- (b) In accordance with RSA 151:2-e, all licensees shall comply with this section if they provide megavoltage radiation therapy services, regardless of whether the licensee holds a special health care license.
- (c) The licensee shall appoint a chief of radiation oncology who shall be certified in radiation oncology and responsible for:
 - (1) Overseeing the services provided to ensure safe and quality care;

- (2) Ensuring personnel are qualified to perform megavoltage radiation therapy services in accordance with He-P 4000; and
 - (3) Establishing procedures necessary to ensure the safe and proper use of all therapeutic radiation machines and therapeutic uses of radioactive material in accordance with He-P 4000, including that technologists be trained commensurate to their duties in the operation and use of x-ray or radiation therapy equipment.
- (d) A radiation oncologist shall supervise the therapeutic uses of radiation, including the use of radiation therapy machines, in accordance with He-P 4000.
- (e) A licensee providing treatment on megavoltage radiation therapy equipment shall ensure the provision of a comprehensive coordinated care plan which may include:
- (1) Clinical oncology services, including chemotherapy and surgical treatment of tumors and follow-up capabilities;
 - (2) Services of a tumor registry;
 - (3) Services of a simulation capability and dose computation equipment;
 - (4) Services of a pathology laboratory;
 - (5) Services of a physics laboratory;
 - (6) Computerized tomography and/or magnetic resonance imaging capability;
 - (7) Social work and counseling;
 - (8) Brachytherapy or a referral arrangement for provision of the service;
 - (9) Nutrition and dietary consultation; and
 - (10) In-house capabilities encompassing the full range of radiation therapy modalities, including megavoltage equipment and superficial treatment equipment and systemic therapy or referral arrangements for the provision of these services.
- (f) All licensees performing megavoltage radiation services shall be accredited by a recognized accrediting agency for the provision of megavoltage radiation therapy services.
- (g) If the licensee is newly providing megavoltage radiation therapy services, the licensee shall have 3 years, from the date of receiving a special health care license, to obtain accreditation required in (f) above.
- (h) Staffing for megavoltage radiation therapy services shall be in accordance with the accrediting agency's accepted staffing requirements.
- (i) No licensee shall provide megavoltage radiation therapy services unless the program will treat a minimum of 200 patients on an annual basis by the end of the third year of operation. This may be demonstrated by the number of claims the licensee files in any 12-month period for cognitive planning process codes.
- (j) Any licensee holding a special health care service license to provide megavoltage radiation therapy services not on hospital premises shall adopt protocols for the transportation of patients for the provision of necessary support and emergency services, which shall include a written agreement for the

acceptance and transfer of patients needing such emergency care, with the nearest acute care hospital or any acute care hospital within 30 minutes travel time.

Adopt He-P 802.43 to read as follows:

He-P 802.43 Long Term Care Hospitals. A LTCH, as defined in He-P 802.03(bb), shall be governed by the same regulations as a general hospital with the following additions:

(a) The hospital must have an average Medicare inpatient length of stay of greater than 25 days pursuant to Section 114(e) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) added section 1886(m) of the Act, and codified the provisions of the BBA and BIPA in paragraph (1) of that subsection;

(b) Applicants for a proposed LTCH shall provide a staffing plan that includes licensed professionals who provide services to the LTCH's patients as:

- (1) Employees;
- (2) Under contract; or
- (3) As members of the LTCH's organized medical staff; and

(c) Provide sufficient numbers of qualified personnel to meet the needs of patients during all hours of operation.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 802.08(h), He-P 802.26(e), He-P 802.28(e) and (g), He-P 802.34(d)(6), and He-P 802.38(c)(3)	Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Hospitals" (2022 Edition)	Publisher: Facility Guidelines Institute Cost: Digital: \$90 single-user/per year or \$235 multi-user/per year Print: \$235 per copy The incorporated document is available at: https://www.fgiguideines.org/guidelines/editions/
He-P 802.26(e), He-P 802.28(e) and (g), He-P 802.34(d)(6), and He-P 802.38(c)(3)	Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Outpatient Facilities" (2022 Edition)	Publisher: Facility Guidelines Institute Cost: Digital: \$90 single-user/per year or \$235 multi-user/per year Print: \$235 per copy The incorporated document is available at: https://www.fgiguideines.org/guidelines/editions/

Rule	Title	Publisher; How to Obtain; and Cost
He-P 802.12(b)(1)	Centers for Medicare and Medicaid Services' "Life safety Code & Health Care Facilities Code Requirements"	Publisher: CMS Cost: Free of Charge The incorporated document is available at: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/LSC
He-P 802.12(b)(2)	Centers for Medicare and Medicaid Services', Publication #100-07 "State Operations Manual"	Publisher: CMS Cost: Free of Charge The incorporated document is available at: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS1201984
He-P 802.15(p)	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-H.pdf
He-P 802.16(a)(1)	National Quality Forum's "Serious Reportable Events in Healthcare- 2011 Update"	Publisher: National Quality Forum Cost: Free of Charge The incorporated document is available at: http://www.qualityforum.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=69573
He-P 802.18(i)(8)	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

Rule	Title	Publisher; How to Obtain; and Cost
He-P 802.25(a)(1)	United States Department of Agriculture’s “Dietary Guidelines for Americans 2015-2020” (Eighth Edition)	Publisher: United States Department of Agriculture Cost: Free to the Public The incorporated document is available at: https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf
He-P 802.35(a)	American College of Emergency Physicians (ACEP) “Emergency Department Planning and Resource Guidelines” (2021 Edition)	Publisher: American College of Emergency Physicians (ACEP) Cost: Free of Charge The incorporated document is available at: https://www.acep.org/globalassets/new-pdfs/policy-statements/emergency-department-planning-and-resource-guidelines.pdf
He-P 802.40(m)	ACCF/AHA/SCAI’s “2013 Update of the Clinical Competence Statement on Coronary Artery Interventional Procedures” (July 2013)	Publisher: ACCF/AHA/SCAI Cost: Free to the Public https://www.ahajournals.org/doi/full/10.1161/CIR.0b013e318299cd8a?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub%3Dpubmed

Appendix B

Rule	Specific State or Federal Statutes the Rule Implements
He-P 802.01 – He-P 802.03	RSA 151:9, I(a) and (b)
He-P 802.04	RSA 151:4-a, II
He-P 802.05 – He-P 802.08	RSA 151:2, I and II and RSA 151:9, I
He-P 802.09	RSA 151:9, I(a)
He-P 802.10	RSA 151:9, I(e) and RSA 151:6-a
He-P 802.11	RSA 151:9, I(a) and (b)
He-P 802.12	RSA 151:9, I(e) and RSA 151:6
He-P 802.13	RSA 151:9, I(f), (g), (l), and (m)
He-P 802.14	RSA 151:9, I(f), (h), and (l)
He-P 802.15 – He-P 802.43	RSA 151:9, I(a)